Data sharing and confidentiality: spurs, barriers and theories

by

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Abstract
In a variety of multi-agency partnerships, the tension between data sharing and client confidentiality has become a major challenge for policy makers and for managers in the front line services. It has been the subject of an important Cabinet Office report and official legal guidance from the Department of Constitutional Affairs, and a controversial case is now the subject of a high profile public enquiry. This article reviews twelve theories taken from public administration, public management and organisational sociology that might be used to explain how organisations in public services come either to prioritise or eschew or only weakly commit to data sharing in particular ways. It then presents a synthesis theoretical account. A synthesis should preserve some of the core insights of the three underlying perspectives of the rational systems, natural and open systems views that run through the theories. The synthesis that we offer uses neo-Durkheimian institutional theory to define a limited number of “zones” in the universe of organisations, within each of which several of the particular theories might be consistent with each other and may capture some of the phenomena. This yields a structure of predictions about the informal institutional settings within which different patterns of data sharing and confidentiality might be expected. This analysis shows that the situations in which the formal institutions of data protection law on the one hand, and central government guidance and protocols on data sharing on the other, might be the most important factors will be ones in which rather special informal institutions permit this. This structure of predictions is being explored in empirical research which is now under way.
Introduction

The Laming enquiry into the death in the early 2000s of the abused child, Victoria Climbié found that failure to share client data between agencies was at the root of the problem (Laming, 2003). In so doing, it came to much the same conclusions as the inquest into the death of Jonathan Zito in the mid-1990s at the hands of the schizophrenic, Christopher Clunis, who had lost touch with community mental health services and was no longer taking medication (Ritchie et al., 1994). In the field of public protection, the appointment of Ian Huntley as caretaker of the Soham village school was blamed on the failure of the Humberside Police to share information with the Criminal Records Bureau and the Cambridgeshire education service, failures that the Chief Constable was quick to lay at the door of data protection law.

These cases reflect tensions that are, apparently, deeply problematic, between demands for joined-up working and the demands of professional ethics and general laws on confidentiality and privacy, which requires that disclosures of personal information be kept to a necessary minimum. We have argued elsewhere (6 et al., forthcoming; Bellamy et al., forthcoming) that these tensions are becoming greater in consequence of two important developments in government over the last few years. These developments include the increasing emphasis on joined-up government, the commitment to human rights, including the right to privacy, which is explicitly enacted in the Human Rights Act 1998, and the protection of personal data, enacted in the Data Protection Act 1998. In particular, there has been an important Cabinet Office report on the tension between data sharing and privacy, which has been followed up by official guidance by the Department for Constitutional Affairs on the existing law and suggestions for future legislation (PIU, 2002; DCA, 2003a,b,c).

An important research question that arises from these developments is the following: what drives street-level public service organisations either to share data or to abjure such sharing in contexts where multi-agency working or co-operation seems to be required, either by the circumstances of particular cases or in the light of more general pressures for joined-up government? In this article, we explore what can be suggested by a review and synthesis of theory to steer empirical research.

We define “joining up” as the process of deepening and improving the quality of horizontal coordination and integration between agencies providing different public services in order more effectively to tackle cross-cutting problems. We do not limit our interest to cases of formal partnerships with clear legal form or decision making boards.

Defined in these terms, joining-up faces several challenges. One challenge is legal and ethical, but another is organisational and institutional in character: some limitations to joining up and imperatives to pursue it are alike the product of organisational capabilities and priorities, set within implicit and explicit incentive structures and informal institutional spurs and barriers.

This paper examines these questions using two cases: the sharing of clients’ personal data between agencies in the fields of health and social care, and of crime and disorder and public protection. The comparison between data sharing and privacy compliance practices between these fields is the subject of our current empirical research, in the course of which we are examining eight local case studies in England and four in Scotland.1 Data sharing in these contexts provides good case study material, for several reasons. First, there are, at first blush, formal legal provisions that might turn out to be constraints in their own right: these are found in data protection legislation, the penumbra of relevant administrative law, the common law of confidentiality, human rights provisions, and both legislation and guidance relating to these specific fields (see e.g., 6 et al., forthcoming; Bellamy et al., forthcoming). However, it will be important to ask whether the barriers that some people identify to joining up – such as legal

1 ‘Joined up public services: data sharing and privacy in multi-agency working. ESRC Research award no RES/000/23/0158.'
problems in devolving responsibilities or with data protection law, or lack of clarity about employment relations, or conflicting policy objectives – are in fact little more than excuses for the absence of organisational imperatives, or for actual organisational disincentives, as many other people claim?

Second, in both fields, there are bodies of formal guidance and other prescriptive documentation, such as performance standards and guidance notes issued by government departments or by professional bodies with government endorsement. These statements have, if not the force of law, prescriptive force not far short of it, and mandate the sharing of personal data in various circumstances. For example, in mental health, the protocols of the Care Programme Approach direct practitioners in health and social care to pool records at the point of needs assessment or when there is a question of treatment under compulsion in secure settings (DoH, 1999, 2001). In children’s services, similar protocols govern the duties of various professionals to pool data around children at risk (Department of Health, 2000; Chief Secretary to the Treasury, 2003). Similarly, guidance issued in support of the Crime and Disorder Partnerships and Youth Offending Teams established in 1998 require police and local authority departments to share data, and the Multi-Agency Public Protection Arrangements (MAPPAs), established in 2000, mandate the sharing of data between police and probation services about people in the community who have been previously convicted of sexual or violent offences. Cooperation with other agencies, such as health (DoH, 2004) and housing authorities is strongly encouraged, too, and will be mandatory under the Criminal Justice Act of 2004.

