



Making Open Data Real: A Public Consultation August 2011

Introductory Comments

1. This response from CILIP (Chartered Institute of Library and Information Professionals)¹ first addresses the six Policy Challenge Questions together and then responds to some of the other questions throughout the consultation paper. Additional comments consider further issues that are important in CILIP's view but are not raised in this consultation. A summary of key issues covered in our response follows these introductory comments.
2. CILIP welcomes recent developments to the Open Government Licence that help to increase the accessibility and re-use of government information. We also welcome the Government's overall commitment that there should be no charge for data required to hold public service providers to account, such as key data about services, user satisfaction and provider performance.
3. CILIP recognises that there are synergies between this consultation and three other current initiatives (the Public Data Corporation consultation, the report by Kieran O'Hara on privacy and transparency, and the second phase of the Growth Review, which looks at the economic opportunities of open data), and notes that central government business plans for 2012-13 will include a review of their information strategies. The outcomes of this present consultation may therefore be affected by the outcomes of those other initiatives.

¹ CILIP is the professional body for library and information specialists working in the United Kingdom. It has about 18,000 members, and influences the wider professional community of information management and governance specialists. Among CILIP's special interest groups that have collaborated on this response are UKeIG, the UK electronic Information Group, which promotes and advances the effective exploitation and management of electronic information, and the Government Information Group, which represents the professional interests of librarians and information workers in government departments and agencies, parliamentary and national libraries.

4. **CILIP therefore now offers to engage with the ongoing review as an expert advisor on Knowledge and Information Management (KIM) issues.** As the chartered membership body for government KIM professionals we support work on the Information Matters programme and projects managed by members of the Knowledge Council.

Summary of key issues

5. CILIP identifies several key issues, summarised here: we indicate the paragraph number where we discuss an issue in further detail in this paper.
 - a.) There must be a presumption that a public entitlement exists to free access to all data collected by a public service organisation within the scope of this consultation except on defined grounds of data privacy or national security. It must not be acceptable to refuse requests solely for reasons attributable to poor data quality. This right to access must be balanced by responsibilities to make reasonable requests for data for legitimate purposes, and to make available any further datasets generated using data drawn from public service operations. We recognise that grey areas may need further consideration, e.g. trade secrets within publicly owned companies, data from banks under public sector control.
 - b.) The selection of data to be released, whether newly created or older material, must be made from the standpoint of users not the keepers of the data (subject to the safeguards on privacy and national security). Research into user requirements would help to identify meaningful data for publication, whilst linking the existing but under-used Information Asset Registers (IAR) to data.gov.uk would improve access to available datasets at low cost. (paras. 7 and 25-26)
 - c.) Data quality is a critical issue to be considered by this and the other current consultation exercises. There must be guarantees on the anonymisation of data where large databases are formed by amalgamating two or more sources (cf. the O'Hara report). Quality is a critical element of data integrity, which is one of the pillars of information assurance, and in turn of cybersecurity (para. 22).
 - d.) The regulatory system put in place after this consultation must be strengthened and adequately resourced. The Government should consider separating the ICO's responsibilities for data protection (DP) and freedom of information (Fol), as is already the case in many countries. Creating a second agency to oversee Fol would allow the ICO to concentrate on delivering excellence in its governance of DP. (Para. 13)

- e.) Whatever systems are put in place must operate across the UK. Although the current legislative and regulatory frameworks are very similar they are not identical in Scotland, England and Wales (which are themselves separate for some purposes), and Northern Ireland. There must be a common charging regime and standard definitions of terminology.
- f.) The ownership of public service data by the private sector is problematic and needs reform. The reliance of some organisations (trading funds, privatised public services) on revenue generation from intellectual property rights (IPR) cuts across the presumption of free access to data generated by public service operations. (Para. 47)
- g.) Government policies (localism, the Big Society) will introduce many new, often small public service providers to the market place. These providers will need guidance as well as regulatory control as they learn to collect and manage, use and share data and information on the services they provide. The KIM profession is capable of providing this support but the outcomes of this consultation should not underestimate the size or the importance of this issue.
- h) From the outset, the Government must take into account the technological issues associated with open data, particularly the size and complexity of the datasets and the extent to which they can be 'cleanly' defined and offered to the public.

