



ADVISORY PANEL ON PUBLIC SECTOR INFORMATION

Date: 17 February 2010

Time: 11:00am-3:40pm

Venue: Ministry of Justice

Chair: Peter Wienand

Secretariat: Grazia Zaffuto and Robert Johnson

Attendees:

Members:

Neil Ackroyd, Representative Member, Trading Funds

Mike Batty, Expert Member

Stefan Carlyle, Representative Member

Chris Corbin, Expert Member

Keith Dugmore, Expert Member

Michael Jennings, Representative Member, Local Government

David Lammey, Representative Member, Northern Ireland

Hector MacQueen, Representative Member, Scotland

Hilary Newiss, Expert Member

Michael Nicholson, Expert Member

Shane O'Neill, Expert Member

Bill Oates, Representative Member, Wales

John Ponting, Expert Member

Prabhat Vaze, Expert Member

Phillip Webb, Expert Member

Contributing

Member: Patricia Seex, Economist / International Expert

Non-members: Carol Tullo, Director of Information Policy and Services, The National Archives
Jim Wretham, Head of Information Policy, The National Archives
Jo Ellis, Information Policy Manager, The National Archives
Alan Pawsey, Head of Legislation and Publishing, The National Archives
Norman Hodgett, General Editor of the Statute Law Database, The National Archives

1. Welcome, apologies and introductions

- 1.1 The Chair welcomed members and speakers to the 25th meeting of APPSI.
- 1.2 Apologies were received from the following APPSI members: Eric Davies, John Gray and David Rhind.
- 1.3 The Chair informed APPSI members that Christine Gifford has resigned from APPSI in order to devote her time to the Hillsborough Memorial Panel. The Minister, Michael Wills has been informed. On behalf of the Panel, the Chair thanked Christine Gifford for her valuable contribution and participation on APPSI.
- 1.4 The Chair informed APPSI members that the Minister Michael Wills had reappointed him as Deputy Chair to the Panel for another year.¹
- 1.5 The Chair, on behalf of APPSI, congratulated Grazia Zaffuto on her promotion to the Secretary to the Advisory Council on National Records and Archives and thanked her for her outstanding work as Secretariat to APPSI, which she will continue alongside this new role.
- 1.6 The Chair welcomed Robert Johnson, who supports Grazia Zaffuto as Secretary to the Advisory Council on National Records and Archives and APPSI.
- 1.7 The Chair welcomed Jim Wretham and Jo Ellis from Information Policy at TNA who were on the agenda to give a presentation on the government's new licensing pilot.
- 1.8 The Chair said that Alan Pawsey and Norman Hodgett would be joining the meeting to give a presentation on the Statute Law Database.
- 1.9 The Chair made changes to the order of the agenda to allow more time to discuss APPSI's response to the Ordnance Survey (OS) consultation and pointed out to members that if they were in agreement, an extraordinary meeting of APPSI could be arranged for 3 March to continue discussions on the OS consultation response. Members agreed to this suggestion.
- 1.10 **ACTION:** The Secretariat agreed to arrange an extraordinary meeting of APPSI for 3 March at the Ministry of Justice.

2 Minutes and actions of the last meetings – 17 September 2009 and 10 December 2009

- 2.1 The Chair pointed to two outstanding actions from the previous minutes:
 - a. The Chair of APPSI has yet to ask members to give a presentation to the Statistics Authority on the subject of a National Address Register. Two members of APPSI (Mike Batty and Keith Dugmore) said that they would be willing to give a presentation on this subject.
 - b. The Secretariat has yet to write a letter to local government representatives about the opportunity to raise awareness of public sector information in this area. **ACTION:** The Secretariat said she would take this action forward with APPSI's Local Government representative.

¹ Note that Peter Wienand took the Chair of APPSI for this meeting due to the absence of the Chairman David Rhind.

