To: The Information Commissioner

By email only

Dear Elizabeth Denham,

I am writing on behalf of Big Brother Watch to raise a complaint concerning failures by several local authorities and the Department of Work and Pensions to protect individuals’ data rights, privacy and equality in the administration of welfare and social care. These numerous failures have come to light in the course of our long-term investigation into the role of automation and algorithms in the welfare state, and are detailed in our report (enclosed), *Poverty Panopticon: the hidden algorithms shaping Britain’s welfare state*.

It has taken many months, thousands of Freedom of Information requests, and professional investigatory skills for us to uncover the information in this report – and we believe there is much more yet to be revealed. This lack of transparency is unjustified and obstructive to individuals’ data rights, as well as your regulatory role. As Professor Philip Alston, the previous UN Special Rapporteur on extreme poverty and human rights, warned following his UK visit, “in the absence of transparency about the existence and workings of automated systems, the rights to contest an adverse decision, and to seek a meaningful remedy, are illusory.” Our investigation shows that this lack of transparency must be addressed as a matter of urgency. Big Brother Watch urges you to undertake an inquiry into authorities uses of algorithms in the provision of welfare.
The main areas of concern we have identified are as follows:

**Risk Based Verification**

Algorithms are used by over 50 councils to assign fraud risk scores to benefits claimants, with targets set by the Department for Work and Pensions to assign 25% of claims as medium risk and 20% as high risk. This is called 'Risk Based Verification' (RBV).

We believe that RBV could constitute a solely automated decision. There is extremely limited human intervention, with score downgrades being banned and only upgrades allowed in rare circumstances, that falls short of the "meaningful human intervention" threshold. The risk score generated by the algorithm seems to invariably determine the evidence requirements for applicants, with higher requirements leading to longer payment lead times, which has a significant effect on an individual. Currently, no RBV users treat the risk scoring process as a solely automated decision and we would argue this needs to be reviewed and clarified.

Indirect discrimination is a further issue with RBV. Our report has uncovered the use of geodemographic information as well as indicators for disability and gender in generating benefit risk scores. However, we have not seen any evidence from a single council that considers the risk of bias against individuals with protected characteristics that these 'proxy' variables could introduce. Many councils cited the lack of direct use of protected characteristics as sufficient proof that there was no risk of discrimination. In *R (Bridges) v South Wales Police* the Court of Appeal found that the failure to properly consider the risks of indirect discrimination was unlawful and the parallels with the failure to consider similar risks with RBV and other algorithms should be seriously considered.

Data retention practices appear to be problematic where some of the commercial RBV contractors are concerned. Credit reference agency TransUnion, which provides RBV to several councils, maintains a register of benefits claimants that appears to hold information on applicants who receive a risk score for some time to data-match any new claims for duplication. TransUnion claims to be a data processor, rather than a controller, in its relationship with councils which sits at odds with their retention and wider use of the information supplied to them to generate risk scores.

**Department for Work and Pensions Housing Benefit Award Accuracy Initiative Algorithm**
The DWP’s ongoing fraud risk profiling of every housing benefit recipient in the country is a invasive, disproportionate and unjustified.

Big Brother Watch is particularly concerned about the lack of consideration of the bias risks posed by the algorithm, which takes into account a person’s age and gender, but the DWP claims there is no risk of discrimination. The absence of accuracy rates to justify the proportionality of processing is a further problem.

We also believe that it is very likely that the algorithm’s decisions meet the solely automated threshold, although the DWP does not treat them as such and therefore vital safeguards, such as the right to review, are not activated. Local authorities are mandated to conduct a Full Case Review (FCR) of the 400,000 cases identified as the highest fraud risk with almost zero discretion, suggesting no meaningful human intervention, while the arduous nature of FCRs means that the outcome is likely to be of legal or similarly significant effect.

Mobysoft RentSense

We are concerned about the vague legal basis for the mass-profiling of social tenants conducted by RentSense, with many landlords relying on contract as their justification for the data processing. This is worrying as there is no real choice for tenants whose alternative is homelessness. In these circumstances, the practice of using contract as a justification when the choice to enter a contract is not free may raise a question as to whether there is a sound, lawful basis for processing.

The roles of data processors and controllers are also vague, with Mobysoft claiming that it is merely a processor while the councils are controllers, despite retaining significant influence over the collection and handling of data. We would urge the ICO to issue further guidance to ensure that processors and controllers are correctly designated, and people are afforded the correct protections by the people handling their information.

How tenants in receipt of Universal Credit are treated is another problem we have identified, as the software allows for them to be targeted for intervention based on their benefits status and nothing more. We query whether such data processing is fair or legitimate, and are concerned about the risks of discrimination.

Project AXIS in the London Borough of Hillingdon
Following the ICO’s enforcement notices concerning the Metropolitan Police’s Gangs Matrix, Big Brother Watch has identified several areas of complaint about Project AXIS. The London Borough of Hillingdon has so far told us that it has not conducted a Data Protection Impact Assessment despite combining data from multiple sources and likely using profiling and other analytics techniques, which goes against the ICO’s guidance.

Data is also retained for up to 2 years from a child’s last contact with the system, 4 times longer than the Gangs Matrix which was already found to be a concerning amount of time in the ICO’s ruling. We are concerned about affected individuals’ data protection rights and query the justification for the council retaining so much information. We believe that the council’s statement that “no piece of information is too small” is incorrect and suggests an excessive attitude towards data collection.

