



ADVISORY PANEL
on Public Sector Information

ADVISORY PANEL ON PUBLIC SECTOR INFORMATION

Seminar Summary

Date: Tuesday 08 December 2011
Time: 11:00am-4:30pm
Venue: The National Archives, Kew

Attendees: Chair Professor David Rhind CBE
Members

Peter Wienand , Vice Chair
Phillip Webb, Expert Member
Hilary Newiss, Expert Member
Michael Nicholson, Expert Member
Paul
Shane O'Neill, Expert Member
Prabhat Vaze, Expert Member
Dean White, Expert Member
Neil Ackroyd, Expert Member
Michael Nicholson, Expert Member
Hugh Neffendorf, Expert Member
Robert Barr, Expert Member
Michael Jennings Representative Member
David Lammey, Representative Member for Northern Ireland
Bill Oates, Representative Member for Wales.
Duncan Macniven Representative Member for Scotland.

**Non-
members:**

Christopher Graham, Deputy Information Commissioner
Andrew Stott, Public Sector Transparency Board
Faith Quigley, Assistant Director, Shared Executive
Irene Loh, Cabinet Office, (Joined via telephone conference)
John Williams, Standards, The National Archives
Paul Edwards, APPSI Secretariat, The National Archives
Patricia Humphries, Business Support, The National Archives

1. Welcome, introductions and apologies

- The Chair welcomed Christopher Graham the Deputy Commissioner of the ICO to the 33rd meeting of APPSI and informed members that Andrew Stott would be joining the seminar in the afternoon.
- Apologies of absence were received from Patricia Seex, and informed members that Paul Longley and Prabhat Vaze would only be able to attend the morning and afternoon of the meeting respectively.

Discussion Item 1: *Global Trends in PSI* ([presentation No.1](#)) – Led by Carol Tullo Director of Information Policy and Services, The National Archives.

Summary: Ms Tullo highlighted the progress which had been undertaken within the UK over the last year. Ms Tullo noted this period has seen the implementation of UK Government Licensing Framework and Open Government Licence in September 2010, the introduction of the Right to Data Clause – Protection of Freedoms Bill in February 2011, the announcement of the Public Corporation Plans in March 2011, and the Prime Minister’s letter on transparency and open data in July 2011.

Ms Tullo then went on to note that this rapid journey continued in the latter half of the year with the UK Government Licensing Framework / Non – Commercial Government Licence launch in July 2011 – proceeding to the Open Data and PDC consultation being launched between August and October 2011. The Autumn Statement 2011 and Open Data work strand in the Growth Review in November 2011 then followed. Ms Tullo highlighted that there would likely be significant developments to arise for the UK as a consequence of the European Commission’s proposals to amend the PSI directive.

Ms Tullo then discussed some of the significant developments to have taken place at a global level over the last year. The last 12 months has seen an increase in government portals around the world at a national, regional and city level. Ms Tullo was pleased to note that the licensing frameworks were starting to take hold worldwide with the Open Government Licence a leading model. OGL models of varying forms are being developed within Commonwealth countries as well as British Columbia, South Korea and France. The next steps internationally will likely see a distinct digital Agenda for Europe, and a standardisation of international licensing principles across the board.

Horizon scanning the PSI issues ahead for 2012 the UK, Ms Tullo stated that the government will provide its responses to the two consultations, Making Open Data Real, and a Data Policy for a Public Data Corporation, as well as the ICO publication schemes. She said that 2012 should also see the launch of the proposed the Public Data Group and Data Strategy Board, as well the implementation of the Protection of Freedoms Act 2012 – datasets clause. Other significant developments for the UK PSI community in 2012 will be the governments White Paper on Open Data, negotiations on the PSI directive and potentially the OGL model being adopted at a local government level.

Ms Tullo went on to say that the main challenges for 2012 will namely be establishing open data as a standard business model – ensuring joined up leadership and governance within the data community. Potential questions remain over how the regulatory frameworks should adapt in the current data landscape, and, more importantly, what the implications for the UK will be arising from the Digital Agenda for Europe?

Discussion Item 2: *Cabinet Office and Shareholder Executive: Update and explanations of the Chancellor’s Statement.* – Led by Faith Quigley and Irene Loh

The Chair welcomed Irene Loh to the group via telephone conference and invited her and Ms Quigley to share their reflections on the outcomes of the Autumn Statement in relation to PSI. Irene confirmed that the measures in the Open Data work stream of the Growth Review are to: 1. Boost growth and empower local businesses and new markets through providing access to areas such as local transport data, 2. Transforming high tech consumer information markets through provision of online citizen access to personal data. Irene explained that these initiatives would be driven forward through the newly announced Data Strategy Board (DSB) and Public Data Group to maximise the value of public data sets such as Met Office Ordnance Survey, the Land Registry and Companies House.

Faith Quigley and Irene explained that the proposed Open Data Institute’s will seek to establish itself as a hub for business and academic institutions. The ODI will be orientated on focusing on business innovation and commercialisation as well as providing advice to government.