Over many years, the growing series of enquiries into the kinds of cases mentioned above have shown, however, that local and informal organisational imperatives regularly override whatever imperatives might flow from the requirements of compliance with these kinds of standards, guidance and directives. Whether or not the proper observance of data protection law is found to be an important factor in the Huntley case is still, at the time of writing, to be officially decided. Likewise, whether the failure of the gas company to notify social services in the case of Mr and Mrs Bates, the two elderly pensioners who died from hypothermia over Christmas 2003 after disconnection of their gas supply, is found to be an excuse for organisational incompetence or a proper precaution to protect the confidentiality of medical records from prying officials in external agencies, is also far from clear. But, our theoretically-informed hunch is that decisions will have been complicated by a complex mix of local, informal imperatives, and not driven simply by a straightforward desire to comply with the requirements of privacy law.2

The assumption underlying our research, then, is that the heart of this issue is to be found in the relationship between the formal institutions of law and guidance on the one hand, and the informal institutions of organisational and inter-organisational functioning on the other. It

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2 At the time of writing, Sir Michael Bichard (former permanent secretary at the Department for Education and Skills) is conducting an enquiry for ministers into the employment of Ian Huntley, the convicted murderer of two Cambridgeshire schoolgirls, as a caretaker at their school in Soham, despite Humberside police and other forces having previously received allegations against him of sexual offences, for none of which Huntley was prosecuted. It would be quite wrong to pre-empt the findings of the Bichard enquiry here. However, whether he finds that the information about the previous allegations was not of a nature, given the lack of sufficient evidence to warrant prosecution, to be appropriately shared in ways that would have denied Huntley employment, or whether he finds that the information should have been shared and should have been used not to hire him, it would be remarkable if Bichard were to find that the process by which Humberside police and others handled this information was driven principally by a meticulous and exact following of legal prescription. The Information Commissioner has already said publicly that, in his view, there is nothing either in the Data Protection Act or in the Association of Chief Police Officers’ guidance on data sharing and data protection which is approved by his office, that would warrant a strict rule that allegations deemed not sufficiently evidenced to warrant referral to the Crown Prosecution Service should in all cases be deleted from record systems after a period of twenty eight days; this was the rule that the Chief Constable of Humberside Police claimed to be following and to be based on the legislation and relevant guidance. It seems therefore, that we must look to underlying organisational processes to explain their practice.
involves not only the question of which is more important in shaping the implementation of (whatever is counted as compliance with) data sharing standards and data protection law, but the nature of the causal interaction of these institutions in shaping perceptions, incentives, constraints and behaviour. If we can develop a plausible account of this relationship, then we shall have learned something important, not only about the handling of data in multi-agency contexts, but also about the scope for inter-organisational collaboration under conditions marked by latent institutional conflicts involving unresolved tensions between what are widely perceived as competing values.

In a forthcoming two part article (Bellamy et al, forthcoming; Bellamy et al, forthcoming), we have examined the ways in which central government has tried to develop both an overarching settlement and accommodations in specific policy fields between imperatives for data sharing on the one hand and privacy protection on the other. In that study, we concluded that, insofar as central government is able to control the manner in which settlements are struck between these imperatives, it has been able to do so mainly in the guidance that individual departments issue with respect to a the particular policy field, rather than by means of pan-governmental policy. Overarching initiatives to produce guidance, and new legislation launched first by the Cabinet Office and latterly by the Department for Constitutional Affairs, are not the most powerful driving forces. We also pointed out that even within specific services, such as health and social care or community-level crime prevention and detection, it is impossible to reduce such settlements to algorithms capable of grinding out a single recommendation about what information to share with whom, on what terms, and when. Judgments about who needs to know; what they need to know; how standards of necessity (such as avoidance of harm, or promotion of benefit, or even convenience) are to be understood and what information sharing is in proportion to what kinds of need - all remain for individual frontline staff to make routinely in relation to particular cases. Turning the various dimensions of these dilemmas into abstract nouns such as “the need to know principle” and “the proportionality principle” brings no greater determinacy, although such phrases come very readily to drafters of guidance in central government. Vaguer, still, is the term “balance”, for which ministers, data protection regulators and frontline staff so routinely reach when they try to describe whatever relationship they seek to embed. “Striking a balance” is an ineffective prescription when it cannot give practitioners either a coherent account of what pros and cons are to be taken into consideration or a metric for weighing them up; nor can it indicate who should be doing this, especially in multi-agency working (Raab, 1999). Ineffective, too, is the exhortation to use “common sense” – more an ex post facto rebuke following a tragedy, such as the Soham murders or the Bates’ deaths, than a guide for the perplexed.

In practice, recent attempts at overarching, national policy formation have been attempted on the basis of very little empirical evidence about how frontline staff make these judgments. In the course of empirical investigation currently being undertaken, we will assemble a rich qualitative dataset on a sample of multi-agency arrangements in the fields of health and social care, and of crime and disorder reduction and public protection, in England and Scotland. This dataset will enable us systematically to test and explore a set of theoretical propositions identified in the present paper. Here, we set out a battery of hypotheses derived from some of the main traditions in public administration, policy studies, the study of organisations, and allied fields, before offering a possible theoretical synthesis. The sharing of clients’ personal information is not, however, an issue on which a large body of specific theory has been developed. Therefore, we have used bodies of more general theory to devise an analytical framework for empirical research directly relating to the research questions set out above. This paper, however, does not offer empirical data in support or refutation of these hypotheses.
Traditions of theory

To develop our framework, we draw on Scott’s (1992) taxonomy of the major traditions of organisational theory. However, to make analysis manageable, we draw most heavily on those theories that have been particularly important in public administration, public management and the policy sciences. In so doing, we attempt to ensure that we provide adequate representation of each of the basic assumptions used in to theory-construction that Scott identified.

Scott (1992) distinguished between three broad “perspectives” or clusters of organisational theory, within or between which almost all particular theories can be located. These clusters distinguish among organisations as either rational, natural or open systems. That is, organisations are most fruitfully to be understood:

- as machines or instruments, designed and operated instrumentally with at least bounded rationality to achieve either the officially shared goals or to serve the private and even self-interested goals and interests of those stakeholders who are able to secure a measure of control over the organisation;
- as social groups or even communities, devoting much of their resources to maintaining such cohesion as they in fact possess and relying more on informal institutional processes, sense-making, symbolisation, ritual and myth than on those of optimisation and implementation stressed by the rational perspective; or
- as complex interdependent and loosely coupled systems, composed both internally and externally, of variable and semi-autonomous components, and subject to dynamic processes of system feedback.