Policy Challenge Questions (Section 8 of consultation document)

(Q1.) An enhanced right to data: how do we establish stronger rights for individuals, businesses and other actors to obtain, use and re-use data from public service providers?

- 6. The presumption of publication – which must govern both “pull” and “push” release of information – is an important principle that CILIP endorses. It would be a major step forward to embed this principle in the culture of public service through a combination of the measures listed in section 8.6 of the consultation paper.
- 7. An important element of establishing rights to data is for the various actors to understand what is available and then to be able to find relevant material easily. Information Asset Registers (IARs) have been compiled by central government since 1999 but they vary in quality, are thinly populated, and for some major departments non-existent. There is no longer a cross-department search facility. Data.gov.uk defaults to listing data by originating department,

while there is no obvious subject structure². Despite ongoing efforts to reduce the number and complexity of government websites these resources are on separate and unconnected sites. An enhanced right to data will be encouraged and supported by early improvements to and consolidation of the indexes to available datasets. (The draft Public Data Principles refer in passing to this problem, while Kieran O'Hara's report recommends data asset registers).

8. A proper entitlement to data needs to be underpinned by robust enforcement and redress arrangements when things go wrong or where expectations are not being met. The ICO's use of its new powers to impose exemplary fines for infringing Data Protection regulations has had a positive impact on the seriousness with which all sectors now take these responsibilities.
9. But rights must be counterbalanced by responsibilities. It must be recognised that data could be used by a third party in a way which could damage the reputation of the original provider. The Open Government Licence model³ should be the default, supplemented by a corresponding commitment to use data responsibly. These principles should be incorporated within any redress arrangements. The provider of the dataset also needs to act responsibly: data definitions or technology platforms should not be changed without prior discussion with dataset users, so that potential consequences are recognised.
10. There is also a need for a strong and properly-resourced support programme if giving a right to data is to be more than a paper commitment. The poor levels of information and digital literacy in the UK⁴ are a constraint on citizen participation and must be addressed. An important role for library and information services – not only public libraries but in all sectors – is as expert intermediaries giving people the information skills necessary to use open data resources effectively.
11. We welcome the continuing commitment to respect privacy and have responded more fully to this important aspect in our response to Policy Challenge question 3

² So a simple subject search for the word "justice", typical of a non-expert user, retrieves various criminal justice system statistics mixed with information about the Ministry of Justice such as its energy use or its financial transactions over £25,000

³ See : *UK Government Licensing Framework* (2nd edition), Kew : TNA, 2011, paragraph 6.1

⁴ See for example : Jamie Miller and Carl Bartlett. *Truth, lies and the Internet : an enquiry into young people's digital literacy*. London : Demos, September 2011 : UK Commission for Employment and Skills. *Careering through the web*, Wath-upon-Deane, UKCES, 2010.

(Q2.) *Setting Transparency standards: what would standards that support an enhanced right to data among public service providers look like?*

12. A framework of standards and regulations should be put in place that would:
- a. promote and ensure excellence in information and knowledge management within public sector organisations, which is the necessary precursor to the effective collection, use and dissemination of data. In central Government the “Information Matters” programme fulfils this requirement, supported by the work of the CTO Council Public Sector Information Domain⁵
 - b. deliver greater integration and commonality between the structures supporting data protection, FoI, environmental information regulations (EIRs), re-use of public sector information etc. to create a more understandable and accessible set of UK wide rights of access to and use of public information
 - c. ensure the implementation of the INSPIRE⁶ Directive setting out a common infrastructure for the collection of spatial information
 - d. establish standards for data quality⁷ that will enable release of data without the risk of breaches of privacy or security

(Q3.) *Corporate and Personal responsibility: how would public service providers be held to account for delivering Open Data through a clear governance and leadership framework at political, organisational and individual level?*

