

Making Open Data Real

Response to Consultation

In his forward, Francis Maude MP correctly observes that “the best way to tap into the UK’s tradition of creativity and invention is to give that [PSI] data away”. The data, in effect, already belong to citizens. The State should not attempt to either deny them access to data unreasonably or use its monopoly position to trade them.

Where government acts commercially, distortions occur and the result is sub-optimal for the citizen as well as the public and private sector. Several reports commissioned by government and at least two select committees have come to broadly the same conclusions on these points.

The consultation describes the opportunity and benefits well. In the opinion of this respondent the benefits will be substantially greater than those envisaged but will be difficult to predict in advance.

The challenges include: to implement the Open Data policy in a way that does not disappoint expectations of what the State can reasonably deliver at a time of national stringency, to continue to protect the privacy of individuals and keep their confidence, and to redirect existing public sector information-collation activity along more productive lines for the future. None of these challenges are trivial and they will require new skills to be developed over time.

These issues are complex and risk becoming more so unless there is a real attempt to impose simple principles. This paper proposes that Government should focus on doing only what it needs to do for “good government” – and that it reappraises how it arrives at these decisions following the Canadian example.

“Good government” would therefore include the principle of releasing data (“open by default”) but would not include enhancing or spending money to achieve its release except in particular circumstances (eg social gain – subject to independent review). Where release for re-use requires further cost beyond that which government would expect to provide for its own purposes then the private sector should be asked to pay this additional cost – in effect a charge relating to the marginal cost of distribution.

Definitions of key terms?	<p>Whatever solution is adopted it is likely that more thought will need to be applied to definitions over time, especially that of “Public Task”. A key success factor will be the extent to which Open Data is used as a springboard by the private sector to develop value-added services.</p> <p>If the private sector believes or suspects that the public sector might wish to expand its own activities to offer services potentially or actually available from the private sector - with or without payment - then the private sector will naturally remain reluctant to invest. Thus the definition of Public Task becomes a critical issue.</p>
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	<p>Where Public Task relates to Statutory responsibility it is straightforward but this only covers some activities.</p> <p>Work done recently by OPSI concluded that Public Task could be more widely attributed to “custom and practice”. This is a vague and adjustable notion. OPSI’s briefing paper also assumes that the public body concerned should define its own public task, a less than impartial approach. The EU is similarly struggling with definitions of Public Task.</p> <p>Current UK proposals assume some mechanism will be available to appeal against a statement of public task. This appeal process must have the confidence of private sector re-users or it will be ineffectual.</p>
Tests on making a dataset open?	<p>The consultation makes a number of admirable suggestions. All PSI should be Open Data “by default” unless there is a reason that its release might cause significant damage to third parties. As suggested, a code of practice should be introduced.</p> <p>There should be a right of appeal to the Information Commissioner whose powers should be enhanced.</p>
How to enhance the right to data?	<p>If the policy was clearly framed “Open by Default”, and the Information Commissioner’s powers were enhanced and resources increased to underwrite those powers, then this should be adequate, at least as a first step until the new policy begins to settle down.</p>
How public bodies might be held to account for delivering Open Data? Sanction? Breadth of Transparency Board?	<p>The policy of Open Data should cover the whole public sector.</p> <p>Information management is all too frequently treated as the poor relation of policy-framing in the public sector, often being seen as a matter of low-level administration rather than being core to service delivery. Giving corporate responsibility at Board level for the delivery of the Open Data policy would force a better understanding of what data departments are collecting, at what cost, and to what benefit.</p> <p>The Transparency Board should provide an umbrella for the whole public sector to review the progress and impact of the policy.</p>
How to ensure the collection and publication of the most useful data?	<p>Government should only collect the data it needs in order to govern. It is not a publisher and nor is it in the business of taking commercial risks which are more appropriate for the private sector.</p> <p>Government should not generally attempt to determine data’s relative “value” nor set about improving them for the specific purpose of wider release. Both activities are also in the nature of commercial risks and are unnecessary for good government.</p> <p>An exception might be made in the case where data has particular social and not commercial value. In this instance the public body concerned might apply to the Transparency Board (or PDC?) to adjudicate as to whether a dataset which is otherwise considered</p>