Scott stresses that many theories are combinations of two or even all three of these broad perspectives, and recommends, plausibly enough, that intelligent strategies for future theory development should seek to preserve valuable insights from each. In this paper, we follow this maxim in developing a synthesis. We have therefore selected twelve particular theories, some of which are sufficiently capacious to be regarded as clusters or families of theories. They are ordered below, beginning with those theories that exhibit, in the greatest degree, elements of the rational-systems perspective. That is, we list first those that allow the greatest possibility for the pursuit of officially-shared goals before looking, second, at those which stress the greatest space for the private use of the collective resource. We then, third, move on to theories that exhibit the greatest elements of the natural systems and then those which show strong articulation of open systems views. We then show how all these theories might be distributed in a Venn diagram space showing the main two-way combinations that each represents. Lacking space fully to describe them, we refer the reader to some of the best-known texts that present them in their general form. We confine our presentation to the derivation of hypotheses about each theory’s prediction of the pattern of data sharing in which a given organisation might be expected to be capable and willing to engage. Before presenting the theories, however, some definitions are required.

By “pattern” we mean the set of data-sharing practices in which an organisation engages, including its disposition to share data or not to share it, the organisations with which it is willing to share data, the type of data it will be willing to share, the degree to which sharing is routinised or done on a special application basis, whether access is granted to whole databases or only to a particular person’s records, and so on. Of particular interest to us is the way a pattern reflects an organisation’s stance on the relationship between data sharing, on the one hand, and the protection of privacy, on the other, inasmuch as one of the main issues in joined-up or multi-agency working is the way in which legal and ethical requirements for privacy protection and confidentiality are reconciled with the imperatives for sharing of personal data. Reluctance to share may, of course, stem from many other factors besides ethical or legal scruples: among them are a host of practical inhibitions, including technological incapability, resource constraints, staffing problems, “cultural” incompatibilities, and so on. It is important to research the nature
of these differences. However, in the context of our project, in the current phase of policy development in the UK following upon the publication of a seminal report on privacy and data sharing (PIU, 2002), and in the tragic cases mentioned above, it is the privacy and data protection issue that is at the forefront of investigation.

In other writing (6 et al, forthcoming; Bellamy et al, forthcoming), we identified four basic ways in which the relationship between the dual commitments to data sharing in the public services and to privacy, as expressed in data protection law and policy, might be conceived and managed. The following strategies are available:

A. underlying compatibility. The organisation denies that there is a tension, insisting that, rightly understood or appropriately recast, data sharing and privacy are at least consistent with each other, and even – although this is more ambitious – mutually reinforcing;
B. tension-mitigation. The organisation accepts that there is a tension but tries to force the two to be complementary by specifying just how much is granted to each, in order to provide safeguards for at least some of what is valuable in each;
C. data sharing trumps: The organisation argues that – at least in some particular situation of current political and public concern – the imperative for data sharing trumps that for privacy;
D. privacy trumps: The organisation argues that – at least in some particular situation of current political and public concern – the imperative for privacy trumps that for data sharing.

We developed this taxonomy in terms of strategies adopted by national government which, in principle, stands in a prescriptive position to the local organisations charged with implementing the pattern. However, such organisations have discretion within the constraints set for them, and in practice the prescriptions or guidance do not so much determine what should happen as leave a great deal to practitioners to make choices – a latitude which many organisations regard as unacceptable uncertainty in situations fraught with legal, political and moral consequences that they are often ill-equipped to handle. In any event, we recognise that the four strategies are not equally available as defensible stances within overall patterns of data sharing: B and C seem the most likely, but the main issue addressed in this paper is whether any theoretical traditions are helpful in explaining why an organisation settles on whatever strategy it exhibits in practice.

The following theories seem to be among the most promising to explain patterns of data sharing and to help predict which of the four basic strategies might emerge in different circumstances. Inevitably, the following brief presentation of each theory risks some caricaturing of the positions of particular authors. The reader is therefore asked to treat these theories in their stylised forms and regard references to texts as illustrative rather than seriously exegetical:

1. Weberian models of ideal-typical “rational” bureaucratic organisations (Weber, 1958; Jaques, 1976, 1980) would predict that when activities and practices are mandated from those with legitimate authority to issue commands, they will be followed as far as practicable, and not resisted (because postholders in the ideal-type case do not own their activities), but

   - mandated activities such as data sharing and compliance with formal institutions of data protection law and guidance will be carried out in a manner that is rule-bound rather than following individual or team initiative-taking, and
   - restrictions on data sharing will follow laws requiring compliance, formal organisational rules (e.g., privacy codes) and principles of professional ethics where these are clearly recognised in the bureaucratic processes of the organisation.

2. Smart-practice or craftsmanship theory (Bardach, 1998) would predict that data sharing will emerge in response to the entrepreneurial initiative of individual managers who see it as a
stratagem for the pursuit of, firstly, individual and secondly, organisational opportunities. As
individualists, these managers will seek arrangements with other organisations by working out
local and particular deals with other like-minded entrepreneurial managers in other organisations.
The pattern of data sharing will be driven, therefore, by the pattern of interpersonal social
networks between the least risk-averse and most externally-oriented, boundary-spanning
managers. The degree to which privacy protection is taken into account will also be guided by
these opportunistic calculations. For example, where consumer pressure for privacy is
sufficiently high, the theory would predict managers would innovate in ways that would offer
them reassurances. (The theory differs from rational choice theories in that it does not assume
that the behaviour of these managers is either necessarily wholly self-interested or rational and
optimising, but experimental and innovative in response to uncertainty in which such calculation
may be impossible.)

