

# A Consultation on Data Policy for a Public Data Corporation: *Government response*

March 2012

 HM Government

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# Executive summary

The Government launched a consultation on 4 August 2011 to look in detail at key questions on the data policy for a Public Data Corporation. The consultation questions focused on:

- charging;
- licensing; and
- regulatory oversight.

This document summarises the responses received to the consultation.

The key messages from the consultation responses were:

## *Charging*

- Many respondents wanted all data to be released for free.
- However, a number of respondents and those who took part in workshops held alongside the consultation felt that a Public Data Corporation should be able to charge for value-added services, and in some cases core data (where a high cost was involved in collection). In addition, although there was no overwhelming preference from respondents for any specific charging approach, there was a preference expressed in the responses for 'raw data' to be made available free with the option of charging for value-added services.

## *Licensing*

- Many respondents felt that complex licensing can be a barrier to accessing datasets – in fact many felt this was more of an issue than charging per se.
- A good number of respondents supported options in the consultation which suggested that, where possible, standard licence terms should be common and consistent across PDC members licences.

## *Regulation*

- Many respondents felt that the regulatory framework around data policy was already complex and required simplification.
- Many also highlighted the importance of separation of Government functions (customer, delivery and regulatory) and the need for clear objectives for all parties involved.

In response to the consultation, the Government is committing to the following actions:

1. The Government will establish a Data Strategy Board (DSB) to maximize the value of data from the Public Data Group (PDG) Trading Funds in order to attain long-term economic and social benefit.

2. The Government is publishing in its broader response to the consultation detailed Terms of Reference for both the DSB and PDG (see Annex D) as well as setting up a new Open Data User Group to represent for the first time interests of Open Data users.
3. The PDG Trading Funds, working with the DSB, will continue to explore ways to make access to data easier and simpler. The DSB will also monitor and evaluate the benefits generated by data which is already released for free from the PDG members, such as OS OpenData and the datasets released as a result of Government's Autumn Statement 2011.
4. The Government will continue to consider the options for charging including those set out in the consultation and will report back by the end of 2012.
5. The Government has asked the PDG members to work with the DSB and

The National Archives to develop standard terms to be included in all PDG licences, following the principles of the UK Government Licensing Framework (in line with 'option 2' in the consultation).

6. The Government has also asked the PDG to identify where the Open Government Licence could be more widely used for data and information that is already made available for free, to provide clarity to users on their rights with respect to this data.
7. The Government will initiate a review to refresh the public task of each of the current members of the Public Data Group now, with the Public Data Group Trading Funds working with the Data Strategy Board and The National Archives to aim to publish refreshed public tasks in the first half of 2012.

# 1. Background to the consultation

The consultation on Data Policy for a Public Data Corporation set out a vision to maximize the social and economic value generated by data held by public sector organisations.

1.1 In January 2011, the Government announced its intention to bring together a number of data-rich organisations in a Public Data Corporation with the aims of:

- providing a more consistent approach towards access to and accessibility of public sector information, balancing the desire for more data free for re-use whilst ensuring affordability and value for taxpayers;
- creating a centre of excellence driving further efficiencies in the public sector; and
- creating a vehicle that can attract private investment.

1.2 In particular, the Government believes that structures and incentives can be provided to promote greater access to, and usage of, public data and information, delivering benefits for the wider economy. There are also significant opportunities to drive efficiency and improvement of public services through better sharing of key data between organisations.

1.3 The consultation on the Data Policy for a Public Data Corporation was launched in August 2011 to look in detail at some key questions around the data policy framework that might apply to a Public Data Corporation. In particular, it considered questions around charging, licensing and regulation of public sector information within a Public Data Corporation.

1.4 The consultation set out a vision to maximize the social and economic value generated by data held by public sector organisations.

1.5 The consultation was published in conjunction with the Open Data Consultation "*Making Open Data Real: a public consultation*". The Government has also driven forward the use of data to stimulate growth through measures announced in the Chancellor's Autumn Statement in November 2011.

1.6 The "Consultation on Data Policy for a Public Data Corporation" was conducted between 4 August 2011 and 27 October 2011. The consultation asked the following 12 questions:

## Charging for PDC information

**Q1.** How do you think Government should best balance its objectives around increasing access to data and providing more freely available

data for re-use year on year within the constraints of affordability?

**Q2.** Are there particular datasets or information that you believe would create particular economic or social benefits if they were available free for use and re-use? Who would these benefit and how?

**Q3.** What do you think the impacts of the three options would be for you and/or other groups outlined above?

**Q4.** A further variation of any of the options could be to encourage PDC and its constituent parts to make better use of the flexibility to develop commercial data products and services outside of their public task. What do you think the impacts of this might be?

**Q5.** Are there any alternative options that might balance Government's objectives which are not covered here?

### **Licensing**

**Q6.** To what extent do you agree that there should be greater consistency, clarity and simplicity in the licensing regime adopted by a PDC?

**Q7.** To what extent do you think each of the options set out would

address those issues (or any others)? Please provide evidence to support your comments where possible.

**Q8.** What do you think the advantages and disadvantages of each of the options would be? Please provide evidence to support your comments

**Q9.** Will the benefits of changing the models from those in use across Government outweigh the impacts of taking out new or replacement licences?

### **Regulatory oversight**

**Q10.** To what extent is the current regulatory environment appropriate to deliver the vision for a PDC?

**Q11.** Are there any additional oversight activities needed to deliver the vision for a PDC and if so what are they?

**Q12.** What would be an appropriate timescale for reviewing a PDC or its constituent parts public task(s)?

1.7 The responses received to the consultation are summarized in Chapter 4.

## 2. Government response to the consultation

### A new structure with greater focus on open data

2.1 As a first step in delivering the vision for a Public Data Corporation in the Chancellor's Autumn Statement in November 2011, **the Government announced that it would establish a Data Strategy Board (DSB). This will maximize the value of data from the Public Data Group (PDG) Trading Funds in order to attain long-term economic and social benefit.** This actively splits the role of data commissioner (the DSB) and the data provider (the PDG). It was also announced that the current members of the Public Data Group would be the Ordnance Survey, Met Office, HM Land Registry and Companies House. The details of the Government announcement are in Annex B.

2.2 As a tangible immediate step, the Government also announced that a number of core reference data sets would be made available free at point of use. These datasets included:

- core weather forecast datasets from the Met Office;
- information about residential land sales from the Land Registry;

- removing Ordnance Survey licensing restrictions around Public Rights of Way data; and
- core companies data from Companies House.

2.3 The release of these core reference datasets reflects feedback from consultation responses and wider engagement Government Departments have undertaken over the past year.

2.4 **Now, alongside the Government's response to the consultation, the Government is publishing detailed Terms of Reference for both the DSB and PDG (see Annex D) setting out the roles and responsibilities of the two groups. The Government will also establish a new Open Data User Group, which will report to the Data Strategy Board, representing interests of Open Data users.**

2.5 This new structure will separate Ministerial responsibilities for these two organisations, with the Minister for Universities and Science and the Minister for the Cabinet Office overseeing the DSB and the Minister for Employment Relations, Consumer and Postal Affairs overseeing the PDG.

### The Data Strategy Board

2.6 The creation of the Data Strategy Board, and in its relationship with the

Public Data Group, will seek to deliver on Government's objective to provide a more consistent approach towards access to and accessibility of public sector information, including seeking to make more public sector data free at the point of use where this is consistent with affordability and value for money. For example:

- the Data Strategy Board will advise Ministers on what data should be made available as Open Data within the budget allocated for making more data available for free;
- by having a minimum membership of 30% from the data user community outside of the public sector, it will provide a new voice for these data users; and
- through its relationship with the Public Data Group and the Trading Funds in the Public Data Group, it will allow for a more systematic approach to making data available for free in the future.

2.7 The Data Strategy Board will also fulfil the first part of original vision for a Public Data Corporation by balancing the desire for more data free for re-use whilst ensuring affordability and value for taxpayers. In particular, it will be responsible for preparing business cases to support making datasets free at the point of use. This will help to ensure that releases of data are affordable and provide long-term economic and social benefits for taxpayers. **The Data**

**Strategy Board will monitor and evaluate the benefits generated by data which is already released for free from the Public Data Group members, such as OS OpenData and the datasets released as a result of Government's Autumn Statement 2011.**

2.8 The Data Strategy Board will take on critical functions around advising Government on commissioning key data and services from the Public Data Group members, in particular around weather forecasting and mapping services. It will leverage existing expertise within existing customer functions provided by the Public Weather Service Customer Group and the Geographic Information Group, which will report to the larger Data Strategy Board.

2.9 In addition, the Government will also create a new Open Data User Group which will act to represent the views of the Open Data user community and government users of open data to inform any future proposed release of data for free.

### **The Public Data Group**

2.10 Establishing the Public Data Group will bring together four key data providers, and seek to build on existing world-class expertise to create a centre of excellence within the public sector. The Public Data Group will seek to drive efficiencies and improvements in public service delivery, through working collectively and collaboratively together (and where opportunities arise with others). **The PDG Trading Funds, working with the DSB, will also**

## **continue to explore ways to make access to data easier and simpler.**

2.11 The full Terms of Reference for the Public Data Group are given in Annex D.

## **Charging for data**

2.12 Many of the responses to the consultation suggested that Government should look to make all data from the Trading Funds available for free with a number of respondents to the consultation indicating that they felt data had already been paid for out of tax revenue and consequently it should be made available for free.

2.13 As outlined in the consultation, there is a cost associated with collecting data and ensuring that its quality is maintained over time. Therefore, releasing data for free that is currently charged for to cover these costs will have an additional cost to Government. From this starting point, the Government needs to consider on a case-by-case basis how best to balance affordability, value for money and the economic and social impact that would derive from releasing data for free.