3 Update from The National Archives

3.1 The Director of Information Policy and Services at TNA said that the PSI and information management agenda is moving with considerable momentum and provided APPSI members with the following update:

3.2 New initiatives

- The **data.gov.uk** site was launched in a beta version on 21 January 2010. The site pilots a new non-transactional **Creative commons type approach** to the licensing of Crown copyright. In the first week there had been a million hits on the site and they are now running at about 20,000 - 30,000 per week. The press coverage had been very positive with a 5,000 word article in *Prospect*. TNA is in discussions with how its Unlocking Service will fit in with data.gov.uk site as it provides a linked service – surfacing requests for PSI and aiming to fulfil those requests. TNA will provide operational resource to support the data.gov.uk initiative and site.
- The **licensing solution** follows on from negotiations with Creative Commons in England, Scotland and US to deliver a UK CC compatible Government Licence by May 2010. This model is interoperable with Creative Commons licences; and puts down a marker for the future licensing model to be rolled out in the wider public sector. Regular reports on the development of the new licensing model will be fed back to APPSI.
- **Meetings in Scotland.** The Director of Information Policy and Services at TNA took part in a series of meetings with the official publishing team in Edinburgh about the new legislation.gov.uk site and also attended a reception at the Scottish Parliament celebrating five years of the Freedom of Information Act (FOIA). In addition she discussed the new online Register of Insolvency that the Accountant in Bankruptcy is launching in July-September 2010 that will replace insolvency notices in the Edinburgh Gazette. Savings on notice insertion will be diverted to pay for support for homeowners under new legislation expected to get Royal Assent in April 2010.
- During week commencing 15 March 2010, the Department of Business Innovation and Skills will be hosting an **event primarily targeted at business**. The main theme will be on how data can be used and developed for commercial gain. It is likely that examples of datasets that have proved valuable to business will be identified.
- Sir Tim-Berners Lee, appointed in June 2009 to advise the government on the *Making Public Data Public* project, is considering running an event called ***The Summer of Data*** for approximately 50 intern students to develop data products based on public data.

3.3 PSI Policy Developments

- Following a consultation on TNA's PSI PerSpectIves blog during 2009, the **exceptions to marginal cost pricing criteria and process** went live on 8 January 2010. These criteria have been set in response to a recommendation in the Power of information Taskforce report. The criteria introduce tests to assess whether government departments and agencies could charge above marginal cost, which is the norm for information produced by Crown

bodies. New applicants who wish to license their information will now be subject to these tests which ensure that Government does not limit or restrict re-use.

- The **INSPIRE Regulations for England, Wales and Scotland** came into effect on 31 December 2009. TNA worked with Defra to ensure that licensing and charging in relation to the recommendations set out in the INSPIRE Directive were embedded into the Regulations. TNA instigated a joint approach with the UK Location Council which involved the delivery of a hub for geospatial data and data.gov.uk officials in order to ensure that the two initiatives would be aligned. There is scope for linking datasets that are location-based as part of the work of the UK Location Strategy with **data.gov.uk**. A paper setting out how this will work and avoid duplication goes to the next Location Council meeting on 15 March 2010.
- The **Fire Service College underwent IFTS re-verification** on 2nd and 3rd December 2009.
- TNA has a full programme of **Information Management Assessments (IMAs)** in 2010. Upcoming IMAs include DCMS (February), HMRC (March) and MOJ (June). The IMA programme assesses the way departments handle their information, including how well they make information available for re-use. IMAs are carried out jointly with the data handling lead in government (Information Security and Assessment). The reports are published on the TNA website.
- The Intellectual Property Office has resurrected the **Intangible Assets** project, with backing from HM Treasury and the support of Jon Thompson, the Head of Government Finance profession. The focus is on the better management of IP assets. TNA will be providing support to this project to ensure that initiatives that arise from the strategy work well with the emerging policies for information/data.
- **Digital Economy Bill:** There are three elements of the Bill, relating to illicit downloading, orphan works and Public Lending Right (the arrangement under which authors and publishers are paid from public funds every time a copyright book is borrowed from a public library) that are causing concern to cultural organisations and archives:
 - **Illicit downloading:** An ISP would be obliged to take measures against a subscriber who appears to be making illicit downloads. There is no provision to allow any challenge or appeal. There is a very real risk that innocent subscribers (including institutions such as libraries and archives that provide wireless access to the internet to anyone on the premises) will be penalised.
 - The **orphan works** provisions (works still in copyright but where the rights owner is unknown or untraceable) would amend the existing copyright legislation. The regulations would provide a mechanism by which a licensing body or another person (including an organisation such as the British Library and TNA) could be authorised to grant licences for the use of orphan works.
 - **PLR** currently applies to the lending of a book by a public library. For each loan, a certain amount is payable to the publisher and the author. The Bill would amend the PLR Act so as to bring within its scope both audio books (i.e. recordings of a person reading the book) and e-books (books recorded in electronic form).