3. Classical collective-action (Olson, 1971 [1965]) and implementation theories (Pressman and
Wildavsky, 1984 [1973]) would predict that data sharing would be very difficult to achieve and
sustain for the reasons that all collective action is difficult. That is, some organisations will be
tempted to free-ride; organisations will have incompatible interests and priorities; in many cases a
single organisation’s veto will effectively end collaboration; decision-making to reach agreement
on data sharing will be protracted and complex; and, where large numbers of organisations are to
be involved, these problems will be exacerbated. To that the extent that privacy is really
threatened by uncontrolled data sharing, this theory would predict that it will be protected by
default; conversely, to the extent that accuracy and adequacy of data for purpose depends on
appropriate information sharing, the theory predicts that it will not systematically be protected.

4. Blame-avoidance theory (Challis et al., 1988; Hood, 2002) would predict that the extent to
which organisations are willing to share data will be a function of their managers’ or key
professionals’ fears of being blamed for operational failures that may result from failure to
collaborate and share information, or of their fear of being blamed for the loss of direct and
exclusive organisational or professional control over critical data. They may be inclined either to
share information, or to claim that sharing is legally forbidden, according to where they perceive
risks of public obloquy to be greater.

5. Organisational-culture theories (Martin, 1992; Schein, 1992; Doz and Hamel, 1998) would
predict that only where organisations share common worldviews, common styles of management
and internal organisation, motivation, and tacit understandings of problems, will it be possible
sustainably to institutionalise data sharing between them. On the other hand, where professional
cultures are dominant, and those professional cultures emphasise professional confidentiality,
then compliance with strong privacy norms will be more easily sustained, and data sharing less
readily undertaken.

6. New-institutionalist theory (Scott, 2000; DiMaggio and Powell, 1983; Zucker, 1988) would
predict that path-dependency will determine willingness and ability to share data, and that where
organisations and professions have long institutionalised practices of not sharing data or of
sharing only with similarly institutionalised organisations, data sharing will be very difficult to
cultivate. Conversely, where they are accustomed to sharing data, they are likely to continue to
do so, and to interpret legal and ethical constraints in ways that least interfere with established
practice.

7. Street-level bureaucracy theory (Lipsky, 1980) would predict that the predominant pattern of
data sharing would emerge in response to the local initiative-taking of front-line professional
staff who have relative autonomy. They will, the theory would predict, try to find coping
mechanisms to ease the burden of their client-processing workload, of the management imperatives to which they are subject and, as a secondary consideration of less weight than the organisational imperatives, of the (potentially conflicting) codes of professional ethics to which they may be expected to adhere. In particular, the theory would predict that the priority type of data sharing will be (a) that which enables them to control their clients, mainly in order to limit the demands those clients make upon the over-stretched time of frontline professionals, and (b) that which enables professional staff to hoard resources over which they can exercise control – for example data sharing in order to make easier the implicit and informal rationing decisions over which staff wish to gain and retain control. Conversely, privacy compliance will be a practice to which people resort or at least make appeal in justification of behaviour motivated on other grounds, for example, in order to manage the “information overload” problem.

8. Symbolic-order theory (Silverman 1970, 1984; Edelman 1985 [1964], 1988; Meyer and Rowan, 1977) would predict that organisations share data principally to serve legitimation functions, and not principally for instrumental reasons to do with the pursuit of organisational or even necessarily individual interests. Because of this, data sharing and privacy commitments are equally likely to be unsystematic but carried out in a high-profile way wherever it is important to use these claims in order to legitimate the existence or operations of the agencies. However, the theory cannot determine whether organisations are just as likely to emphasise their limitation of data sharing for reasons of legitimacy where the basis of trust between their clients and themselves rests on the quality of privacy protection.

9. Bottom-up implementation theory (Porter and Hjern, 1981) would predict that data sharing would emerge or not according to the preferences of the club-like or clan-like groups of managers and professionals at or close to the front-line level, especially those that can achieve significant autonomy both from client pressure and political authority to govern inter-organisational relations in ways that suit their club rules.

10. Resource-dependency theory (Pfeffer and Salancik, 1978) predicts that the pattern of data sharing will be shaped by the pattern of dependencies that the organisation has with others for key resources such as funds, legitimate authority to act, or skilled personnel. The more demanding those other organisations are which control its access to key resources about data sharing, the more the organisation will have to respond, whatever its strategy or managers’ preferences might otherwise be. The theory predicts neither where the organisation will lie on a spectrum from sharing to not sharing nor the weight that might be accorded to privacy considerations.

11. Technological-environment theory (Zuboff, 1988) would predict that as ICTs become “core” technologies in organisations, those organisations will take their imperatives from the assumptions and the capabilities designed into the technologies, and share data to the extent that the ICTs they adopt are designed around these practices. In more radical forms (Gandy, 1993; Lyon, 1994, 2001), these theories predict that privacy concerns about data sharing are inexorably being undermined by the development of data-sharing technologies.

12. Concentration/ diffusion-theory (Wilson, 1968; Marmor, 1977) would predict that the balance of incentives for sharing data and for compliance with data protection principles will be a function of the concentration and diffusion of the costs and benefits of sharing, taking account of the interests of clients, professionals, managers and politicians. Figure 1 presents the basic structure of the theory, and shows how it would predict the politics of willingness to share data in each combination of concentration and diffusion of costs and benefits.
Figure 1: An application of the political theory of concentration and diffusion of costs and benefits to data sharing

<table>
<thead>
<tr>
<th>Concentrated costs / sanctions</th>
<th>Concentrated benefits</th>
<th>Diffuse benefits</th>
</tr>
</thead>
<tbody>
<tr>
<td>CC, stand-off politics:</td>
<td>protracted conflict between proponents and opponents</td>
<td>CD, vested interest politics: Greatest opposition to data sharing, limited active support for it</td>
</tr>
<tr>
<td>DC, pork barrel politics:</td>
<td>Strong lobby for data sharing, least opposition</td>
<td>DD, low salience, hardly any politics: Data sharing only on a casual basis</td>
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</tbody>
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A rough clustering of the twelve theories in the Venn diagram in Figure 2 shows that many of these theories draw on more than one of the perspectives represented by each cluster.