Political level

13. At the political level data protection and freedom of information responsibilities should be separated, as is already the case in many countries. A new body should be established focusing on Freedom of Information, encompassing the right to data, and distinct from the Information Commissioner’s current responsibilities for data protection, which should become the ICO’s primary focus. (The ICO’s relationship with the proposed Public Data Corporation would need refinement once the scope of that body were established). The

⁵ See *Knowledge and information management standards and guidelines*, www.nationarchives.gov.uk/documents/information-management/kim-guidance.xls

⁶ Directive 2007/2/EC of the European Parliament and Council <http://inspire.jrc.ec.europa.eu/> (accessed 25/10/2011)

⁷ See for example reports by the Audit Commission on improving data quality in the NHS Payment by Results initiative, policing, etc

new body would have a remit to improve the quality of public data and, following the precedent set in the provision of health information for the public, it should accredit providers rather than every dataset. The House of Commons Public Administration Committee should exercise a scrutiny function over the fitness for purpose of public service information because this information is as critical to good public sector governance as finance or human resources.

14. The Government should recognise that the Open Public Services White Paper and the concepts of localism and the Big Society present challenges of knowledge and information management. Increasingly public services will be delivered by charities, local social enterprises, staff mutuals and other types of organisation. How will these new bodies be incorporated into the Open Data agenda, and how will they learn about their responsibilities for data and be supported in meeting them? It will need a drive from the centre to roll out the major awareness and training programme required.

Organisational level

15. Public service organisations should appoint a board member with specific responsibility for Knowledge and Information Management including transparency issues. In central government departments the Accounting Officer and Senior Information Risk Owner (who should be a board member) must take responsibility for effective information management.
16. All public sector organisations should be able to demonstrate an effective Knowledge and Information Management (KIM) strategy as an integral part of their business plans. KIM and Open Data standards should be embedded in commissioning, performance management and regulatory frameworks, and government procurement rules amended to reflect these requirements. TNA's programme of Information Management Assessments (IMAs) should be revised to take account of the additional requirements from the open data initiative, and extended to all public sector bodies. TNA should have enhanced powers to follow up improvements required in IMAs and to refer forward cases of non-compliance for possible sanctions, and must be adequately resourced for its responsibilities.
17. A similar requirement to publish an appropriate KIM strategy should be placed on public service providers outside the public sector. It may also be appropriate for larger providers to undergo IMAs.

Individual level

18. Public service Heads of Service must be accountable for effectiveness of KIM strategies including the delivery of the Open Data agenda. Job descriptions and appraisal systems should reflect this accountability.

Privacy

19. The release of large numbers of datasets raises implications for privacy. It is uncertain whether existing privacy measures and safeguards to protect personal data will provide for the adequate regulation of Open Data. The Information Commissioner's Office is increasingly concerned about genuine anonymity in large aggregated databases even though we have not yet experienced the release of large anonymised data sets. CILIP believes that threats to privacy will increase as publication of data becomes less "top down" and more "demand driven". Reports of breaches in security, mostly due to human error or lack of data security training, are reported on a fairly regular basis.
20. We support the recommendation made by Kieron O'Hara in his report for the Cabinet Office⁸ that privacy protection should be embedded in any transparency programme. A further element of the privacy debate must centre on the Big Society and Open Public Services agenda. These reforms bring major challenges regarding the effective and ethical management of information resources by many small and often new organisations that have little or no knowledge of data protection or freedom of information requirements. Their lack of experience may lay them open to unscrupulous practices by users seeking their data in order to identify individuals by data mashing (what O'Hara calls "jigsaw identification"). These organisations must be underpinned by effective knowledge and information management, which demands the expertise and skills of information professionals.

(Q4.) Meaningful Open Data: how should we ensure collection and publication of the most useful data, through an approach that enables public service

⁸ Kieron O' Hara, *Transparent government, not transparent citizens: A report on privacy and transparency for the Cabinet Office*, October, 2011

providers to understand the value of the data they hold and helps the public at large know what data is collected?

