

Information Fair Trader Scheme

Verification of commitment to information fair trading

Land & Property Services, Northern
Ireland

August 2008

Unlocking the potential of public sector information



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PART ONE: INTRODUCTION

Information Fair Trader Scheme

1. The Information Fair Trader Scheme (IFTS) is the best practice model for public sector bodies wishing to demonstrate compliance with the Re-use of Public Sector Information Regulations 2005. IFTS ensures that re-users of public sector information can be confident that they will be treated reasonably and fairly by public sector information providers.
2. IFTS is also the mechanism by which the Controller of Her Majesty's Stationery Office (HMSO) regulates those Crown bodies with a delegation to administer their own licensing. All such bodies with a delegation must be accredited to the Scheme. Land & Property Services, Northern Ireland (LPS), has a delegation of authority with effect from 1 April 2008 when the organisation was fully formed.
3. To be accredited to IFTS, an organisation will:
 - make a commitment to the IFTS principles;
 - see the commitment successfully independently verified; and
 - investigate complaints that the commitment has not been met.
4. Once a Chief Executive has declared their commitment, the underlying administrative and decision-making processes of the organisation are examined to confirm that what is happening on a day-to-day basis is in accord with the commitment.
5. This report shows the findings and conclusions of OPSI's IFTS verification of LPS.

The Business of LPS

6. LPS is an executive Agency within the Department of Finance and Personnel for Northern Ireland. The intention to create the Agency was announced in the Review of Public Administration in March 2006. With effect from 1 April 2007, the Rate Collection Agency and the Valuation and Lands Agency formed LPS. These bodies were joined by Land Registers of Northern Ireland and Ordnance Survey of Northern Ireland (OSNI) on 1 April 2008.

Licensing Activity at LPS

7. Building on the licensing function of the legacy agency OSNI, LPS licenses a variety of products under the OSNI brand name, from traditional paper maps through to digital geographic data which is either used by members of the public, for social policy research, or for commercial distribution or value adding in products like satellite navigation systems. LPS has developed a facility called GeoHub NI® which brings together a variety of location-based data to support the activities of government across Northern Ireland. The Northern Ireland Mapping Agreement (NIMA) and the Northern Ireland Office Mapping Agreement (NIOMA) enable the public sector to draw on

digital data at a variety of resolutions and utilise it for planning and policy analysis. LPS has developed a successful licensed partner scheme which enables the private sector to fully evaluate and develop its products prior to signing up for a commercial licence.

8. The Data Licensing function for LPS sits within the Customer and Business Improvement Directorate and is responsible for all licensing across the organisation.
9. Income from fees and charges for OSNI, broken down under the headings of Digital Licensing, Copyright, Map Sales and Repayment Tasks, Rent and Fraud Recoupment, amounted to £10,685,000 in 2006-07 and £11,468,000 in 2007-08. Costs of £8,878,000 in 2006-07 and £9,684,000 in 2007-08 saw surpluses of £1,807,000 and £1,784,000 respectively. Sales relating to the NIMA amounted to £7.1m in 2007-08.
10. OSNI's income arose mainly from sales and licensing of maps, data, copyright and other repayment tasks relating to its mapping database. Apart from the commercial application of the database, an element of the data is collected and maintained in the national interest. The sums of money involved are significant. However, going forward, the overall revenue of the new LPS, particularly that which derives from rate collection, will render licensing income a very small proportion of the organisation's finances.
11. LPS administers a number of licences, from straightforward copying licences involving a small flat fee, to more complex VAR (Value Added Reseller) licences which require royalties to be paid.

Overall Assessment

12. This was an unusual verification, in that one part of the organisation already had a track record of complying with IFTS to a high standard, while the other constituent parts had not historically prioritised the re-use of information. What has been extremely encouraging is that an early decision was taken to create a single licensing function which would build on the licensing expertise of OSNI. This has created the right environment for existing licensing to be carried out to a high standard and for the possibilities of re-use across the organisation to be explored from a firm base.
13. It is to its credit that the IPR Branch of the former OSNI took the initiative in doing a lot of preparation for the move to the new organisation and this ensured that a new delegation of authority and a personal commitment to IFTS from the Chief Executive were in place before the full LPS came into being on 1 April 2008. The process of briefing the wider organisation and the senior team on the importance of Crown copyright and fair information trading was supported by visits to LPS from the Controller of Her Majesty's Stationery Office and the Head of OPSI's Standards department.