**Xantura OneView**

The implication from Thurrock Council that they hold personal data indefinitely as part of the Covid OneView platform is worrying and may breach guidance over data retention time limits. We were also alarmed by the variety and quantity of data that the wider OneView system may collect and use, as detailed in our report. We would urge the ICO to seek clarity on this and issue further guidance on the retention of data that does not have an immediate purpose.

A further concern was Xantura’s retention of a register of people who use their rights under the Data Protection Act to view, alter or delete information held about them. Although we understand there may be audit requirements, it must be noted that Xantura claims to be a data processor only in its contract with Maidstone Borough Council and we would therefore question the company’s generation of a register of people using their data rights. Either they are a controller or a processor but this situation appears to be intractable in its current state.

Our report raises many further concerns about the justifiability of data processing, retention and the often poor privacy protections that are put in place to ensure that people remain unidentifiable as their personal data is transferred, analysed and repackaged.

The limited case law and the relative novelty of the UK’s data protection laws mean that there is little precedent to judge these public sector algorithms on. However, we believe that the findings in our report merit a full and urgent inquiry by the ICO, to
ensure that data rights are protected for everyone in the UK, regardless of economic status.

I would be very happy to discuss any aspect of our report and concerns further, should you offer the opportunity.

Yours sincerely,

Jake Hurfurt
Head of Research and Investigations, Big Brother Watch
Details of issue identified:

Background:

On 15 July 2021, Big Brother Watch (‘BBW’) made a complaint to the ICO which focused on the use of algorithms in the welfare and social care system, and more broadly within local government. On 20 July 2021, BBW published the detailed findings of its investigation in the report [Poverty Panopticon. On 30 July 2021, the ICO’s Development and Coordination Unit (‘DCU’) tasked the HPIPP team to conduct a scoping exercise and report back on the options available and recommended next steps. The scoping exercise was undertaken as a HPIPP Tier 2 project and an option paper was delivered to the DCU which recommended a hybrid Tier 1 Project/Inquiry to pursue the workstream. In return, the DCU supported the recommendation and initial enquiries were issued to the stakeholders listed in BBW reports under the banner of the project/investigation hybrid approach.

Following receipt of stakeholder responses to our initial enquiries and open source fact-finding exercises, it is apparent that the workstream should be pursued and formally led as an Inquiry with policy support given the wide scale processing, and potential risks and detriment to data subjects. Correctly branding our approach will ensure procedural fairness with stakeholders and allow for appropriate footing should regulatory action be required.

The inquiry will address the concerns raised about the organisations and data processing highlighted in the BBW complaint and address the recommendations from the Tier 2 project. Alongside the concerns raised by BBW, the inquiry will focus on themes raised in a broader range of work undertaken by the ICO in recent years (AI in EdTech and Safeguarding, [FOIA s.31 redacted], Intelligence briefing on...
Use of Algorithms in the Public and Private Sector, and Operation HIDA).

Summary of Issue:

It is important to recognise that the use of algorithms in the welfare and social care sector sits against the backdrop of valid objectives with the aim of positive impacts such as fraud prevention and improving outcomes for individuals. There is however a need for this to be done in compliance with data protection legislation and without harm and detriment to data subjects.

The majority of the entities scoped to date are suppliers of technological solutions for risk scoring, profiling, and data analytics. In this particular matter, the organisations using the systems are generally local authorities and housing providers, predominantly with the aim of identifying those in need of intervention/additional services, or to prevent fraud. From a data protection perspective, the system suppliers have a responsibility to ensure that they are developing and offering products that meet data protection compliance standards. The local authorities/housing providers should be ensuring that they procure systems that meet their purposes and ensuring that data protection compliance and privacy risks are fully considered before using any new technology to process individuals’ data.

The key entities, technologies and initiatives we have identified for investigation are as follows:

- **DWP – Housing Benefit Accuracy Award (‘HBAA’) Initiative:** A system used by DWP to profile every housing benefit claimant in the country and assign a risk score representing the percentage chance that the claim contains error or fraud.
- **DWP – Risk Based Verification (‘RBV’):** An algorithm promoted to local authorities by the DWP to assign fraud risk scores to benefit claimants. The system is said to be used by over 50 councils.
- **TransUnion (‘TU’) – RBV:** An algorithm provided by TU to assign fraud risk scores. Reference has been made to TU using the information transferred to them to create a ‘benefit claimants register’. Since the BBW report, TU have confirmed that they have ceased supplying the system as a result of the roll-out of Universal Credit.
- **Mobysoft – RentSense:** A system created by Mobysoft for social housing landlords to use to predict whether or not tenants will pay their rent.
- **FOIA s.31**
• **Xantura** – OneView: A data sharing platform provided to local authorities, which integrates into case management systems, providing a single view of an individual or household.

Alongside the initial enquiries and fact finding exercise outlined above, an ongoing legal challenge has been identified which may fall within scope of the inquiry. Foxglove is supporting the Greater Manchester Coalition of Disabled People (‘GMCDP’) to bring a legal challenge against The Department for Work and Pensions (‘DWP’) as a result of a ‘secret algorithm’ which is targeting disabled people. The full details of the case are unclear at this stage. It is not yet understood whether the alleged algorithm is targeting disabled people in a pool of wider benefit claims or if it is solely used on claimants with disabilities. Engagement is taking place with GMCDP and Foxglove to understand the processing and whether this would fall within the remit of the inquiry.