2.14 The current members of the Public Data Group are all Trading Funds and, as such, are required to cover their costs and achieve a return on average capital employed each year, including for some from the licensing and resale of the information they collect, collate and add-value to. In collecting, collating and maintaining the quality and value of their data, the PDG members incur costs and

the norm for Trading Funds is to charge full cost plus an appropriate rate of return for information that recipients intend to reuse. If there were to be a reduction in the revenues generated then there is a significant risk that the quality and value of the data and information would decrease over time.

2.15 However, as set out in the consultation, the Government is committed to releasing data wherever it can, and removing barriers to access to that data wherever possible, including by making it available free at the point of use.

2.16 As a result, it was announced in the Autumn Statement that the Data Strategy Board would receive funding of no less than £7 million in this Spending Review period for the purchase of additional data for free release.

2.17 In addition to the structural changes that Government has made, providing a more systematic approach to making data available for free, it has considered some options for charging, as set out in the consultation.

2.18 The PDG members are already subject to specific requirements on charging<sup>1</sup>. Although there was no overwhelming preference from respondents for any specific charging approach, it is noted that there was a preference expressed in the responses for 'raw data' to be made available free with

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<sup>1</sup> [Managing Public Money](#)

the option of charging for value-added services. In addition to the governance and structural changes and the discrete funding for Open Data, **In addition to the governance and structural changes and the discrete funding for Open Data, the Government will continue to consider the options for charging including those set out in the consultation and will report back by the end of 2012.**

## Licensing

2.19 The consultation responses made the strong point that complex licensing can be a barrier to individuals and individual organisations accessing datasets. The Government recognises this barrier and is committed to continuously streamlining and simplifying the way that Government licenses its information. The consultation responses also showed that data users would see some benefit to the standardisation of licence terms.

2.20 Standard licensing terms have been successfully incorporated into other public projects, from procurement practices to simplifying the interaction between universities and businesses. The Government Licensing Framework<sup>2</sup> has been a step forward in this respect, but as the responses from the consultation have shown, there is always more that can be done.

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<sup>2</sup> [UK Government Licensing Framework](#)

2.21 **The Government has therefore asked the PDG members to work with the DSB and The National Archives to develop standard terms to be included in all PDG licences, following the principles of the UK Government Licensing Framework (in line with 'option 2' in the consultation).** PDG members will continue to have flexibility to design licences appropriate for the specific data in question and, where appropriate, the use of that data, as set out in the consultation.

2.22 In addition, **the Government has also asked the PDG to identify where the Open Government Licence could be more widely used for data and information that is already made available for free, to provide clarity to users on their rights with respect to this data.** In doing this, the PDG will work with the DSB to ensure that data made available for free is done so in accordance with the relevant open data principles.

2.23 Some respondents to the consultation felt that the lack of resources in some public bodies led to delays and difficulties in using licences. The PDG will therefore also be asked to explore whether there are opportunities to leverage existing resources and expertise in licensing across PDG members, and potentially other bodies in the public sector in order to provide better service to all data users.

2.24 For completeness, it should be noted that the consultation was not directed to changes in the overall legal

framework so, for example, there are no intentions to change the statutory definition of Crown copyright.

## Regulatory oversight

2.25 The Government recognises, in line with the consultation responses, that the current regulatory regime is complex. The Government does not believe it is necessary or appropriate to create a new regulator as current regulatory regimes around public sector information already apply to these organisations.

2.26 Responsibility for the overall management of Crown copyright and Crown database rights, the investigation of complaints under the PSI Regulations and the IFTS will remain within The National Archives (TNA). The Trading Funds in the PDG will continue as now to operate their licensing activity under a full delegation of authority from the Controller of Her Majesty's Stationery Office within The National Archives. Delegations of authority are issued on condition that the public sector organisations comply with IFTS principles.

### Public Task

2.27 The consultation however did ask about the public tasks of those organisations which would be part of the PDC. The term "public task" is used in the Regulations on the Re-use of Public Sector Information (PSI Regulations) and is one of the factors that determine whether information produced, collected or held by the public sector falls within the scope of the PSI Regulations. There are a number of reasons why a clear

statement of public task is important. The main ones are:

- it helps to establish whether the terms of the PSI Regulations apply
- it establishes whether complaints about re-use can be made under the PSI Regulations

2.28 The consultation asked about the appropriate timeframe to review the public task of the relevant organisations. The majority of respondents suggested an annual review. Government believes an appropriate timeframe for review is every 1-2 years, and should include consultation with the Data Strategy Board and The National Archives (OPSI).

**Government will initiate a review to refresh the public task of each of the current members of the Public Data Group now, with the Public Data Group Trading Funds working with the Data Strategy Board and The National Archives to aim to publish refreshed public tasks in the first half of 2012.**

2.29 These public tasks will be reviewed after one year, after which Government will decide whether to continue with an annual review process or to move to a review every 2 years.

2.30 For completeness, it should be noted that, if there were relevant changes to ownership or structure of any of the PDG bodies, it would be appropriate at that time to consider whether the current regulatory framework was then appropriate.

2.31 In addition, it is noted that the European Commission has recently published a Communication in which it presents a package of measures to promote open data, including a proposal to amend European Directive 2003/98/EC on the re-use of public sector information. This, along with Government's consideration of responses to the open data consultation, will reinforce the existing effective approach around the re-use of public information.

# 3. Analysis of respondents to the consultation

We received 412 responses to the consultation.

- 3.1 The responses consisted of:
- 116 detailed responses to the consultation questions, and
  - 296 responses containing an overall comment on the consultation, although without detailed responses to the specific questions.

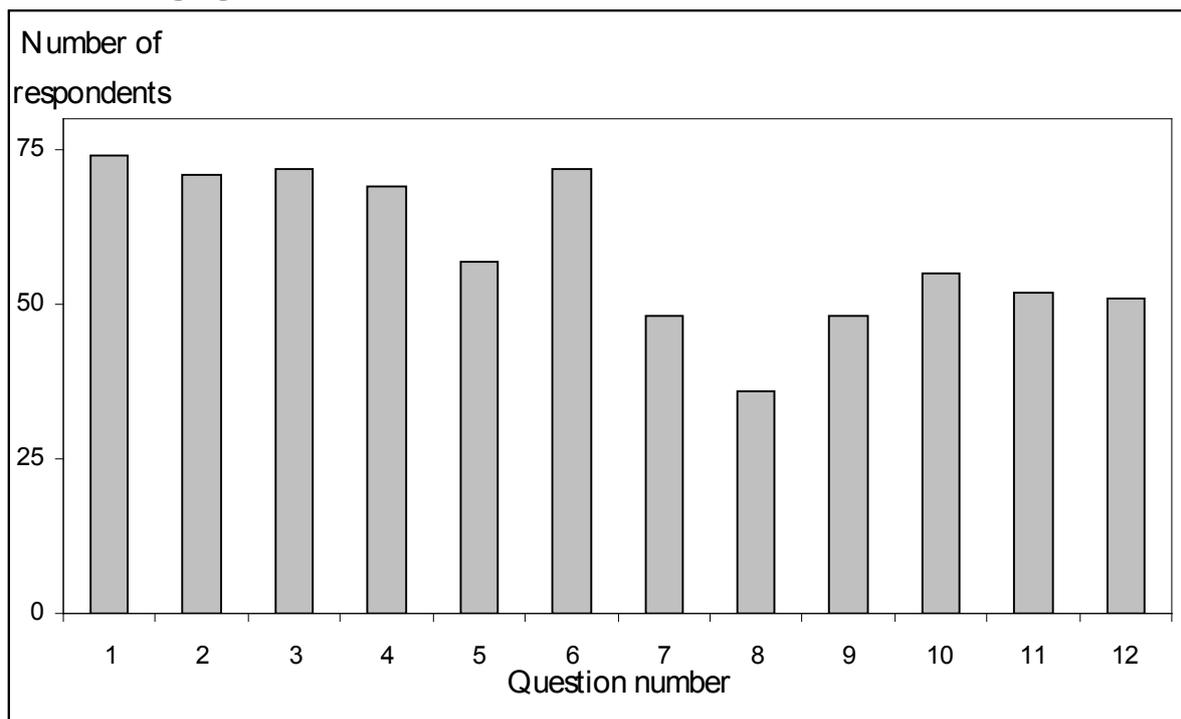
3.2 Workshops were also held, summaries of which are in Annex C.

3.3 The 296 responses containing overall comment came from individual respondents. These responses overwhelmingly were directed at the regime for charging for data.

3.4 The 116 detailed responses came from the following groups:

Type of respondent	Number of respondents
Individual	43
Representative body	31
Market Participant	22
Local Government	7
Trade Union	3
Central Government	10

3.5 Response rates to specific questions are given in Figure 1.



*Figure 1: breakdown per question of respondents*

# 4. Analysis of the responses to the consultation

## Key themes

4.1 Some key themes raised in response to the consultation were:

- a general support for making more data available free at the point of use, with greatest support for the release of raw data in particular;
- some acknowledgement that value added products should be charged for;
- a sense that location data can be particularly useful; and
- a few responses supporting an alternative data utility model for the PDC.

### Q1 – Q5: charging for data

4.2 The consultation set out three possible charging options:

- status quo plus commitment to more data for free;
- harmonisation and simplification, and
- freemium.