14. Our overall impression was of an organisation that is adapting quickly to its new status, with members of staff excited about the synergies that can be achieved in delivering services across mapping, rate collection, valuation and land registration. Those engaged in the licensing of information are well respected and there is a commitment to expand the re-use of information from the top down. The Chief Executive of LPS spoke to us at length about his plans for the organisation, the challenges of aligning the financial and operational cultures of the constituent parts of LPS, and the way thematic mapping can assist government with its decision-making. The director of CBI, which is responsible for licensing within LPS, is acutely aware of the potential for information re-use, in the form of house prices for example, having been the chief executive of Land Registers of Northern Ireland.
15. The licensing function is very well run, with sound procedures and a commitment from individual practitioners to provide support to colleagues seeking advice. This is evident both within its commercial operations and the discharge of its public service remit. We found a number of instances of good practice: the use of a tracking sheet, which is signed off by the various parties to processing a licence, is a simple yet highly effective way of ensuring that the 20 day target for granting a licence is met; the development of GeoHub NI is creating a means for a variety of data sources to be brought together in an innovative fashion; the pursuit of copyright infringements is diligent, yet focused on bringing infringers back within proper licence terms; the creation of a licensed partner programme has been well managed and has led to a number of licensed partners joining a sustainable scheme for growing the use of spatial data.
16. Coupled with the sound licensing practice that has been taken forward into the new LPS, briefings for key personnel about Crown copyright and re-use have already taken place. Thinking has already begun on which data sets may have the most potential for re-use and we have made recommendations that this task should have three elements. First, there should be an information audit. Second, LPS should publish an Information Asset Register (IAR) or equivalent resource. Third, once the key data sets have been identified, potential commercial distributors, value adders and public sector partners should be invited to seminars to explore the data's potential.
17. Based on the team's assessment, LPS has been accredited to IFTS and should be re-verified in 2-3 years.

PART TWO: ACTIVITIES CARRIED OUT BY THE VERIFICATION TEAM

Methodology

18. The underlying purpose of the verification was to establish whether the key principles of openness, transparency, fairness, compliance and challenge were achieved. Different types of activity, where one might expect to see these key outcomes achieved, were examined. This approach was based on a matrix model, as shown below, which takes each of the outcomes, and shows how work in each of the areas of activity demonstrates compliance.
19. The organisation is divided into a number of key business areas. Each of the areas is divided as necessary into areas of verification focus. The key business areas, and the areas of verification focus, fall under the following headings:

<i>Business Area</i>	<i>Verification Focus</i>
Service Offering	Understanding of licensing/selling information Pricing Terms and Conditions
Access	Access to and re-use of government information Websites and equivalent
Internal Processes	Staff responsibilities and delegations Exceptions handling Costs and Cost allocation Complaints handling
Standards	Service standards
Strategic Management	Business objectives and performance indicators Management supervision of compliance
Relationship with OPSI	Commitment to IFTS
External Constraints	Competition Act 1998 Financial targets Legislation

20. When considering the findings of the verification, a view is formed as to whether the organisation was sufficiently meeting the desired outcomes of fairness, openness, transparency, compliance and challenge. The verification also takes into account whether the organisation was demonstrating a genuine commitment to strengthening the Chief Executive's commitment and making substantial progress towards that goal.

Activities Undertaken

21. The verification team:

- examined key policy and practice documentation;
- interviewed staff members within the organisation;
- reviewed licensing files;
- reviewed the website;
- reviewed standard licences; and
- reviewed the complaints process.

These activities are described in more detail below.

Documentation review

22. The organisation provided documentation in support of the Chief Executive's commitment which was reviewed by the team prior to the onsite verification.

