EXPLANATORY MEMORANDUM TO

THE ELECTORAL REGISTRATION DATA SCHEMES (NO. 2) ORDER 2012

2012 No. 3232

1. This explanatory memorandum has been prepared by the Cabinet Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order gives effect to proposals by local electoral registration officers to run data matching pilot schemes. It allows registration officers in 22 areas in England, Wales and Scotland to test the usefulness of data sets held by other public authorities for improving the accuracy and completeness of electoral registers. Schemes to be enabled by the Order will test the use of data matching both for identifying potentially eligible electors who are missing from the register, and for confirming existing electors on the register in the transition to Individual Electoral Registration. The Order also sets the date by which the Electoral Commission must evaluate the pilot schemes.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None. This is the third such Order to enable electoral registration data matching pilot schemes, the previous ones being the Electoral Registration Data Schemes Order 2011 (S.I. 2011/1466) and the Electoral Registration Data Schemes Order 2012 (S.I. 2012/1944).

4. Legislative Context

4.1 Sections 30 to 34 of the Political Parties and Elections Act 2009 ("the Act") make provision for the introduction of individual electoral registration in Great Britain.

Schemes for provision of data to registration officers

4.2 Section 35 of the Act provides for the Secretary of State to make an order providing for schemes for the provision of information to electoral registration officers by other public authorities. The schemes are intended to support the wider work of ensuring and improving the completeness and accuracy of electoral registers as part of the overall transition to individual electoral registration and will build on and advance the work begun in 2011 to identify whether and how access to public authority data sets might assist electoral registration officers in meeting their duty under sections 9 and 9A of the Representation of the People Act 1983, primarily by comparing electoral registers against other data sets.

Schemes under section 35: proposals, consultation and evaluation

4.3 Section 36 of the Act requires the Secretary of State to consult the Electoral Commission, the Information Commissioner and the public authorities holding the data sets before making the Order. It also requires the Electoral Commission to assess and report on the outcomes of the data matching pilot schemes.

4.4 Article 3 of the Lord President of the Council Order 2010 (S.I. 2010/1837) provides that the powers conferred on the Secretary of State under the Act (with exceptions which are not relevant to this Order) are exercisable concurrently by the Secretary of State and the Lord President of the Council.

5. Territorial Extent and Application

5.1 This instrument extends to all of the United Kingdom: however, all of the registration officers and authorities specified in the Order are located in Great Britain.

6. European Convention on Human Rights

6.1 The Minister for Political and Constitutional Reform has made the following statement regarding Human Rights:

> In my view the provisions of the Electoral Registration Data Schemes (No 2) Order 2012 are compatible with the Convention rights.

7. Policy background

7.1 The Government has made a commitment to introduce legislation to speed up the implementation of individual electoral registration. Current legislation allows individual electoral registration to be brought into force on a voluntary basis in this Parliament and on a compulsory basis from late 2015 at the earliest.

7.2 The Government intends to amend this position so that electors will be asked to register individually from 2014 in order to modernise the electoral registration system and tackle fraud. Electors will be asked to provide identifying information which will be checked before they are added to the electoral register. The process will replace the existing system of household registration.

7.3 From June to November 2011 electoral registration officers ran 22 data matching schemes, enabled by the Electoral Registration Data Schemes Order 2011 (S.I. 2011/1466), to see if existing public authority databases could be used to improve the accuracy and completeness of the electoral register. The schemes were designed to identify individuals not on the electoral register who were entitled to be registered, as well as to show up false, duplicate and inaccurate registrations. Electoral registration officers were able to review entries that appeared to be fraudulent or inaccurate, and remove them from the register following the review if appropriate. They were also able to identify eligible but unregistered individuals and invite them to apply to register.

7.4 Separate evaluations of the 2011 schemes were subsequently carried out by the Electoral Commission and the Cabinet Office. Both concluded that data matching might have the potential to supplement activity by electoral registration officers and assist in the transition to individual electoral

registration, but that further, well-constructed trials were needed in order to better evaluate that potential. This Order will enable such further schemes to be carried out in the areas specified in it during the early months of 2013.