4.3 Many respondents did not express a specific preference for one of these specific charging options, sometimes putting forward alternative charging models. Of the respondents that submitted that some charging should remain, there was some preference for the freemium model. Thus, of the detailed respondents, 18 (16%) felt that

none of the options were appropriate or put forward alternative options; 5 (4%) expressed a preference for option 1 – Status quo plus commitment to more data for free; 8 (7%) expressed a preference for option 2 – harmonisation and simplification and 18 (16%) expressed a preference for option 3 – freemium.

### Q6 – Q9: licensing

4.4 The consultation set out three possible licensing options:

- providing common overarching principles and guidelines which would underpin the licences for all PDC information;
- adopting an overarching PDC licence agreement with a single set of standard terms and conditions for the licensing of all charged for PDC information.; and
- having a single PDC licence covering use and re-use of all charged-for PDC information.

4.5 There was no clear consensus from written responses on which option was the favoured one and many respondents did not express a specific preference for one of these specific licensing options. Thus, of the detailed responses, 7 (6%) felt that none of the options were appropriate or put forward alternative option; 5 (4%) expressed a preference for option 1 – use-based portfolio of standard licences; 16 (14%) expressed a

preference for option 2 – overarching PDC licence agreement and 14 (12%) expressed a preference for option 3 – single PDC licence. However, feedback from the workshops held suggested a single PDC licence was not feasible and that a combination of option 1 and 2 would be more appropriate.

### **Q10 – Q12: regulatory oversight**

4.6 There was a general sense that the current regulatory framework would benefit from simplification, and to some respondents it seemed natural for a PDC to assume the role of arbitrator in a light touch regulatory regime, or regulator in a more controlled regime. There was also a strong feeling that a PDC should have a role in defining the public task for any organisation within it.

### **Q1-Q5 Charging for data**

4.7 Of the detailed responses, respondents were particularly keen that ‘raw’ data should be released for free. Some highlighted that this would be possible under a freemium model of charging. Overall there was general agreement that value-added services could be charged for.

4.8 Of the three charging options set out in the consultation the freemium option was the most popular. There was however some concern about how it would be implemented. Additionally some respondents were unsure about how this model would work in the public sector.

4.9 While not providing responses to the individual questions, the majority of the 296 short responses argued that public data should be free; approximately half of the respondents focus on raw data specifically. There was broad acknowledgement that value-added services should be charged for, for example:

*“Granting free access to this raw information would provide great opportunities for innovation amongst volunteer and open source groups, as well as new digital businesses....The PDC can still develop a viable business by charging for value added services built on top of this data, whilst granting free access to raw data.”*

4.10 A number of the short responses argued for free public data stated that as they believed data collection had been funded by the taxpayer that it should be available to the taxpayer for free, for example:

*“As the data gathering is funded by UK tax payers I believe that all UK tax payers should be allowed unrestricted access.”*

4.11 A significant number of the short responses also highlighted economic benefits of Open Data stating that the long term economic benefits of Open Data would outweigh the short term economic benefit of charging for data, for example:

*‘Dr Rufus Pollock at Cambridge University estimated that the public sector*

*open data policy is worth about £6 billion to the UK economy. The US government has had a long established policy of releasing all of its data into the public domain and as a result has seen incredible innovations in the field. As a web developer I've had numerous clients cancel a project due to over-priced licensing fees for what should be public data - including post code and land registry information.'*

4.12 It was also outlined that Open Data stimulates creativity and innovation and allows SMEs to compete with larger companies.

4.13 A small number of the other 296 responses indicated that they felt the formation of a PDC would result in a situation significantly worse than the status quo. Specifically that a PDC would result in less or no data being available for free, for example:

*'If this bill is passed the public will no longer have access to PUBLIC information...'*

4.14 Overall, the message of the other 296 responses is summarized in Figure 2.

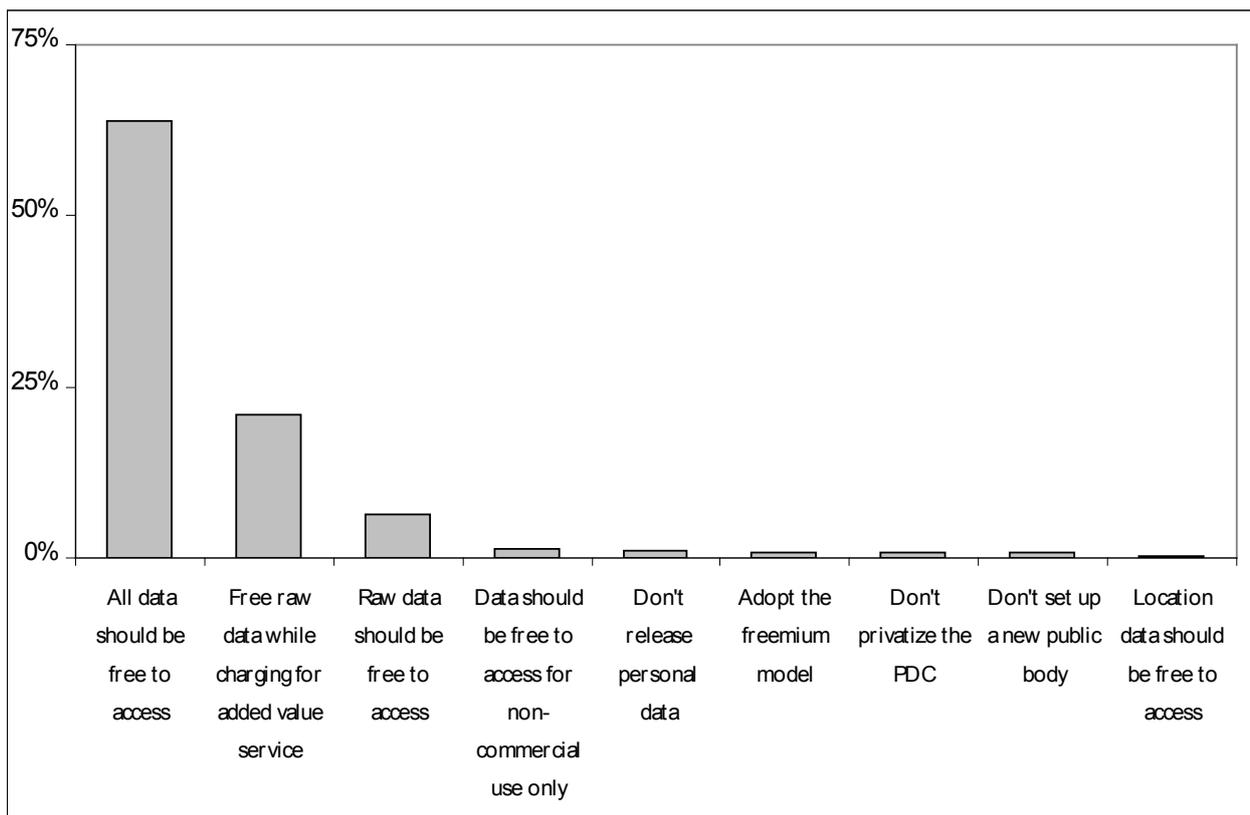


Figure 2: breakdown of 296 short responses

**Q1** *How do you think Government should best balance its objectives*

*around increasing access to data and providing more freely available data for re-use year on*

*year within the constraints of affordability?*

4.15 74 respondents (64% of the detailed responses) responded to this question specifically.

**Free raw data**

4.16 Free raw data was a reoccurring theme throughout the responses particularly from the individual respondents, interest groups and market participants. It was generally accepted, among these respondents that value-added services should be paid for although there were different opinions on whether government should be providing these value-added services.

4.17 A number of the individual respondents outlined that they felt the public had already paid for the data through the tax system and on that basis the data should be made available to the public for free.

**Cost of open data**

4.18 Some individual respondents, interest groups and market participants felt that if raw data was made available online that the associated cost would be negligible and that cost should not be a barrier to open data. Respondents from these groups also outlined that they felt the economic benefits of releasing data for free would outweigh the costs.

**Commercial activity**

4.19 Some respondents, across various groups, felt that a PDC should not engage in commercial activity with comments

suggesting that the trading funds hold a monopoly position. In line with this it was suggested that the data-utility model should be re-considered.

**Q2** *Are there particular datasets or information that you believe would create particular economic or social benefits if they were available free for use and re-use? Who would these benefit and how?*

4.20 71 respondents (61%) responded to this question. Overall, location data were cited most frequently as creating particular economic or social benefits if they were available free for use and re-use. Figure 3 gives an analysis of responses.

**Location Data**

4.21 Address, postcode, land and mapping data were cited most frequently as having particular economic or social benefits if they were available for free use and re-use (Figure 3).

4.22 Location data was highlighted as being particularly important as a large proportion of Government data has a geographic reference. The location data therefore provides an important link between data which facilitates innovation.

*“Over 80% of government data is believed to contain a geographic reference ; Maps are becoming increasingly accepted as an intuitive visualisation tool and can*

*bring detailed spreadsheet data to life; A common geographic reference can be used to integrate disparate data sets e.g. economic and health data from different departments can be overlaid using geographic boundaries as a common reference. This can then lead to new insights that either data individually could not have provided."*

4.23 A few respondents acknowledged OS OpenData had been a welcome step forward in providing greater free access to location data although some thought that it should be expanded.