**Data Protection Concerns:**

• **Data subject harm and risk** – Given the lack of transparency and information available on the processing, we are yet to gain a full understanding of the systems and any potential detriment and harms that could be incurred as a result. However, the above mentioned legal challenge alleges detriments to data subjects which are important to note at this stage. Foxglove have stated that the DWP algorithm under review has resulted in data subjects experiencing financial harm due to having their benefits suspended. GMCDP have also noted psychological and physical harm with claimants taking their own lives as a result of the algorithm.

• **Large-scale profiling** – The majority of the systems we have identified use some form of automated processing to profile individuals, often on a large scale. Although not confirmed by DWP, we believe their HBAA system to process the data of 2.8 million individuals. **FOIA s.44**

These two systems alone suggest that processing is widespread and effects a large number of data subjects.

• **The potential use of solely automated decision-making** - In addition to the above, there is also automated decision-making in some instances, raising the question of whether this constitutes solely automated decision-making with legal or similarly significant effects (engaging UK GDPR Article 22). For example, DWP’s position is that RBV does not lead to automated decision-making.
making on benefit claims as it only allocates a risk band and benefit entitlement is decided by local authority officers. Further understanding and decisions are needed on whether local authorities are following DWP guidance, and whether the risk band assigned and subsequent verification could constitute a legal or similarly significant effect.

• **Risk of bias and discrimination** – We are concerned that little consideration may have been given to the potential inherent bias in the original data sets used to train algorithms. This calls into question the fairness of the processing. In respect of the HBAA system, DWP has said that “Equality analysis” was completed when the system was launched. It is unclear whether this was a one-off exercise or whether they will regularly assess the risk of bias and discrimination. The results of the analysis are also unknown to us.

• **Lack of DPIA or inadequate DPIA** – The BBW report highlighted that some local authorities had either confirmed that they had not undertaken a DPIA, or refused to provide one. The large majority of the processing raised in respect of algorithms in the welfare and social care sector would constitute processing that requires a DPIA to be completed. [FOIA s.44]

• **Invisible processing/lack of transparency** – The BBW complaint and open source research has confirmed in many instances that there is a lack of information available about the automated processing. This suggests that individuals may not even be aware that the processing is taking place. While there may be a general expectation that local authorities have measures in place to check for fraud risk, there may not be the expectation that personal data is used to profile or risk score data subjects. [FOIA s.44]

• **Rights of the Data Subject** – Invisible processing means data subjects are largely unable to exercise their rights as they are unaware of the processing taking place.

• **Controller/processor relationships** – Our analysis has indicated that the lines around the processing seem to be blurred in some instances, with the third party having more control over data than they should or processing data for their own purposes. In addition, some local authorities/housing providers appear to lack understanding of how the systems work and heavily rely on
providers when it comes to explaining the systems. For the purposes of RentSense, Mobysoft identifies itself as a data processor whom acts on the instruction, requirements and processes of its clientele. RentSense clients act as the data controllers for their respective tenant data and retain a high level of control over the personal data, determining the lawful basis, purpose and manner of processing. Similarly, for the DWP and TU RBV systems, local authorities are deemed as the data controllers.

- **Necessity** – The necessity and justification for the privacy intrusion is not always clear. Organisations using these technological solutions need to be clearer and more transparent in articulating the benefits and justifications for implementing such systems. In May 2021, DWP noted that 3.9% of the total benefit expenditure was overpaid due to fraud and error\(^1\). Consideration still needs to be given to whether this percentage justifies the privacy intrusion on claimants.

- **Processing of vulnerable individuals’ data** - Due to the nature of the services provided in the welfare and social care sector, it is likely that the data subjects may present some vulnerability.

Based solely on the information contained above there is the potential for the processing to put data subjects’ rights and freedoms at risk. This Inquiry seeks to understand these issues in detail and determine the systems’ compliance with data protection legislation.

On 29 March 2022, the Intelligence Department shared a presentation on ‘algorithms in welfare’. It identified a nil trace from PADPCS Intelligence Champions and ICE360 searches for RBV and HBAA complaints received by the ICO. This may suggest that any relevant complaints would be logged under specific councils or RBV providers, however it is more likely that no complaints have been identified due to the lack of public awareness of the algorithms being used.

The presentation did however identify additional providers of RBV, that were not raised in the BBW report. Additional providers included: [FOIA s.31](#), NEC Software Solutions UK Limited, [FOIA s.31](#), and [FOIA s.31](#). These entities will be scoped further by HPI to understand whether they fall within scope of the inquiry and determine whether enquiries should be sent to understand their practice and compliance with data protection legislation.

Alongside the above, the presentation explored the prevalence of the use of algorithms in councils using ‘Indices of Deprivation’. Using this

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\(^1\) Fraud and error in the benefit system: financial year 2020 to 2021 estimates - GOV.UK (www.gov.uk)
method allowed for the Intelligence Department to identify local authorities within the most deprived areas of the UK and create a targeted sample group from the 398 councils within the UK. FOI responses in respect of data analytics, algorithms, and AI were then reviewed for the 45 local authorities identified of interest. Whilst evidence was provided to demonstrate councils are linked currently, or historically, to the use of algorithms for the administration of welfare, the presentation recommended that the local authorities are contacted directly to understand whether these are methods still used to date and query the providers.
### Parameters of inquiry:

**Scope**

The investigation will focus on the use of algorithms in the welfare and social care sector, addressing the compliance concerns identified above. Additionally, it will address the recommendations from the Tier 2 project undertaken by the HPIPP team.

