Bottom-up data trusts

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https://datatrusts.uk
Letter: Legal instruments exist to empower us, the data subjects
19th Century Land Societies

Pooling resources

Right to vote

21st Century Data Trusts

Pooling data

Political & Economic Empowerment

Freethold Land Society.

The Ipswich and Suffolk Permanent Benefit Building Society.

Established 1842.

Assets exceed £2512,000. Membership exceeds 17,000.

Mortgages.

Liberal advances. Low charges.

Easy repayments over approximate periods of 13 or 18 years.

Investing shares.

Subscriptions payable forthwith.

Interest 4½% (Net of Income Tax)

For particulars and particulars apply to:

S. O. Burman,
Acting Secretary.
44 Upper Brook Street.
Ipswich.
Data Trusts = Remedy to:

- Lack of tool enabling long-term collective action
- Data consent rarely more than ‘make believe’
- Lack of governance that removes obstacles to the research potential underlying datasets
Data Trustees

• *Fiduciary* obligation of undivided loyalty

• *Intermediary layer* between data subjects and data controllers
21st-century profession?

• 19th Century: advances in medic.Sc. called for birth of medical profession.

• Today: advances in data science call for Data Trustees
Challenging the one size-fits-all approach
Implementation Models

• Participatory governance v. Hands-off delegation

• Centralised v. Decentralised
Holding data rights under a Legal Trust
Reversing direction of consent
Reversing Habit of passivity

• Today’s data governance encourages a Habit of passivity (who isn’t tired of consent pop-ups?)

• To reverse this: bottom-up data infrastructure that gives a social, political & economic voice to variety of groups
Learning new forms of civic participation

• Data trusts = one vehicle within which one may learn new forms of civic participation

• Acquiring a voice to shape data-reliant futures (better use of natural resources, healthcare, education etc)
Challenges

1. **Low levels of data awareness**: how do we make sure data trusts do not end up empowering only the least vulnerable part of the population?

2. **Data monetisation is rarely empowering**

3. **Countering the ‘race to the bottom’**: need for actors with long-term, genuine empowerment ambitions
Worth it?

Given the vulnerabilities at stake:
Yes

Unlike contractual or corporate frameworks, `equity employs ex post moral standards, emphasizes good faith and notice, couches its reasoning in terms of morals, and is sometimes vague rather than bright line`
Has the data already been collected?

Does the data give rise to rights?

- Yes
  - Which rights?
    - Personal rights
    - IP rights
  - Repeatable terms and conditions for responsible (horizontal) data sharing

- No
  - Does this collected data give rise to personal rights?
    - Yes
      - Is sharing a for-profit endeavour?
        - No
          - Repeatable framework of terms and conditions
        - Yes
          - Choice of data governance structures (trusts, coops, databanks, etc) depends on: (1) Value-based aims (see aims chart); (2) Attitude to risks
    - No
      - Consider data commons (as above)

Choice of data governance structures: this choice will reflect value-based aims and attitude to risks. Aims that can be served with data trusts will be more limited, but include facilitating the exercise of data rights.
Exploring legal mechanisms for data stewardship

A joint publication with the AI Council, which explores three legal mechanisms that could help facilitate responsible data stewardship.

4 March 2021

Reading time: 157 minutes

The three legal mechanisms discussed in the report are data trusts, data cooperatives and corporate and contractual models, which can all be powerful mechanisms in the data-governance toolbox.

The report is a joint publication with the AI Council and endorsed by the ODI, the City of London Law Society and the Data Trusts Initiative.
Taking data trusts from theory to practice

[Data Trusts Initiative logo]

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