7.5 Areas participating in the proposed pilot schemes selected one or more options aimed at finding potentially eligible electors who are currently missing from the register. The options were: improving registration rates among recent home movers (using data held by the Department for Work and Pensions (DWP) and Royal Mail); improving registration rates among young people (using data held by DWP and the Department for Education (DfE) or the Welsh Government); and improving registration rates among students (using data held by DWP and the Student Loans Company).

7.6 A further option offered the opportunity for Electoral registration officers in two-tier local government areas to match their register against data held by the corresponding county council. Electoral registration officers for four districts and their county councils have agreed to run a scheme of this kind with the aim of increasing registration rates among young people, and the outcome will help to inform a decision on changing the law that prevents routine sharing of such data by county councils with electoral registration officers in two-tier areas.

7.7 The instrument will also enable some statistical analysis to be carried out to assess the value of data held by the Higher Education Funding Council for England for confirming existing electors on the transition to individual registration. This will contribute to the work that has already commenced under the Electoral Registration Data Schemes Order 2012 (S.I. 2012/1944) to test the usefulness of data held by DWP for that purpose.

7.8 Electoral registration officers and the participating public authorities will agree in writing the arrangements for the transfer, storage, destruction and security of data during the schemes as required by Article 4 of the Order.

7.9 The Electoral Commission will again evaluate the success of the schemes.

8. Consultation outcome

8.1 The Electoral Commission, the Information Commissioner and the data holding organisations listed in the Schedule to the Order have been consulted on this instrument as required by section 36(2) of the Act. The Electoral Commission recommended that in order to address the shortcomings of the 2011 pilot exercise, the pilots should test, as closely as possible, the process which would be made available to all local authorities if data matching were to be rolled out nationally; the participating areas should be sufficiently staffed and have appropriate expertise to complete the pilot and test the data provided; the methodology for the pilots should allow for a clear assessment to be made of the relative benefits of access to national data compared with more consistent and increased use of existing local databases; the management of the pilots and their budgets should allow for a clearer analysis of the cost of data matching; there should be good communication between the pilots, the data holders and the Cabinet Office throughout the process; and the data issues encountered in the first round of pilots (including format compatibility issues and data currency concerns) should be mitigated where possible. The Cabinet Office is in a much better position to put such a framework in place as a result of the piloting work

conducted in 2011 and will continue to work with the Electoral Commission on its development. The Commission also sought an assurance that the other recommendations in its evaluation report of the 2011 pilot schemes would be addressed in the second round of pilots. The Cabinet Office is pleased to give that assurance. The Commission has also made several suggestions on aspects of the methodology for the schemes, and has agreed the evaluation date.

8.2 The Information Commissioner's Office (ICO) welcomed that the second phase of pilots as set out in the Order had identified a much narrower range of data than previously, and that these pilots would inform the extent to which the personal data to be collected from electors can be minimised in accordance with the Data Protection Act requirement that personal data should be relevant and not excessive with regard to the purpose for which it is processed.

8.3 This instrument has also been developed in partnership with the data holding organisations referred to the Schedule, all of whom have agreed to their inclusion in the data matching pilot schemes by way of this Order.

9. Guidance

9.1 There is no general application of this instrument as it is specifically designed to enable the data matching pilot schemes. Cabinet Office will be working closely with the Electoral Commission, the Information Commissioner, data holding organisations and electoral registration officers affected by the Order about the practical details of the working of the schemes.

10. Impact

10.1 A full regulatory impact assessment has not been prepared for this instrument because no impact on the private or voluntary sector is foreseen. An overarching privacy impact assessment of the data schemes can be found at Annex A.

10.2 A privacy impact assessment will also be prepared for each scheme as it involves the processing of personal data of individuals.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Electoral Commission is responsible for evaluating the outcome of the data matching pilot schemes as required by section 36(3) of the Act. It will report on each scheme to assess its effectiveness and to what extent the scheme has enabled electoral registration officers to meet their registration objectives.

13. Contact

Mark Hughes at the Cabinet Office, tel 020 7271 6417: email: Mark.Hughes@cabinet-office.gsi.gov.uk can answer any queries regarding the instrument.

