

Data Trusts: disrupting 'one size fits all' approaches to data governance

Data trusts are bottom-up initiatives that offer a vehicle for individuals and groups to pool their data rights, with the aim of achieving a common goal that relies on data sharing. These pooled data rights are leveraged by a data trustee, who is held to fiduciary standards.

On 17 December, the Ostrom Workshop will explore the ideas underpinning data trusts and how these have evolved in the UK context and beyond. To inform discussions at the workshop, participants are invited to fill in the survey at this link <https://forms.gle/oZMFpgwc2N8AFPqV7>

For further information about the background to the workshop, please see: Bottom-up data Trusts: disturbing the 'one size fits all' approach to data governance, [Sylvie Delacroix](#), [Neil D Lawrence](#), *International Data Privacy Law*, Volume 9, Issue 4, November 2019, Pages 236–252, available to all at: <https://doi.org/10.1093/idpl/ipz014> and www.datatrusts.uk

Background

Current legislative frameworks create a collection of rights and responsibilities in relation to different types of data. However, current mechanisms for data sharing leave gaps in the ability of individuals and groups to exercise these rights, or hold data controllers to account. Data trusts address four issues stemming from today's governance frameworks for personal data:

1. **Bridging the gap** between aspirations to share data to facilitate common goods (health, natural resources etc) and concerns about vulnerabilities from data use: while today's data governance frameworks are able to support a range of data sharing activities, recent years have shown their limitations when seeking to mitigate the vulnerabilities that stem from daily digital interactions, or when supporting groups to promote data use for a collective purpose.
2. **Making consent meaningful**: reliance on consent as the basis for data sharing presupposes time and resources that most do not have. What if one were to login to service providers like Amazon via a 'data trust login' that sets the terms according to which one's data may be used? Bound by a fiduciary responsibility of undivided loyalty, data trusts could function as an independent intermediary between data subjects and data controllers. These data trustees could become a vital profession for the 21st century, using their knowledge and skills to represent the interests of their trust's beneficiaries.
3. **Empowering groups**: just like 19th Century 'land societies' empowered people to get the right to vote by pooling resources to acquire a piece of freehold land, data trusts could help empower otherwise disenfranchised groups. With access to the bargaining power associated with the aggregation of data rights in the trust, the trustee would be better-placed to negotiate terms of data use – and respond to undesirable uses of data – than any lone individual.
4. **Challenging the 'one size fits all'**: the creation of a plurality of trusts would allow data subjects to choose a trust that reflects their aspirations, and to switch trusts when needed. Data Trusts may arise out of privately or publicly funded initiatives, but would need ways of ensuring continuing financial sustainability and mechanisms to secure widespread engagement.

Achieving this vision requires further work to address key questions in the design and implementation of data trusts, including:

- What oversight mechanisms will need to be in place to hold data trusts – and data trustees – to account?
- What interventions will be necessary to ensure all in society are able to engage with – and benefit from – data trusts?
- How might data trusts work across jurisdictions with different legal frameworks? Which legal tools or structures are most promising in the US context? Please fill in our survey on this point!