

UK Location Data Sharing Operational Guidance

Part 1 – Policy Context

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This is the first part of the UK Location Data Sharing Operational Guidance.
The guidance series supports the UK Location Strategy by addressing business interoperability issues which could present barriers to the sharing and re-use of location data.

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Introduction

UK Location Strategy

The UK Location Strategy was launched in 2008¹. It aims to maximise exploitation and benefit to the public, the government and to UK Industry from geographic information and to provide a framework to assist European, national, regional and local initiatives. The Strategy will create an infrastructure for location information to assist policy, service delivery and operational decision making.

The strategy was introduced following the recognition that:

- too few government-owned datasets which incorporate location information can be easily assembled and analysed with reliability;
- there is too much duplication;
- too little re-use;
- and too few linkages across the datasets required to support policy development and implementation.

The UK Location strategy includes implementation of the EU INSPIRE Directive.

INSPIRE

The EU INSPIRE Directive² was introduced in 2007. Its principal aim is to improve environmental policy making in Europe. Under INSPIRE, Member States must make available in a consistent format spatial datasets within the scope of the Directive, and create services for accessing these datasets. This will enable datasets to be more easily shared and the expectation is that they can be combined to benefit the development and monitoring of environmental policy and practice in all Member States and across the European Union.

The Directive was implemented through the INSPIRE Regulations which cover England, Wales and Northern Ireland³. Separate Regulations cover Scotland⁴. In the context of this guidance reference to the INSPIRE Regulations should be taken to include both sets of Regulations, unless otherwise specified.

¹ ['Place Matters: the Location Strategy for the United Kingdom'](#), November 2008

² [EC 2007/02](#)

³ [UK Statutory Instrument 2009 No 3157](#)

⁴ [SSI 2009 No 440](#)

INSPIRE principles

The INSPIRE principles are:

- Data should be collected only once, and kept where it can be maintained most effectively.
- It should be possible to combine spatial information from different sources seamlessly and to share it across Europe with many users and applications.
- It should be possible for information collected at one level to be shared easily with all levels.
- Geographic information needed for good governance at all levels should be readily and transparently available.
- It should be easy to find what geographic information is available, how it may be used to meet a particular need and the conditions under which it may be acquired and used.

UK Location makes it possible to publish metadata (a 'label' which describes a dataset) into one central location which is accessible by all.

Under the INSPIRE Regulations, public authorities and third parties which publish INSPIRE datasets must establish and operate five services, collectively described as '**Network Services**'. In addition, public authorities are required to take specific action to enable **data and service sharing** between public authorities (and with bodies of the EU).

Network Services

- **Discovery Services** – this services will enable users to search and display the contents of metadata, which is required for spatial datasets and services, under one or a combination of the following criteria:
 - keywords;
 - classification,
 - quality and validity;
 - geographic location;
 - access or use conditions; and
 - identification of who is responsible for creating, managing, maintaining and distributing them.
- **View Services** – making it possible, as a minimum, to display, navigate, zoom in and out, pan or overlay viewable spatial datasets and to display legend information and any relevant content of metadata.

View services may be limited by a public authority if access may adversely affect:

- international relations, defence national security or public safety;
- the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature;

- intellectual property rights;
 - confidentiality of proceedings provided for by law;
 - confidentiality of commercial or industrial information provided for by law to protect a legitimate economic interest;
 - the interests or protection of any person supplying information; or
 - the protection of the environment to which the spatial data or service relates.
- **Download Services** - enabling users to download copies of whole datasets or parts of datasets and, where practicable, accessed directly.
 - **Transform Services** - enabling users to transform INSPIRE compliant spatial datasets to achieve interoperability.
 - **Invoke Services** - the term 'invoke services' has not yet been defined but will be through the development of the appropriate implementing rule by the Commission. UK Location will publicise the definition when it is made.

Data and service sharing

A cornerstone of the INSPIRE Directive is the requirement for Member States to allow access to spatial data between public authorities both in Member States and in the EU. Principles for sharing spatial datasets and services between public authorities within Member States are contained in the INSPIRE Regulations, and are summarised as follows

- Where a public authority or other relevant body requires access to or use of a spatial dataset or service for the purposes of its public task that may have an impact on the environment, the public authority responsible for that data or service must normally permit access and use.
- However, the public authority responsible for that data or service may limit data sharing when it would compromise the course of justice, public security, national defence or international relations.
- The public authority supplying a spatial data or service to another public authority or relevant body may impose conditions on its access, exchange or use, for example, in the form of a charge, a licence (or both), subject to the following:
 - such conditions must be compatible with the aim of sharing spatial datasets and services and must avoid practical obstacles at the point of use;
 - charges must be kept to the minimum to ensure necessary quality and supply of datasets and services together with a reasonable return on investment; and any requirement on an authority to be self-financing is respected;
 - a UK public authority must not charge a European Community organisation for spatial datasets or services where it is under a European Community environmental reporting obligation⁵.