- Week commencing 15 February 2010 the Director of Information Policy and Services at TNA started an online debate on Civil Service Live. The blog is in relation to mapping information and public sector information. See URL:
<http://network.civilservicelive.com/pg/blog/caroltullo/read/268939/a-map-for-the-future>.

Discussion:

3.4 The following key points were made during the discussion:

- One APPSI member asked if all government departments are expected to make a submission to government if they plan to charge above marginal cost for the re-use of their information. The Director of Information Policy and Services confirmed that where departments and agencies wish to charge above marginal cost for the re-use of data, they will be required to justify departures from the marginal cost model against the [criteria for exceptions for marginal cost pricing \(PDF - 23 KB\)](#). This justification ensures that Government does not limit or restrict re-use.
- One member pointed out that HMRC is making fewer efforts than other government departments to release information for re-use. The Director of Information Policy and Services said that she would flag this point with her team.
- It was also pointed out that as the FOIA celebrates its fifth anniversary, legal information provider Sweet & Maxwell published its Freedom of Information Manual which revealed that in the last quarter of 2009, 22% of requests for information under the FOIA were refused as compared to 18% in 2005 when the Act first came into force.
- One member said he was concerned about the removal of the OPSI website which is being transferred to the TNA website because it is unclear how the information will be presented and managed and how it will impact on public sector organisations that make use of the site. The Director of Information Policy and Services said that TNA is still in discussions about what information will be transferred to the new website and that APPSI would be given an opportunity to comment when more concrete plans have been set.

4 Update on plans for the Statute Law Database as part of the legislative service

4.1 The Chair welcomed Alan Pawsey, Head of Legislation and Publishing at TNA and Norman Hodgett, General Editor of the Statute Law Database at TNA, who gave a presentation and led a discussion on the Statute Law Database (SLD) as part of the legislative service.

4.2 The speakers covered the following key areas in their presentation:

- What is the Statute Law Database? The UK Statute Law Database (SLD) is the official revised edition of the primary legislation of the United Kingdom, made available online to the public in December 2006 at www.statutelaw.gov.uk. 'Revised' means that amendments and other effects are incorporated in the text with appropriate annotations.
- What is the task of the SLD team? To provide a comprehensive and authoritative database of revised primary legislation for the whole of the UK. Secondary legislation (such as statutory instruments) is held on SLD, but is not revised). SLD Team in London maintains primary legislation made by UK Parliament, Scottish Parliament and National Assembly for Wales. The Northern Ireland Statutory Publications Office in Belfast maintains primary legislation of Northern Ireland.

- Where does the SLD team fit within TNA? Responsibility for the SLD transferred from the Ministry of Justice to The National Archives in December 2008. This brought together in one organisation all responsibilities for the publication of legislation across the UK.
- The New (legislation.gov.uk) site will be launched as a beta version in April 2010 and will
 - combine the best parts of both the OPSI website and the Statute Law Database whilst addressing weaknesses with each
 - enable swift online publication of new legislation, with feeds and alerts (even twitter! See www.twitter.com/legislation)
 - include revised statutes from the Statute Law Database showing historical versions, geographical extent and the status of amendments.
- A comprehensive survey of users of both websites (OPSI and SLD) reveals that the overall majority of users to the current site are non-lawyers accessing legislation for professional purposes. Most users do not have access to the commercial online legal services (such as LexisNexis) and they are also familiar with how legislation operates and have good IT and internet experience.
- The new site will include comprehensive and integrated tables of effects on SIs as well as Acts, with links to the affecting legislation.
- The new site will link implementing SIs to European Legislation and interweaving the Explanatory Notes with Acts.
- The new site will also make available more content (converting pre-1988 legislation as enacted from PDF to XML, publishing all the Local and Private Acts from the Parliamentary Archives).
- The full version of legislation.gov.uk will be launched in June-July 2010.

