

**DEPARTMENT OF HEALTH AND NHS ENGLAND
STATEMENT OF COMPLIANCE**

PRE-RELEASE ACCESS TO OFFICIAL STATISTICS ORDER 2008

Introduction

1. This statement sets out the operational arrangements in Department of Health (DH) and NHS England for giving Ministers and officials pre-release access to official statistics once they have attained their final form prior to publication.
2. These arrangements are designed to ensure that such access is justified, limited, controlled and publicised and complies with statutory requirements. Their purpose is to maintain public confidence in the integrity of official statistics while allowing Ministers to account immediately for the implications of statistics covering policy areas for which they are democratically responsible.
3. This statement is published in conformance with the *Pre-release Access to Official Statistics Order 2008* made under Section 11 of the *Statistics and Registration Service Act 2007*.

Exclusion

4. Different arrangements apply to Ministers' and officials' access to the organisation's own administrative or management data where those data subsequently form the basis for published official statistics. These arrangements will be regulated by the Official Statistics Code of Practice. DH and NHS England compliance arrangements with respect to such data have been included in a Statement of Administrative Sources.

Authority

5. These arrangements have been drawn up by the DH Head of Profession for Statistics in consultation with the DH Secretary of State and the DH Permanent Secretary. The Head of Profession for Statistics has been delegated formal responsibility for applying the rules and guidance relating to pre-release access to official statistics produced by DH and NHS England.

General Principle

6. The DH and NHS England operate under the general principle that pre-release access to official statistics must be:
 - limited to the minimum number of persons deemed necessary to allow the Minister or accountable person to either:
 - provide responses to questions, or make statements about those statistics at, or shortly after, their time of publication;
 - take action before, at, or shortly after the time of publication.
 - allowed only in circumstances where the public benefit likely to result from such access outweighs the detriment to public trust in official statistics likely to result from so doing.

Granting of advance access

7. The arrangements set out in this statement are confined to those persons who meet the eligibility criteria set out in **Annex A(i)** attached. Recipients can, in addition, share their access with their immediate administrative support staff even though those staff may not directly engage with the statistics in question.
8. Their advance access is limited to statistics which meet the eligibility criteria set out in **Annex A(ii)** attached, and which are in their final form prior to being published for the first time.

Documentation and Publication

9. In the interests of openness and transparency, publication of an official statistic will also be accompanied by a pre-release access list.
10. The justification for giving advance access to each listed recipient is available on request.

Period of access

11. In line with legislation, pre-release access to the organisation's official statistics is restricted to a maximum of 24 hours before their public release on the following day – usually at 09.30.
12. In exceptional circumstances only, and in accordance with Principle 5 of the Pre-release Access to Official Statistics Order 2008, the Head of Profession, may grant pre-release access in excess of 24 hours. They will only do this if, in their opinion, the public benefit outweighs the detriment to public trust, which is likely to result from such extended access. When this happens, the Head of Profession will publish; on the GOV.UK or NHS England website their reasons for granting extended access, and will also inform the UK Statistics Authority's Chief Executive – the National Statistician.

Conditions of access

13. Those persons who are given access to the DH's or NHS England's official statistics ahead of their release must keep the statistics secure and under embargo, and they must abide by certain conditions of access. They must avoid:
 - disclosing the statistics or any part of a publication containing those statistics to any person not listed as a pre-release recipient;
 - providing any indication of the size or direction of any trend revealed by the statistics;
 - using such access for personal gain, or taking any action for political advantage;
 - exploiting such access to change or compromise the content, presentation, or timing of publication of official statistics.

Special circumstances

14. Aside from the circumstances described above, the Head of Profession may also allow access to statistics ahead of their release to a limited number of persons in a limited number of special circumstances, sometimes for more than 24 hours.

In each case, such access will be documented in the relevant release. For example: access may be given to the compilers of complementary reports due to be published at the same time as, or shortly after the statistics so that they can incorporate the latest available figures.