⁵ [The INSPIRE Regulations 2009 Section 12\(6\)](#)

On the last point, Commission Regulation 268/2010⁶ (the Implementing Regulation) was introduced by the EU in March 2010 and set out minimum requirements for implementation of rules on access to data by Community institutions and bodies. The Regulation became effective on 19 October 2011.

The main points of the Implementation Regulation are:

- Metadata must include conditions applying to access and use for EU institutions and bodies, in order to facilitate evaluation of the available specific conditions at the discovery stage.
- Member States are to provide access to new spatial datasets and services without delay and within 20 working days after receipt of a written request. Arrangements for access to existing spatial data sets must be reviewed and brought into alignment with the Regulation by 19 April 2013.
- If data or services can be accessed only under payment, EU institutions and bodies may request Member States to provide information on how charges have been calculated.
- While fully safe-guarding the right of Member States to limit sharing when this would compromise the course of justice, public security, national defence or international relations Member States are encouraged to find the means to still give access to sensitive data under restricted conditions, (e.g. providing generalised datasets). Member States may be challenged to give reasons for making any limitations to sharing such datasets.

Available on the EU INSPIRE website are:

- a detailed guide⁷ to data sharing in relation to the Implementing Regulation, and
- a note on good practice⁸ in data sharing, which covers data sharing in general.

Both of these documents were refreshed in 2011. The good practice document had strong input from the UK, and provides extensive examples of good practice for data sharing for three scenarios:

- for Member States with the Community institutions and bodies;
- between Member States;
- between public authorities within a Member State.

⁶ [Commission Regulation 268/2010](#)

⁷ [Guide to data sharing in relation to the Implementing Regulation](#)

⁸ [Good practice in data sharing](#)

Freedom of Information and Environmental Information Regulations

These pieces of legislation – the Freedom of Information Act 2000, the Freedom of Information (Scotland) Act 2002 (for the ease of reference these two Acts are referred to as FOIA) and Environmental Information Regulations 2004 (EIR). Both FOIA and EIR give certain rights to access information held by public authorities. EIR cover only environmental information, but FOIA covers all information held by public authorities. There is an overlap with INSPIRE on both EIR and FOIA. This access legislation is of fundamental importance because it defines what data and information is accessible.

The Information Commissioner has advised the UK Location Programme that the majority of INSPIRE theme datasets held by public authorities will fall under EIR. In cases where INSPIRE theme datasets are held by public authorities but are not covered by EIR, they will probably be covered by the FOIA. This means that a dataset held by a public authority which falls under an INSPIRE theme may be required to be disclosed by an EIR or FOIA access request (or both), if it is not published into UK Location (subject to limits in the INSPIRE Regulations, noted on page 5 and 6 of this guidance).

Both FOIA and EIR encourage public authorities to proactively make information available to the public. Electronic publication and use of websites is encouraged as is any form of publication which promotes accessibility to information.

FOIA and EIR both require the use of the public interest test when deciding whether to exempt or exclude the provision of certain types of information. The public interest test requires the public authority to weigh up the interests to the public in releasing or withholding information.

- If the public interest between disclosing and withholding the information is evenly balanced the presumption is that the information should be disclosed.

FOIA sets an explicit duty to confirm or deny whether the information is held. EIR only allows a public authority to "neither confirm nor deny" whether it holds information when that authority is refusing to disclose information on the grounds of international relations, defence, national security, or public safety. In FOIA "neither confirm nor deny" can be used for all exemptions.

All the public authorities that are covered by FOIA are covered by EIR but the definition of public authority in EIR is different and wider than that of FOIA. It additionally includes bodies that are under the control of a public authority and have responsibilities, exercise functions or provide public services relating to the environment.

Further information on both FOIA and EIR is available on Defra's website⁹ and the Information Commissioner's website¹⁰.

⁹ [Defra open government](#)

¹⁰ http://www.ico.gov.uk/for_organisations.aspx

The Re-use of Public Sector Information Regulations (the PSI Regulations) 2005

The previous section on access established what data/information can be made accessible. This section deals with potential re-use of data/information. However, users should note that one of the overriding principles of re-use is that data/information cannot be re-used unless it is accessible.

The Re-Use of Public Sector Information Regulations (PSI Regulations) concern documents held by a public sector body and re-used by a person or organisation for a purpose beyond that for which the document was produced. The PSI Regulations are relevant to UK Location because there is scope for spatial data to be re-used in a variety of ways, including for commercial purposes.