Figure 2: Clustering of theories by “perspective”

Clearly, some of the hypotheses suggested by these theories cannot be true simultaneously of the same organisation or set of organisations which might be expected to share data. For example, the Weberian stress on the dominance of formal institutions is stated first precisely...
because it represents a limiting case in which formal institutions would dominate informal ones, in which rational design and operation work for officially shared goals rather than private ones. As such, it cannot describe the same organisation in the same period as, say, a theory stressing non-instrumental factors of cohesion maintenance, such as symbolic-order theory, or one emphasising private gain, such as blame-avoidance. For similar reasons, smart-practice theories emphasising the scope for individual public-spirited entrepreneurial action may be incompatible for the same organisation and period with symbolic-order theories, just as smart practice and blame avoidance are surely unlikely to be co-dominant among the same stakeholders at the same time. On the other hand, it should not necessarily be assumed that all of these hypotheses are mutually exclusive. For example, resource-dependency approaches and some street-level bureaucracy driven hypotheses may well be compatible.

A proposal for the synthesis of theories

None of the twelve theories is obviously or wholly misconceived – which is, after all, why they have survived in the literature. While any may be wrong about a particular organisation, it seems pointless to assume a priori that any could be capturing nothing of what may be going on somewhere.

A more fruitful way to proceed therefore seems to be to try to develop an account that would define particular types of organisation or “zones” of the organisational world involved in public service provision (e.g., patterns typical of industries, sectors, or organisations with a certain origin or in a certain situation or subject to particular pressures); aspects of each might be captured by causal mechanisms (Hedström and Swedberg, 1998) identified by some of the theories. That is to say, we can usefully seek to restrict the ambitions of the particular theories by relativising them to some definable organisational types or “zones”.

Neo-Durkheimian institutional theory (see e.g. Douglas, 1970, 1982a,b, 1992; Mars, 1982; Thompson et al., 1990, 1999; Wildavsky, 1987, 1998; Douglas and Ney, 1998; Hood, 1998, 6 et al., 2002; Stoker, 2004) is helpful in the present context because, firstly, at the level of the statics, it provides a way of classifying the basic zones within which the mechanisms inherent in these theories might have their greatest scope, and secondly, at the level of the dynamics, it provides a way of thinking about what might be expected in hybrid settings, which are likely to be common.

The theory builds on a great deal of social science which shows that social organisation can be described in terms of four basic forms, which singly or in combination can be found in all societies and organisations. These forms can be described by the terms individualism, hierarchy, enclave, and isolate. They are manifest respectively in, for example, loosely-bonded markets, authority- and status-based systems, networks, and social conditions of atomisation. Any society, organisation or context will contain all four, and will exhibit certain quite specific relationships among the four. One remarkable fact about the constant recurrence of these forms is that they are found at macro-, meso and micro- levels of social organisation. Some other forms are sometimes identified, but they can nearly always be resolved into one of these, or into combinations or uneasy settlements between them.

The same forms recur in every field of policy implementation. Hierarchical relations show up in highly rule-bound systems of implementation, tight systems of accountability and targets. The “new public management” reforms introduced a variety of true markets and “quasi-markets” (Le Grand and Bartlett, 1993) within the public services, which were intended to promote more individualistic organisation (e.g., the case of fundholding GPs). The development of more laterally organised and dense bounded forms of networks has been much heralded in the literature on policy implementation (Benson, 1982; O'Toole, 1988; Kickert et al., 1997), Isolated individuals can be found among many practitioners operating at the front line of public services, semi-detached from the systems of power and from each other, but heavily controlled in the nature of the work by the prevailing systems of accountability.
Why these forms and not others? What are their likely consequences for informal institutional form and the scope for formal institutions to be used to define practice? The theory proposes answers derived from the work of Émile Durkheim, as developed by Mary Douglas and her school. Durkheim (1951 [1897]) argued that the two central dimensions along which forms of social organisation vary are those of social regulation – the extent to which social life is governed by role, rule and given social fact or alternatively by the outcome of voluntarily entered relations – and social integration – the extent to which individual persons are held accountable to larger collectivities. Unfortunately, he treated these two dimensions as having little to do with one another. Cross-tabulating them, however, yields an exhaustive and mutually exclusive classification of the basic forms of social organisation. This was first done by Douglas (1970), and this form of analysis has subsequently been developed by providing a larger body of underpinning theory, which predicts not only the variety of forms but also the dynamics of their interaction (Douglas, 1982a,b, 1986, 1992; Thompson et al, 1990, Thompson, 1996; Gross and Rayner, 1985; Fardon, 1999; Coyle and Ellis, 1993; Hood, 1998; Ellis and Thompson, 1997). The cross-tabulation defines the four basic institutional forms of organisation (Douglas, 1982a). Figure 3 briefly summarises the central defining characteristics of the four basic or elementary forms of social organisation, by focusing on just two aspects, both of which flow logically from the definition of the two dimensions of social regulation and social integration. The first is the basis of the power structure on which the control of authority is established and the second is the network structure of ties between people. The figure also sets out the strengths and weakness of each.
Figure 3: The basic forms of social organisation

