



Ministry of Defence

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**Open Data Consultation Transparency Team
Efficiency and Reform Group
Cabinet Office**

CABINET OFFICE 'MAKING OPEN DATA REAL – A PUBLIC CONSULTATION

1. The Cabinet Office '*Making Open Data Real – A Public Consultation Document*' was published in August and seeks the views on the questions posed by this document. I am writing now to provide a response from the Ministry of Defence.
2. As the consultation seeks the views of the public, the most relevant questions to the department have been selected in order to formulate this response, it is for the public to comment on the wider issues. Annex A provides responses to the most pertinent questions in the consultation for Defence.
3. MOD looks forward to reading the final output of the consultation, the initiatives that will be derived from it and working closely with the Efficiency and Reform Group to further develop this initiative.

Annex A

Questions for Consultation

1. Do the definitions of the key terms go far enough or too far?
 - Definitions of key transparency terminology was required and generally the definitions provided in the consultation document are understandable. It will be our challenge to ensure that staff within the department can translate these terms into output.
2. Where a decision is being taken about whether to make a dataset open, what tests should be applied?
 - Is it in the public interest?
 - Would it compromise National Security?
 - Is the dataset in a releasable format and requires little effort (review and redaction) to release?
 - Do any FOI exemptions or EIR exceptions apply?
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 the public services data, and under what circumstances?
 - The requester should not be required to pay for public services data. The FOIA states that where a request is over the cost limit, the public authority must go back to the requester with advice and assistance on how they can revise their request within the cost limit. This is an adequate way to release data to the public while not placing too much unnecessary burden on the public body. Collecting monies from the public would in itself create cost, administration and delay release.

Policy Change

1. 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?
 - The MOD agree that taxpayers should have a right to public service data, however it is unclear what the benefits are to both the government and the general public of businesses using the data to generate income. Particularly, those businesses who do not analyse the data provided but just charge of the public for access to data that is available for free.
2. Setting transparency standards: what would standards that support an enhanced right to data among public service providers look like?
 - Defined timelines for the release of specified datasets, with clear guidance as to what is required and the quality standards that are to be met.
3. 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?
 - MOD supports the governance and leadership framework that has been put in place and will work within this and any additional changes following this public consultation.
4. Meaningful Open Data: how should we ensure collection and publication of the most useful data, through an approach that enables public service providers to understand the value of the data they hold and helps the public at large know what data is collected?

- By adopting a balanced approach, beginning with ideas from the public as to the types of data they would find beneficial, then engaging with public bodies to establish whether it is feasible, cost effective for the public body to release such data.

Enhanced Right to Data

1. How would we establish a stronger presumption in favour of publication than that which currently exists?
 - The MOD has adopted a presumption in favour of publication for FOIA. However given the backgrounds of some personnel, for example, those involved with the nuclear deterrent, we recognise that some behaviour changes need to take place in order for this to be the presumption for all.
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?
 - The Information Commissioner, as an independent adjudicator, is a vital role in public information rights. The IC has a number of powers available and the MOD believes that these are satisfactory.
3. Are existing safeguards to protect personal data and privacy measures adequate to regulate the Open Data agenda?
 - DPA is a robust piece of legislation and should be applied to Open Data for consistency, ease of use and prevent misunderstandings with members of the public as to what measures are applied.
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?
 - There are no additional resources available to undertake additional right to data work, this commitment is being met within current resources and in a time of reducing resources. The MOD has struggled to meet its legislative responsibilities, therefore we will welcome any measures that are adopted to ensure additional burden is minimised. Wherever possible, mandated, explicitly defined, centrally co-ordinated releases of datasets will be easier to fulfil than wider, less defined, open-ended suggestions.
5. How will we ensure that Open Data standards are embedded in new ICT contracts? Mandating a phased introduction of 'Open by Default', delivered through a new generation of ICT systems, and accompanying policies
 - This is an issue that will impact on the release of dataset in the short to medium term, and amending procurement rules for ICT systems will be beneficial in the longer term. However, this will take some time to embed, particularly in the current climate, when ICT system contracts are not reviewed regularly. This will prove challenging to be particularly challenging for Defence contracts, which due to organisational culture, have tended to include restrictive clauses regarding reuse of data.
6. Whether the current fees regulations and cost limits under FOIA should be amended to facilitate the release of more data

- FOIA should be inclusive, having options for requesters to be in a position to purchase information if a request is over the cost limit would establish a tiered system and prevent the general public accessing data due to resource restrictions. Also, differentiating between cost limits for recorded information and release of datasets creates a further implication for those who are responding to requests for information
7. Legislation to provide statutory time limits for internal reviews
- MOD already work to the time limit of within 20 working days or 40 working days in exceptional circumstances. Therefore MOD are in favour of a mandated statutory time limit for internal reviews, provided it is on these terms.

Corporate and Personal Responsibility

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 communicating, at Board-level, the responsibilities of the public body to the agenda, outlining the benefits of open data and the consequences of privacy/security breaches.
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 would introduce rigor into the governance process, the largest challenge at Board-level is to change mindsets and behaviours. Yes, the same person should be responsible for privacy issues to ensure consistency of message.
3. Would we need to have a sanctions framework to enforce a right to data?
 - MOD supports the governance and leadership framework that has been put in place and will work within this and any additional changes that occur following this public consultation. Sanctions should be used as a last result and we foresee these being unnecessary for MOD as we are willing to support and comply.
4. What other sectors would benefit from having a dedicated Sector Transparency Board?
 - A National Security Sector Transparency Board, which would be cross-cutting, with MOD, FCO and DFID in attendance.