People and Practices

23. In order to see how people in the organisation work and how their work is impacted by the Information Fair Trader commitment, the team interviewed a range of staff at all levels who are involved in the policy or practice of providing information.

Licence File Review

24. A sample review of customer files, covering both government and commercial re-users was carried out.

Website review

25. A review of the organisation's website was made from the viewpoint of a potential re-user of information to assess how easy it was to use.

Licence review

26. The terms and conditions of a selection of standard licences were reviewed.

Complaints process

27. The customer complaints process was examined by the team. Consideration of the organisation's complaints process, both policy and practice, indicates how committed an organisation is to meeting customer needs.

Assistance provided by LPS

28. The team appreciates the co-operation and assistance of LPS staff. Interviewees showed a high level of awareness of the principles of IFTS and a comprehensive set of documents was provided to us in advance of our visit. Once on site, any supplementary documents that were requested were provided promptly.

PART THREE: HIGHLIGHTS AND AREAS FOR IMPROVEMENT

Openness

29. LPS conforms to the principle of openness with several examples of good licensing practice. Where we have made recommendations, these are primarily aimed at evaluating the wider data holdings of the organisation and extending their re-use in the medium to long term.

“In principle, the Chief Executive expects that all information created by the organisation will be licensed for any use, by any customer. While there might have to be exceptions to this, whether limiting the material licensed, prohibiting uses or limiting the customer base, the Chief Executive will be reluctant to allow exceptions and will explain why they are necessary.”

30. LPS has created a system called GeoHub NI which brings together numerous data sources and allows them to be analysed geographically. It is already assisting public servants in their evidence-based decision-making and stands as a positive example of opening up public sector information for re-use.
31. As well as the specific initiatives that it has already undertaken to open up the organisation's data for re-use, there is a strategic plan in place to create a virtual data “spine” which will allow it to maximise the potential of its data holdings. The focus of this project is to enhance service delivery for the citizen, but there is certainly potential here for the commercial re-use of data.
32. The former OSNI had a Business Plan Achievement Committee (BPAC) to assist with its corporate governance and the equivalent body is being set up within LPS. There is also a senior management committee in each directorate which oversees issues such as a directorate risk register and assists communication and discussion of all management issues specific to the directorate and allows the directors to ensure the cascade of strategic and board level issues for the agency.
33. At the time of our last visit, LPS's licensed partner programme was in the planning stage. The aim of the programme was to recruit organisations which could assist it in growing the re-use of geographical information. As such, a licensed partner would be given comprehensive access to its mapping data holdings in order to fully evaluate how they could add value to them. LPS also holds seminars so that both parties can meet and discuss the potential uses of the data. Licensed partners need to demonstrate a minimum degree of viability in terms of revenue and the employment of GIS-expert personnel in order to participate in the scheme. When a partner develops a specific application or product which it wishes to licence commercially, it then takes out one of LPS's value added reseller

licences. LPS set itself a target of recruiting 20 licensed partners which it has now achieved.

34. LPS adopts a positive approach to the widespread licensing of public sector information and has only two published licensing exceptions.
35. As stated earlier in this report, our recommendations are primarily about scoping the data in those parts of LPS that have not historically made re-use a priority.
36. Work has already commenced on briefing the wider organisation on the copyright status of its material and thinking has commenced on which data sets previously held by Rate Collection, Valuation and Lands and Land Registers have the most potential for being re-used, with property prices emerging as a potential candidate. However, a more systematic evaluation is now required. **LPS should conduct an audit of its information resources with a view to identifying the data holdings that can be made available for re-use.**
37. LPS does not have a formal Information Asset Register (IAR), but does have comprehensive information about the data that is currently available for re-use on its website. Having conducted its audit, **LPS should produce an Information Asset Register (IAR) or an equivalent resource.**
38. **Once the organisation has established which data sets can be made available for re-use, it should convene seminars using the ones it currently hosts for prospective licensed partners in the exploitation of its mapping data as a model.** This is so that the public and private sectors can fully evaluate the potential of the data.

Fairness

39. We found that applicants for the same type of information for the same purpose are treated fairly.

“All applicants and licensees should be treated alike for the same type of licence. The organisation should not use its market power to compete unfairly.”