	<p>redundant or unnecessary for government should be maintained or a dataset of poor quality should be enhanced at the cost of the taxpayer for the benefit of the citizen. It is easy, however, to see how this approach might quickly get out of hand.</p> <p>The consultation differentiates between data that has been collected in the past and data that may be collected in future. This is sensible. Government should not attempt to improve historic data but must set and adhere to appropriate data standards in future. This is a matter of real urgency as the current situation would not only inhibit the Open Data policy but also causes inefficiency in government.</p> <p>Again the Transparency Board (or PDC) could adjudicate if a single set of standards cannot be agreed across government by negotiation.</p> <p>Each department should carry out a high-level audit of its own historic data holdings and those being maintained currently. The review should include such matters as:</p> <ul style="list-style-type: none"> • Whether data contains private or personal information; • What format data are in; • Whether data will be covered by the Open Data policy; • How, if data are still being maintained, the new cross-government standards could be adopted and what it would cost to do so; and • An estimate of the current cost and value of the data maintenance to the public sector body.
How to make the internal workings of Government more open?	<p>The Open Data policy, as described, will help make government more open, especially when the data can be linked to common standards that would, in due course, enable data comparisons across the public sector.</p> <p>However, monstrous joined-up datasets across government should not be developed by government unless they are vital for government's own purposes.</p>
Is there a role for Government to stimulate the market in making Open Data available?	<p>No. The only roles for government in stimulating market activity are:</p> <ol style="list-style-type: none"> a) to offer clarity and certainty by defining clear boundaries and data standards for their own public service activity, b) to respond efficiently to requests for data, c) to provide data on terms that will maximise its re-use, and d) to provide an appeal process and regulatory/governance framework in which the private sector has confidence. <p>The Consultation questions whether there should be a continuous right to datasets, once provided. Government is not a publisher and, in any case, no private sector would give such an undertaking. Government might, in certain circumstances, offer some certainty to users over a period of time, say 1-3 years, with perhaps the offer of some minor compensation if the dataset is withdrawn early.</p>
Who should pay the	Open Data will be free. However, where there is an identifiable

cost? How does one ensure that any additional burden is proportionate to its aim?	<p>additional cost in making the data available, the user should normally pay that additional cost. Any additional burden on government must be avoided. If the user considers the cost to be unreasonable then the Information Commissioner should be given the power to adjudicate.</p> <p>This will throw up some anomalies from time to time:</p> <p>For example, if company X pays for the work necessary to improve the quality of data to enable its release, then should company Y have to pay the same cost even though the data has already been improved? Presumably the answer is yes (company Y can always acquire the data from company X, probably at a lower cost).</p> <p>If the public sector starts to adhere to common standards then this will enable data linkages to occur. This may destroy the market advantage of a private sector company which might have invested in creating those linkages in the past. However, Government cannot be prevented from doing the right thing because it may be to the detriment of a minority of private sector companies.</p>
Who should the proposals apply to?	The whole of the public sector.
How does one encourage publication?	If, over time, the format of all new data is one which facilitates publication then hopefully this, coupled with the policy and the enhanced power of the Information Commissioner, should be adequate.
Role of the Information Commissioner?	<p>The role and powers should be enhanced, as described above, perhaps by Statutory Instrument. In addition, and importantly, further resources to fulfil the new responsibilities must be provided.</p> <p>Government has, in the past, appeared to believe that existing regulation (IFTS, PSI Regulations etc) in this space is adequate, despite its own reports providing evidence to the contrary and the OFT having no power of sanction over Government Undertakings. Any monopolists' activity is potentially distortionary.</p> <p>If the Open Data policy is to succeed it is vital that the private sector is convinced that the playing field will be level. This does not at present appear to be the case (APPSI's review of the OPSI Complaints process, which is mentioned in the Consultation, did not seek the views of complainants).</p> <p>An enhanced role will increase the cost of the Information Commissioner. As a means of reducing spurious requests and appeals the level of fees should be set relatively high. To encourage constructive negotiation the defending party should also be required to pay a fee to the Information Commissioner.</p>
Are existing safeguards on privacy and personal data adequate?	Not qualified to comment.
How does one ensure that Open Data	Government has found it difficult to agree and then implement common standards in the past for reasons which are unclear but may relate to