The aim is to increase transparency, to ensure fairness and to encourage the re-use by the private and public sectors of information held by public sector bodies so as to stimulate economic growth, citizen engagement and improvements to public service delivery. Documents transferred between public sector bodies for the purpose of either body carrying out its public tasks does not constitute re-use.

The PSI Regulations apply where a member of the public wishes to re-use spatial data held by a public authority which is a public sector body as defined in the PSI Regulations. It follows that re-use by the public, following access obtained to spatial data under the network services described in Article 11 of the Directive (covering Network Services), is subject to the PSI Regulations.

The PSI Regulations will not apply in most cases to data sharing arrangements under Article 17 of the INSPIRE Directive, as this is concerned with the exchange of spatial data between public authorities for those authorities' public tasks. Re-use covers the use of public sector information for a purpose other than that for which it was originally created, normally through new commercial products and services.

The PSI Regulations are complementary to the INSPIRE Regulations. Any licensing of the re-use of public sector spatial data will be subject to the PSI Regulations. Further details of the PSI Regulations can be found at The National Archives¹¹ website.

Ownership of Copyright and Database Right

It is important to be aware of where ownership of copyright and database right in spatial data rests so that the appropriate licensing arrangements can be adopted.

One of the key principles under UK copyright law is that the first owner of copyright and database right is the person who makes the work. The main exceptions to this are works that people produce as part of their employment. In those cases the copyright and database right rests with the employer.

Copyright and Database Right are types of intellectual property and, like physical property, cannot usually be used without the owner's permission.

¹¹ www.nationalarchives.gov.uk/information-management/policies/psi-faqs.htm#11

Crown Copyright and Database Right

Under the Copyright, Designs and Patents Act 1988 any copyright works made by ministers and officials as part of their official duties are protected by Crown copyright. Similar ownership applies in respect to database rights.

If a Government department commissions a contractor to produce a work copyright and database right will rest with the contractor. However, it is open for the department to arrange for them to be assigned to the Crown.

The responsibility for the management and licensing of copyrights and database rights owned by the Crown rests with the Controller of Her Majesty's Stationery Office (HMSO), an official in The National Archives, in her capacity as Queen's Printer and Queen's Printer for Scotland.

The Open Government Licence is the default licence mechanism for permitting the re-use of a wide range of information and data owned by the Crown. Guidance on Licensing and Charging forms part of the Data Sharing Operational Guidance series and can be read [here](#):

<http://location.defra.gov.uk/wp-content/uploads/2011/08/Data-Sharing-Operational-Guidance-Part-2-v1-1.pdf>**Contemporary developments – Spring 2012**

Data sharing policy is moving quickly. The best way to keep in touch with developments which affect UK Location is by regularly checking the UK Location Programme website, at:

<http://location.defra.gov.uk>

and by adding UK Location to your Twitter account:

<http://www.twitter.com/uklocation>

We will add news items about developments for UK Location as they happen. A summary of the main developing areas at the time of publication (February 2011) is below.

Transparency Agenda

The Government document 'The Coalition: our programme for government' set out plans for increased transparency in Government:

"The Government believes that we need to throw open the doors of public bodies, to enable the public to hold politicians and public bodies to account. We also recognise that this will help to deliver better value for money in public spending, and help us achieve our aim of cutting the record deficit. Setting government

data free will bring significant economic benefits by enabling businesses and non-profit organisations to build innovative applications and websites."¹²

And a new '**Right to Data**' will be created:

"We will create a new 'right to data' so that government-held datasets can be requested and used by the public, and then published on a regular basis."¹³

The Cabinet Office Transparency Board is taking forward the Transparency Agenda and in 2011 held consultations on Open Data and a Public Data Corporation. The UK Location Council response can be read here:

<http://location.defra.gov.uk/2011/11/uk-location-council-response-to-government-consultations-on-data-policy-for-a-public-data-corporation-and-making-open-data-real/>

Review of Freedom of Information Act – the Protection of Freedoms Bill

The Protection of Freedoms Bill was presented to Parliament 11 February 2011 and at the time of writing is still working its way through Parliament. The Bill proposes (among other matters) to amend the Freedom of Information Act 2000 to remove provisions permitting Ministers to overrule decisions of the Information Commissioner and Information Tribunal; to limit the time allowed for public authorities to respond to requests involving consideration of the public interest; to amend the definition of public authorities; and for connected purposes.

Progress of the Bill can be followed here:

<http://services.parliament.uk/bills/2010-11/freedomofinformationamendment.html>

Public Data Corporation

Plans to establish a Public Data Corporation were announced on 12 January 2011. As noted above, a consultation took place in 2011. The Government aims to establish the Public Data Corporation in 2011. Further work is being undertaken across Government to determine what the Public Data Corporation might look like, including which bodies and datasets should be included within it.