Discussion

4.3 The following key points were made during the discussion:

- One member asked if users of the SLD could search the database via a date. The speakers confirmed that there will be an advanced search facility that will enable users to search the dates of Acts and their amendments.
- The speakers confirmed that the dates of when the legislation was amended will be made clear on the database.
- The speakers confirmed that the new website will have an API facility that will enable users to download information in a variety of formats.

5 Update on progress of new licensing pilot and Creative Commons solution

5.1 The Chair welcomed Jim Wretham, Head of Information Policy at TNA and Jo Ellis, Information Policy Manager at TNA, who gave a presentation and led a discussion on the progress made in developing a new licensing model for the re-use of public sector information.

5.2 The speakers pointed out that APPSI has been kept up to date via email and a previous presentation on the development of a new licensing model. This presentation is intended to provide a further update and to seek valuable input from APPSI. The speakers made the following key points in their presentation:

- Since 2001 the government has been operating the Click-Use licensing model. This was seen as a revolutionary approach and received much praise across Europe. The time is now right to take licensing of Crown copyright material to the next level.
- In [*Putting the Frontline First: smarter government*](#) issued in December 2009 the Government said it will make a number of important technical improvements to public data: “we will aim for the majority of government-published information to be reusable, linked data by June 2010; and we will establish a common licence to reuse data which is interoperable with the internationally recognised Creative Commons model.”
- A research and consultation exercise in 2009 on the Click-Use model and the Creative Commons model highlighted a need for clarity and simplicity of terms.
- TNA has been examining a range of licensing options with Creative Commons teams in the UK, the US, Australia and New Zealand and more recently with the Open Data Commons team in the UK.
- TNA has been working with Creative Commons to develop a simple and enabling set of licensing terms and conditions but there are still issues with how this new model will work with Crown copyright and database rights. For the latter, TNA are having discussions with Open Data Commons.
- TNA are working on a meaningful description for Creative Commons licensing, which will give users clear indications of its scope.
- A screen shot of simple licensing terms with ticks to show that people are free to share and / or adapt government information and crosses to indicate what is not allowed was shown to APPSI. Another screen shot showed the full details of the licensing terms which will sit underneath the simplified version.
- For the data.gov.uk launch, TNA drafted a simple and enabling set of terms and conditions for the site which means that the data available through data.gov.uk will be re-usable both commercially and non-commercially. These terms and conditions have been aligned so that they are interoperable with any Creative Commons Attribution 3.0 Licence. The terms and conditions are also machine-readable, meaning that the licence is presented and coded in such a way that applications and programs can access and understand the terms and conditions too.
- TNA will continue discussions with Creative Commons to resolve specific issues. They will consult with government departments on the new license model and will also consider the possibility of extending it to Trading Funds and the wider public sector.
- The Creative Commons teams in the UK are developing the new UK version of their attribution licences for launch in May 2010. Open Data Commons are planning to release their database attribution licence working to a similar timescale as Creative Commons. The new model will replace the existing Click-Use Licence.

5.3 The speakers said they would continue to provide APPSI with updates on the progress of the new licence model, but in the meantime would welcome their feedback.

Discussion

5.4 The following key points were made during the discussion:

- Crown copyright is a recognised brand and holds a great deal of integrity but at the same time it also sends out signals that the re-use of Crown copyright material is restricted.
- TNA's plan is to align Crown copyright and Creative Commons to enable the simple and effective re-use of public sector information. This will involve the clarification of terms and ensuring that the terms are machine readable.
- Overall, APPSI members congratulated TNA for the work done so far on the new licensing model, which will have global implications. Members acknowledged the tight timescales that TNA is working to and they offered their continued support.