Annex A

Privacy Impact Assessment – Data Matching Schemes

1. Approach

This Privacy Impact Assessment (PIA) builds on the PIA conducted at the Bill stage of the Political Parties and Elections Act 2009 (the 2009 Act), with a specific focus on exploring the data protection issues surrounding the power enabling the Secretary of State to make Orders requiring public authorities to provide Electoral Registration Officers (EROs) with data for the purposes of enhancing the electoral register.

Those taking part in the data matching schemes will be EROs and a range of data holding public authorities (the Department for Work and Pensions; the Department for Education; the Higher Education Funding Council for England; the Welsh Ministers; Royal Mail Group Limited; the Student Loans Company Limited; and Cumbria, Hampshire, Lancashire and Nottinghamshire County Councils). All are well used to the handling, processing and security of personal data and all will be producing their own PIAs for this project. In addition, however, the Electoral Registration Data Schemes (No. 2) Order 2012 (the Order) will require the data holding organisations and each ERO to conclude a written agreement as to the processing of data (including its transfer, storage, destruction and security) before any data matching scheme can commence. Cabinet Office will expect those operating the schemes to comply with the relevant legislation and the data protection principles that personal data must be:

- Fairly and lawfully processed;
- Processed for specific and lawful purposes and not further processed in a way that is incompatible with the original purpose;
- Adequate, relevant and not excessive;
- Accurate and up to date;
- Not kept for longer than is necessary;
- Processed in accordance with the data subject's rights;
- Kept secure;
- Not transferred to countries outside the European Economic Area unless an adequate level of protection is ensured or an exemption applies.

This PIA explains in greater detail how the privacy issues which may arise from these schemes are to be addressed and the risks mitigated.

The PIA is a living document and will continue to be updated as the policy on data matching schemes develops.

2. Initial Privacy Impact Assessment

This document develops further the previous assessment of the data protection issues to which the data matching provisions of the 2009 Act[1] may give rise. This assessment provides a basis for the PIAs which will be required for each of the Orders made under the powers.

Some key points from the initial PIA:-

- Data which EROs need to access from public authorities relate to two areas – people and properties.

[1] See Appendix for details of sections 35 and 36 of the 2009 Act.

- The 2009 Act stipulates that information provided to EROs may not be disclosed to any person other than one to whom the officer may delegate his or her functions (with exceptions for registration purposes and for legal proceedings).
- The purposes for which the ERO can use the data have been clearly defined in the legislation to ensure proportionality. The overarching 'purpose' of the data matching exercise is to enable the ERO to carry out their registration duties.
- EROs will only be entitled to receive information that is relevant to electoral registration or assists them to use that data for that purpose – individuals' residence; the location of residential properties which would allow for cross checking different databases (which could help reduce the risk of electoral and financial fraud) and age data.
- Data will be shared between a specified ERO and a specified Public Authority.
- The 2009 Act would not change the type of data accessed, but will make it easier for EROs to access data from a wider range of public authorities.
- The data matching process that is provided for in the Act will not involve the transfer of any other personal data except Name, Address and Age or Date of Birth.
- There are unlikely to be significant additional data protection impacts because individuals may be required by law to provide EROs with the above information to populate the electoral register.
- The provisions in the 2009 Act enable EROs to access personal data to which they are legally entitled from a different source, where a household has not provided accurate data.
- The provision will support EROs in ensuring the electoral register is as accurate and complete as possible.
- The targeted data matching approach will enable the Cabinet Office to further test the impact on individuals and to gauge the level of concern about data sharing impacts before proceeding.
- Each individual data matching scheme will require approval from the Secretary of State, who must consult with relevant bodies – including the public authority from whom information is being requested and the Information Commissioner and the Electoral Commission (the Commission) – before laying an Order introducing a scheme before Parliament.
- Each individual data matching scheme will have its own PIA, which will need to be produced in conjunction with the Cabinet Office as part of the application process.

3. Background

The basis for electoral registration in Great Britain is an annual canvass of households. In addition, individuals may register to vote throughout the year by completing an individual "rolling registration" form. The electoral register is maintained by EROs who are appointed by, but independent of, local authorities, and each register is maintained on a local authority basis.