Faith provided clarification of the roles of the DSB and Public Data Group. She went on to explain that the PDG had evolved from what had originally been termed the Public Data Corporation. Faith stated that the Data Strategy Board will provide a strategic overview role for government, and the public sector. The PDG will aim to reduce the cost of data for users and re-users of data. The DSB and PDG will provide clear separation of the commissioning and provision functions of public data.

APPSI members reiterated to Faith and Irene the importance of assigning responsibility for who decides what data should be collected and how the data should be procured, I.e should data sets be collected, processed, and prepared within the public sector, be commissioned for government by the private sector. APPSI members felt that these issues and regulatory unification were fundamental issues to resolve for the Open Data agenda's to succeed. Irene said that these issues will be tackled in the forthcoming White Paper due to be published in Spring of 2012.

Discussion Item 3: Where are we now after the Open Data and Public Data Corporation consultations – Led by Andrew Stott.

Andrew Stott discussed the PSI scene in the light of the recent consultations. He argued that there remained a number of unsolved issues relating to the government's information strategy. He reiterated the comments made earlier by APPSI members that there currently does not appear to be a clear process to define what type of data should be collected. Mr Stott went on to raise a number of open questions concerning the government's information strategy – he asked: How will data errors be reported back to government? – How will disagreements within the Public Data Group get resolved? How will the Public Sector know they are getting best value for its data? And how will continuing to release data over-time, at no charge, impact trading businesses? Mr Stott believes these areas are the gaps which need to be shaped to ensure an effective information strategy.

The Chair asked Mr Stott where he thought an advisory panel such as APPSI could have most influence. Mr Stott was of the view that APPSI should not be shy in contributing to the information strategy debate, and that it should not feel constrained by its own perceived remit. Mr Stott commended APPSI's assessment within its consultation response that there is a need for a 'National Information Structure', but felt that this should have been highlighted more prominently. 'Information management' needs to be taken more seriously across the Public Sector, and in particular how government cross links the information it uses internally. Mr Stott encouraged APPSI to continue its focus within these areas.

The Chair briefly brought the discussion back to Ms Tullo's earlier assessment on global trends in PSI. Mr Stott's intimated that the government licensing networks in Australia and New Zealand appear to be good, but questioned the strength of them. Given that each public agency covered by the Networks can still make their own decisions on many matters. Andrew stated that it was easy to undervalue what had been achieved in the UK so far. Members agreed that continuing to challenge was necessary to facilitate progress, but that there was already much to celebrate.

The Chair took the view that APPSI should continue to encourage and support The National Archive's horizon scanning of the emerging trends globally, and it's seeking of good networking opportunities. He reiterated the need for clarity on the ownership of the government's overall information strategy. Andrew surmised that if strategy is focused on enabling business to thrive, then the BIS should take the lead. If the strategy is to cross government / departmental focused then the strategy needs to be led from the centre from somewhere like the Cabinet Office. This led to a wider debate on the remit of the Cabinet Office and whether directly managing the strategy over the long term would be an appropriate organisational solution for them?

There was general agreement that while the National Archives were helping to ensure central government have the technical knowledge to instigate the Open Data agenda, the view was that there needs to be a more widely established professional skill set to culturally embed and activate Open Data principles across the entire public sector.

Discussion Item 4: *Simplifying the legal framework* – Led by Peter Wienand- Deputy Chair APPSI

The Chair explained, as highlighted in Ms Tullo's earlier assessment of the PSI and Open data landscape, that there is a plethora of stakeholders and legislation currently incorporated in the regulation of the sector. The Chair stated that by its nature the legal Framework for PSI is complex, so the Chair asked Mr Wienand to assess if this could be simplified.

Mr Wienand started by explaining that reducing regulation is a key priority for the Coalition Government. "Through eliminating the avoidable burdens of regulation and bureaucracy, the Government aims to promote growth, innovation and social action". Peter noted that, while there is clear scope to simplify legislation for PSI, the initial question of what do we mean by "Simplification" needs to be considered as this could be viewed to form many guises:

- re-codification
- rationalisation
- consolidation
- improvement
- a consolidated statute dealing with public data rights?

Mr Wienand explained that he had drafted a detailed analysis paper ([see presentation No.2](#)) on the complexities of the current legislation. Mr Wienand said there is a question regarding whether it all can be simplified and, if so, can it be done?

Areas in which the legal framework on PSI could be addressed include;

1. Addressing which bodies should have jurisdiction on PSI (OPSI, APPSI, ICO, OFT all have varying roles in the current legislation), Mr Wienand explained that were one starting from scratch, one would want to ask whether it makes sense to have potentially three regulatory bodies dealing with different aspects of PSI re-use. A more rigorous PSI regime and enforcement might reduce the need for separate bodies.

2. Former public sector bodies: current legislation fails to deal with the position of bodies that have moved from the public sector to the private sector, yet which continue to gather information in pursuance of a perceived statutory duty. The principle examples are the privatised utilities, such as water or transport. The information has a public significance and therefore should be regulated.