6. Three years after the CUPI report: an economist's perspective on the pricing of PSI

6.1 APPSI's economics expert covered the following areas in his presentation:

- Stylised facts about the nature of the problem
- Analytical approaches: Information Rules, CUPI and Cambridge Study
- Pricing options
- Concluding comments

6.2 APPSI's economics expert made the following key points in his presentation:

- The top down valuation of industries that use public sector information show the significance of PSI to the economy: Oxera's study for Ordnance Survey in 1996 placed a value of £79-£136 billion of the total market largely by recognising that transport, utilities and local government are dependent on mapping products.
- A more bottom up analysis looks at users' preparedness to pay for and the cost of individual PSI databases. CUPI shows that tier 1 PSI, which covers the databases not primarily produced as a by-product of administrative systems, provide a lot of economic value for users but also that the public expense of producing the database is high.
- Marginal cost pricing is regarded as optimal in most PSI situations, but in the case of the Tier 1 databases – where marginal cost pricing would mean nearly free use – there may be arguments for alternative pricing systems because the revenues would be insufficient to meet the costs of database upkeep (long-run marginal costs).
- Shapiro and Varian consider strategies used in the commercial information industry; OS consultation also notes Ramsey pricing. These both suggest that charging different prices to different uses may have a role, especially if it raises enough revenue to meet database upkeep costs and no more.

Discussion

6.3 The following key points were made during the discussion:

- Innovation and the size of the PSI re-use market will be bigger if marginal cost pricing is used – a consequence of the lower price for public sector information.
- There was a concern that Ramsey pricing would be anti-competitive with revenues raised from high-end users cross-subsidising uses of the databases which had more competitive pressures.
- The difficulty with the pricing/valuation debate is that different numbers get banded around because the impact of PSI is direct and indirect. For instance, if several agencies sell the National Address Register, where does the chain stop and how are transfers factored into the pricing? APPSI's economics expert noted that the CUIPI study significantly improved the evidence here, by focusing on a bottom up approach and estimating each additional value to society due to a particular PSI.
- Ramsey pricing delivers economic efficiency but it may not deliver policy outcomes. It is essential that the pricing model for PSI supports government policy whilst also providing transparency and accountability of data.
- It is important that the Ramsey pricing model is properly regulated so that people making different products from the same datasets are able to operate freely within the market.

7 APPSI's response to the OS consultation

7.1 The representative member for Trading Funds left the meeting for this part of the discussion. The Chair then asked APPSI members which approach they would like to take in discussing their first draft of the OS consultation response.² The Chair proposed that members could either

- a) have a free discussion that would enable them to consider some high order questions essential to the consultation (but not included as part of the formal consultation questions); or
- b) consider their draft response to each of the consultation questions.

7.2 APPSI members opted for option (a) in 7.1 above due to the narrowness of the formal consultation questions, but acknowledged that question 1 of the consultation does in fact invite wider views. The options presented in the consultation were inevitably limited because it appeared that certain positions in relation to the role of OS had been adopted, rather than a broader examination of the needs of government and the nation from first principles. A member said that these limitations had been well captured in the draft answer to question 10 of the consultation.

7.3 The following points were made during the discussion:

- Some first order questions might include: What need does the UK have for geographic information? What need does UK PLC have for geographic information? What kind of organisation would meet the needs of geographic information users and how will it be funded? It is difficult to see how the public task of OS can be defined without answering these questions first. APPSI should set out recommendations for government to create a framework or process to answer these questions, and enable OS to evolve. There would

² APPSI's Trading Fund representative was not present during the discussion on APPSI's response to the OS consultation due to a possible conflict of interest.

need to be a body tasked with overseeing such a process, which should be capable of responding to changing needs, and remain independent.