To fulfil their registration duties EROs have access to a number of datasets to assist them in compiling the register and ensuring its accuracy; the specific types of information that a registration officer might need access to are likely to be full names of individuals, their full addresses and date of birth.

EROs are already legally entitled under Regulation 35 of the Representation of the People (England and Wales) Regulations 2001 to access any dataset held by the local authority that appointed them. They already make use of the following datasets:

- the register of births and deaths;
- council tax records;
- registers of households in multiple occupation;
- local land and property gazetteers;
- housing benefit applications;

- lists of persons in residential and care homes; and - where allowed –
- details of “attainers” (those aged 16 or 17) held by education departments[2].

However, there are limitations on what can be achieved under the existing statutory duties. Currently, the Secretary of State may make regulations allowing EROs to "inspect" records held by *any* public authority; such regulations may only permit a registration officer to inspect records in the form in which they are held. This is only permitted for the purposes of `registration duties`, the relevant condition is provided for by paragraph 5 of schedule 2 of the Data Protection Act 1998.They do not place an obligation on another public authority to supply the registration officer with information at a time and in a format which is useful to them, or to put in place a tailored regime for the matching of information.

The provisions in the 2009 Act enable the Secretary of State to pilot schemes where specified public authorities are required to provide specified EROs with specified data for the purpose of fulfilling their registration duty. The purpose of the schemes is to allow the Government and EROs to explore which kinds of databases would be most useful in identifying eligible electors and cross-checking registration data, as well as to test the rigorous data security processes that would be needed. An arrangement of this kind will allow the Government to consider the case for taking these steps on a wider scale.

4. The Registration Improvements Project

The Registration Improvements Project (the Project) forms part of the Electoral Registration Transformation Programme. The overall aim of the Project is to improve the accuracy and completeness of the electoral register through measures that complement and enhance Individual Electoral Registration (IER). The 2009 Act specifically enables the setting up of data-matching schemes to identify potential data sources for validating registration and aiding the EROs to fulfil their statutory duties (as set out in sections 9 and 9A of the Representation of the People Act 1983).

The objectives of the Project, initially through the data-matching schemes, is to help EROs improve the accuracy and completeness of the electoral register by providing them with access to a wider range of data sources to help identify people who are eligible to register but are not currently on the register and to confirm the relevant data. The evidence of effectiveness gathered through the data-matching schemes between EROs and public authorities will be assessed by the Electoral Commission - which is under a statutory duty to carry out the assessments - and consideration will be given to how the benefits of the most effective schemes can be replicated or used more widely.

The Project will also support EROs in targeting under-represented groups to ensure the accuracy and completeness of the register throughout the transition towards the implementation of IER.

Local authorities were invited to express an interest in undertaking data-matching schemes and those that have agreed to do so will enter into agreements to establish best working practices. Assessment criteria and timing will be agreed with the Commission.

5. Personal data to be used

The data that EROs need to access from public authorities is of three kinds:

[2] In England, only EROs appointed by Unitary Authorities have access to all of the council records for the area. In two-tier areas education records are not held by District Councils but by County Councils; EROs appointed by a District Council are therefore not able to access those records. The findings from some of these pilot schemes will inform a decision on bringing forward legislation to address this restriction.

- Information about individuals who currently appear on the electoral register;
- information about the location of individuals who are (or shortly will be) old enough to vote; and
- information about properties where eligible voters may be resident.

The provisions of the 2009 Act expressly allow the matching of data only for the purpose of enabling EROs to fulfil their registration duties, and this in turn limits the scope of the information that can be shared. Furthermore, the 2009 Act states that information provided to EROs may not be disclosed to any person other than one to whom the officer may delegate his or her functions (with exceptions for registration purposes and for legal proceedings).

Broadening the range of data that EROs could access beyond local authorities to other public authorities will have two potential benefits: it will provide EROs with a wider range of sources of data from which they can identify people not registered, or individuals who ought to be removed from the register; and it may assist in detecting fraudulent attempts at registration.

6. Data protection issues and risks of data sharing

The Government takes the handling of personal data and prevention of identity fraud very seriously. The changes that are being proposed to electoral registration (which received cross party support) are intended to prevent fraud and maintain the integrity of the electoral system. This section provides details of data protection issues and risks for data sharing.