21. In this section we raise three key issues; the quality of the data itself; the criteria for collection and publication of data; and the support provided to the public in using that data.

Quality

22. Too much public sector data is simply not fit for purpose and therefore can mislead and misinform with potentially disastrous results. A recent EURIM report⁹ looked at problems with public sector information while the Audit Commission has done extensive research around the quality of data. Of particular relevance is their report *Is there something I should know*¹⁰ which describes the six dimensions of good quality data.
23. All public service providers should be under an obligation to specify the datasets that they hold, together with a minimum set of metadata about the collection, compilation and validation of the data, and the frequency with which some or all elements of the dataset are revalidated or revised. It should be the norm for each public data set to have an introductory profile setting out key parameters of the data and where necessary the provider should be expected to give health warnings as to the limitations and shortcomings of its quality. This information should be provided within departmental Information Asset Registers, which were discussed in para. 7 above.
24. The publication of raw (“unpolished”) data offers benefits for innovators and researchers. Research informs data collection by indicating areas of concern, and provides a route to valuable syntheses and sense making. These research activities in turn benefit public service through policy impact assessments and other outputs. Academic research therefore needs to have access to public service data without incurring a charge. In return users of the raw datasets should undertake to release polished, linked data at a later date.

Criteria for selection and publication

⁹ *Improving the evidence base: The quality of information. Status report and recommendations of the EURIM sub-group on the quality of information*, The Information Society Alliance, EURIM, June 2011

¹⁰ <http://www.audit-commission.gov.uk/SiteCollectionDocuments/AuditCommissionReports/NationalStudies/20090730is theresomethingishouldknowrep.pdf>

25. We cannot support the view in paragraph 6.11 that “to mitigate costs during a time when the public sector must be particularly mindful of public funds, we propose that the emphasis be placed on releasing new data, rather than old, and on releasing data as is rather than spending time and resources improving quality immediately”. This is not consistent with providing “meaningful open data”. A drive to improve quality and introduce a robust regulatory framework should start immediately, although it is clear that this will take some time to deliver.
26. It is important that public service providers select data for publication taking into account the potential relationships between datasets held by the sector as a whole. Data held by Agency A may have greatest value only when combined with data from Agency B, but this will be lost if Agency A only considers its own activities. Higher Education research should be monitored so that it informs this area. In para. 29 we propose improvements to the retrieval capabilities of Direct.Gov and data.gov.uk that would help agencies to search for similar datasets elsewhere in the public sector.
27. External requests to access particular datasets will provide an order of priority for cleansing and otherwise improving the quality of an organisation’s datasets. Structured research into public and business expectations and desires would further help to determine which data to publish¹¹.

Supporting users

28. In paragraph ten above we referred to the need to support users in finding and interpreting datasets made available as open data. To obtain fullest benefit from public investment in open data, levels of digital literacy must be raised in the UK. Information professionals are in a position to make an important contribution to achieving this objective.

(Q5.) Government sets the example: in what ways could we make the internal workings of government and the public sector as open as possible?

29. The workings of government are already complex: as public services are increasingly provided by local organisations they are likely to become more complex still. An early priority must be a comprehensive guide to government and public service delivery for the ordinary citizen, allowing him or her to make informed and meaningful requests for data, and to interpret that data meaningfully. This need not (and ought not to) be a priced printed publication

¹¹ Other organisations are already advising the public sector on these issues e.g. see SOCITM briefing 20, Open data and transparency : no turning back. London : SOCITM, 2010.

such as a revived Civil Service Yearbook; the most effective improvement would be to upgrade the search function of Direct.Gov to make it more context sensitive, and taxonomy-based. This change would greatly increase the chance of finding relevant content through site search, reducing the cost to government of helping questioners to refine FoI and open data requests and increasing the likelihood of value-added publication of mashed data. Use of the same taxonomy on data.gov.uk would make search consistent across the public sector portals.