While the main focus of the investigation will be on those named in the BBW report/complaint, fact finding exercises will be undertaken to understand whether there are any similar algorithms in use in the wider welfare and social care sector. During the investigation should we identify similar concerns with additional providers/suppliers of algorithms, there is the potential for those to be incorporated into the operation.
In order to remain targeted and focused, any new entities of interest will be risk assessed and the harms explored. Considerations will also be made towards the areas and entities that we can have the biggest influence on data protection compliance. If the entities are deemed as a high risk and ICO engagement/action would be seen as influential, there is the potential for entities to fall within scope of the inquiry.

Consideration will be given to local authorities using the algorithms and the compliance they demonstrate when implementing the systems. Wider engagement will be undertaken to support local authorities in their understanding of the systems and their data protection obligations.

Aims & Objectives

1. Undertake enquiries and fact-finding with the entities listed in the section above to investigate the use of algorithms in the welfare and social care sector, and the key data protection issues involved.
2. Understand in further detail the extent to which government (including local authorities) and housing providers, use algorithms and artificial intelligence to assist with decision-making in the area of social care and welfare support.
3. Develop stakeholder mapping and an engagement plan and undertake initial stakeholder engagement with relevant industry bodies, regulators, local authorities and technology providers. Both to express our interest in this matter and also to gather further evidence and information on key compliance issues.
4. Consider information gathered to form a view on the key data protection issues, in particular the use of AI by government bodies and where Article 22 UK GDPR is engaged.
5. 
6. Clarify and engage on the ICO’s position on how such technologies can be used in compliance with data protection law.
7. Act on our key findings by promoting key messages and ICO guidance via the relevant stakeholder channels to improve compliance.
8. Where compliance failings are identified, make use of regulatory powers as necessary.

Key deliverables
1. Mapping out the relevant stakeholders.
2. Producing an interim and final report to outline key investigation findings and inform next steps, including regulatory action if required.
3. Promotion exercise for existing policy/guidance including AI, and DPIA requirements.
4. Undertake collaborative engagement with sector-wide stakeholders to promote compliance and standards of information rights, when local authorities are implementing new algorithmic systems.
5. Explore opportunities to contribute investigative findings to ongoing cross-office work in the areas of AI transparency and AI auditing.
6. Internal engagement to share learnings and knowledge on the use of algorithms in the welfare and social care sector.
7. In the event that we decide there is significant public interest in publishing our findings, we may do so in a public-facing report or other product highlighting the key issues and drawing the public’s attention to the processing.

**Timescale**

It is anticipated that the investigation into the use of algorithms in the welfare and social system can be completed within twelve months.

Wider engagement with sector-wide stakeholders can be completed within twelve months.

Proposed regulatory action could possibly extend timescales.
HPI Recommendation Report

HPI Operation: Operation Letton
Action Number: A087

Objectives:

- Produce a recommendation paper setting out our options for contacting Local Authorities

Summary of issue:

Out of scope
Out of scope

Out of scope

Out of scope
Options available:

HPI has identified ten options available to pursue the inquiry:

1. Engage with all LAs.
2. Rely on Indices of Multiple Deprivation.
3. Engage with LAs with the highest volumes of FCRs.
4. Select LAs based on their benefit caseloads.
5. Utilise a local LA.
6. Identify LAs for engagement using the Data Justice Lab’s Data Scores Investigation Tool.
7. Focus on LAs with the highest Housing Benefit (‘HB’) Expenditure.
8. Use 'Left behind communities'.
9. Target those LAs that responded to the BBW FOI responses.
10. Engage with no LAs.

These options will be addressed in further detail below.

1. Engage with all LAs

There are 398 LAs in total across the United Kingdom. This includes 333 in England, 32 in Scotland, 22 in Wales, and 11 in Northern Ireland. Given the resource implication of contacting close to 400 data controllers, it would not be possible to issue detailed enquiries. It would be intensely time consuming to engage with the stakeholders as well as thoroughly review the detailed responses.
Should this option be pursued, the engagement would need to rely upon high level enquiries by way of a questionnaire in order to understand the LAs’ practice. The questionnaire could rely on using mostly closed questions to obtain quantitative data. Possible questions could focus on whether the LA uses algorithms, the purpose for the use, and the amount of data subjects subject to the processing.

This option would allow for all LAs to contribute to the inquiry and for HPI to understand the prevalence of the use of algorithms across the welfare and social care sector. Even in the event of some LAs failing to respond, it could be seen as a highly representative sample and reliable information for the inquiry. On the other hand, given the high level nature of the enquiries, it is unlikely that HPI would be able to understand the true extent of LAs’ practice and compliance with data protection legislation. Additionally, the use of a questionnaire leaves little opportunity for the LA to elaborate on their answers or for HPI to issue follow up enquiries.