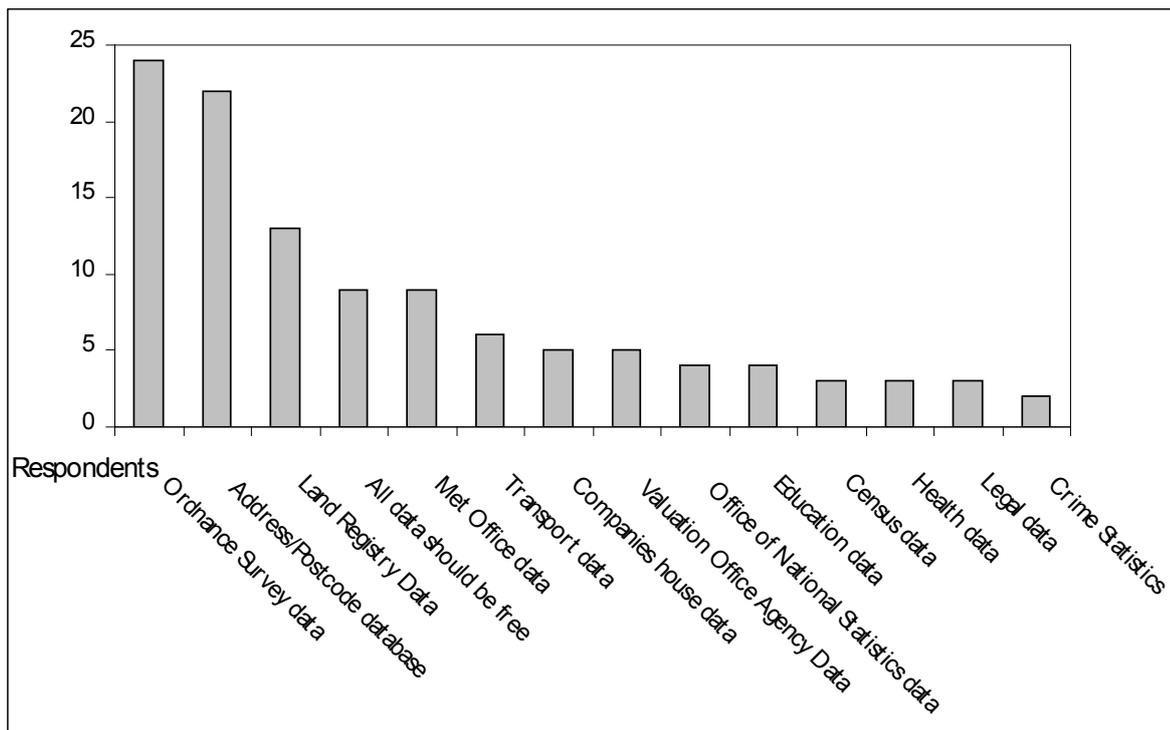


Figure 3: analysis of preference for free to re-use data

### Social Benefits

4.24 Location data, meteorological data, transport data, as well as health, education and crime statistics were all cited as having particular societal benefits. Specific benefits highlighted by individual respondents, market participants and interest groups included enabling improvements in public services and improving planning for individuals and organisations. It was highlighted that some of these societal benefits would only be realised if it was possible to link

datasets and identify synergies and trends.

### Economic Benefits

4.25 The facilitation of innovation was a cited economic benefit by individual respondents, market participants and interest groups. Respondents thought that the free release of a broad spectrum of data would allow the development of a wide range of products and services. Some market participants stated that where data was currently available it was

often at a price that was unaffordable for SMEs.

**Q3** *What do you think the impacts of the three options would be for you and/or other groups outlined above?*

4.26 72 respondents (62%) responded to this question.

**General comments**

4.27 A total of 18 (16%) respondents put forward an alternative option or questioned the exclusion of the data-utility model in the consultation or an option to make the raw data free. Most of these were individual respondents, market participants or interest groups.

**Option 1 – Status quo plus commitment to more data for free**

4.28 Of the three options this was the least commented on across all groups of respondents with 5 (4%) respondents indicating a preference for this model. The main perceived disadvantage of this model was that it would not produce significant change from the current situation. A number of respondents cited the commitment to release more data for free as an advantage of this option, although others expressed concerns that this commitment did not go far enough.

**Option 2 – Harmonisation and simplification**

4.29 A total of 8 (7%) respondents expressed a preference harmonisation and simplification highlighting simplicity

and consistency as the main advantages. There was concern with this approach that 'one size does not fit all' specifically relating to charging a single fee for different types of data with different market values.

**Option 3 - Freemium**

4.30 Of the three options this was most commented on with 18 (16%) of respondents expressing a preference for this option. Respondents from interest groups stated that although they agreed this model worked in the private sector they were unsure how it would work in the public sector. Additionally respondents indicated that the benefits of this model would be largely dependent on the way in which it was implemented. Some respondents, across various groups, suggested that under this model raw data should be provided free at the point of use, with value-added data charged for.:

*"I would suggest that the 'freemium' model gives raw data for free, with value-added datasets and products charged for at market rates"*

**Q4 A further variation of any of the options could be to encourage PDC and its constituent parts to make better use of the flexibility to develop commercial data products and services outside of their public task. What do you think the impacts of this might be?**

4.31 69 respondents (60%) responded to this question. There was some feeling that a PDC should not pursue commercial data products, although there was a clear recognition that value-added services should be charged for.

### **Competition**

4.32 The impact on competition was the main reason cited by respondents not in favour of a PDC developing commercial products. There was a feeling that a PDC would seek to maximize commercial gain from its public sector activities.

4.33 A number of respondents felt that government was not best placed to develop commercial products. These respondents felt that the private sector had greater skills, commercial awareness and flexibility that are necessary in the development of commercial products. There was some suggestion that a PDC could make use of the skills outside Government by developing commercial products in collaboration with the private sector, the third sector and academia.

*“This sounds like an opportunity for collaboration with outside groups and*

*universities, which have the capacity and drive to produce such products.”*

4.34 Some respondents were concerned that the development of commercial products was incompatible with the commitment to open/ free data.

### **Definition of Public Task**

4.35 Some respondents outlined that a clear definition of the public task was necessary if a PDC produced commercial products. Others outlined that a PDC and its constituent organisations needed to focus on delivering their public task.

4.36 Some respondents outlined that if a PDC were to develop products, it would need a separate commercial body operating at arms length.

*“Commercial data products and services do not belong within the PDC. Where there is a commercial opportunity, this should be actively pushed to an arms-length function (agency, service contract, PFI arrangement etc).”*

**Q5 Are there any alternative options that might balance Government's objectives which are not covered here?**

4.37 57 respondents (50%) responded to this question.

### **Free Data**

4.38 A number of respondents suggested that an alternative option was to release all data for free, with some of

the respondents specifying raw data in particular. Other respondents suggested data should be released at marginal cost.

### **Alternative PDC Structure**

4.39 Some respondents, in particular interest groups and market participants, suggested an alternative structure for a PDC. One suggestion was to split the roles of customer and supplier into different organisations. Another suggestion was to have an “open data board”.

*“An alternative model to amalgamation of the existing trading funds into a single corporation may be to definitively split the role of Policy and Regulation (Customer) and Delivery (Supplier). Exploit Government's skill in policy setting and regulation as an Intelligent Customer (or perhaps a Supervisory Board) and encourage the trading funds to develop in a commercial market place to enable cost effective delivery while stimulating an innovative commercial environment for the UK.”*

4.40 Elsewhere it was suggested that hypothecation of funds, i.e. reusing funds generated within certain bodies specifically to fund the release of data for free, potentially as part of a transaction cost (e.g. for land registration) would provide a way of balancing the objectives of increasing access to data and within the constraints of affordability.

## **Q6–Q9 Licensing**

4.41 Of the detailed responses, most respondents agreed that existing

licensing regimes would benefit from simplification. Option 2 was the most popular being described as flexible, simple and consistent. Option 3 was the second most popular. However, it was outlined that the need for schedules and clauses could result in lengthy complicated licences and for this reason feedback from the workshops highlighted Option 3 was not viable.

4.42 On the whole, the short responses did not address the licensing questions specifically. One recurring theme running through the responses, however, was some expression of wanting to reinforce and extend the use of the Open Government Licence (OGL).

**Q6** *To what extent do you agree that there should be greater consistency, clarity and simplicity in the licensing regime adopted by a PDC?*

4.43 72 respondents (62%) responded to this question. Overall there was general agreement that there should be greater consistency, clarity and simplicity in the licensing regime.

**Consistency & simplicity**

4.44 There was widespread agreement across all groups that greater consistency, clarity and simplicity in the licensing regime would be beneficial. It was highlighted that the complexity of the regime was a barrier in particular to SMEs especially those who were new entrants to the market place.

**Open Government Licence (OGL)**

4.45 A frequent comment particularly from the individual respondents, interest groups and market participants was that the OGL should be applied more widely. There was general consensus among these respondents that the OGL fulfilled the criteria of consistency, clarity and simplicity. Alternatively respondents highlighted the Creative Commons licence as an example of a licence that fulfilled the criteria.

**Q7&8** *To what extent do you think each of the options set out would address those issues (or any*

*others)? What do you think the advantages and disadvantages of each of the options would be?*

4.46 48 respondents (41%) responded to questions 7 and 36 respondents (31%) responded to question 8. There was no clear consensus on which option would be favoured.

**Option 1 – Use-based portfolio of standard licences**

4.47 This was the least popular option among all groups of respondents with 5 (4%) respondents expressing a preference. Some respondents felt that this would not be a significant change from the current system. Respondents across all groups felt that this option would increase complexity. Conversely some respondents felt this option would be familiar, simple and easy to implement.

**Option 2 – Overarching PDC licence agreement**

4.48 This was the most popular option overall with 16 (14%) respondents expressing a preference. This option was widely described as being both simple and consistent. A number of respondents outlined that this option offered flexibility. Some respondents felt that this option would be complicated for users.