Transparency

40. LPS has a great deal of well-written information on its website and the documentation that supports the licensing process is generally easy to understand.

“Applying for a licence, not only the process, but prices, the considerations influencing price policy, and any exceptions to the principle of openness, should be explained clearly and simply in accessible public statements. Licensees and applicants for licences should be given reasons for decisions and the reasons should be consistent with public statements and Information Fair Trader principles.”

Compliance

41. LPS has met the principle of compliance with no major barriers to IFTS accreditation.

“Chief Executives agree to test their organisations by an independent verification to find out whether they have the infrastructure to deliver their commitments to openness, transparency and fairness. The verification tests whether the administrative processes are actually followed in practice.”

Licence review

42. The licence review analysed two of the licence templates used by LPS and many of the points made were dealt with at the draft stage of this report. The remaining points appear at appendix two. **LPS should consider the observations made in the review when the text of the licences is next updated.**

Timing of licensing process

43. LPS achieves 100% in its target of granting licences within 20 working days. One tool that it has for doing this is its use of a tracking sheet. This is a simple, yet effective process where each person responsible for creating the licence signs and dates their action. This makes it possible to see how long each part of the process has taken.

Financial model

44. LPS operates on the basis of recovering its costs. Prices are updated in line with the Retail Price Index (RPI) and product viability.

Website review

45. OPSI finds that LPS’s website is compliant with IFTS principles, with some improvements required, like updating the contact address for HMSO. We anticipate further website integration taking place now that the new LPS is fully constituted. The website review can be found at appendix three of this report.

Investigating infringements

46. Of particular note was the work which is conducted to monitor infringements of copyright. LPS takes this issue seriously and investigates potential breaches diligently. Its work ranges from cross-checking the use of maps which support property transactions to the use of forensic cartography in cases where there appears to be a major breach of copyright taking place. LPS's approach is to bring those who are breaching copyright back within its licensing regime where possible. Court action is a last resort.

Licensing file review

47. The team reviewed a number of files and found a high standard of compliance with IFTS principles. The team looked at a sample of files from the commercial sector, NIMA, and digital data supply. We found a high degree of standardisation in these files.

Challenge

48. LPS meets the principle of challenge.

“The organisation has a complaints process empowered to reconsider incorrect licensing decisions. OPSI can investigate the organisation's licensing decisions if they appear to be wrong.”

Licensing complaints

49. LPS handles licensing complaints within its overall complaints procedure. This allows for complaints to be investigated at source with a right of appeal to the Chief Executive and then to OPSI.

APPENDIX ONE: SUMMARY OF RECOMMENDED ACTIONS

This is a summary of the recommended actions to:

- remedy the weaknesses identified; and,
- strengthen the commitment to Information Fair Trading.

Principle	Ref	Recommendation	Priority
Openness	36	LPS should conduct an audit of its information resources with a view to identifying the data holdings that can be made available for re-use.	H
	37	LPS should produce an Information Asset Register (IAR) or an equivalent resource.	H
	38	Once the organisation has established which data sets can be made available for re-use, it should convene seminars using the ones it currently hosts for prospective licensed partners in the exploitation of its mapping data as a model.	M
Compliance	42	LPS should consider the observations made in the review when the text of the licences is next updated.	M

APPENDIX TWO: LICENCE REVIEW

REVIEW OF LPS SUPPLY AND LICENCE AGREEMENT

Evaluation Criteria

1. Clarity of licence terms

Check for clarity of language, jargon, legalistic language, plain English

The licence contains some legalistic language in the recitals but is, on the whole, clear.

2. Comprehensiveness of licence terms

Are there any significant omissions? Does the licence contain terms that you would not expect to find in a licence?

Recital (A) omits a reference to the letters patent covering Crown database rights.

Section 10.1 suggests that HMSO controls all Intellectual Property owned by the Crown. This is not the case except where the Intellectual Property concerned is copyright and/or database rights. This is significant as the licence agreement also grants rights in trademarks etc. However, Schedule 1 does state that trademarks are owned by DFP.