3. Access versus re-use: the distinction between access and reuse matters, currently, because; a.) re use is not currently, mandatory under the PSI Directive or RPSI regulations, (b.) the charging regimes and re-use are different, (c. some of the IP rights in most if not all PSI creates a basis for refusing to permit re-uses that would be commercially attractive.

4. Charges: charging for data is itself a fraught area. The regime for charging for re-use of PSI is contained, in principle, in regulation 15 of the Re use of Public Sector Information Regulations however there are various dimensions to charging, and many overlap or conflict with other regimes.

5. Statutory and non-statutory regulation: There are clear reasons for the existence of a dual system of regulation - statutory being RPSI and IFTS non statutory. However the levers of enforcement within the RPSI Regulations can be considered relatively weak.

6. Crown bodies and non- Crown bodies; The IFTS (Information Fair Trader Scheme), does not extend to all parts of the public sector. Whereas the RPSI Regulations apply to public sector bodies, including central government departments and health trusts.

7. Terminology; There is an array of confusing and different terminology within PSI legal framework. An example of which can be found in just a basic term as ‘documents’ used in the PSI regulations. Peter explained that the definition of ‘documents’ is very wide and in the context used, it should actually be termed as ‘Information’. Mr Wienand stated that the proposed amendments to the PSI directive do not include any significant changes of terminology and by standardising or agreeing definitions could be an opportunity to achieve simplification.

In summarising the areas which needed to be tackled Peter Mr Wienand emphasised that it should be recognised that there have been certain benefits from the current framework with bodies such as The National Archives (OPSI) having built up considerable expertise and networking opportunities. However he believed there is scope for the current complexities surrounding regulation to be resolved through one regulatory function.

Peter acknowledged though that there are limits to any sensible re-codification. Legislation dealing with personal data, Intellectual Property Rights and competitive law is based on separate legal principles and sources. It therefore makes sense for more specialist areas to continue to be dealt with under specific legislation, a good example being the sensitive area of patient data.’’ Mr Wienand highlighted that The European Commission’s proposed amendments to the PSI Directive suggest that there may be scope to review the current framework.

Discussion Item 5: Information Commission Office (ICO) perspective on transparency, regulation and related matters. – Led by ICO deputy Commissioner Graham Smith

Mr Smith thanked the Chair and APPSI for being invited to sit in what had been a very interesting discussion and debate. Mr Smith explained that he would reflect upon the discussions that had taken place so far and highlight where he thought the ICO’s work is tied to and impacted by the changing landscape of the open data agenda.

Mr Smith started by highlighting the nature of the Freedom of Information (FOI) requests they receive and the choice of either proactive or reactive disclosure of public sector information. Reactive disclosure takes up most of the ICO’s time.

Mr Smith explained that the ICO’s initial operating principle is that the more you disclose the fewer FOI requests one would receive. However the reality is that the more information is available the more people will drill down and be inquisitive of the information that has been provided. Mr Smith stated the ICO is fully supportive of transparency but noted that the desire for release can raise challenges particularly in terms of handling an increasing level of vexatious requests.

Mr Smith explained that an area of concern for the ICO in relation to the Open Data agenda is protection and privacy and the risks associated with current data mining techniques; these can cause inadvertent personal disclosure of data. With the amount of government data potentially available for release, there is a danger that it might not be possible to ‘privacy proof’ your data sets and a risk management-based approach will be required. Mr Smith explained that while this is a risk to manage– it does not mean that government should be deterred from releasing its data.

Mr Smith highlighted that the ICO are working on anonymisation with a view to producing a draft code of practice. APPSI members questioned Mr Smith regarding their programme to seek the public views on what information they would like to see released. Mr Smith stated that they very much hope that the survey will a holistic view on what information is most valued with direct grass roots comments. APPSI members also enquired as to what the breakdown of the complaint cases the ICO receive were in terms of transparency issues versus re-use. Mr Smith said that he was only aware of a handful of complaints

where the information being requested was associated for use at a macro level. He indicated that the majority of the information sought was for re use by journalists and in campaigns.

Mr Smith went on to say that they expect a number of the issues the ICO faces will be tackled within the post legislation review. It was agreed within the closing discussions that APPSI should explore whether there is an opportunity for it to provide input to the post legislative scrutiny processes.

Discussion Item 6: PSI and the world outside central UK government – Led by Michael Jennings

The Chair, Mr Jennings, and members agreed, given the length of the discussions that already taken place, it would be preferable to carry this over to the next meeting on 1st February 2012.

Summary of actions and key issues in regard to future focus from APPSI

- Consider how APPSI can develop and disseminate its ideas on a National Information Infrastructure to influence the information strategy debate.
- Re-visit the issues arising from a lack of common terminology / vocabulary.
- Assess the gaps within the government's information strategy – ensure APPSI views are brought into the debate.
- APPSI to explore how professional skills for Open Data Management can be established or expanded.
- APPSI Secretariat to publish Mr Wienand paper on simplifying the legal framework on the APPSI website.