**Option 3 – Single PDC licence**

4.49 A total of 14 (12%) of respondents expressed a preference for option 3; it was favoured by both individual respondents and market participants. Overall respondents agreed that in theory

this would address the criteria of consistency, clarity and simplicity. However, respondents from all groups outlined that in practice the need for schedules and clauses would result in lengthy licences and greater complexity. Feedback from the workshops showed that attendees did not believe that this option was viable given the potential length and complexity of a single licence covering a number of organisations and datasets.

### **Other Responses**

4.50 A few respondents 7 (6%) felt that none of the options were appropriate or put forward an alternative option. Some commented that all the data should simply be available free.

**Q9 *Will the benefits of changing the models from those in use across Government outweigh the impacts of taking out new or replacement licences?***

4.51 48 respondents (41%) responded to this question. There was general agreement that the benefits would outweigh the impacts.

4.52 A number of respondents outlined that benefits would be realised only if the new licensing regime was simple. Some respondents outlined that the benefits would outweigh the impacts if most data was released under the OGL.

### **Benefits**

4.53 A number of benefits were outlined by all groups of respondents. Market participants outlined that the main benefit to them would be a less restrictive environment. Interest groups and individual respondents highlighted reduced administrative time as a benefit - resulting in greater efficiency. The interest group respondents also highlighted there would be cost savings resulting from reduced legal activity. Respondents did not quantify these benefits.

## Q10-Q12 Regulatory oversight

4.54 Of the detailed responses, some respondents thought it seemed natural for a PDC to assume a role of arbitrator in a light touch regulatory regime, or regulator in a more controlling regime. There was also a strong feeling that a PDC should have a role in defining the public task for any organisation in a PDC. In addition some respondents felt that any regulation should extend to data producing organisations outside of a PDC.

4.55 Some detailed respondents suggested a model for a PDC which would see the individual trading funds remain separate entities that report to a supervisory board, a PDC. A PDC would define the public tasks; set the direction of the organisations; and decide which data to make available and on what terms.

4.56 On the whole, the shorter responses did not address the regulatory oversight questions specifically.

### **Q10 To what extent is the current regulatory environment appropriate to deliver the vision for a PDC?**

4.57 55 respondents (47%) responded to this question. There was a general sense that the current regulatory framework would benefit from simplification.

### **Current Environment**

4.58 A number of respondents indicated that the current regulatory framework was not appropriate to deliver the vision for a PDC. Both interest group and market participant respondents outlined that the current system was too complex and would benefit from simplification. A number of respondents outlined that the type of regulation necessary was dependant largely on the final decision on the direction of a PDC. There was also significant agreement with this in the feedback from the workshops.

### **Promoting Competition**

4.59 Interest group and market participant respondents stated that if a PDC was to produce value-added products then a regulator would have an important role in ensuring fair competition. In particular the importance of an independent regulator was outlined.

### **Setting and reviewing the Public Task**

4.60 If a PDC or its component parts were to focus solely on public task activities it was suggested that a light touch regulator might be appropriate. The regulator would need to rapidly agree the public task of the organisations and with subsequent reviews. It was also suggested by market participants there should be some oversight of the right to free data and ensuring data quality.

*“If the PDC or its component parts are to act commercially then governance and Regulation must have the full confidence of re-users. Fair competition is the key issue: it will require an*

*independent regulator with teeth, sanctions and a rapid and low cost adjudication process. If, however, data is not going to be exploited, then the issue becomes more one of adjudicating the limits of Public Task and a different - but low cost - approach would be required which OPSI, the Information Commissioner and/or PDC might well be in a position to provide."*

**Q11 Are there any additional oversight activities needed to deliver the vision for a PDC and if so what are they?**

4.61 52 respondents (45%) responded to this question.

### **Independent Regulator**

4.62 Some respondents from all groups discussed the need for a separate and independent regulator. Some respondents outlined that this should be in addition to the Office of Public Sector Information (OPSI). Others thought that the independent regulator would need to take on the current functions of OPSI as well as existing regulators. Some interest group and market participant respondents outlined a model in which a PDC could become a regulator. It was suggested that if the trading funds remained separate entities a PDC could take the form of a supervisory board which governs and regulates the trading funds.

*'Other nation states have attempted to*

*reduce conflicts of interest by adopting an approach to corporate governance through a 'Supervisory Board'. This might be a model more suited to the PDC concept whereby the constituent organisations continue to operate as operational entities but report to a PDC Supervisory Board.'*

### **Oversight Activities**

4.63 Respondents highlighted a number of oversight activities that would be needed to deliver the vision for a PDC. Respondents across all groups felt that the regulator would need to ensure that data was made available for free in accordance with open data principles and set the rationale for the release/non-release of data. It was also suggested that the regulator should have a role in monitoring data quality.

4.64 It was also highlighted that any changes to regulation would need to extend to data producing organisations outside a PDC.

4.65 Respondents across all groups felt that the regulator should have a role in monitoring competition and ensuring there was a fair balance of power between the data provider and the data user. Respondents, particularly market participants and interest groups, felt the regulator should oversee pricing, new products, tenders and contracts and set the public task.

**Q12 What would be an appropriate timescale for reviewing a PDC or its constituent parts public task(s)?**

4.66 51 respondents (44%) responded to this question.

**Timescale**

4.67 The majority of respondents felt that this should be carried out on an

annual basis; some respondents outlined that this could be reduced as a PDC became more established. It was outlined by interest groups and market participants that reviews would need to be frequent as the environment is rapidly changing particularly due to developments in technology.

4.68 Some respondents outlined that an initial review of a PDC and its constituent parts' public task(s) should be carried out as soon as possible.

# Annex A: summary of Government commitments

A1 The Government will establish a Data Strategy Board (DSB) to maximize the value of data from a Public Data Group (PDG) of Trading Funds in order to attain long-term economic and social benefit.

A2 The Government is publishing in its broader response to the consultation detailed Terms of Reference for both the DSB and PDG (see Annex D) as well as setting up a new Open Data User Group to represent for the first time interests of Open Data users.

A3 The PDG Trading Funds, working with the DSB, will continue to explore ways to make access to data easier and simpler. The DSB will also monitor and evaluate the benefits generated by data which is already released for free from the PDG members, such as OS OpenData and the datasets released as a result of Government's Autumn Statement 2011.

A4 The Government will continue to consider the options for charging including those set out in the consultation and will report back by the end of 2012.

A5 The Government has asked the PDG members to work with the DSB and The National Archives to develop standard terms to be included in all PDG licences, following the principles of the

UK Government Licensing Framework (in line with 'option 2' in the consultation).

A6 The Government has also asked the PDG to identify where the Open Government Licence could be more widely used for data and information that is already made available for free, to provide clarity to users on their rights with respect to this data

A7 The Government will initiate a review to refresh the public task of each of the current members of the Public Data Group now, with the Public Data Group Trading Funds working with the Data Strategy Board and The National Archives to aim to publish refreshed public tasks in the first half of 2012.

# Annex B: text of the Autumn Statement announcement

B1 The Government will establish a Data Strategy Board and a Public Data Group that will maximise the value of the data from the Met Office, Ordnance Survey, the Land Registry and Companies House. It will make available for free a range of core reference datasets from these bodies to support the development of high-value data businesses.

B2 Delivering on its commitment to establish a Public Data Corporation, Government is announcing the establishment of a Data Strategy Board (DSB) which will seek to maximise the value of data from the Public Data Group (PDG) of Trading Funds for long-term economic and social benefit, including through the release of data free of charge.

B3 Sending a clear signal of the DSB's mandate, Government is announcing the release of additional core reference datasets for unrestricted use from the PDG, including, for the first time, weather observation and detailed weather forecast data and core data from the Companies Register.

B4 The PDG currently includes Ordnance Survey, Met Office, HM Land Registry and Companies House. The Group will identify and deliver efficiencies and synergies to reduce the cost of data for users and re-users of data and provide additional funding for making data freely available.

B5 This change clearly separates the commissioning and provision functions of public data, rebalancing the incentives to release more data for free, as well as strengthening the capability of Government to commission data for its own needs.

## Detail of the initial data package

B6 This announcement signals a significant step towards making additional core reference data from the Met Office, Ordnance Survey, HM Land Registry and Companies House available and free at the point of use.

B7 As a tangible immediate step, the Government is announcing that the following core reference data sets will be made available free at point of use:

### Met Office

- The Met Office will, from today and for the first time, release under the Open Government Licence (OGL) as machine-readable and machine-processable for unrestricted use, the following Public Weather Service weather forecast and real-time observation datasets, which together represent the largest volume of high quality weather data and information made available by a national meteorological organisation anywhere in the world;

- Forecast data of: weather type, temperature, wind speed, wind direction, wind gust, visibility, humidity, probability of precipitation, feels like temperature and UV index at 3 hourly intervals out to 5 days for 5,000 UK locations, updated hourly;
- Forecast data of: maximum daytime temperature, minimum night time temperature, midday and midnight: wind speed, wind direction and wind gust, humidity, and visibility and for each 12 hour day/night period: probability of precipitation, prevailing weather type and maximum UV index for 5 days for 5,000 UK locations, updated hourly; and
- The last 24 hours of observed weather, temperature, wind speed, wind direction, wind gust, visibility, pressure, pressure tendency for approximately 150 UK sites.
- Met Office will also run a competition to design a Met Office API solution which will help developers create new and innovative applications using Met Office data.
- The DSB and Met Office will also work together with the aim of creating and releasing for re-use under the OGL over the next 12 months data which represents other services provided to the public as part of the Public Weather Service, subject to receipt of an acceptable business case.

#### Land Registry

- From 1 March 2012 Land Registry will make available "Price Paid information" showing all residential property sales in England and Wales at address level. This will be

downloadable for re-use, in a re-useable format under the OGL, and updated monthly.