<table>
<thead>
<tr>
<th>Isolate</th>
<th>Hierarchy</th>
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<tbody>
<tr>
<td><strong>Strong regulation, weak integration</strong></td>
<td><strong>Strong regulation, strong integration</strong></td>
</tr>
<tr>
<td><strong>Style of organisation</strong>: Heavily constrained individuals acting opportunistically, unable to sustain trust save perhaps with close kin</td>
<td><strong>Style of organisation</strong>: Centrally ordered community – e.g., bureaucratic organisation</td>
</tr>
<tr>
<td><strong>Basis of power</strong>: Domination</td>
<td><strong>Basis of power</strong>: asymmetric status, rule- and role-based authorisation</td>
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<tr>
<td><strong>Strategy</strong>: coping or survival-oriented behaviour, individual withdrawal</td>
<td><strong>Strategy</strong>: Regulation, counterpart between vertical and lateral boundaries internally, control through systems of status based on role</td>
</tr>
<tr>
<td><strong>Network</strong>: Sparse social ties</td>
<td><strong>Network</strong>: Dense social ties at top; mainly vertical ties at the bottom</td>
</tr>
<tr>
<td><strong>Authority</strong>: weak, if any among dominated isolates: liminally, temporary celebrity; otherwise, temporary despotism among dominating isolates</td>
<td><strong>Authority</strong>: Status-based, paternalistic, but with rule-bound discretion (in Weberian terms, bureaucracy)</td>
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<tr>
<td><strong>Strength</strong>: Enables valuable coping behaviour and survival during adversity, prevents excessive aspiration during periods when this might be destructive</td>
<td><strong>Strength</strong>: Enables clarity and complex divisions of labour</td>
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<tr>
<td><strong>Weaknesses</strong>: Limited ability to sustain collective action or tackle complex problems</td>
<td><strong>Weaknesses</strong>: Limited ability to generate prosperity and can undermine it; the system of rule and role can become so Byzantine as to be illegible; risks demotivation of the “lowerarchy” through denial of access to superior authority and denial of sufficient validation</td>
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<table>
<thead>
<tr>
<th>Individualism</th>
<th>Enclave</th>
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<tbody>
<tr>
<td><strong>Weak regulation, weak integration</strong></td>
<td><strong>Weak regulation, strong integration</strong></td>
</tr>
<tr>
<td><strong>Style of organisation</strong>: Instrumental, entrepreneurial individuals – e.g., markets</td>
<td><strong>Style of organisation</strong>: Internally egalitarian, but sharply marked boundaries with others; held together by shared commitment to moral principle – e.g., sects, cults, movements, clubs</td>
</tr>
<tr>
<td><strong>Basis of power</strong>: Personal control of resources</td>
<td><strong>Basis of power</strong>: Constant personal and collective reaffirmation commitment</td>
</tr>
<tr>
<td><strong>Strategy</strong>: Brokering, negotiating for control of resources</td>
<td><strong>Strategy</strong>: Intense mutual support within enclave, confrontation of those outside</td>
</tr>
<tr>
<td><strong>Authority</strong>: Power-based: authority derives from ability to define opportunities and bestow rewards (in Weberian terms, merchant adventurer)</td>
<td><strong>Network</strong>: Dense social ties</td>
</tr>
<tr>
<td><strong>Strength</strong>: Unleashes powerful motivations of aspirant self-interest, enables focused instrumental activity</td>
<td><strong>Authority</strong>: In Weberian terms, charismatic, based on personal demonstration of marginally greater commitment to shared principle</td>
</tr>
<tr>
<td><strong>Weaknesses</strong>: Limited ability to define the basic goods and services, rights and duties around which self-interest and instrumental activity are oriented; may eventually undermine the capacity to do so; risk demotivation through insecurity</td>
<td><strong>Strength</strong>: Empowers passionate principled commitment and supports integrity, unleashes powerful motivations of protection</td>
</tr>
<tr>
<td><strong>Weaknesses</strong>: Focus on distribution can undermine production and prosperity; risks schism; principle of internal equality can undermine level of authority necessary for efficacy; risks demotivation through exhaustion and burn-out, or through schism</td>
<td></td>
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</tbody>
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Clearly, many actual organisations of any size and complexity and most inter-organisational contexts will exhibit *hybridity*, or coalitions of two, three or all four of these institutional forms in some, quite possibly unequal weighting.

Most of the twelve theories identified in the previous section, at least in the brief form that they have been presented here (individual writers using these theories have, of course, been more nuanced), make large claims about the nature of organisations in general. They would, therefore, have to posit that in inter-organisational relations, their theses apply equally well to each of the agencies involved. That is, Weberian theory in the pure form would assume that, in any dyad between the members of which clients’ personal information might be shared, both organisations are classical bureaucracies, and neo-institutionalist theory would expect both to be institutionalised in their particular styles. If we take the pluralist view that the theories each identify some aspects of several types of organisation or zones of the organisational world, then this restrictive view of inter-organisational relations can be dropped. This has consequences for the ways in which we might expect confidentiality and data sharing imperatives to be settled in
inter-organisational settings. Most of the theories do not provide a single prediction about which might trump, or which of our four strategies might be dominant. However, they might offer useful causal mechanisms by which to explain how one strategy, having been initiated, might become dominant in one type or zone. In that case, we shall need some way of understanding what might happen when two or more organisations of different types, influenced predominantly by different mechanisms, might settle upon a decision to share or not to share data. Some mechanisms or roles (e.g., “retilcists”; see Friend et al, 1974, Hanf and O’Toole, 1992) may well emerge and operate at the inter-organisational level that are to some degree distinct from those shaping commitments, preferences, practices and capabilities within each of the organisations operating independently, but sustained by the informal institutional character of the organisations between which they serve to organise links. Neo-Durkheimian institutional theory offers several ways of exploring these possibilities, which can be researched empirically.

For the present, however, we are interested principally in the relationship between informal institutions within a focal organisation and the patterns of inter-organisational relations in its inter-organisational environment. The “focal organisation” for the purposes of our research is the local “multi-agency arrangement” or MAA, that is formally acknowledged and mandated by legislation or national policy, since this level is the appropriate institutional order through which patterns of data sharing and privacy protection are likely to be determined. For example, under the Court Services and Criminal Justice Act 2000, the police and probation service are required jointly to establish arrangements for identifying and managing risks associated with sex offenders and potentially violent offenders. In some local areas they have established a joint unit to do this: in others they have not and one agency takes the lead. We are therefore using “multi-agency arrangement” as a collective noun for inter-organisational arrangements of varying degrees of integration and specificity. Typically, however, each MAA involves some kind of partnership between designated agencies, but to achieve its aims, must source client data not only from these agencies (and often from different parts of, or departments within, them), but also from other local agencies, too. Thus, MAPPAs need to source data from prisons but also from agencies such as health authorities, local housing departments and local social service departments.