Schedule 1 Part 5 – forms an important part of the licence as it defines what products the material can be used in and the grant of rights. Having access to (a) completed sample(s) would be very useful as the information entered here could make the agreement liberal or restrictive.

3. Fairness

Does the licence contain terms that are unfair or unnecessarily discriminates between different user groups?

Lacking familiarity with tax legislation it is difficult to assess the meaning of 8.2.6. However, the clause appears to constitute a right to terminate the licence if the licensee organisation changes hands. Would this impact adversely on the value of the licensee and its products, and if so would this impact be unfair?

Clause 15 indicates that some individual negotiation may occur with respect to this licence. The wording of this clause should be reviewed in the context of PSI Regulations 13 and 15, non-discrimination and establishment of standard charges.

4. Consistency

Does the licence contain any terms which are inconsistent and contradictory?

Section 12.1 imposes confidentiality on the agreement. LPS should consider whether such an all-encompassing requirement is necessary or desirable given that it is a public body which seeks to publicly demonstrate consistency in its licensing terms.

5. Practical Arrangements

Is it clear what the process is for making payments, amending terms for example?

No comments recorded.

6. Restrictiveness of terms

Are any of the terms unnecessarily restrictive?

Section 2.4 could be seen as infringing the licensee's rights under the fair dealing provisions of the Copyright, Designs & Patents Act 1988.

Section 3.1.6 may unnecessarily restrict the ability of the licensee to re-use information contained in the document by placing limitations on extraction of data from it. The relevant regulation is 12(2)(a).

7. Additional Comments

No additional comments made.

REVIEW OF VALUE ADDED RESELLER AGREEMENT

Evaluation Criteria

1. Clarity of licence terms

The Agreement is long and legalistic, with much detail to cover every apparent circumstance, for instance clause 3.1, clause 10, sch 1 part 5.

The expression “intellectual property” is inaccurately used. In the definition clause in 2, the Crown, through HMSO, is said to own all intellectual property rights, including patents, trade marks, design rights and know how, which is inaccurate. However, Schedule 1 does state that trademarks are owned by DFP.

In the acknowledgements of Crown copyright (sch 3 part 3), it is a standard HMSO requirement to include the year of publication.

2. Comprehensiveness of licence terms

The document seeks to deal with all possible eventualities and so is long and detailed. There may be scope for not expressly excluding things which are already excluded by more general terms: if the licence explicitly allows certain uses but nothing else, there may not be a need to list other excluded uses.

3. Fairness

The licensee may not assign the benefit of the Agreement without written permission. The licensor may not only assign it to another Crown body, which seems reasonable, but also to a third party. The circumstances under which the benefit would be assigned to a third party should be explained. The licensor may also change any aspect of its presentation or construction (clause 14.2). In legal use, “construction” means interpretation. The term is probably used here to refer simply to the form of the Agreement, but clarity is needed to ensure that the licensor does not have the right unilaterally to vary the interpretation of the Agreement.

4. Consistency

No outstanding comments.

5. Practical Arrangements

The Agreement has no terminal date, and so runs until terminated. This might accord with LPS policies but is unusual and could cause problems.

6. Restrictiveness of terms

No outstanding comments.

7. Additional Comments

No additional comments made.

APPENDIX THREE: WEBSITE REVIEW

Organisation: Land & Property Services
Site available at: www.lpsni.gov.uk
Date assessed: 4 September 2008

- 1.1 Does the website have an Information Asset Register? **No**
- 1.2 If yes, how many clicks is it from the homepage? **N/A**
- 1.3 How long did it take to find? **N/A**
- 1.4 If there is no IAR, is there other guidance on what information is available? **The organisation does not have a formal IAR, but it does have a comprehensive listing of what data is available for re-use through its website**

- 2.1 Does the PSB use standard licences? **Yes**
- 2.2 Are these published in full on the website? **Yes**
http://www.osni.gov.uk/index/licensing/digital_licensing.htm
- 2.3 If yes, how many clicks are they from the homepage? **3**
- 2.4 How long does it take to find? **1-2 minutes**
- 2.5 How many standard licences are there? **7**
- 2.6 Is there an explanation of what different licences are for and is it clearly understood? **Yes**