- Land Registry will also make available for free, downloadable for re-use in an accessible and re-useable format under the OGL the following data, updated monthly:
  - Number and types of applications by customer by month;
  - Number and types of transactions for value by customer by month; and
  - Number of applications in England and Wales, by region and local authority district (or equivalent) by month; and
  - Number of searches by month (which can be a leading indicator of housing market movements).

#### Ordnance Survey

- Ordnance Survey has committed to amend its derived data restrictions on Local Authorities' "Public Rights of Way" data, enabling this to be released more easily as open data.
- Ordnance Survey has also committed to work with Natural England to make available as part of OS OpenData a dataset of National Trails, for delivery in April 2013.

#### Companies House

- Companies House will develop a free downloadable bulk data file for open re-use which includes Company name, number, registered address, registration date, filing status and SIC code. The Data Strategy Board and Companies House will also consider

subsequent release later in 2012 of directors' and office-holders' details.

#### National Address Gazetteer

- From Autumn 2011, data from local authorities, Ordnance Survey and Royal Mail has been brought together to form the National Address Gazetteer, a single, definitive address register. This is the first time that the England and Wales has had an authoritative source of spatial address data.
- Postcode information can be downloaded for free re-use via OS OpenData (CodePoint-Open)
- Any user can access data from the National Address Gazetteer for free to initially test, evaluate and develop into new and innovative products.
- The Government has asked Ordnance Survey and Royal Mail to:
  - simplify and align their licence terms for development & testing
  - provide greater support and ease of access for developers & innovators
- The Government has also asked Ofcom, the new regulator of postal services, to review the pricing and licensing structure of the postcode address file (PAF).

## Structure and governance

B8 The PDC Transition Board will agree the Terms of Reference for both the DSB and the PDG detailing their full responsibilities by 31 January 2012. At the moment the current responsibilities of the DSB and the PDG are as follows

### Data Strategy Board

- The DSB will have responsibility for the commissioning and purchasing of data for free release to the public and ensuring that this represents good value for taxpayers. The DSB will receive funding of no less than £7m in this Spending Review period for the purchase of additional data for free release. It is envisaged that in the next Spending Review period, the DSB will seek to agree a proportion of dividends from PDG, as additional funding for open data. There needs to be a principle of transparency between the DSB and PDG in order for the DSB to be in a position to commission open data effectively and undertake informed negotiation regarding its share of PDG's ongoing dividend stream for the next Spending Review period. To this end DSB will be able to audit PDG member accounts relating to public sector contracts.
- The DSB will also have responsibility for commissioning and purchasing data and services on behalf of the public sector from the PDG, leveraging expertise of existing customer groups (Public Weather Service Customer Group and the Geographic Information Group). This

includes responsibility for the existing £170m pa funding for these data and services.

- Data users from outside the public sector, including representatives of commercial re-users and the open data community, will represent at least 30% of the members of DSB, ensuring the widest possible user community is involved in the commissioning of data for free release to the public. It will also incorporate existing public sector customer groups who will continue to provide sector expertise around the commissioning of weather services and geographic information for the public sector. The DSB will have an Independent Chair.

### Public Data Group

- Government has charged the PDG with:
  - the aggressive pursuit of individual and cross-asset efficiencies, delivering lower prices to all users of data, including the DSB, maintaining the commercial stability of its member companies and ultimately in order to enhance the funding available to the DSB. This will particularly benefit SMEs and not-for-profit organisations for whom price of data may be a barrier;
  - the establishment of cross-organisational working groups (for example in areas such as IT infrastructure, licensing, etc) to build on best practice across the organisations. An example of this has already been undertaken in

- the formation of a working group to identify synergies between the surveying functions of Ordnance Survey and Land Registry; and
  - the pursuit of collaborations across the wider public sector to deliver efficiencies through better data sharing.
- The Government will consider, on a case by case basis, the options for greater involvement of the private sector in the longer term delivery of these public services. This could take the form of partial sale, joint ventures with commercial partners, accessing private capital to support investment or the introduction of alternative management structures or expertise to drive efficiency. The Government will also consider the advisability of alternative delivery models such as turning any of its member Trading Funds into Companies Act companies.

# Annex C: workshop summaries

## C1. Summary of workshop held on 6 October 2011

### Q1 – Q5: charging for PDC information

#### Who should pay?

C1.1 There was general acceptance that there is a cost to collecting, cleansing and making data available which must be borne but this raised questions about who/where. A few participants thought it might not be possible for the market to bear the full cost. There was discussion around whether data should be priced according to the value that users ascribed to it (rather than cost).

C1.2 Some thought that since Government were already collecting data then the cost of this collection should not be charged back to users – as the taxpayer had already paid for it. In line with this there was some consensus that the taxpayer and/or 'registration' users (e.g. customers of Land Registry, Companies House, DVLA) should pay for the costs of collection and generation of data that fell within a 'public task', but there was an argument that the user of the data should pay the marginal cost of distribution of that public task data. It was highlighted that Government needed to be very clear about why it was collecting data and whether it believed this to be a 'public task' activity.

C1.3 Some participants noted that the Trading Fund model required collection of funding from users which could be a barrier to new entrants/innovation. There

were questions about whether Government should continue to support a Trading Fund business model.

#### How should data be released?

C1.4 Some participants thought that raw and uncleaned data should be released freely so that businesses could then determine how it could be used. However, some felt Government may need to think about how it could ensure there was a 'standard' or 'official' version of a dataset – but this shouldn't prevent Government releasing 'raw' data alongside an official version. An example of this is in health where a particular methodology for analysing mortality rates data is designated as the standard.

C1.5 A suggestion was that Government should release data using a 'testbed' type approach - using the private sector to 'crowdsource' what it might be used for, to understand its value in use.

C1.6 An analogy put forward for a possible model was the difference between Freeview (to be delivered by the public sector) and Sky+ (delivered by the market) – although there was a question about whether there would be a role for Government if the market could not or did not deliver the additional services, a possibility in this instance might be to encourage partnerships between the public and private sector to stimulate the market.

C1.7 There was a question about what the basis is for collecting PDC data and

then purpose for releasing it e.g. whether it was to support democratic accountability or to facilitate growth - the charging policy might depend on these aims.

#### Pricing models

C1.8 Participants agreed that consistency and predictability of prices was critical and that any pricing model needs to consider the implications on existing markets.

C1.9 Some participants highlighted that price was not the only barrier to greater use of data and that Government should also consider these e.g. data formats, release mechanisms, licensing etc. Some thought that the public sector should only charge for services and not data. Overall most participants agreed that pricing models should maximise use of the data.

C1.10 While there was some recognition that differential pricing might be beneficial for certain users (e.g. individuals, developers, SMEs, charities) some thought the only equitable pricing would be for all data to be free. It was outlined that if there was a mixed charging regime it needed to ensure that users could have confidence in how it operated – in particular where private investment was involved. There was agreement that the private sector was usually willing to pay for additional quality, therefore different approaches for different customers may be helpful. There was some recognition that sometimes charging may be required for data which is not provided as part of a commercial

activity e.g. where the costs of collection and generation were high.

C1.11 There was some agreement that if data was charged for there should be a standard price list reflecting costs. Some also thought there may be an argument for charging for value-added data and services, although others thought that the public sector should only collect and provide data within its public task. Some thought there may need to be a different approach for value-added data than that for transactional services. It was suggested that it was important to ensure that Government provided 'free for evaluation' services so that the private sector could fully evaluate whether there was an opportunity to realise value from the data before purchasing it.

C1.12 There was some recognition that there may be a shortfall if pricing was purely based on marginal cost. Some participants thought this could be overcome by driving much greater efficiency in public sector organisations – in particular in marketing, sales and IT infrastructure.

C1.13 One suggestion was to have a framework to evaluate which pricing structure should be applied, based on a number of factors which might include value (of the data), volume, whether it was one-off or continuous feed, and the sensitivity of the data.

#### Consequences of releasing data and removing charges

C1.14 Participants recognised that in some cases removing charges may

increase the risk of fraud or criminal behaviour. However, many thought that this shouldn't prevent opening up data but that there needed to be different types of safeguards put in place instead – price shouldn't be a valid 'protection' for data.

C1.15 There was a recognition that in some cases opening up data may result in unintended consequences e.g. for privacy. Discussions with industry prior to opening up data may help flush these out quite quickly.

#### Private Sector Involvement

C1.16 Participants questioned whether a PDC could enter partnerships with the private sector to determine what value there was in data held by public sector bodies. It was felt that may be an argument for private sector to invest in order to enable release e.g. if there were firms who could potentially benefit from using the data then they may be willing to invest to make it available (e.g. for appropriate systems to be put in place, or for digitising data).

C1.17 There was a question around whether Government was an 'intelligent' customer. An option could be to have greater separation of Government as a commissioner of data. This function would ultimately decide whether the public or private sector was best placed to provide that data.

C1.18 Following that logic there would be a question around how to handle data provided by the private sector deemed to be a 'public task'. A key question in

determining its treatment could be who had invested to create the data.

### **Q5 – Q9: licensing**

#### Consistency and Simplicity

C1.19 Participants agreed that complex licensing could be a barrier to entry and that consistency between bodies within a PDC could be helpful. Some participants thought Royal Mail (PAF) licences and Ordnance Survey licences still required simplifying.

C1.20 Commercial users felt that for them there was often a greater need to have a two-way dialogue about the appropriate licence, to give more flexibility. There was some feeling that in some public bodies there were not the resources available to have this sort of dialogue.

C1.21 Most participants agreed that common and consistent principles should be implemented, with the potential for some terms to be standardised across organisations.