Consider two hypothetical cases. Suppose that in mental health services in a given locality, the acute trust is a comparatively individualistic body in which psychiatrists are the most important stakeholders, but where those clinicians insist upon running their own practices as independently as possible, and seek as far as possible to evade the disciplines that their lay management would impose upon them through the Care Programme Approach. By contrast, the local social services department, mandated to work closely with the trust, is a more predominantly hierarchical organisation, with its own continuing procedural, managerial and digital information systems, to which mental health approved social workers continue to feel both organisational and professional loyalty, despite their managerial integration at team and operational level with NHS clinicians and staff. The Local Implementation Teams (LIT) brings them together with local police, criminal justice, housing and voluntary bodies and service user organisations, which exhibit a variety of forms from a hierarchical police service to enclaved voluntary agencies and service user groups. In such a setting, a quite plausible solution to the institutional problem facing the LIT coordinator and chair of establishing and legitimating their role with their members may be to adopt a relatively loose, individualistic form, and to seek to build upon bilateral relations in order to develop a structure to support data sharing. By contrast, a Crime and Disorder Reduction Partnership (CDRP) elsewhere might face the organisational problems.

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3 Other MAAs to be studied in our research project are: in England, the Crime and Disorder Reduction Partnerships, Local Implementation Teams for the National Service Frameworks for mentally ill people and elderly people, and Care Trusts; and in Scotland, the Community Safety Teams, criminal justice social work teams working in the field of public protection and treatment of sex offenders, and inter-agency arrangements for integrated assessment for older people and people with mental health problems.
situation that its member organisations carry out functions that are generally accepted understood to be related to each other in a more linear fashion than is the case in our hypothetical mental health case, because each provides a critical link in a small number of defined “supply chains” which run from crime mapping through to resource allocation or from detection through to adjudication and perhaps punishment. This would allow for strong integration across the constituent organisations of the CDRP. In such a case, a more hierarchical solution is quite possible for the CDRP. Alternatively, where a CDRP includes local organisations, such as a police force and a local authority, which are themselves strongly internally bounded and integrated so that the CDRP finds it hard to define the really important boundaries around the CDRP itself, it is also possible that a more individualistic style of reticulism might be the most likely or at least the most intelligent solution to the problem of supporting data sharing.

Specific hypotheses: styles of data sharing in the four zones

The general neo-Durkheimian approach can readily be applied to the problem of allocating mechanisms taken from the twelve specific organisational theories to particular basic institutional zones. We hypothesise that each of the basic institutional forms would produce different degrees of willingness to share data, and capabilities to engage in data sharing as a part of the larger relationship between organisations; as a result, different inter-organisational patterns of data sharing would emerge in each form.

Some of those theories that derive much of their character from the rational perspective on organisations but which stress the importance of the private pursuit of interests and opportunities are, as we should expect, most likely to support mechanisms that will have the greatest scope in individualistic institutional settings. Therefore, in individualistic systems, classical collective action and concentration / diffusion theory’s cell CD would best describe the key factors predicting and explaining patterns of data sharing. Indeed, more generally, it is in the special case of institutions that support individualism that theories using the rational system perspective on organisations have their greatest application, although for institutional reasons and not because the forces posited by those theories are fundamental.

In isolate structures, short term and opportunistic coping makes greatest sense. This reflects a good deal of the picture painted of frontline public service organisations in street-level bureaucracy theory. Such limited scope for action as is available in these settings is likely to be used to seek whatever shelter can be institutionally afforded from the greatest sanctions that the prevailing regulatory institutions can wield. Therefore, blame-avoidance theory or defensive data sharing in fear of the obloquy of an enquiry after some failure, or defensive refusal to share data for fear of harsh internal managerial sanctions, would be expected. A charade of data sharing to keep up appearances would also make sense in this situation, suggesting the appropriateness of the mechanism identified by symbolic-order theory. Resource-dependency is a complex and protean theory, encompassing a wide variety of types of exchange. However, the isolate setting describes the most asymmetric type of resource dependence. In this setting, the hypothesis that we should expect somewhat resentful compliance with the data sharing demands of an authoritative local agency might be powerful here. In terms of concentration / diffusion theory, the isolate location appears to correspond most clearly with the cell combining diffuse cost and benefits, in which data sharing will be causally undertaken unless it is either coerced or prohibited. If the most powerful agency in the supply of or demand for clients’ information in a local system is one that is deeply committed to consent and confidentiality, of course, it may be able in isolate resource dependent settings to enforce its expectations on the other agencies in the local MAA.

In hierarchical inter-organisational arrangements, Weberian and organisational culture theories would be most powerful, for the Weberian (1958) bureaucratic system and the classically integrated culture (in Martin’s 1992, 2001 sense) are both highly integrated and regulated.
Finally, in enclaved networks, we should expect patterns of data sharing or its rejection to be predicted by the local inter-organisational, organisational or sub-organisational culture of the team or club, and based on shared commitment to principle. Here, then, is the world of the tradition of bottom-up implementation theory, which stresses the importance of the solidarity of professional teams or locality based groups in defining implementation of policy. Data sharing could be the subject either of crusade or else of principled rejection, depending on whether the boundaries of the club are drawn within particular organisations or around the network of organisations expected to share client data. However, because such clans (in Ouchi’s 1980 sense) often have to define themselves by what they are not, what they feel aggrieved by, we should expect collective versions of the mechanisms identified in blame-avoidance theory to be operative here. In concentration / diffusion theory, where enclaves held together by rival principles about data sharing encounter one another, or where an enclave and a hierarchy with conflicting norms clash, we can expect stand-off politics, or cell CC.