The following table sets out data protection issues of data sharing:-

Issue	**Description**
Retention and deletion of data received.	Data will be destroyed following the conclusion of the pilot and no later than the date specified in the agreement setting out the scheme requirements as required by Article 4 of the Order ("the Article 4 agreement").
Incorrect data from Public Authority	The action to be taken by the ERO in the event of incorrect data being received from the Public Authority will be determined according to the design of the particular pilot concerned and will be specified in the Article 4 agreement.
Data received results in identification of fraudulent activity.	EROs will already have procedures in place for dealing with instances of suspected electoral fraud; data sharing merely provides an alternative way in which such instances may be identified and existing procedures will be followed. .

The table below sets out data protection risks of data sharing:-

Risk Description	Controls/Mitigation
Data security breach – data is mishandled by either the ERO or the Public Authority.	- Information management arrangements will be put in place and will be monitored. - Cabinet Office is working with EROs and Public Authorities to agree the most secure mechanism for transfer of data. The agreed approach will conform to HM Government IA Standard No. 6 (Protecting Personal Data and Managing Information Risk) and will be signed off as part of the Agreements which will be put in place prior to the data matching schemes commencing. - Every participating ERO will conduct its own PIA, in which it will address security issues/concerns. - Cabinet Office will continue to engage with EROs to determine processes and procedures for data handling issues. - Cabinet Office will continue to engage with suppliers of electoral services to determine processes and procedures for data handling issues.
Access to the data – data received by the ERO is handled by more than one person – i.e. unauthorised personnel or unauthorised external parties.	- The Article 4 agreement will specify the security classification of the data that will be received from the Public Authority.
Access to the data – data received by the ERO is shared with other departments in the Local Authority - Data received is used for unauthorised purposes or shared inappropriately by EROs.	- S35 of the 2009 Act makes it a criminal offence to make an unlawful disclosure of information provided under an Order made under the section. - Use of data received will be clearly defined in Article 4 agreements prior to data matching commencing. - The Article 4 agreement will require that the data be used solely for the purposes of the data matching pilot and not for any other purpose. - All data obtained from the Public Authority and not added to the

Risk Description	Controls/Mitigation
	electoral register will be securely destroyed following the end of the scheme and to the timescale set out in the Article 4 agreement.
Access to the data – data matching leads to the identity of an anonymously registered elector being disclosed.	- EROs are to ensure that anonymous electors are omitted from the data sent to the Public Authority.
Storage of the data received – inadequate storage of the data could lead to loss.	- Arrangements will be made to ensure that storage has the appropriate access controls in place. The agreed approach will conform to HM Government IA Standard No. 6 and will be signed off as part of the Article 4 agreements which will be put in place prior to the data matching schemes commencing - Protection of information training will be provided for canvassing and other staff who need to handle forms including matched data on follow-up visits.

The above identified issues and risks will be monitored as part of the Project's overall issues log and risk register.

7. Data Matching Scheme proposal

The legislation clearly sets out how EROs may use the data. The overall purpose of the data matching schemes is to enable EROs to meet the registration objectives. These are to ensure that individuals included on the electoral register are entitled to be there; that individuals who are entitled to be registered are on the register; and that any information held by the registration officer about electors is accurate.

These objectives are based very closely on provisions inserted into the Representation of the People Act 1983 by the Northern Ireland (Miscellaneous Provisions) Act 2006, which permit the Secretary of State to require public authorities to share data with the Chief Electoral Officer for Northern Ireland. This effectively entitles EROs to receive information that is relevant to the entitlement to register or assists them to use that data for that purpose –i.e. the details of individuals' residence; the location of residential properties which would allow for cross checking a different database (which could help to reduce the risk of electoral and financial fraud), and age data.

The 2009 Act allows for the establishment of a number of data-matching schemes to investigate how access to data held by the public authorities (which they currently cannot access) can assist EROs to improve and maintain their electoral register.