#### Open Government Licence

C1.22 It was felt that the Open Government Licence (OGL) had been a huge step forwards and should be implemented as widely as possible. The OGL should be the basis for all licensing, with additional terms being added only when necessary – recognising that this may be necessary if there need to be charges, where there is third party IP and/or to provide safeguards for personal or secure data.

C1.23 Participants thought that it was important that when licences were passed through or cascaded through various bodies, they didn't become more restrictive i.e. that the 'openness' of the OGL was not diluted when it was passed on.

C1.24 It was outlined that where charges were levied OGL would not be appropriate. However, there was a question around whether the OGL could still be used where marginal cost pricing was applied.

#### Restrictions

C1.25 There was some feeling that given the purpose of licences to protect commercial interests it was inevitable that they would place restrictions on users and this was not helpful in the context of maximising use of public sector data. It was suggested that Government should avoid unreasonable restrictions within licences.

C1.26 Participants thought data should be released with few restrictions, but services should be charged for.

#### Licensing Models

C1.27 There was consensus that one single licence covering all organisations and all data would put users off. In addition most participants thought that no licence was not an option as licences provided helpful clarity on users rights.

C1.28 Most participants accepted that some sort of use-based model might be necessary although it had the potential to very quickly get complicated. Participants

felt it would be helpful if licences contained as many standard terms as possible - as users would then get used to what they could and couldn't do with data. Some thought that it should be possible to separate basic terms and conditions into standardised licence and have pricing and restriction elements separate.

C1.29 It was suggested that there should be more guidance, expertise and sharing of best practice for the public sector on licensing.

#### Additional issues

C1.30 Participants generally agreed that IP should be held by the public sector, even if the private sector was involved in the process of collection or generation. However, there was recognition that some consideration would need to be given to third party IPR. Participants were keen to understand what private investment meant – there were a wide range of models that could be implemented.

C1.31 Participants felt that issues such as release mechanisms, data formats and frequency of updates would also impact on the value of data, and the extent to which it was used.

C1.32 One issue that had arisen in the field of software licences was the question of whether 'click-use' licences really reflected informed consent of end-users – there was some conclusion that a maximum of one-page licence should be possible for end-users to understand and use.

## **Q10 – Q12: regulatory oversight**

### Separation of roles

C1.33 Participants felt it was important that a regulator needs to be separate and distinct from the operations which collect and generate data. It was felt that this was necessary to secure confidence from the private sector. It was also important to have meaningful separation of the customer and delivery functions to remove any conflicts of interest. Some participants also felt that regulatory oversight needed accounting or actual separation of wholesale/public task production and products from commercial arms.

C1.34 A regulator should be a point of contact for complaints. Some thought that the 'passive' complaints based procedure around the PSI Regulations put users off given the time and cost involved in making and pursuing a complaint.

C1.35 Some participants felt that OPSI had insufficient powers or 'teeth' in particular around pricing and competition, although it was helpful in sharing and implementing best practice. An alternative model could be similar to OFCOM which participants thought had responsibilities around enforcement and competition.

C1.36 There was a discussion of Information Commissioners Office powers in relation to the Freedom Of Information Act (FOIA) – and whether it could have a greater role in re-use. There were different views on this, in particular given

that the FOIA focuses on access whereas the Public Sector Information Regulations focus on re-use, although there was acknowledgement that this may change with the Protection of Freedoms Bill changes to the FOIA.

### Responsibilities

C1.37 Some participants felt that a regulator should define a public body's public task and ensure that any activities outside of the public task are genuinely commercial and not subsidised by public funding. In addition some felt that reviews of the public task should include consideration of the impact on existing markets, providing signals in good time to allow the private sector to adapt, and these reviews should include the regulator.

C1.38 Some participants thought there seemed to be a gap in oversight – around who would set and monitor standards on release of open data, e.g. formats and data standards. A proposed solution could be to have a model which enabled private sector investment to put in place infrastructure to enable release of data, which would then be open for the benefit of all

C1.39 In general it was felt that public bodies should focus on areas where they would be the provider of last resort. Government providing more services (in particular) for free can undermine existing markets – tension between public sector providing more for 'public interest' and the market providing these services.

## C2. Summary of workshop held on 14 October 2011

### Q1 – Q5: charging for PDC information

C2.1 Generally participants felt that data doesn't have to be free but it has to be available, accessible and visible. There was agreement that it's acceptable to charge for data but there needs to be fair, proportionate and clear charging regime. Participants felt that there had been a lot of debate around the open data agenda and that the debate had moved on somewhat to be about data being fairly accessible – this didn't necessarily mean for free.

C2.2 Some participants noted that publishing data was likely to incur costs, and so there needed to be a process for identifying what should be published, and whether it should be free or not – and for prioritising these datasets. In some instances participants recognised that up front investment in releasing data and/or making it easier to find might deliver efficiencies in the public sector.

C2.3 There was some feeling that if Government had already collected the data then it should be free and if not it should be charged for. Some participants thought there was a challenge for Government in moving to a low or zero charge environment when income streams had already been developed. There was then a question around what the public expected Government to fund in terms of 'raw' or core data – particularly if it had not already funded its collection.

C2.4 One suggestion was that those making changes to the data should pay e.g. for changes to land ownership or addresses. Another suggestion was that selling value-added products could cover the costs of making 'core' data free.

C2.5 Some participants felt that if there were charges for data then the data needed to be of a good quality.

### Q6 – Q9: licensing

C2.6 It was highlighted that clarity and simplicity was required and participants felt that a PDC could help drive this forward. It was outlined that licensing could often be more of a barrier to than charging per se. In particular licences could be a barrier to innovation where they were inflexible and did not permit different uses, whereas as long as charges were clear and stable then businesses would just factor these costs in.

C2.7 Many participants felt that licensing was unlikely to prevent mis-use but it did provide helpful certainty and clarity. A few participants thought that the risk of inappropriate use of data should not prevent its release – but recognised that there may need to be other ways of dealing with this risk.

C2.8 On licensing models, the Open Government Licence (OGL) was widely regarded as a good thing. Some thought that there needed to be greater clarity about where the OGL was used and applicable across the public sector. There was a strong consensus that the OGL

should be the presumption for licensing all data and information across the whole public sector, but there was some recognition that in the minority of cases there may need to be alternative licences in instances where, for example, there was charging.

C2.9 Many felt that one size did not fit all and it is inevitable that some tailoring would be required to make licences (outside of the OGL) useable.

C2.10 Participants felt a 'try before you buy' concept – implemented through tailored licences - could benefit developers and innovators, and would stimulate use of public data

### **Q10 – Q12: regulatory oversight**

C2.11 Most participants were in agreement that there needed to be a meaningful separation of regulatory and operational activities.

C2.12 Some participants felt that any regulator would need to have powers to challenge a PDC – there was some feeling that OPSI lacked 'teeth'. Some suggested that regulations on access and re-use did not provide sufficient powers and so there needed to be more challenge around the accessibility and use/re-use of data. Some felt that economic regulation would be appropriate.

C2.13 Some felt that the appropriate regulatory environment would depend largely on the mission statement of the PDC – facilitating, re-use and use. There was a desire to re-examine definitions of

public task. In line with this some thought there needed to be greater clarity on the definition of core data and value-added services.

C2.14 On private investment, some felt there were potential tensions between making data more available, and the introduction of private investment into any operations. Many felt that if there were to be any private investment that the regulatory regime would need to be re-examined, and the scope of a private PDC's activity would need to be carefully considered.

C2.15 Additional points made in conversation included that Government should be clear about the purpose and objectives of a PDC, and also that there needed to be consideration of unintended consequences.

C2.16 Some thought there may be a tension between Government providing 'consumable' information for citizens directly, and wanting to stimulate others to develop these types of services. In some cases participants thought that a result might be that a market did not develop, and in these cases it might be appropriate for Government consider having a number of different approaches to the type of data and information it released.

C2.17 There needed to be consideration of protection of IP, in particular where this was drawn from a variety of different sources. Participants felt that where Government commissioned data they

should own the IPR associated with that data.

C2.18 Participants raised a question of whether supply or demand came first – should Government seek to publish data without any reference to demand, or should it respond to market pressures. A related issue was that sometimes participants felt that it was difficult to know what data was held by Government therefore it was difficult to ask for it or find it.

# Annex D: terms of reference for the PDG and DSB

## Terms of reference for the Data Strategy Board

### Purpose of the Data Strategy Board

D1 The Data Strategy Board (DSB) will seek to maximise the value of data from the Public Data Group (PDG) of Trading Funds for long-term economic and social benefit, including through the release of data free of charge. It will act as an intelligent customer advising Government on commissioning and purchasing key data and services from the PDG.

D2 The purpose of the DSB is: on behalf of the public sector, to steer the management of contracts with the PDG; consider how data from the PDG might generate economic growth; and, to work to ensure that Ministers have appropriate advice efficiently and effectively to:

- deliver Open Data from the PDG;
- provide data and services to the public sector UK general public, including services which contribute to the protection of life, property and UK national infrastructure;
- make access to data for all users easier; and
- increase public access to free data over time, subject to affordability and value for money.

D3 Where funding and its responsibilities to all its customers allow, the DSB will prioritise recommendations

of funding for further commissioning of Open Data.

D4 The DSB will also promote the Open Data research and best practice developed with the PDG across the public sector, to advance the adoption of new approaches ensuring Government delivers the best opportunities for development of high value data businesses.

D5 The DSB will develop and own a new strategic framework to steer delivery of Government's aims set out above. It will develop business cases in support of its recommendations to Ministers.

### Commissioner of Open Data

D6 DSB will advise Ministers in their responsibility for:

- commissioning and purchasing data and services for free release to the public, and ensuring this represents good value for the taxpayer; and
- at least an additional £7m expenditure in this Spending Review period for the purchase of additional data for free release.