Breach of these conditions

15. In the event of a significant breach of the principles and rules set out in the legislation and described in this Statement, the Head of Profession for Statistics will notify the UK Statistics Authority's Chief Executive (the National Statistician) as well as the Authority's Head of Assessment; take action to prevent a recurrence; and provide the Authority with a written explanation. The National Statistician may decide to conduct an inquiry on behalf of the Authority, the results of which will be posted on the Authority's website.
16. Where the Head of Profession considers that a breach was minor in nature, and resulted in no damage to the integrity of the statistics involved, they may choose to deal with the matter informally through internal discussion.

Sanctions against non-compliance

17. The Head of Profession is responsible for ensuring compliance within this department, and has discretion over how they respond to breaches of the regulations. There is a range of possible responses, and it is for the Head of Profession to decide the most appropriate course of action in the circumstances.
18. In seeking to avoid any breach being repeated, the Head of Profession may decide, for example, to remove pre-release access from someone who previously received it, but who was involved in a breach of the rules or principles set out in the regulations.
19. In addition, a heavier sanction can be imposed by the UK Statistics Authority which has a statutory duty to assess the extent to which any organisation's 'National Statistics' comply with the *Pre-release Access to Official Statistics Order 2008* and with the associated obligations set out in this Statement. The Authority can, for instance, challenge an organisation where it considers that pre-release access is not justified or where an organisation is failing to conform with these arrangements. It can also withdraw, or consider withdrawing, 'National Statistics' designation from the statistics in question.
20. In the event of any such challenge or any such withdrawal, the Head of Profession will publish a response on the appropriate website along with the plans for achieving conformance.

NOTES:

(a) Pre-release access

In the context described above, the phrase 'pre-release access' covers privileged access to statistical releases in their final form prior to being placed in the public domain. It does not cover pre-release access available to:

- those staff intimately engaged in the process of producing and disseminating the statistics in question (including those responsible for overseeing this process);

- those persons requested to quality assure the statistics before their public release.

(b) Heads of Profession for Statistics

Organisations that employ a large number of official statisticians, or produce a large number of official statistics will normally appoint a Head of Profession for Statistics in consultation with the National Statistician. As well as being accountable to their own Ministers and departmental line-managers, Heads of Profession are responsible to the National Statistician for the professional integrity of the statisticians whom they manage, and for the quality of the statistics that those statisticians produce. In particular, they are responsible for observing the UK Statistics Authority's Code of Practice for Statistics as well as any professional standards set by the National Statistician.

From April 2013, responsibility for numerous statistical outputs previously produced by DH transferred to NHS England and from the same date the DH Head of Profession for Statistics is also professionally responsible for NHS England statistics.

CRITERIA FOR GRANTING PRE-RELEASE ACCESS**(i) - Categories of persons within government to whom the Department of Health or NHS England would normally grant pre-release access to its statistical releases:**

- Those Ministers who have policy responsibility for a particular subject-matter covered by a statistical release; who are accountable to Parliament and the electorate for their stewardship of that policy; and who may need to respond to questions about the statistics, or take appropriate action, at the time of release of those statistics;
- NHS England Chief Executive or very senior officials who have operational responsibility for a particular activity covered by a release, and who are accountable for their stewardship of that activity to Ministers, and through them to Parliament; and who are in a similar position to those Ministers described above;
- Other DH or NHS England officials who have been assigned the specific responsibility to brief Ministers or NHS England Chief Executive about the statistics in question (e.g. Special Advisers, Policy Advisers, Analysts)
- DH or NHS England Press Officers responsible for managing interface with the media with respect to the policy or statistics in question.

(plus any immediate ancillary staff who support the above)

(ii) - Categories of statistical release to which the Head of Profession would normally grant pre-release access:

- Releases which incorporate statistics which are used to monitor or measure the government or NHS performance (either generally, or against formal outcome measures);
- Releases which have the potential to impinge substantially on the formulation, implementation, or monitoring of government policy;
- Releases which have the potential to inform, or impact on, decisions about the allocation of public funds;
- Releases which have, demonstrably and historically, had a high public profile (i.e. regularly generate coverage in the media) and on which Ministers or Chief Executives with responsibility for the subject-matter might reasonably be expected to comment at the time of release;
- Releases which cover matters of wide public interest