An initial round of data matching schemes took place in 2011, aimed at enabling EROs to use public authority data sets to identify both potentially eligible individuals who were missing from

their electoral register and potentially inaccurate, fraudulent or duplicate entries on the register. Evaluations carried out by both the Electoral Commission and the Cabinet Office concluded that data matching might have the potential to supplement activity by electoral registration officers and assist in the transition to individual electoral registration, but that further, well-constructed trials were needed in order to better evaluate that potential. This Order will enable those further schemes to be carried out in the areas specified in it during the early months of 2013

The process expected to be used in the pilot schemes is as follows:

Stage One – ERO to transfer Electoral Register to the Public Authority

It is envisaged that in most instances the ERO will securely transfer the Electoral Register, or such section(s) of it as are to be included in the data matching scheme, to the data holding public authority.

The public authority will compare its data with the electoral register, using the data sets and the fields specified in the Schedule to the Electoral Registration Data Schemes (No. 2) Order 2012, to establish successful matches, uncertain matches and unsuccessful matches. The outcome of the data matching process will form an Exception Report which will be securely transferred back to the ERO.

The public authority will:-

- transfer the data to the ERO - via an appropriate, secure method
- only be allowed to transfer data of relevance to the request
- be required to extract and transfer the data securely. (Details of how this will be undertaken will be provided for in each individual PIA).

Stage Two – ERO receives and processes exception reports

The ERO will receive the exception report from the public authority.

The ERO will establish:-

(a) where records do not match, and

(b) individuals who are not yet registered.

(For (a) this may involve software and/or staff time if checks are done manually. For (b), it may involve letters or door to door calls).

The ERO will be required to have secure storage arrangements in place for the data, similar to the security for the register itself or the Council Tax register, since the data it will contain will be similar. The data will be obtained and used only for specified and lawful purposes and will be kept no longer than necessary and destroyed as soon as possible after the end of data sharing and to the timescale set out in the Article 4 agreement.

8. Data Matching impact on an individual

We recognise that individuals are likely to have concerns about the implications of their personal data being shared between organisations. However, the data matching process provided for by the 2009 Act will not involve the transfer of any personal data other than Name, Address and date of birth.

There is unlikely to be any significant additional data protection impact because individuals are already required by law to provide EROs with the above information in order to populate the electoral register. This process takes place on an annual basis (during the 'annual canvass', which usually takes place in the autumn).

Individuals who do not wish to be on the electoral register are still required by law to fill in the annual canvass form accurately. There is no option to opt out from registration for those eligible to vote. Consequently, these provisions do not have any significant further impact on an individual's privacy than the current legislative requirement – they simply support EROs in carrying out their legal duty to maintain the accuracy and completeness of the electoral register. The new provisions enable EROs to access from an alternative source personal data to which they are already legally entitled, where a household has not provided accurate information.

Some individuals may be registered to vote on the basis of their actual address while choosing to use a different address for correspondence purposes, with the result that the address held by other public authorities will not match that held by the ERO. It is possible that people in this position could find themselves subject to some follow-up activity (correspondence and/or visits) by the ERO, despite having already correctly completed all necessary forms, but any impact is expected to be low.

It is nevertheless acknowledged that the very processes of data matching and data sharing carry some degree of inherent risk. Any additional risk is however mitigated by the specific measures that will be contained in the agreements stipulated by the Order.

9. Consultation and general communications activity

Consultation formed an intrinsic part of the development of the provisions of the 2009 Act. Informal consultation was carried with a range of stakeholders including:

- The Association of Electoral Administrators (AEA) and the Electoral Commission (EC) (both parties agree that the further steps to bolster the register are needed and beneficial).

- Various Public Authorities, such as Her Majesty's Revenue & Customs (HMRC), Driver and Vehicle Licensing Agency (DVLA), Department of Health, TV Licensing, Land Registry, and Department for Work & Pensions (DWP).

- Third sector organizations, such as Age Concern, Unlock Democracy, Police State UK, Liberty, and the Citizenship Foundation.

There is ongoing communication between the Cabinet Office and these and other stakeholders with a particular interest in civil liberties, privacy, the use of information and data protection, and that will continue as the policy develops further.

In addition, consultations focusing specifically on data protection and privacy issues have taken place with the ICO.

