

**Scottish Working Party on Official Publications (SWOP) Response to the consultation;  
'Making Open Data Real' October 2011**



**Questions for consultation**

The Government would welcome views on the following:

1. Do the definitions of the key terms go far enough or too far?

- Need for a definition of 'publishing'. What does the government mean by this? Information must be 'discoverable', 'retrievable', 'readable' 'authoritative'.
- How will unique identifiers be used on the datasets and how will version control be managed? What linking methods will apply- an electronic ISSN for example?
- What copyright statement or authority will be given to the data?
- Will the legal deposit legislation apply to these datasets?

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

- The most important factor should be whether there is public benefit in releasing it- don't just do it because you can
- Privacy of the individual- even if the data is anonymised could individuals still be identified for example through geography, type of incident, cross matching datasets etc?

3. 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?

- The requestor could be required to pay for the data where they will derive some commercial benefit eg in public sector re-use by publishing companies, (unless there is then a direct supply back to the public sector eg libraries), or where they make some specific request about how the data is to be available
- Individuals could be required to pay an administrative charge in line with FOI charges. Within this a ceiling amount could be set

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- Organisations could be required to pay again in line with FOI charges and with a ceiling amount. Charities might be liable for a percentage only? Or a flat fee?

4. 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?

- All organisations providing public services in receipt of public money or funded by public money should have the same rules about transparency and openness applied. Initially covering the main government departments and associated bodies, it is to be expected that a culture of openness will pervade the entire public sector and all organisations partnering and/or serving it.
- There would be a requirement to define what data sets might constitute ‘commercial in confidence’ information where private companies are in receipt of public funds. For example, total amounts can be revealed but not breakdowns which might reveal pricing structures

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

- A legislative requirement to do so. Perhaps something similar to annual reports and accounts but more detailed about what must be published and what circumstances might mean that the cost-benefit argument was lost and therefore publication not in the public interest.

### **Questions for consultation**

The Government would welcome views on the following:

1. How would we establish a stronger presumption in favour of publication than that which currently exists?

- Create a culture of openness supported by clear legislation where the presumption is that all available data will be published. Only allow exemptions on privacy, national security or defined tangible commercial grounds. Be specific about what these are and set defined ‘tests’. I.e. criteria which must be met for exemption to apply

2. Is providing an independent body, such as the Information Commissioner, with enhanced powers and scope the most effective option for safeguarding a right to access and a right to data?

- This is only one option. If all publically funded organisations were producing data this would be a very big task and threatens to diminish the cost-benefit analysis of the presumption in favour of publishing. Creating a huge watchdog would not be seen as an efficient use of public money.

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- Every individual organisation spending public funds or in receipt of them could have a series of 'transparency' representatives (or a Transparency Board?) with legal responsibility for publication of all data, much the same as a Finance Director has legal responsibility for payment of taxes etc

3. Are existing safeguards to protect personal data and privacy measures adequate to regulate the Open Data agenda?

- Privacy must also be a key driver in the transparency agenda. We should not publish information for the sake of it and we need to ensure that analysis of different data sets from different sources apply the same criteria to prevent identification of individuals.
- Open data must never contain personal data. Presumption should always be in favour of not publishing anything which could identify an individual. Safeguards must be enforceable and real

4. What might the resource implications of an enhanced right to data be for those bodies within its scope? How do we ensure that any additional burden is proportionate to this aim?

- The resource implications are a key factor. There is a danger that data is published because it can be, not because it needs to be or is in the public interest to be. There needs to be some kind of cost-benefit formula applied. There is high risk that large amounts of public money could be wasted.

5. How will we ensure that Open Data standards are embedded in new ICT contracts?

- A key driver for the transparency agenda is innovation and economic growth. Creating a culture of openness should drive the respondents to ICT contracts to provide innovative solutions which do embed Open Data standards. There is a clear distinction between requiring contractors to report on what they do and how much it costs and asking the private sector to give away commercial in confidence information such as pricing or technology solutions.
- There should be a 'code of practice' and 'terms and conditions' appropriate to the ICT contract and data requirements.

### **Questions for consultation**

1. What is the best way to achieve compliance on high and common standards to allow usability and interoperability?

2. Is there a role for government to establish consistent standards for collecting user experience across public services?

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- Yes there is a case for government setting a minimum standard and establishing consistency. Above all data must be of sufficient consistency, quality and completeness as to make it useful.

3. Should we consider a scheme for accreditation of information intermediaries, and if so how might that best work?

- Yes. There should be some form of grading which awards a 'mark' according to the level or grade awarded. It will aid the drive to high standards if the public is able to make informed judgements about who is good with data and who is not. Perhaps a league table?

**Questions for consultation**

1. How would we ensure that public service providers in their day to day decision-making honour a commitment to Open Data, while respecting privacy and security considerations.

- By having in place an Open data compliance monitoring process. This could be linked to the grading and award of the 'mark' which accredits the organisation
- By having a clear process for identifying any failure to comply with the 'data compliance monitoring process' and which results in a severe penalty that is demonstrable to citizens

2. What could personal responsibility at Board-level do to ensure the right to data is being met include? Should the same person be responsible for ensuring that personal data is properly protected and that privacy issues are met?

- This could operate on a similar model to that of board members who have legal responsibility to ensure compliance with financial and accounting regulations
- As privacy is paramount, the data protection and privacy obligations should not reside in the same person(s) as the person(s) responsible for ensuring the right to data, but rather be a division of duties and liabilities

3. Would we need to have a sanctions framework to enforce a right to data?

- Yes. There would have to be some consequence of not enforcing the right to data

4. What other sectors would benefit from having a dedicated Sector Transparency Board?

**Questions for consultation**

1. How should public services make use of data inventories? What is the optimal way to develop and operate this?

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- No firm opinion about this

2. How should data be prioritised for inclusion in an inventory? How is value to be established?

- No firm opinion about this

3. In what areas would you expect government to collect and publish data routinely?

- Health, crime and justice, education, departmental spending, economy, financial reporting, housing, transport, population, policing, agricultural, fisheries, wellbeing, sustainable development, overseas aid, industry, planning, and many more.....

4. What data is collected „unnecessarily“? How should these datasets be identified? Should collection be stopped?

- Where data is being collected 'unnecessarily' its collection should be stopped. Only data which is useful and/or reusable should be collected. Not data for the sake of it or just because we can.

**Questions for consultation**

1. How should government approach the release of existing data for policy and research purposes: should this be held in a central portal or held on departmental portals?

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- The government should apply economies of scale and hold all information in a central portal which could allow for dedicated departmental sections. In order to make the information more discoverable, it is essential to have a single authoritative source for data, bearing in mind that this information may reappear in other ways on other sites.

2. What factors should inform prioritisation of datasets for publication, at national, local or sector level?

'Good statistics are at the foundation of all sound decision making across society and the economy.' ONS website

- Relevancy
- Quality
- Timeliness
- Usefulness and reusability

3. Which is more important: for government to prioritise publishing a broader set of data, or existing data at a more detailed level?

**Question for consultation**

The Government would welcome views on the following:

1. Is there a role for government to stimulate innovation in the use of Open Data? If so, what is the best way to achieve this?

- Yes there is a vital role for government in stimulating innovation. 'Open Data' is a relatively new concept and the UK is among the leaders in this field. The UK government should continue to stimulate the growth of expertise and best practice in this field in the UK, in order to stimulate growth and innovation. This will involve;
  - 
  - Supporting ICT innovations through investment and award
  - Supporting academics
  - Consulting widely
  - Investing
  - Encouraging bank lending to small business
  - Creating a culture of transparency and democratic accountability and engagement with citizens

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