

## **Van Haren Publishing and the Office of Government Commerce: Second Progress Report**

In July 2010, the Office of Public Sector Information (OPSI), part of The National Archives, published a [complaint report](#) under the Public Sector Information Re-use Regulations, in respect of Van Haren Publishing and the Office of Government Commerce (OGC):

In the report, we partially upheld the complaint, saying that OGC should further align the basis on which third parties and its official publishing contractor could re-use PRINCE2 core publications.

In March 2011, we posted a [progress report](#) on our website which documented actions that had take place since publication of the main complaint report. This report noted positive actions that had taken place to respond to our recommendations and suggestions. We now note progress on those items which we undertook to keep under review or were subject to completion.

### **Overall Assessment**

Of the three areas that we have continued to monitor, one was a mandatory recommendation, that being reviewing publishing arrangements prior to re-letting. There were two items under the heading of suggested improvements - consideration of the extent to which the designation “official” should be attached to non-public task publications, and consideration of further measures to mitigate tensions between publishing and re-use functions.

We have also taken the opportunity to note completion of tasks that were in progress at the last report, namely that

- arrangements for licensees to obtain an electronic version of the PRINCE2 manual have now been set up
- A fixed embargo period has been agreed for the publication of derivative material so that third parties and the official publisher will be on the same footing

We have accepted that the current contract was extended to allow due time for official and Ministerial review, and consequent options analysis and planning, prior to re-tendering. We require those responsible for the Best Management Practice portfolio to notify OPSI of the outcome of the strategic review of its publications and their status and to report on the contract re-letting timetable no later than December 2012, one year prior to the current expiry date of the contract. In the interim, the

licensing and trading activity of the Best Management Practice portfolio will continue to be monitored through OPSI's Information Fair Trader Scheme.

The items that were good practice suggestions – alignment of the term “official” with public task activity, and examining further differentiation between the various publishing roles, are similarly subject to a review of the strategy for and the status of the Best Management Practice portfolio and any arrangements for re-letting the publishing contract (or contracts).

Our complaints procedure includes provision for bringing the matter to the attention of Ministers should we consider that sufficient action has not been taken to comply with the PSI Regulations. We do not consider it necessary to refer the matter to the relevant Ministers. We are confident that, when the opportunity arises to meaningfully re-examine publishing options and contractual arrangements, the opportunity will be taken and OPSI will be fully consulted.

### **Summary of Actions**

A summary of actions taken follows for those items that remained outstanding or were subject to completion. Extracts from the original report with the relevant paragraph number precede the summaries.

### **OPSI Recommendations Section**

**68. OPSI recommends that, given the provisions of Regulation 13(2) and our finding that PRINCE2 derivative materials are outside the public task, a review of the basis on which the PSB's official publishing contract is let be initiated in advance of its renewal. This will be to ensure that the terms on which the official publisher re-uses PRINCE2 core material more fully equate to those which apply to third party applicants. The review should consider whether contractual separation between core and derived material will be necessary.**

#### **Actions taken:**

Since April 2011, the term Office of Government Commerce is being phased out and, where practicable, the publications that were the subject of the original complaint report are referred to as the Best Management Practice portfolio and carry the HM Government logo. Operationally, the Best Management Practice unit is part of the Efficiency and Reform Group at the Cabinet Office.

Officials responsible for the Best Management Practice portfolio carried out a brief review of the business model that was used when the official publisher was appointed as part of their initial consideration of this recommendation.

The appointment of the official publisher predated the implementation of the PSI Regulations. The existing contract with the official publisher remains in force until 31 December 2013, having been extended in December 2010. There is the possibility of a further maximum extension of 3 years. Best Management Practice officials have

confirmed that a full review will be undertaken once the organisational business strategy for this area of activity has been agreed and a decision taken on when to re-tender the contract (or contracts). In any future business model, the potential to separate the responsibility for the licensing scheme from any business with rights to re-use the material will be investigated.

The timing of the extension of the official publishing contract was a significant cause for concern to OPSI, but, given that the publishing strategy and status of the Best Management Practice portfolio, of which PRINCE2 is a part, was and continues to be under review by officials and Ministers, it was therefore not possible to meaningfully explore options and re-tender at that point. We accept the decision to extend within the terms of the existing contract.

The period up to December 2013 provides the opportunity for strategic decisions to be taken and then for the contractual options to be thoroughly explored prior to the point of re-letting as set out in our original recommendation.

**69. To ensure equity in bringing derivative PRINCE2 publications to market, the PSB should establish a fixed embargo period so that the official publisher and third parties have an equal time period within which to prepare derivatives for publication.**

**Actions taken:**

Best Management Practice officials have now settled on an embargo period of eight weeks and will apply it to any future iterations of PRINCE2 core material.

**70. An embargo period for the publication of derivatives will address the issue of timeliness of access to the raw material to be re-used. Electronic provision of the raw material would also be of potential benefit to applicants.**

**Actions taken:**

Best Management Practice officials have now established a process for supplying licence applicants with an electronic copy of the core PRINCE2 materials from its official publisher. This is as a text file with the official publisher's typographical arrangement stripped out. The cost of this service is relatively high based on expectation of demand and the requirement to recoup costs.

**Suggested Areas for Improvement Section**

**75. We did not find that there is an overly restrictive approach to the permitted "look and feel" of rival products to the extent that trade marks and design rights being out of scope permitted us to look at this question. It is reasonable to require a third party licensee not to present its material in such a way as to claim endorsement by the PSB where no such endorsement has occurred, or to present its material so that it could be confused with a product of the PSB. However, given our analysis of public task, we do not advocate the use of the term "official" in respect of**

**derivative PRINCE2 publications. We would expect to associate the promotion of official status and the consequent reliance that a consumer might expect to place on the material to be aligned with an organisation's public task.**

**Actions taken:**

As previously stated, Best Management Practice officials have confirmed that the word "official" in the titles of its publications is no longer being used. It has had more difficulty in entirely removing the designation, being contractually obliged to include references to the products of its official publisher and accreditor in published materials. The Best Management Practice portfolio publications now have a revised "stamp logo" reflecting this state of affairs. We expect this issue to be considered further when the official publishing contract (or contracts) is re-competed.

**76. The PSB's official accreditor, which has some publishing rights which are intended to address its need to publish syllabus information, has the dual roles of official accreditor and the PSB's combined trademark and copyright licensing sub-contractor. It can also function as a translation sub-contractor. We suggest that the PSB considers whether there are further ways in which the perceived tensions between these roles can be mitigated beyond the existing policy of confidentiality clauses and the option of independent product review in combined trademark and copyright licensing.**

**Actions taken:**

As previously stated, in a future business model the potential to separate the licensing scheme from anyone with rights to re-use the material will be investigated. The practicalities of this will be based on the business model requirements of the ERG at that time. We expect this matter to be considered further when the official publishing contract (or contracts) is re-competed.

**OPSI, part of The National Archives, December 2011**