10. Conclusion

Participating in the data – matching scheme is likely to benefit EROs in a number of ways. It will improve the accuracy and completeness of their electoral register. In improving the accuracy of the electoral register, it will in turn improve public confidence in the register and therefore promote a healthy democratic system. It will certainly enable EROs to test whether access to a particular database will help to improve registration in their area. Some of the schemes that take place under this Order will also continue to test the potential of data matching to simplify the transition to Individual Electoral Registration for the majority of electors. It is appreciated that individuals may be concerned about the possible implications for their privacy and the security of their personal data, but any small additional risk that may arise as a result of these pilot schemes will be mitigated by the wide range of safeguards explained in this Privacy Impact Assessment.

It is important to reiterate that each individual data matching arrangement will be subject to its own PIA, which will contain details of the scheme, effects upon individuals, security measures and compliance with the Data Protection Act 1998.

Appendix

Political Parties and Elections Act 2009 (the 2009 Act)

Sections 35 and 36 of the 2009 Act

Sections 35 and 36 of the 2009 Act provide a power for the Secretary of State to make Orders which will establish schemes requiring specified public or local authorities to provide specified registration officers with information for the purpose of fulfilling their registration duties. The provisions allow a single order to include more than one "scheme" (avoiding the need for multiple orders to cover, say, 4 EROs and one public authority). Section 35(10) of the 2009 Act provides for the Orders to be made under the affirmative resolution procedure. Under this procedure, secondary legislation is laid before Parliament in draft, but can only be made when approved by affirmative resolutions in each House following a debate.

The provisions also set out a number of procedural safeguards on the use of the power. An Order putting a scheme in place can only be made where the scheme has been submitted to the Secretary of State by a registration officer and is being implemented unamended or with amendments agreed by that registration officer. Further, before making an order the Secretary of State is required to consult (a) the Electoral Commission; (b) the Information Commissioner; and (c) any public authority required to provide information under a scheme. The duty to consult the Electoral Commission is modelled on the provisions of the Political Parties, Elections and Referendums Act 2000; the requirement to consult the Information Commissioner is additional.

The provisions expressly provide for the effect of each order to be evaluated by the Electoral Commission which has a statutory duty to evaluate and report on any pilot scheme approved by the Secretary of State. Additionally, Section 36(4) and (5) of the 2009 Act sets out the criteria for the report. These provisions ensure that lessons are learned from each pilot, and they have been modelled on the Representation of the People Act 2000 piloting provisions. The provisions also propose the following minimum criteria for the Commission's evaluations:

- the extent to which the scheme has supported the ERO in fulfilling their registration objectives;
- whether and how much opposition there was to the scheme;
- how easy it was to administer; and
- whether it resulted in cost or time savings.

Annex B

Letter from the Information Commissioner's Office

Our Ref: DAS/SM

Miss J Tweedale
Registration Improvements Project
Electoral Registration Transformation Programme
Cabinet Office

18 May 2012

Via email

Dear Miss Tweedale

Electoral Registration Data Schemes (no 2) Order 2012

Thank you for your recent email inviting the Information Commissioner's comments on the draft Electoral Registration Data Schemes (No2) Order 2012.

My colleagues in the Strategic Liaison department have briefed me on the progress of the Individual Electoral Registration initiative and the contact they continue to have with the Cabinet Office on this matter so that I can provide a formal response on behalf of the Information Commissioner to this latest Order.

I have noted that this Order will enable the second phase of data matching pilot schemes, which will build on those carried out in 2011, to test how far the various public data sources assist in identifying potentially eligible electors currently missing from registers and also potentially incorrect, fraudulent or duplicate entries on the register.

In our response to the previous Order, we commented on the extent of the data contained in each of the data sets to be shared. We therefore welcome that the second phase of pilots as set out in this current Order has identified a much narrower range of data. We understand these data have been selected in order to determine those that will be the most effective in enabling the majority of electors to be transferred to the individual electoral roll without being required to register. We welcome therefore that these pilots will inform the extent to which the personal data to be collected from electors can be minimised in accordance with the Data Protection Act requirement that personal data should be relevant and not excessive with regard to the purpose for which it is processed.

We will continue to be available to provide help and advice on the programme and look forward to hearing about the results from this second phase of pilots.

Yours sincerely

David Smith
Deputy Information Commissioner