standards are embedded in new ICT contracts?	inadequate pressure being applied from politicians and Department Heads. Having common Open Data standards is essential to the success of the policy. Perhaps failure to comply should result in fines.
What is the best way to achieve compliance on high and common standards to allow usability and interoperability?	<p>Perhaps by making Department Heads responsible for (1) releasing appropriate data under the policy and (2) agreeing that all appropriate new data will adhere to Open Data standards.</p> <p>Government needs to sharpen its analysis of the cost and benefit of its data creation and maintenance, how it might best be procured and to what standards - and significantly improve its skills in these areas.</p> <p>Going forward it is quite probable that PSI may increasingly include data obtained from the private sector. Where private sector data is included, such as Royal Mail postcodes or from Google maps, then it is vital that the government has licensing arrangements in place that enable it to distribute the data under the Open Data initiative or valuable public sector datasets will become inaccessible.</p>
Is there a role for government to establish consistent standards for collecting user experience across public services?	Surely if common standards could be established alongside an Open Data policy then this might well be the de facto result without Government proactively seeing to achieve it?
Should government consider a role for information intermediaries and, if so, how should it work?	Probably unnecessary as information intermediaries will be keen to source government data and act as value-added re-sellers. Government might kite-mark such re-sellers but this is probably unnecessary also.
How should public services make use of data inventories?	<p>Assembling a data inventory has been tried in the past and proved unsuccessful. A departmental data audit, as described above, might eventually result in the de facto availability of a data inventory.</p> <p>In the meantime, the existence of the Open Data policy, together with intelligent enquiries from potential users to public sector bodies likely to hold relevant data and the newly enhanced powers of the Information Commissioner, should be adequate to uncover the majority of datasets of immediate value to users.</p>
How should data be prioritised for inclusion in an inventory? How is value established?	Within the scope of the Open Data policy, Government should focus on its own needs and not those of the private sector. Priority and value should be priority for and value to good government not to third parties.
In what areas would you expect government to collect and publish data routinely?	Where this stimulates good government and the ability of third parties to hold government to account.
What data is collected unnecessarily? How should these data be identified? Should collection be stopped?	<p>If data is not necessary for good government then its collection should be stopped forthwith. The data audit mentioned above might be used to help uncover such anomalies.</p> <p>There exists a strong suspicion (and some hard evidence) that some of</p>

	the data collected by Trading Funds could be collected and managed by the private sector more efficiently.
Should the data that government releases always be of high quality? How does one define quality? To what extent should public service providers polish the data they publish?	It is unrealistic to expect all government data to be of high quality but, at the same time, it is clearly unacceptable that public funds are spent collecting a sub-optimal dataset ("If you cannot measure, you cannot manage"!).
	However, whatever the antecedents of the data, it should be published where it falls within the Open Data policy and no attempt should be made to improve its quality unless the private sector agrees to pay for the cost of doing so (eg Property Intelligence plc with the Valuation Office Rating List).
Access to data via a central portal or departmental portal?	The best solution would probably be a departmental portal linked to a central portal eventually using common standards.
What factors should inform prioritisation of datasets for publication?	Surely the Open Data policy assumes all data will be made available and thus the question of priority relates to the order in which users request the data?
Is it more important for government to prioritise publishing a broader set of data or existing data at a more detailed level?	Government policy would be to make all appropriate data Open and accessible. Where this requires investment then the user must be asked to provide it. Users are likely to be the arbiters of what level of detail they would require.
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?	No for reasons given above.

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