2. Rely on Indices of Multiple Deprivation

On 26 September 2019, the Ministry of Housing, Communities & Local Government (‘MHCLG’) published a report titled ‘English indices of deprivation’. The report details the statistics on relative deprivation in small areas in England. The Indices of Deprivation measures relative levels of deprivation in 32,844 small areas or neighbourhoods, also known as Lower-layer Super Output Areas (‘LSOA’), in England. MHCLG (now known as Department for Levelling Up, Housing and Communities) have calculated local measures of deprivation in England since the 1970s.

It notes that the methodological framework broadly defines deprivation to encompass a wide range of an individual’s living conditions. The framework is comprised of seven domains which are weighted: Income (22.5%); Employment (22.5%); Health Deprivation and Disability (13.5%); Education, Skills Trainings (13.5%); Crime (9.3%); Barriers to Housing and Services (9.3%); and, Living Environment (9.3%). Together the domains act as an overall measure of multiple deprivation experienced by people living in an area and is calculated for every LSOA. All neighbourhoods in England are then ranked according to their deprivation relative to that of other areas.
The MHCLG document acknowledges that whilst it cannot be used for identifying deprived people, it can be used to identify the most deprived neighbourhoods and for “comparing larger administrative areas e.g. LAs”.

As pictured above, the top 20 LAs were identified by the ICO within an Intelligence Briefing. The LAs were ranked in the order a LSOA appeared in the Index of Multiple Deprivation Ranking, and any LSOAs from duplicate LAs removed. MHCLG provide multiple alternative ways of interpreting the data. Of interest to Operation Letton is the top 20 LA districts with the highest proportion of neighbourhoods in the most deprived 10 per cent of neighbourhoods nationally. This ranking is pictured to the left.

The weighting of Income Deprivation (22.5%) and Employment Deprivation (22.5%) in the framework suggests that the ranking may go so way in suggesting LAs with a large caseload for administrating welfare and social care services.

The **Scottish Index of Multiple Deprivation** was similarly applied in 2020 to neighbourhoods in Scotland. The tool measures deprivation across small areas, also known as data zones, in Scotland. Scottish Government note that whilst ‘deprived’ areas can relate to people having a low income, it can also mean an area with fewer resources or opportunities. The seven domains used differ slightly from England with; Income, Employment, Education, Health, Access to Services, and Crime & Housing.

As pictured to the right, the top 10 LAs were identified by the ICO within an Intelligence Briefing. The LAs were ranked in the order a data zone appeared in the Index of Multiple Deprivation Ranking, and any data zones from duplicate LAs removed.

The **Index of Multiple Deprivation** was also applied to Wales in 2019. The Welsh index relies on eight domains; Income (22%), Employment (22%), Health (15%), Education (14%), Access to Services (10%), Housing (7%), Community Safety (5%), and Physical Environment (5%). The report confirms that income domain considered
Income-Related Benefit claimants. Of interest to Operation Letton, Welsh Government note that they will work with the Department of Work and Pensions on options for a suitable indicator using data on Universal Credit Claimants in the future indices.

As with the other regional applications, the tool identifies LSOAs in Wales with the highest concentrations of the different types of deprivation. The top 10 Welsh LAs were identified by the ICO within an Intelligence Briefing, as pictured to the left. The LAs were ranked in the order a LSOA appeared in the Index of Multiple Deprivation Ranking, and any LSOAs from duplicate LAs removed.

Finally, the Multiple Deprivation Measure was applied to Northern Ireland (‘NI’) in 2017. This model relies on seven domains; Income (25%), Employment (25%), Health & Disability (15%), Education Skills & Training (15%), Access to Services (10%), Living Environment (5%), and Crime & Disorder (5%). The NI report notes that the ranking can be used to explore the relative deprivation of small geographical areas by comparing them with each other, and explore which small geographical areas are the most or least deprived.

As pictured to the right, the top 5 NI LAs were identified by the ICO within an Intelligence Briefing. The LAs were ranked in the order a small area appeared in the Index of Multiple Deprivation Ranking, and any small area from duplicate LAs removed.

In reviewing the Indices of Deprivation, reference was made to the rankings being used to identify the most deprived neighbourhoods and for comparing larger administrative areas/LAs. This suggests that Operation Letton could appropriately rely on the LAs identified for issuing enquiries/engagement. The rankings provided by the Intelligence Department ensure proportionate regional representation to the engagement. The scorings weighted throughout the regions gave focus to income and employment, and may go some way in suggesting LAs with a large caseload for administering welfare and social care services, aligning with Operation Letton. On the other hand, this method of engagement may be seen as targeting those LAs that need the algorithmic assistance.
most in that they are relying on algorithms given the benefit reliance as a result of the high levels of deprivation in their area.

### 3. Engage with LAs with highest volumes of FCRs

In April, the DWP published the following Housing Benefit Circular: [A5/2022: Housing Benefit Award Accuracy Initiative for financial year ending March 2023](#). Annex D "HBAA Initiative activity volumes and funding for FYE March (from 4 April 2022)" details how many Full Case Reviews (‘FCRs’) the DWP has assigned to each local authority for HBAA for the financial year 2022/23.

This is a useful resource given that we want to make some enquiries about how LAs process FCRs.