- APPSI should address its concerns forcibly about what is missing from the OS consultation. If the consultation had proceeded from first principles as suggested, then a much wider range of options could have been canvassed. The consultation is an opportunity to re-set policy and create structures that are fit for purpose for a significant time to come.
- It is important that an OS solution is feasible in the long-term but APPSI should also make clear in its response that the OS consultation is a symptom of a problem – there will be change whatever happens.
- Aside from Public Task, there are other important strategic matters not fully addressed in the consultation, for example the question of regulation arising from the market dominance of OS and the consequences of its actions.
- It is important to start with the specification of Public Task and then think about procuring the delivery of the business model. There are two dimensions to Public Task – the supply side and the demand side – which calls for consideration of what the government needs and what it should provide. Government’s demand for geographic information need not be met by a public sector body, but there should probably be central procurement. It was also suggested that an independent body be tasked with creating a specification for core reference geographies.
- OS’s new business model should take into account the needs of government, the public and private sector and OS as an organisation.
- Northern Ireland is not part of the OS consultation outcomes but nevertheless NI could be impacted.
- The OS consultation has underplayed how the new model is going to be funded. It is not clear where the funds are coming from and as a consequence this may skew the results of the consultation. For instance, some respondents may go for Option 1 (maintain the status quo) because they are unclear what impact will emerge from Options 2 and 3.
- APPSI’s response should state that the OS consultation should have included a financial annex.
- There is now a growing market for OS data. It is therefore essential to consider the needs of the market / customers and then adapt the model to fit those needs. Perhaps a variance of Option 2 might provide the best means of releasing OS data for the market and users.
- It may be fair that the public sector should charge for the re-use of its information in certain circumstances, but it is essential that the charging mechanism is able to stimulate the private sector. Recommendations on pricing for OS data should follow the conclusions reached in terms of Public Task and the impact on the market: pricing should implement policy rather than vice-versa.
- OS will impact the market by releasing free data. This should be made clear in the consultation response.
- The three options set out in the consultation are only a subset of possible options. APPSI might want to suggest other options in its response.
- The Governance section of the current consultation response (i.e. Question 4) should state that it is inappropriate for the Government’s chief advisor on GI to also be the CEO of the trading fund that is also the leading provider, and a key player in the commercial exploitation of geographic information.
- The consultation response should state that access to core reference geography and other official geographic information could be provided through the UK Geoportal implemented as part of the national location information infrastructure (NLII). The service as well as the data should be delivered free of charge for non-commercial use. A charge could be levied for the delivery of commercial use especially for large volumes and high demand transactions. The INSPIRE legislation permits such charges.

- It was noted that the Panel's response to this consultation had potential relevance to other trading funds, and that this should be taken into account in revising the draft, perhaps differentiating between comments having wider relevance, and observations specific to OS.

7.4 **ACTION FOR CHAIR OF APPSI:** Overall the Panel agreed that the Chair of APPSI (David Rhind) would edit APPSI's current draft response in advance of APPSI's extraordinary meeting on 3 March 2010. The next version of APPSI's OS consultation response would set out upfront some first order questions and make some recommendations about how government can create a process to answer those questions. This will expose the contradictions and weaknesses in the consultation and make clear the essential strategic links. The answers to the formal consultation questions would then follow.

7.5 **ACTION FOR THE PANEL:** At the extraordinary meeting on 3 March the Panel will have an opportunity to consider any matters of detail not considered in the discussion above, and then decide which (if any) option it will recommend in its response. In the meantime, the Deputy Chair asked members of the Panel to forward to the Chair (David Rhind) any inconsistencies and / or missing points in the current draft as soon as possible.

8 APPSI updates

8.1 INSPIRE

- The INSPIRE Regulations 2009 came into effect on 31 December 2009. There are separate but essentially consistent regulations covering [England, Northern Ireland and Wales](#); [SI 2009 No. 3157] and [Scotland](#) [SSI 2009 No. 440]. Together they implement the EC [Directive 2007/2/EC](#).
- In January 2010 The UK Location Council published its first annual report covering the period since it was established in November 2008 through until December 2009. The report covers progress to date and sets out the action plan for the 2010-11 timeframe. The report can be downloaded at URL: <http://www.defra.gov.uk/location/uklc-report-08-09.pdf>
- On 17 February the UK Location Council announced the appointment of **Mick Cory** as the **Chair of the Location User Group**. He is currently a Director in the Department of Culture, Arts and Leisure, Northern Ireland. Prior to that he was Chief Executive of the Ordnance Survey of NI and has worked for 28 years in the field of geographic information.

8.2 European PSI

- APPSI's European expert referred members to the paper submitted in advance of the meeting. He had nothing further to add.

9 AOB

9.1 APPSI's European expert suggested that APPSI's performance and its future work priorities are discussed at the next APPSI meeting on 17 May 2010.