Case study: finding government information about ecommerce on Direct.gov

When the search term “ecommerce” is entered into the Direct.gov search engine zero results are returned:

Search has changed. Results include general information about publications - follow the links for details of specific editions.

Keyword(s): ecommerce Search again:

Sorry, no search results were found for "ecommerce"

Please check your spelling, try a different word or check out the available topics under [Browse by Theme](#).
For help with searching the site, check out our tips in the [Help](#) section.

To retrieve hits, the term must be entered using the spelling “e-commerce”:

Keyword(s): e-commerce Search again:

Page 1 of 1 | 3 results


Publication title: International e-Commerce Benchmarking

Department: Office for National Statistics
ONS is working to develop a comparison of e-commerce readiness, usage and impact across nine major economies, Australia, Canada, France Germany, Italy, Japan, Sweden, the UK and USA.

Search for: [Current and past editions](#) | [Future Editions](#) | [All Editions](#)

This search has been performed as a query statement against an SQL database resulting in an inaccurate result. Search engine software would have handled this query consistently whatever the user had typed, or would have asked e.g. “do you mean e-commerce?”




In fact, searching ons.gov.uk retrieves five items indexed “ecommerce” (and 129 indexed “e-commerce”):

You searched for "ecommerce" 

ecommerce

You can use the filters to help find what you are looking for

Page 1 of 1 | 5 results

Title 	Release date 	Type 
ONS Page Tracking Code	22 Feb 08	Regular Content
ICT Activity of UK Businesses, 2009 (Pdf 110Kb)	26 Nov 10	Statistical bulletin
Economic Trends - No. 625, December 2005 - IT use by Firms and Employees (Pdf 71Kb)	13 Dec 05	Article
Economic Trends (discontinued) - Internet spending: measurement and recent trends	15 Mar 06	Article
ICT Activity of UK Businesses - Internet spending: measurement and recent trends (Pdf 343Kb)	19 Jan 06	Article

Page 1 of 1 | 5 results

Search remains inconsistent and of poor quality on government websites. Using SQL queries only succeeds where the user uses the exact term indexed, while there are wide inconsistencies in results between searches on Direct.gov and direct searches on individual government websites.

30. The challenge of ensuring effective information management across the plethora of new public service providers that the Government wants as part of its Open Public Services agenda is immense. Full implementation of the Government Knowledge and Information Strategy, "Information Matters", would support these providers, as outlined earlier at paragraph twelve. The programme needs to be strengthened and better promoted, but could already act as exemplar for similar programmes in other parts of the public sector. The creation of a public service providers' KIM forum, drawing on the work of the Knowledge Council and "Information Matters", would allow good practice to be shared by and promoted among providers of all types and sizes for mutual and public benefit. CILIP proposed that a similar forum would benefit the healthcare sector in its responses to the Hill and Darzi reports and trust that the proposed new NHS Information Strategy will provide a robust framework for knowledge and information management.
 31. Government should explore with the Higher Education sector the lessons learnt through their sharing of data and research in open archives and dataset centres and review experiences in the NHS with public health observatories.
 32. Citizenship courses in schools and for those applying for British nationality should include modules on government organisation, sources of relevant data and information and a citizen's right to data.
- (Q6.) Innovation with Open Data: to what extent is there a role for government to stimulate enterprise and market making in the use of Open Data?**

33. Government does not necessarily need to lead market making in data aggregation and publication. The emergence since around 2004 of user-generated websites based on the available public sector information demonstrates that organic development is likely once suitable data is released¹².
34. Our understanding is that the proposed Public Data Corporation will focus on encouraging and stimulating innovation and creativity in the use of public sector data, especially in regard to core national reference datasets and those public sector information providers operating trading funds. Again there may be lessons to be learned from knowledge transfer initiatives in higher education.