In total, there are 363 LAs listed. It is of note that the following nine have not been assigned any FCRs, which is likely to be because they are not participating in the HBAA Initiative this year:

- Cherwell District Council
- Council of the Isle of Scilly
- Gloucester City Council
- Gosport Borough Council
- Guildford Borough Council
- London Borough of Hackney
- Sedgemoor District Council
- South Somerset District Council
- Torridge District Council

For the remainder, the number of FCRs they are expected to complete varies from Shetlands Islands Council with 43 to Birmingham City Council with 23,886. The majority of LAs (264) have less than 1000 FCRs. 50 LAs have between 1000 - 2000 FCRs. 22 LAs have between 2000 - 3000 FCRs. 26 LAs have between 3000 - 7500 FCRs. Birmingham City Council is the only LA with more than 7,500 FCRs. The fact that it has almost 24,000 FCRs may indicate that it is processing significantly more benefits claims.

While we could infer that LAs with higher volumes of FCRs are likely to have a higher HB caseload, and potentially higher levels of fraud and error, there are other options which accurately depict benefit caseload.

This option would help us to appropriately target enquiries about HBAA FCR processes. However, given that almost all LAs are conducting FCRs it
could also be argued that we will be able to obtain information about FCR processes via any of the other methods of engagement set out in this report. Furthermore, the enquiries we plan to make are much broader than HBAA. We want to learn more generally about LA uses of algorithms for the purpose of welfare and social care. By focussing our enquiries based on FCR volumes we may risk limiting our enquiries and failing to capture information relevant to the inquiry.

4. Select LAs based on their benefit caseloads

The DWP publishes benefit statistics online via Stat-Xplore. It currently holds data relating to 16 different benefits/programmes. It can be used to explore the data and create customised tabulations and view results in interactive charts.

The majority of benefits are administered by the DWP. It is difficult to determine definitively which benefits are administered by local authorities, but we know that Housing Benefit is.

Housing Benefit claimant statistics are derived from the Single Housing Benefit Extract (‘SHBE’). SHBE is compiled from monthly returns of housing benefit and council tax benefit claimants from each individual local authority. The DWP notes that recording and clerical errors can occur within SHBE and, for this reason, no reliance should be placed on very small numbers obtained through Stat-Xplore.

The DWP also clarifies that there are data quality issues with Gloucester City Council and the London Borough of Hackney. It is understood that both were affected by cyber attacks on their IT systems which affected their supply of data to the DWP. Gloucester’s statistics have therefore been derived from earlier data, affecting the figures for the South West and Gloucester, representing 0.2% of all Housing Benefit claims and 2.5% of claims for the South West region. Hackney’s issue was resolved in July 2021, although it is noted that recovery work is ongoing and the statistics provided are described as best available estimates.

Housing Benefit caseload by local authority February 2022:
Based on the data available, we can determine that the majority of LAs’ Housing Benefit caseload is less than 20,000.

As highlighted visually on the graph above, Birmingham and Glasgow City Councils both have a significantly larger caseload (71,034 and 53,571 respectively).

The table to the left shows the LAs with the top 20 highest Housing Benefit caseloads. While there is only one London Borough in the top 10, there are 8 overall within the top 20.
Housing Benefit caseload by region February 2022:

The regional statistics, shown in the table to the left, are also useful in demonstrating the geographical spread of the Housing Benefit caseload.

As is reflected by the fact that 8 London Boroughs are in the top 20 above, London is the region with the highest overall caseload.

Despite Birmingham having a significantly higher caseload, the West Midlands region is ranked fifth overall.

In selecting this option there would be a couple of ways to approach LA engagement. We could either focus on those LAs with the highest caseloads overall, or contact a cross section of LAs from across the UK by selecting those with the highest volumes from each of the 11 regions.

LAs with largest overall caseloads could be more likely to use algorithms or data analytics in the administration of welfare. Targeting our enquiries with these LAs could prove more useful for this fact finding exercise and bridging the gaps in our knowledge. However, we could be seen to be targeting LAs that are in most need of utilising algorithms and data analytics in order to manage their high benefit caseload and reduce fraud and error in line with DWP policies.

Engaging with a sample of LAs from the different regions is likely to be more reflective of overall practices and provide regional representation. It will enable us to compare and contrast the different practices across the UK, where there is likely to be varying policies and levels of funding.

5. Utilise a local LA

The ICO and most of its staff are based in Wycliffe House, Wilmslow. Cheshire East Council covers Wilmslow and the surrounding areas. The main headquarters of the council is in Sandbach.
Cheshire East Council is noted as the third largest unitary authority in the North West, alongside Manchester and Liverpool\(^5\). There is a population of 398,900 and over 175,000 households. Overall Deprivation figures show that the Cheshire East LSOA with the highest ranking in the overall England ranking is placed at 1,197\(^6\). If the figures are reviewed in further detail to understand the income ranking, two of Cheshire East’s LSOAs fall within the top 1,000 LSOAs in England. High level OSR did not highlight any use of algorithms for the purposes of welfare and social care by the LA, however this is not to say that the systems are not in use.

This approach has the potential to provide the ICO with easily accessible engagement. Also by focusing on a single strand of engagement, it would allow for in-depth targeted questions on the LA’s practice. It is however important to note that the LAs processing activity is unclear at this stage, and it is not known how welfare and social care is administered and whether algorithms are used. Similarly by focusing on a single stakeholder, there is the potential for the practice to be unrepresentative of all LAs.