European Union Initiatives which complement INSPIRE – SEIS, GMES and GEOSS

There are three EU-level initiatives in addition to INSPIRE which have some overlapping impacts: SEIS, GMES and GEOSS (in fact a global initiative). As these four initiatives (INSPIRE included) were not launched as elements of a coherent programme, none of them can be regarded as the overarching framework. Nor do they have legislative force either at European or national level. The EU Joint Research Centre (JRC) with responsibility for INSPIRE monitors progress on each initiative and how they relate to

¹² Chapter 16, '[The Coalition: our programme for government](#)'

¹³ Chapter 16, '[The Coalition: our programme for government](#)'

INSPIRE. UK Location is kept updated of developments by the JRC at meetings and in correspondence.

Each of the initiatives have different, although overlapping, geographical/thematic impacts and are based on different means of implementation. They respond in different ways to new pressures in the environmental information marketplace – new environmental issues, changing citizen expectations, more complex policy instruments, and the need to reduce costs (leveraging efforts) and thus are strongly complementary, offering different parts of the solution. Each is summarised below, in text supplied to UK Location by JRC.

Shared Environmental Information System (SEIS)

The Commission Communication COM(2008) 46 "Towards a Shared Environmental Information System, (SEIS)" sets out an approach to modernise and simplify the collection, exchange and use of the data and information required for the design and implementation of environmental policy, according to which the current, mostly centralised systems for reporting are progressively replaced by systems based on access, sharing and interoperability. The overall aim is to maintain and improve the quality and availability of information required for environmental policy, in line with better regulation, while keeping the associated administrative burdens to a minimum.

The Communication lists a number of actions necessary to realise SEIS, which can be grouped in four main streams:

1. Efforts to streamline the content of information requirements in thematic environmental information.
2. Modernising environmental legislation on information provision.
3. Enabling the more efficient use of available data.
4. Improving the availability of the information and underlying data.

Global Monitoring for Environment and Security (GMES)

Global Monitoring for Environment and Security (GMES) is an Earth monitoring initiative led by the European Union and carried out in partnership with the Member States and the European Space Agency. Its primary objective is to provide, under European Union control, information services, which give access to accurate data and information in the field of environment and security and are tailored to the needs of users. In doing so, it will foster better exploitation of the industrial potential of policies of innovation, research and technological development in the field of Earth observation. GMES will be inter alia a key tool to support biodiversity, ecosystem management, climate change mitigation and adaptation.

The GMES programme comprises of the following:

(a) a service component ensuring access to information in support to the following areas (without priority order):

- atmosphere monitoring;

- climate change monitoring in support to adaptation and mitigation policies;
- emergency management;
- land monitoring;
- marine environment monitoring;
- security;

(b) a space component ensuring sustainable space borne observations for the service areas referred to in point (a);

(c) an in situ component ensuring observations through airborne, seaborne and ground-based installations for the service areas referred to in point (a).

GMES is complemented with SEIS and INSPIRE to get the spatial and in-situ data necessary to provide the services as well as for the delivery of outputs to users. Key concepts for longer term governance and financial arrangements for GMES were set out by the 2008 Commission Communication which identifies that GMES will be implemented in line with the proposed SEIS, in accordance with INSPIRE Directive and taking into account the Global Earth Observation System of Systems (GEOSS). GMES is characterised as the EU contribution to GEO / GEOSS. The Communication also notes that GMES has the potential to contribute to SEIS through provision of improved information services and also sets out an expectation for European Environment Agency to play an important role in relation to the supervision of some services and coordination with communities under the SEIS umbrella.

The Group on Earth Observations System of Systems (GEOSS)

The Group on Earth Observations (GEO) is coordinating efforts to build a Global Earth Observation System of Systems, or GEOSS. It is a global initiative, rather than an EU initiative. The EU is a permanent member of the Executive Committee which oversees GEO activity.

GEO was launched in response to calls for action by the 2002 World Summit on Sustainable Development and by the G8 (Group of Eight) leading industrialized countries. These high-level meetings recognized that international collaboration is essential for exploiting the growing potential of Earth observations to support decision making in an increasingly complex and environmentally stressed world.

GEO is a voluntary partnership of governments and international organizations. It provides a framework within which these partners can develop new projects and coordinate their strategies and investments. As of September 2009, GEO's Members include 80 Governments and the European Commission. In addition, 58 intergovernmental, international, and regional organizations (e.g. EEA, ESA, Eumetsat, ECWMFC, EuroGeosurveys) with a mandate in Earth Observation or related issues have been recognized as Participating Organizations.

GEO is constructing GEOSS on the basis of a 10-Year Implementation Plan for the period 2005 to 2015. The Plan defines a vision statement for GEOSS, its purpose and scope, expected benefits, and the nine "Societal Benefit Areas" of disasters, health, energy, climate, water, weather, ecosystems, agriculture and biodiversity.