



Department for Business Innovation & Skills

Information Rights (IRU)
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BIS reference: **14/0561**
22 April 2014

Dear Dr. Whittaker

Thank you for your email of 26 March 2014 where you requested the following information:

1. Could you please confirm whether or not that includes any agreements or variations of the Licence Terms under clause 2.8? If there have been any such agreements or permitted variations in the Licence Terms, then I would like a copy of those agreements.
2. If Ordnance Survey has been permitted to change the Licence Terms, then I would also like to know how this was agreed to by CLG (or the relevant authority), who signed off on it, and who was consulted in the process.
3. I am particularly interested in this, since the current OS OpenData Licence that Ordnance Survey is offering its OS OpenData products under appears to be different from the licence quoted in Schedule 2 of the agreement, and the current licence also may not be fully compliant with the Licence Principles in Schedule 8.

Under the Freedom of Information Act 2000 ('the Act'), you have the right to:

- know whether we hold the information you require
- be provided with that information (subject to any exemptions under the Act which may apply).

I can confirm that the Department holds the information you have requested. The information you requested is contained within the Third variation of the Public Sector Mapping Agreement which is attached.

In reference to your specific questions the details are as follows.

1. In our reply of 26 March 2014 to your request 14/0376 the statement made was correct in that there has not been a variation made to the OS OpenData agreement. Our previous response did not include variations that were made to the OS OpenData Licence Terms made under clause 2.8 in the OS OpenData agreement, but implemented through variations to the Public Sector Mapping Agreement (PSMA).

There have been three variations to the OS OpenData licence terms through the PSMA; January 2011, December 2011, and August 2013. All variations of PSMA are attached. Some information within the documents constitutes personal data and has been withheld. Section 40 of the Act provides an absolute exemption for personal data which then falls to be dealt with under the Data Protection Act (DPA). Personal data of third parties can only be disclosed in accordance with the data protection principles. In particular, the first data protection principle requires that disclosure must be fair and lawful and must comply with one of the conditions in Schedule 2 of the DPA. We do not think that it is fair to release the names of junior members of staff or third parties and do not think that any of the relevant conditions apply.

The most recent variation made to the OS OpenData licence terms is within schedule 2 of the third variation of the PSMA. This variation was signed by Ordnance Survey and BIS on the 15th August 2013 and is publically available at <http://www.ordnancesurvey.co.uk/business-and-government/public-sector/news/third-psma-variation-brings-new-enduser-licences.html>.¹ This is inline with clause 2.8 of the OS OpenData agreement supplied previously, and specifically 2.8(b). This variation in the Licence Terms was to reflect changes in the Open Government Licence (OGL). The revised version of the OGL (OGLv2.0) was launched by The National Archives on 28 June 2013.

These changes to the OGL, included acknowledgment requirements for the release of datasets incorporating third party data (Royal Mail and the Office for National Statistics data within Code-Point Open). Guidance on identification of third party rights is in section 4.4 of the UK Government Licensing framework for public sector information published by National archives (<http://www.nationalarchives.gov.uk/documents/information-management/uk-government-licensing-framework.pdf>). Ordnance Survey data is covered by Crown Copyright and therefore, as per the guidance on the implementation of the OGL for Crown bodies, are able to specify an attribution statement covering the source of the data that is being released. National Archives highlight that the OGL terms are interoperable with Creative Commons Attribution Licence (OBC-By) which covers copyright. Clause 2.4 of the ODC-By states:

¹ This information is already in the public domain and is therefore exempt under Section 21 of the Act, as we are not required to provide information which is already reasonably accessible to you.

“2.4 Relationship to Contents in the Database. The individual items of the Contents contained in this Database may be covered by other rights, including copyright, patent, data protection, privacy, or personality rights, and this License does not cover any rights (other than Database Rights or in contract) in individual Contents contained in the Database. For example, if used on a Database of images (the Contents), this License would not apply to copyright over individual images, which could have their own separate licenses, or one single license covering all of the rights over the images”

It should be noted that BIS are currently working with Ordnance Survey on updating the OS OpenData agreement to capture a number of changes, including the Machinery of Government change that moved the responsibility for the agreement from the Department of Communities and Local Government (CLG) to the Department for Business, Innovation & Skills (BIS). These amendments to the Licence Terms will be included within that work.

2. Ordnance Survey is permitted to change the terms of the Licence in line with clause 2.8 of the OS OpenData agreement. In relation to 2.8(a) it is with agreement from BIS, who in turn consult with the PSMA User Representatives Group², and the Geographic Information Customer Group in relation to any changes. The change to the Licence terms signed off in August 2013, were seen and discussed with the PSMA User Representatives Group and the Geographic Information Customer Group³ at their respective meetings in January, March, and June 2013 as the variation was developed.
3. As previously mentioned work is currently being undertaken between BIS and Ordnance Survey to update the OS OpenData agreement to reflect the changes that have occurred since the agreement was originally signed, and to realign it with the updates implemented through the variations to the PSMA.

We believe that the current terms are compliant with the aims set out in schedule 8. There is no restriction on the use of the data, the passing through of an attribution statement is permitted within the OGL and is compliant with the Creative Comms Licence as outlined above.

Appeals Procedure

² The PSMA User Representatives Group represents the membership and has responsibility for making sure that the PSMA technically delivers and meets the needs of the membership, and where it doesn't work with suppliers to resolve any issues. The group is made up of members from across the public sector, who are elected by the membership.

³ The Geographic Information Customer Group (GICG) provides the senior level governance for the PSMA and is an advisory group to Ministers. It has been established with well-informed senior level individuals capable of representing the broad interests and activities of the public sector as a whole.

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original letter and should be sent to the Information Rights Unit at:

Information Rights Unit
Department for Business, Innovation & Skills
1 Victoria Street
London
SW1H 0ET
E-mail: xxx.xxxxxxxxx@xxx.xxx.xxx.xx

Please remember to quote the reference number above in any future communications.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

Yours sincerely,

Information Economy
Department for Business, Innovation & Skills