

EU Directive on Public Sector Information :

The Next Big Thing!

Summary

The EU Directive on Public Sector Information (“the Directive”) was implemented in the UK on 1st July 2005 through regulations. The aim of the Directive is to remove obstacles that stand in the way of re-using public sector information. In doing so it will stimulate the development of value added products and services across Europe and help to boost the information industry. Key obligations for public authorities (including the health, local government and central government sectors) include:

- being transparent and open about the terms and fees for re-use of information they hold
- where licences are required to re use information, standard terms and conditions should be offered
- having accurate notices and statements on documents and websites
- producing an Asset List so that potential re-users of information know what is available
- having a complaints process

Where can I find the Regulations?

The Re-use of Public Sector Information Regulations (SI 1515/2005) were laid before Parliament on June 10th, and came into force on July 1st 2005. They are available from the Office of Public Sector Information (“OPSI”) which was formerly Her Majesty’s Stationery Office (<http://www.opsi.gov.uk/si/si2005/20051515.htm>).

What information is covered ?

The Directive applies to all public sector information. This is any information that is produced by a public sector body including central government departments, local authorities and the NHS. The Directive does not apply to :

- Public service broadcasters
- Educational and research establishments, such as schools, universities, archives, libraries and research facilities
- Cultural establishments, such as museums, orchestras, operas, ballets and theatres

Key obligations under the Directive

a. Standard Licences

Public authorities will be required to be transparent and open about the terms they offer for the re use of information including charging. Where licences are required standard terms and conditions should be used.

b. Copyright and Licensing Arrangements

Public authorities should provide accurate notices and statements on their documents and websites. These will focus on copyright, ownership and arrangements for re use.

c. Asset Lists

Public authorities will be required to produce an asset list so that potential re-users of information know what is available for them to re-use. This asset list should include both published and unpublished information that you hold. OPSI is currently developing a model for the next generation Information Asset Register (IAR) that will enable public bodies to easily identify information assets that are available for re-use.

d. Transparency and Fairness

Public authorities will be required to be transparent and fair in the way that they process applications to re-use information. OPSI has set up an Information Fair Trader Scheme (IFTS) to help meet this obligation. The current scheme involves a formal verification to show compliance which will not be appropriate for most organisations. Therefore, it is developing a simplified self-assessment scheme, details of which will be published later this year.

e. Complaints

Public authorities will be required to be open about how users can complain about the service they receive from them. Details of the complaints process should be published.

How much can we charge?

Although OPSI recommend that information be provided at marginal cost, the Regulations state that the cost of information made available for re-use can include the cost of production and a reasonable return on investment. However, charges must be consistent and fair.

Do we have to comply?

In the main, the Directive only applies to public sector organisations who wish to allow, and charge for re-use of information they hold. They do not oblige public authorities to allow re use. However, it will be almost impossible to avoid work on some aspects of the Directive even if an organisation intends to ignore its new powers. Existing copyright notices and licences will need amending, while Freedom of Information procedures will probably have to be reviewed. Pressure is likely to come from central government to comply, especially if generic asset lists and examples of successful implementation can be identified.

Office of Public Sector Information (OPSI)

The Office of Public Sector Information is at the heart of information policy, setting standards, delivering access and encouraging re-use of public sector information. It provides online access to UK legislation, licenses the re-use of Crown copyright material, manages the Information Fair Trader Scheme (see below), maintains the Government's Information Asset Register and provides advice and guidance on official publishing and Crown Copyright. OPSI will also be responsible for arbitrating when complaints are made about organisations subject to the Directive.

The Information Fair Trader Scheme

The Information Fair Trader Scheme is run by OPSI, and is likely to develop further as the Regulations are implemented. To be recognised as an Information Fair Trader, an organisation needs to make a commitment to the fair trader principles and have that commitment independently

verified. They will also need to investigate complaints that the commitment has not been met. Membership of the Scheme is obligatory for Government departments, but OPSI say that online self-assessment will be available for lower-tier organisations like Councils.

The Overlap with Freedom of Information

How does the Directive fit in with public authorities' obligations under the Freedom of Information Act? It should be noted that the Directive is about re use of information not access to it. Therefore potential users may use the Freedom of Information Act (FOI) to get access to information and then use the Regulations to re use it. The Advisory Panel on Crown Copyright has produced a guidance note on the interaction between FOI and the Regulations:

<http://www.appsi.gov.uk/reports/aligning-FOI-and-PSI.pdf>

What information might be available for re-use?

The Directive mentions very broad topics such as economic information, and information about patents and businesses. Public authorities hold lots of other information which could have a commercial value. Examples include data about properties, land use, lists of contractors, geographic data, statistics and everything and web site content. For example, local authority websites often have searchable information about tourism and leisure attractions and events. This content could be licensed to internet based holiday and leisure operators.

Conclusion

The PSI Directive and the Regulations are going to have a big impact on the public sector. Public sector organisations are being given the ability to exercise more power over their information, to recover some of the costs of producing large and complex databases of information, and to some extent, to develop new commercial products. The point of the Directive and the Regulations is to develop an information industry. The USA has a massive information industry and Government policy is to build the same thing here. Demand may build up gradually.

Public authorities are going to have to go through all their commercial information and consider what they will allow the private sector to re use. They will then have to consider standard licenses and agreements as well as a reasonable charging structure. Of course there will be resource implications but, unlike FOI, the new Directive, if implemented properly, will generate an income stream which, for some councils, could go a long way to defray the costs of compliance with FOI. What is almost certain, as far as public authorities are concerned, is that the PSI Directive is “the Next Big Thing!”

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