6. **Identify LAs for engagement using the Data Justice Lab’s Data Scores Investigation Tool**

The Data Justice Lab is hosted by Cardiff University’s School of Journalism, Media and Culture. In 2018 it carried out a project called Data Scores as Governance: Investigating uses of citizen scoring. It examined the uses of data analytics in public services in the UK. As part of this, it produced the [Data Scores Investigation Tool](#) which was designed to map systems and practices in public services in the UK. It consists of a collection of unverified documents from different sources that can be filtered and mapped according to location, suppliers/systems and sector.

There are several ways to interact with and use the tool. There is a document index where you can search for keywords or phrases within the whole database. You can also filter the database by companies, systems, authorities, departments, or sources.

There is an Insights section, which presents some of the data using interactive graphs and other infographics. You can review the data by organisations and systems, locations or departments.

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5. [About Cheshire East](#)
6. [Deprivation for All Years by LSOAs](#) | [Deprivation for All Years by LSOAs](#) | [Insight Cheshire East](#)
The screenshot to the left shows the data insights filtered by organisations and their systems.

Overall, it shows that the most mentioned supplier/system is Experian’s Mosaic.

The screenshots below show the data insights filtered by geolocation map.

You can zoom into the map or click on the numbers to get a more detailed view. You can also click on a local authority and it will filter the database and show the relevant results. Similarly, for the graph of organisations and systems above you can click on the bar to filter the database and retrieve results relevant to that system.

It is noted that the majority of the database contains data scraped from UK government websites (ending in “gov.uk”, “nhs.uk”, “police.uk”, “mod.uk”, and “sch.uk”) for information relating to data systems. This information has not been verified, so the accuracy is unknown.
In addition, the database contains information extracted from 423 LA responses to Freedom of Information (‘FOI’) requests made by the Data Justice Lab, requesting information on their use of data analytics and algorithms. It can be filtered to show these entries only.

This data is also presented in the tool in a section titled Overviews. The Responses have been collated and presented on the geolocation map shown on the left.

If you click on a LA, the tool will bring up the link to the FOI request (made on the whatdotheyknow.com website which facilitates FOI requests). It will also provide relevant extracts from the FOI response.

While the FOI data is more reliable as it was provided directly by local authorities, the requests were made in 2018 and the information could be outdated. This information cannot necessarily be relied upon as an accurate reflection the current use of data analytics across UK local authorities.

In selecting this option we could filter the database for results relevant to LAs. This is a large resource which may help us identify which LAs are using these technologies. However, the information is not necessarily reliable as it has not been reviewed and verified by the Data Justice Lab prior to being included in the database. Therefore, irrelevant data scraped using search engines may have been included. For these reasons, this option is likely to be resource intensive and require additional work prior to being able to make enquiries to determine which LAs to contact.

It may therefore be better to focus on the data from the Data Justice Lab’s FOI requests. This would enable us to utilise the verified information which details LA use of algorithms or data analytics. Although, as noted above this information is potentially outdated as the FOI requests were made in 2018. Given that this is a developing area it is likely that LA use of these technologies may have evolved in this time frame.
Overall, in choosing this option we would also need to be mindful that we would be reliant on third party intelligence.

7. Focus on LAs with the highest HB expenditure

The DWP publishes yearly tables detailing the benefit expenditure across each LA. The expenditure at a LA level is said to be estimated using National Statistics benefit caseload and amounts of benefit paid published data.

The latest report from DWP was published in 2021 and provides a detailed breakdown of the expenditure across the regions. As HPI are aware that HB is administered by LAs and HB administration has been a topic of interest under Operation Letton, there is the option to focus on LAs with the highest HB expenditure.

The tables within this section depict the LAs with the highest HB expenditure. The top 10 have been ranked for England, top 5 for Wales, and top 5 for Scotland. The statistics provided by DWP do not include Northern Ireland.

It could be assumed that the higher the expenditure, the more likely the LAs are to need systems and algorithms to process the payments. As a result, the statistics provided by DWP could provide Operation Letton with appropriate stakeholders for the LA engagement strand of the inquiry. On the other hand, engaging with these LAs may be seen as targeting those that need the algorithmic assistance most in that they are relying on algorithms and data analytics to process the vast quantity of payments.

8. Use ‘Left behind communities’

“Left behind? Understanding communities on the edge” was researched by Oxford Consultants for Social Inclusion (‘OCSI’) and published by Local Trust in August 2019.

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7 Benefit expenditure and caseload tables 2021 - GOV.UK (www.gov.uk)
Prior to their research, Local Trust approached the research and data consultancy who provide support to the UK Government in the development and maintenance of the Index of Multiple Deprivation to explore whether further data existed that might allow factors to be mapped and explored. They identified that multiple deprived areas, when combined with the absence of places to meet, the lack of an engaged community and poor connectivity, fare much worse than other deprived areas. The research indicates that communities that suffer from a combination of these factors are distinctive and different from those that have traditionally been the focus of debate around deprivation. They fall into a category of place that has been described as ‘left behind’. The report suggests that deprived areas which lack the assets identified have higher rates of unemployment, ill health and child poverty than other deprived areas. Of interest to Operation Letton and welfare administration, the factors looked at as part of the ‘left behind’ are said to make for a significant difference to economic outcomes for the communities.