- 3.1 Is there any charge made for licences? **Yes**
- 3.2 Is there an explanation of the charges? **Yes**
- 3.3 Is there an explanation of how charges are drawn up? **No**

- 4.1 Is there an IFTS commitment on the website? **Yes**
http://www.osni.gov.uk/ifts_commitment_for_websites.doc
- 4.2 How many clicks is it from the homepage? **3**
- 4.3 How long does it take to find? **>1 minute**

- 5.1 Is there clear and precise information on how to apply for a re-use licence?
Yes
http://www.osni.gov.uk/index/licensing/digital_licensing.htm
- 5.2 Are there a variety of methods for applying for licences? **Yes**
- 5.3 Is it possible to apply online for a licence? **Yes**
- 5.4 Does it specify a timescale to grant licences? **No**

- 6.1 Does the PSB have a procedure for complaints regarding licensing decisions? **Yes** <http://www.lpsni.gov.uk/index/customer-service.htm>
- 6.2 How many clicks is it from the homepage? **1**
- 6.3 How long does it take to find? **< 1 minute**
- 6.4 Does it mention that if the complainant is unhappy they can refer to OPSI or APPSI? **Yes**

- 7.1 Does the website explain what information is not available? **No**

- 8.1 Does the website outline any exceptions to normal licensing policy? **Yes** http://www.osni.gov.uk/index/licensing/ifts_page.htm
- 8.2 If Yes, does it explain why that exception has been made? **Yes**
- 8.3 How many exceptions are there? **2**
- 9.1 Does the website have a Crown Copyright notice? **Yes**
<http://www.osni.gov.uk/index/copyright.htm>
- 9.2 Is it linked to from every page? **Yes**
- 9.3 How many clicks is it from the homepage? **1**
- 9.4 How long does it take to find? **< 1 minute**
- 9.5 Is OPSI/HMSO mentioned, with contact details? **Yes, although the old Colegate address in Norwich is quoted**
- 10.1 Does the website have an electronic search facility? **Yes, on every page**
- 10.2 If yes, how many clicks is it from the homepage? **0**
- 10.3 How long did it take to find? **Immediate**
- 11.1 Is the material available by electronic means? **Yes**
- 11.2 Is it possible to download direct from the website? **Yes**
<http://www.osni.gov.uk/index/geohub.htm>
- 12.1 Does the PSB outline its responsibilities under IFTS on their website? **Yes** http://www.osni.gov.uk/index/licensing/ifts_page.htm
- 12.2 Does the website explain what IFTS is aiming to achieve? **Yes**
- 12.3 Are the benefits of IFTS explained? **Yes**
- 12.4 Is the PSB using IFTS logos on their website and actively mentioning they are a member of the scheme? **They are actively mentioning the IFTS scheme, but not using the logos pending formal accreditation as a newly constituted organisation**
- 13.1 Does the PSB outline its policy towards its trading of PSI? **Yes**
http://www.osni.gov.uk/index/licensing/ifts_page.htm
- 13.2 Does the PSB explain how it arrives at decisions? **Yes**
- 13.3 Does the website have an explanation of what re-use is? **No**
- 13.4 Does the website explain what Crown Copyright is? **Under the IFTS header on the LPS "Home" page there is a link to the OPSI guidance on Crown Copyright.**
- 13.5 Does the website explain why licences are sometimes needed to re-use information? **Yes**
- 13.6 Does the website explain the difference between FOI and re-use? **No**
- 13.7 Does the website explain what a trading fund and delegated authority is? **No. The terms are mentioned, but not fully defined**

Many aspects of this site are to be commended; it has a great deal of information which is being made available to potential applicants. It also makes its commitment to maximising the re-use of its data clear to

users and offers several means of access. In particular, the innovative GeoHub NI system promises to expand the range and use of location-based data.

The website could be improved by giving some explanations as to the terms associated with re-use in order to benefit inexperienced applicants, perhaps via the provision of a glossary.