¹² See the account in Ed Mayo and Tom Steinberg. The power of information : an independent review. [Cabinet Office], 2007. Available at http://www.cabinetoffice.gov.uk/reports/power_of_information.aspx

Initial questions (Section one of consultation document)**(Q1.) Do the definitions of the key terms go far enough or too far?**

35. It is difficult and perhaps unnecessarily complex to define the key terms precisely. Even in such a short section there are four footnotes referring to various external sources, whilst the definitions describe various alternative scenarios for the delivery of public services. We believe that the situation should be kept under review so that appropriate action can be taken if the feedback from early adopters suggests that greater clarity is required.

(Q2.) Where a decision is being taken about whether to make a dataset open, what tests should be applied?

36. There should be a presumption of openness unless there are overwhelming reasons for a dataset to remain closed. These reasons might be grounds of national security, or because the dataset contains personal data that cannot reliably be excluded or redacted. However the mere presence of personal data in a dataset must not be the sole reason for refusing to make the data open: the quality of some data is poor, meaning that personal data may be entered wrongly or in unexpected fields, but this is an argument to improve data quality not to restrict openness.
37. A set of agreed criteria should be developed (drawing on responses to this consultation as well as the existing exemptions in the Freedom of Information Act 2000 and the Freedom of Information Act (Scotland) 2002) to establish tests for release. There must be particular consideration of the use of cost as a reason to withhold release so that sensible common limits are set, including an agreed definition of vexatious requests. (See our response to Q.3 below). But, we repeat, the presumption must be to release data through both “push” and “pull” unless there are overwhelming reasons against.
38. The requisition process for datasets to be opened should include the opportunity for applicants to indicate their intention to create further value through the release of new open data resources incorporating the requested data.

(Q3.) If the costs to publish or release data are not judged to represent value for money, to what extent should the requestor be required to pay for public services data, and under what circumstances?

39. It is inherent in a request to provide data (a term we use as the distinction between publication and release is not made clear here) that the requestor considers whatever costs are incurred by the data custodian to be reasonable and to represent value for money in the general public's view. Any value for money test must be considered primarily in the view of the public, not of government.
40. As set out in our response to Q.2, the presumption must be that: requested data will be published in the absence of overwhelming reasons of national security or data protection; an exemption will not be available on the grounds that extensive cleaning of poor quality data is required; a commonly agreed definition is used to define vexatious requests that need not be answered; and that if a ceiling cost is imposed it will be set sufficiently high that the vast majority of requests (perhaps 98-99%) will be met.
41. Further work will be needed to establish the value chain for each type of data user. A fair price to be paid for a complete dataset by a publisher (integrator, or intermediary) who will add value and derive ongoing profit from public service data is clearly a different price from that to be paid by an individual member of the public or a not-for-profit group or academic researchers with an interest in a small segment of the available data. We comment further in para. 49 below.

(Q4) How do we get the right balance in relation to the range of organisations (providers of public services) our policy proposals apply to? What threshold would be appropriate to determine the range of public services in scope and what key criteria should inform this?

42. The range must be inclusive rather than exclusive, and must comprise all central and local government organisations unless there are obvious grounds for exclusion. Even here, such as the national security agencies, the government should issue an instruction to consider whether any data is suitable for release.
43. The greatest problem is with public data created, gathered or held by arms length bodies and in the private sector on behalf of government. Some of these datasets are of critical importance to academic research, to business

administration and to commercial R&D as well as in their original government contexts.

(Q5.) What would be appropriate mechanisms to encourage or ensure publication of data by public service providers?

44. As we have already emphasised, there must be a presumption to openness of all datasets created in the course of public business unless reasons of data privacy or national security make a convincing case against. We envisage a number of approaches to encouraging or ensuring publication of data.
- The Prime Minister and the Transparency Unit should continue to challenge departments and agencies to release data or to justify withholding.
 - Reference to other initiatives such as the Red Tape Challenge should rapidly identify what data is being collected and where it is being stored: in this context it will be important to demonstrate proper disposal of records where databases are closed or frozen.
 - A list should be regularly published on the Transparency Unit website of databases for which requests for release have been denied or where release has been delayed beyond the normal deadline. The service provider should be required to state the reason for the denial or delay in response. In the case of public services that are provided by private sector organisations, performance against these criteria should be an element of performance reviews.
 - In all cases it should be possible to refer to an independent authority if the enquirer considers the response to be unsatisfactory.