The research raises 206 left behind ‘wards’ in England and highlights four neighbourhoods as having especially low densities of community assets; Breightmet Bolton in Greater Manchester, Norton South Halton in Cheshire, Sheppey East Swale in Kent, and Yarmouth North Great Yarmouth in Norfolk. Given the reference to economic outcomes for the left behind neighbourhoods, it may be appropriate for focused enquiries to be issued to the relevant LA of the neighbourhood to query their administration of welfare and social care.

Whilst the left behind communities appear to closely align to the indices of deprivation, the option lacks regional representation. It may be that the use of algorithms in welfare and social care differs across England, Wales, Scotland and Northern Ireland. As such, targeted enquiries to LAs within England may provide unrepresentative information of the LAs practice.

9. **Target those LAs that responded to the BBW FOI responses**

As part of BBW’s investigation, it made FOI requests to more than 400 UK LAs regarding their use of algorithms, data analytics and automation in welfare systems. In relation to risk based verification (‘RBV’), BBW

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8 [England’s poorest areas left far behind with lack of social infrastructure | Communities | The Guardian](https://www.theguardian.com/communities/2019/mar/06/england-s-poorest-areas-left-far-behind-with-lack-of-social-infrastructure)
confirmed that of the 303 LAs that responded to its FOI requests 53 confirmed they were still using RBV. To assist our fact finding in this area, we requested copies of the 53 FOI responses detailing use of RBV.

We reviewed the information provided by BBW, and identified concerns with the LAs understanding of data protection specifically in relation to controller/processor relationships, lawful basis, and risks and harms to data subjects. A recommendation was made that we should further assess LA compliance within future enquiries.

At present, we do not have a clear picture of which LAs are using algorithms or data analytics in the administration of welfare and social care. Through enquiries made with strategic stakeholders we understand that uptake of these technologies is not hugely prevalent amongst LAs. This option would enable us to focus our enquiries on a number of local authorities we understand to be using at least some form of predictive analytics. Although, we need to consider that the FOI responses are from late 2020 and early 2021 and it is possible that the information is now outdated.

This option also presents risks. LAs who have been open and transparent regarding their use of these systems may feel that we are unfairly targeting them. We could also be seen to be reliant on the intelligence provided by BBW, rather than our independent scoping and research. We want to ensure that we remain impartial in our ongoing work on this inquiry, and are not considered to be being influenced by BBW in our decision-making.

Furthermore, the enquiries we plan to make are broader than RBV. We want to learn more generally about LA uses of algorithms for the purpose of welfare and social care. By focussing on those LAs believed to be using RBV we may risk limiting our enquiries and failing to capture information relevant to the inquiry.

10. Engage with no LAs

There is an option for HPI to not undertake engagement with LAs and instead rely on existing enquiries with suppliers and information obtained during the fact-finding stage of the inquiry. This would allow for Operation
Letton to be concluded within a quicker timeframe and for the delivery stage of the inquiry to be pursued earlier than anticipated.

It is important to note that many of the suppliers place the responsibility of the algorithm use and data processing on LAs, as data controllers. Should this option be pursued, there is the potential of vital information being missed from the inquiry. Such knowledge gaps are likely to have a detrimental impact on the inquiry outputs.

**Recommendation and Rationale:**

Having considered the options outlined above, it is recommended that Option 4 is pursued, “Select LAs based on their benefit caseloads”.

LAs with large overall caseloads could be seen as more likely to use algorithms or data analytics in the administration of welfare. Targeting our enquiries with these LAs could prove useful for this fact finding exercise and bridging the gaps in our knowledge on LAs’ practices.

As mentioned above, in selecting this option there are two approaches available to the LA engagement. HPI could either focus on those LAs with the highest caseloads overall, or contact a cross section of LAs from across the UK by selecting those with the highest volumes from each of the 11 regions. It is recommended that the latter option is pursued. Engaging with a sample of LAs from the different regions is likely to be more reflective of overall practices and provide regional representation. Taking the approach will enable us to compare and contrast the different practices across the UK, where there is likely to be varying policies and levels of funding.

Issuing targeted and focused enquiries to 11 LAs would be unlikely to cause any resource strain on HPI and would allow for the themes of Operation Letton to be explored in detail.

**Author:** Hannah Forrester and Zoe Robson  
**Date:** 25 July 2022

**Team Manager review by:** Claire Walker  
**Date:** 26 July 2022
Hannah and Zoe have conducted a thorough review of our potential options for contacting local authorities to further pursue this inquiry and increase our knowledge of the use of algorithms in welfare and social care.

Due to the vast number of local authorities it would not be a beneficial use of our resources to attempt to contact all of these. As set out within this document, contacting all local authorities would be resource intensive and wouldn’t allow us to explore the themes in depth.

It is also not an option for us to not contact any local authorities. To further progress this inquiry and increase our knowledge we need to speak to local authorities and understand their use of algorithms as the data controllers.

Having reviewed the options set out, I agree with the recommendation to select local authorities based on their benefit caseloads. We should select those with the highest volumes from each of the 11 regions which will ensure that we have representation from across the country.
Update:

**FOIA s.31**

The LA that follows Hackney in their benefit caseload is London Borough of Newham, and it was therefore recommended that this LA was pursued instead. The below will explore London Borough of Newham:

<table>
<thead>
<tr>
<th>Region</th>
<th>LA</th>
<th>Caseload at February 2022</th>
</tr>
</thead>
<tbody>
<tr>
<td>London</td>
<td>Newham</td>
<td>22,648</td>
</tr>
</tbody>
</table>