D7 The DSB will advise Ministers about what data should be made available as Open Data, considering affordability and value for money for the taxpayer, and will determine and own the strategy to increase this over time, in line with the Government's commitments.

D8 In each subsequent Spending Review period, the DSB will provide advice to Ministers to allow them to negotiate additional funding for Open Data and to maximise the availability of data which is free for release under the Open Government Licence.

D9 A new Customer Group (the Open Data User Group) will be established to represent the interests of other users of government data with the aim of advising the DSB in its role of expanding the availability of data and furthering access to free public sector data. The Chair of the Open Data user group will be appointed by the MCO.

#### **Commissioner of public sector data and services**

D10 The DSB will have responsibility for advising Ministers on the commissioning and purchasing of data and services on behalf of the public sector:

- from the Public Data Group ensuring continued value for money, leveraging expertise of existing customer groups (Public Weather Service Customer Group and the Geographic Information Group) – including responsibility for existing c.£170m p.a. funding for these data and services;
- of weather services and geographic information required by the public sector and UK general public to deliver key public services. This will include overseeing the responsibilities from the Public Weather Service Customer Group and the Geographic Information Group.

D11 The DSB will advise Ministers on their responsibility for ensuring appropriate data quality is maintained in its contracts and Open Data, and will have the right to review any plans by the Public Data Group which could negatively affect data quality.

#### **Data Policy**

D12 The DSB will be an integral part of the process to review the public tasks of PDG members working also with The National Archives, both as part of an initial review process in 2012 and in subsequent reviews in the future. It will work with the PDG, its members, and The National Archives to ensure that licences reflect the principles of the UK Government Licensing Framework, in particular ensuring that data users' views are taken into account in any changes and that it maximises the use of the Open Government Licence.

D13 The DSB will work closely with The National Archives which has responsibility for overall management of Crown copyright and Crown database rights, the implementation of the Re-use of Public Sector Information Regulations 2005 (PSI) and the Information Fair Trader Scheme (IFTS).

#### **Transparency between the PDG and the DSB**

D14 There will be a principle of transparency between BIS and CO Ministers, the DSB and PDG in order for BIS to be in a position to commission Open Data effectively and undertake informed negotiation regarding the DSB's

share of PDG's ongoing dividend stream for the next Spending Review period.

D15 To this end the DSB will be able to audit PDG member accounts relating to public sector contracts. The DSB will work with central government to ensure the current and new contracts between them and members of the PDG maximise the value for government and provide value for money. The DSB will work with central government in any reviews of current contracts and negotiations on future contracts.

### **Governance & Membership of the Data Strategy Board**

D16 The DSB will jointly report to the Minister for the Cabinet Office and Minister for Universities and Science. The DSB will be an Advisory Board, providing advice to these Ministers through its Independent Chair on its specific areas of responsibility. The Chair will be a public appointment agreed by both Ministers.

D17 At least 30% of members are data users from outside the public sector, including representatives of commercial re-users and the Open Data community – ensuring the widest possible user community is involved in the commissioning of data for free release to the public.

D18 It will also incorporate existing public sector customer groups who will continue to provide sector expertise around the commissioning of weather services and geographic information for the public sector. The Public Weather Service Customer Group, the Geographic

Information Group and the Open Data User Group will become sub-committees of the DSB. (The Terms of Reference of these Groups are attached).

### **Board membership**

D19 The representation of around 12 members plus Chair will be as follows:

- Independent Chair
- Representative of commercial user of public data
- Representative of re-users of public data
- Representative of Open Data campaign groups
- Chairs of the Public Weather Service Customer Group, the Geographic Information Group and the Open Data User Group [3 seats]
- Representatives from the Devolved Administrations, [one seat shared on a rotation basis]
- Representation from local government through the Local Government Association
- The Government Chief Scientific Adviser
- Two public sector representatives
- Secretariat [The Head of the Secretariat will be a full member of the DSB.]

D20 The DSB will be financially accountable to the BIS Minister and will publish regular progress updates and minutes from key meetings. It will meet at least quarterly, and possibly more frequently during the period of establishment.

D21 The DSB will be supported by a secretariat located in BIS. The Secretariat will be responsible for supporting the DSB and the Chair and will have the express role in providing advice on the Government's wider policy imperatives to inform by other departments, local government and devolved administrations.

D22 It is intended that information flows for DSB related contracts commissioned and managed by BIS would operate as set out in the diagram attached. Other contracts between public sector data customers will continue to be decided directly between the customer and the relevant Trading Fund, following prior consultation with DSB.

### **Support of wider government policy**

D23 A Government Officials Group will be set up and jointly chaired by the Head of the Secretariat (BIS) and Executive Director, Transparency (CO). It will support and inform the Secretariat in its express role in providing advice on the Government's policy imperatives to inform the Board in its advice to Ministers.

## **Terms of reference for the Public Data Group**

### **Overview**

D24 Alongside the November Autumn Statement, it was announced that Government has charged the Public Data Group with:

- *the aggressive pursuit of both individual and collective cross-asset*

*efficiencies, delivering lower prices to all users of data, including the Data Strategy Board, maintaining the commercial stability of its member companies and ultimately in order to enhance the funding available to the DSB. This will particularly benefit SMEs and not-for-profit organisations for whom the price of data may be a barrier.*

- *the establishment of cross-organisational working groups (for example in areas such as IT infrastructure, licensing etc.) to build on between practice across organisations*
- *the pursuit of collaborations across the wider public sector to delivery efficiencies through better data sharing*

### **Purpose**

D25 Building on capabilities and existing best practice, the Public Data Group (PDG) will seek to support growth in the UK economy by delivering efficiencies and improvements in public services through its members. These objectives are additional and incremental to those with which the PDG members are already individually charged.

D26 To achieve this aim it will, through collaboration between its members and their partners across the public sector, including through the better use and sharing of data, knowledge and skills, collectively identify and deliver the following benefits:

- improvements and innovations in public service delivery;

- efficiencies to realise cost savings in the public sector;
- increased economic value of the assets;
- further developed expertise and sharing of best practice within the members; and
- improved returns for the taxpayer by generating additional commercial revenue, where this is appropriate and consistent with a competitive level playing field.

D27 The Group will provide a focus and momentum for sharing and implementing best practice across the public sector.

D28 The PDG will also seek to ensure the sustainability of key national information infrastructure for which it is responsible, for the benefit of all users of that infrastructure.

D29 The PDG will work constructively with the Data Strategy Board along principles of transparency, including to support the commissioning of open data.

D30 The PDG will also consider options for greater involvement of the private sector for the delivery of public services.

### **Membership**

D31 The Public Data Group will provide collective advice to the responsible BIS Minister through its Board. This will be made up of:

- Chair
- Member Chairs
- Member CEOs (recognising there may be times when it is appropriate for the Non-Exec Member Chairs

and ShEx members to consider certain subjects alone)

- 2 Shareholder Executive Directors.

D32 Where appropriate, the PDG will also call on wider expertise, for example, through the use of Non-Executive Directors.

D33 Shareholder Executive will provide Secretariat function to the PDG Board.

### **Governance**

D34 The PDG will be an Advisory Board, providing advice to the Minister(s) responsible for all members and for the PDG itself.

D35 The Board will provide advice through its Chair on its specific areas of responsibility as set out above.

D36 Each business and their respective CEOs and Chairs will retain their existing relationships with the Shareholder Executive and BIS, and their existing responsibilities and accountabilities in relation to the operation and performance of their businesses and services. The PDG will not change or replace these responsibilities – it will more explicitly place additional responsibilities on the CEOs and Chairs which relate to delivering better and more efficient services through greater collaboration.

D37 In line with this the CEOs will remain Accounting Officers for their organisation.

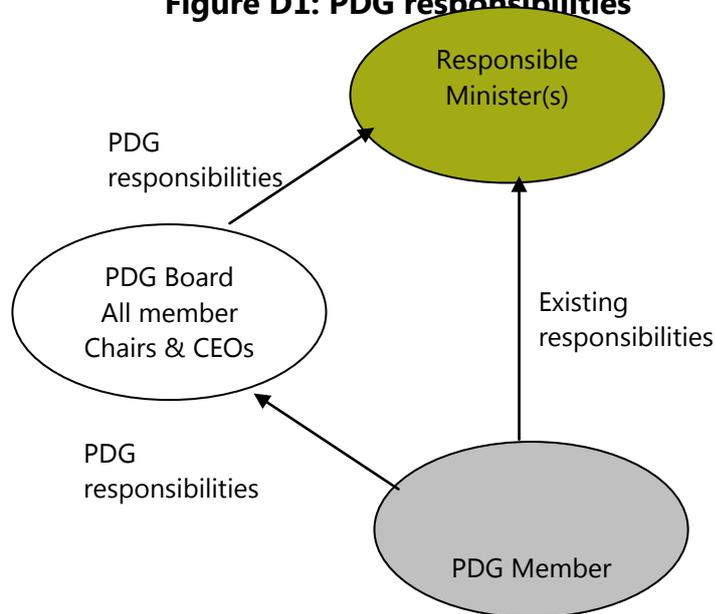
D38 The PDG members will continue to be subject to Public Sector Information regulations and their regulator the Office for Public Sector Information.

D39 Accountabilities will flow as set out below.

D40 The participation of CEOs, Chairs, Shareholder Executive, and Non-Executive(s) on the Board will ensure that recommendations can be delivered in practice.

D41 PDG Board meetings will normally be held four times a year, with an expectation that more frequent meetings may be required in the first six months.

**Figure D1: PDG responsibilities**





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