Concluding Comments

45. There are some other issues that we wish to raise that don't fit neatly into the formal questions posed in the consultation. The first is the general observation that the consultation paper focuses rather more on central government than other parts of the public sector. It will be important to ensure that the open data agenda is adopted across the whole public sector. Therefore, just as the other initiatives mentioned in paragraph 3 of this response will feed into the approach to open data, so the experience of other parts of the public sector may raise further issues and challenges. This is the start of an important programme and much remains to be learned.
46. We have already commented on privacy issues, notably in paragraphs 19 and 20 of this response. However we have growing concerns about the continuing

adequacy of the Data Protection Act 1998 where its provisions have been overtaken by technical and legal developments. The UK government needs to be championing the revision of the EU Data Protection Directive 1995 (Directive 95/46/E) that lies behind the DPA to ensure that data subjects continue to receive the protection they need to keep personal information confidential within the modern context.

47. The consultation document also raises important questions about the ownership of various databases of public service information. It is unsatisfactory that ubiquitous and important national data, in particular geospatial information including postcode and mapping data, are the intellectual property of privatised public services or government trading funds, and that this data represents an important revenue stream that they are naturally reluctant to forego. As well as being a major outlay in the provision of public services¹³, this situation remains a potential barrier to creation of data mashing applications of the type envisaged in the Power of Information review¹⁴, despite the improved terms in the 2010 revision of the Postal Address File (PAF) licence and the ring-fencing of the PAF business within the Royal Mail. The issue must now be resolved urgently within a national open data strategy rather within the narrow remit of Postcomm and other regulatory bodies.
48. We would also question the assertion in paragraph 2.5 of the consultation document that "... information produced or held in the public sector is subject to IPR, in particular Crown Copyright and Crown database rights ...". It is asserted earlier in the consultation document (paragraph 1.7) that the majority of data collected by HMG is a by-product of public sector delivery. Therefore it is important to realise that, following the *British Horseracing Bureau versus Williams* case decided by the European Court of Justice, such data does not enjoy database rights¹⁵. Only data that is specifically created in its own right and for possible resale enjoys such protection. The implication of this is that much public sector data will not be covered by database rights and will not require a licence (free or at a price) for others to use it.
49. The consultation focuses on two types of user – the entrepreneur and business wanting to add value to official data for a fair return and the citizen

¹³ The Metropolitan Police spends at least £0.5 million annually on licensing the PAF, according to their response to a 2010 consultation on future licence arrangements <http://www.psc.gov.uk/documents/1315.pdf>

¹⁴ Ed Mayo and Tom Steinberg. *Ibid* (ref. 12)

¹⁵ See for instance the following analysis with a link to the full judgement <http://www.swanturton.com/ebulletins/archive/TAFDatabaseProtection.aspx>

able to exercise choice more effectively and hold public service providers to account. It is worth identifying a third community – the research community. Government data is an important source for much research, some of which will support assessment of policy impact and provide valuable new insights into policy areas. We have already mentioned the contribution that the higher education sector could make to the open data agenda through their experience in establishing open archives and through projects facilitating knowledge transfer between universities and businesses. To this can be added an interest in the data itself suggesting that higher education should be seen as an important partner in developing an open data programme for public sector data.

50. In conclusion we would like to reassert our interest in the Open Data programme. Our members are already engaged in data management, information assurance and similar activities. CILIP itself has been involved in the development of the Information Matters programme in central government. CILIP members will also play an important role in developing innovative uses of these datasets and supporting users as they use them. Therefore we feel that we are able to bring necessary expertise and knowledge to help the Government achieve its objectives in pursuing open data. We would welcome an ongoing engagement in developing the open data programme further.
51. CILIP staff and senior members of the profession have worked together on this response. If you have any queries about its content or wish to discuss particular points further please contact:

Guy Daines