Figure 4 summarises the differences the theory would predict at the level of the basic forms, in the styles by which data sharing or the lack of it are predicted to develop in each of these basic institutional settings.
The theory also proposes that in practice, where empirical organisations or inter-organisational arrangements are viable at all, it will typically be because they exhibit some hybridity between the basic forms (pure forms are special cases that require very special institutional work to preserve them). Negative feedback with homeostatic outcomes provides the dynamic basis for such hybrid forms, because only thereby can the processes of positive feedback be curbed, by which forms of organisation otherwise fly apart.

Indeed, some of the twelve theories listed propose mechanisms that appear to make sense in particular two-way hybrids. For example, consider the relatively common case of a setting...
marked most heavily by a combination of hierarchy and individualism. To the extent that the hierarchical institutions are successful in channelling the energies of the individualistic public service entrepreneurs into the pursuit of official and shared goals rather than purely private ones, and therefore toward data sharing or its constraint by privacy rules, then we should expect to see the acculturation of motivation among managers individually to innovate in ways that will pursue the shared goals in the form of a series of particular short term deals and arrangements for data sharing or the protection of data. This is precisely the world described by smart practice and craftsmanship theory. In concentration / diffusion theoretic terms, this is the world of cell DC, in which the costs of pursuit of the shared goals are relatively diffuse but the benefits concentrated enough to be worth capturing.

Where resource dependencies between organisations are more symmetric than in the special isolate case, it is likely that this can be sustained only in more hybrid institutional settings, such as those combining hierarchy with enclave.

So far, the argument has been carefully presented equivocally, focusing on the institutional determination of styles of organisational commitment and, equally, rejection of data sharing practices. However, the neo-Durkheimian theory can help us to understand which of these is more likely to be found in particular informal institutional settings. This is because it proposes, again, that the content of the two basic institutional dimensions, regulation and integration, will define the bias.

Almost everyone in the public services will share data with at least some other individuals, and must do in order to function at all in their work. People generally are willing and able to share client data with those they deem to be within their unit. That unit may be the community mental health team working on eating disorders; their organisation (e.g., local authority social services, or the NHS acute trust), their profession (social work, psychiatry, mental health specialist nursing, policing, probation, prison officers); or the whole network of community services spanning health and social care for people with the whole range of mental health problems in a geographical area that are represented in, for example, the Local Implementation Team for the National Service Framework which sets out standards for health and social care services for people with mental health problems. The determination of what unit they identify with is a function of path-dependent local organisational history, and not just (in many cases, not even) of individual training or previous career experience. That is to say, the extent of the integration defines the willingness and informal institutional ability to share data across organisational boundaries, for organisational boundaries need to be seen as just one of the boundaries around and through which people will work, albeit one of peculiar policy and service design importance.

Equally, the degree and the nature of regulation, taken as a whole – comprising both formal codes of practice and informal, local managerial priorities, pressures and sanctions – is highly path-dependent. Whether weak or strong, it will specify, on balance, the extent to which data sharing with particular categories of others is authorised or sanctioned.

The interaction between the two, specifying the inter-organisational scope of common social and micro-political regulation in the broad sense in which the neo-Durkheimian tradition uses the term, determines the bias for or against data sharing across organisational boundaries, only within them, or within some other unit.

**Conclusion**

The imperatives for sharing client data and for respecting privacy are, in many cases, articulated in formal institutions of an authoritative nature such as law and official guidance. Yet these constantly run up against the practical imperatives of informal institutions within and between organisations. The problematic relationship at frontline level between the two raises the question, we have argued, of how informal and formal institutions interact to sustain practices of settlement-making between data sharing and confidentiality. In this paper, we have offered an integrated theoretical account, which we believe to be capable of being explored empirically. The
project we are currently undertaking does this, by using qualitative methods to study a sufficiently large number of cases of MAAs in order to provide some answers to this question.

The neo-Durkheimian synthesis of theories proposed suggests that formal institutions will be dominant only in the special circumstances that the prevailing informal institutions afford strong social regulation and strong social integration – that is, a hierarchical form. Otherwise, they are likely to be less important than a range of distinct informal institutional forces within and between organisations and fields of services and policy. Furthermore, we have argued that, to understand that variety, it is important to recognise that there is not and cannot be – as postmodernists would have it – an indefinite variety of such informal institutions, at least when we attend to the level of their basic structure; their empirical variety is of course much greater, but theory by its very nature must attend to underlying structure.

Scott’s (1992) injunction to preserve the basic insights of rational, natural and open systems theoretical perspectives is surely sound. The synthesis offered here does that in a very particular way. It treats the insights of the rational perspective as pertaining to a special case, which is an artefact of underlying processes that must be understood using natural and open systems theoretical resources. The natural systems processes are, it proposes, those of informal institutions. The key open systems dynamics are the classical ones of positive and negative feedback (Thompson, 1992, 1996; 6 2004; Baumgartner and Jones, 2002; Dunsire, 1990, 1993; Jervis, 1997).

Using this strategy, we have been able to derive a structured set of hypotheses, which we set out in detail in Figure 4, to predict the empirical patterns of data sharing across formal organisational boundaries in networks or partnerships, or its rejection in favour only of data sharing with particular individuals or fellow team members (or whatever) that will be associated with and indeed explained by those underlying natural and open systems processes. These hypotheses were used directly to define the data we needed to obtain in three sets of interviews to be conducted with (respectively) managers, street-level professionals and IS/IT managers in our MAA cases, and have also shaped our coding frames. As we write, fieldwork is well underway. Web hope that preliminary analysis indicating which patterns of data sharing occur in the context of what processes will be available later this summer.

The well-known theories in use in public administration, organisational sociology and allied disciplines appear at first sight to be in deep conflict with each other. However, we have argued that this is because many of them have been developed by generalisation from particular institutional settings. When mechanisms are taken from those theories and properly located in the settings in which they belong, it is possible to see that many of these theories can be useful simultaneously but in different zones of the organisational world of public services.
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