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# Summary of responses to the consultation on the transposition of EC INSPIRE Directive 2007/2/EC into UK law

June 2009



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The Scottish  
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Llywodraeth Cynulliad Cymru  
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**defra**  
Department for Environment  
Food and Rural Affairs

Department for Environment, Food and Rural Affairs  
Nobel House  
17 Smith Square  
London SW1P 3JR  
Telephone 020 7238 6000  
Website: [www.defra.gov.uk](http://www.defra.gov.uk)

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SW1P 2AL

Email: [inspire@defra.gsi.gov.uk](mailto:inspire@defra.gsi.gov.uk)

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## Table of Contents

<b>1</b>	<b>Executive summary</b> .....	<b>4</b>
<b>2</b>	<b>Introduction</b> .....	<b>5</b>
2.1	Background .....	5
2.2	Purpose of this document.....	5
<b>3</b>	<b>Consultation Process</b> .....	<b>5</b>
3.1	Consultation Activities .....	5
3.1.1	Consultation Document (CD) .....	5
3.1.2	Outreach Workshops .....	6
3.2	Analysis methodology .....	6
<b>4</b>	<b>Submission Analysis</b> .....	<b>7</b>
4.1	Overview .....	7
4.2	Origination of Responses .....	7
4.2.1	Location .....	7
4.2.2	Organisation Type .....	8
<b>5</b>	<b>Consultation Results</b> .....	<b>9</b>
5.1	Overview .....	9
5.2	Overview of questions and themes .....	12
5.3	Supporting evidence and comments .....	15
5.3.1	The definition of 'public authority' to be used .....	15
5.3.2	Question 2(a): The lowest level of government to which the Directive will apply.....	16
5.3.3	Question 2(b): Derogations on provision of Network Services.....	16
5.3.4	Question 2(c): Derogations on data access and sharing between public authorities .....	17
5.3.5	Question 3: Themes from additional comments.....	18
5.3.6	Question 3 - Theme 1: Concern over definition of 'public task' .....	18
5.3.7	Question 3 - Theme 2: Concern over the definition of 'spatial data' and 'spatial information' and which datasets and themes will be covered .	19
5.3.8	Question 3 - Theme 3: Clarity on charging .....	19
5.3.9	Question 3 - Theme 4: Minimum charging to maintain data quality, and a 'reasonable return on investment' .....	20
5.3.10	Question 4: impact assessment.....	20
5.4	INSPIRE implementation and related issues.....	21
5.4.1	Question 5 - Theme 1: Next steps, INSPIRE implementation and ongoing support .....	22
5.4.2	Question 5 - Theme 2: Governance of INSPIRE .....	22
5.4.3	Question 5 - Theme 3: Relationship between INSPIRE and other regulatory regimes .....	22
	<b>Appendix A - List of Organisations that submitted a response</b> .....	<b>24</b>
	<b>Appendix B - Consultation Questions</b> .....	<b>26</b>
	<b>Appendix C – Outreach Events</b> .....	<b>27</b>
<b>6</b>	<b>Introduction</b> .....	<b>27</b>
6.1	Background .....	27
6.2	Timetable .....	27
<b>7</b>	<b>Analysis</b> .....	<b>27</b>
7.1	Themes that emerged from these events:.....	27
	<b>Annex 1: Feedback for INSPIRE Outreach Events</b> .....	<b>29</b>
	<b>Annex 2 - Outreach Events, Participating Organisations</b> .....	<b>41</b>

# 1 Executive summary

In line with The Government Code of Practice on Consultation, Defra, in conjunction with the devolved administrations for Northern Ireland, Scotland and Wales, carried out a 12 week public consultation starting on 3 March 2009 into the transposition of the Infrastructure for Spatial Information in the European Community (INSPIRE) Directive 2007/2/EC. In tandem with the written consultation exercise Defra also held 5 'outreach' events in Belfast, Cardiff, Edinburgh, London and Manchester.

The consultation document and outreach events sought views on, among other things, the policy principles it proposed to adopt when drafting the Statutory Instrument (SI) to transpose the Directive into UK law.

In total, 243 organisations were consulted directly or indirectly; 46 written submissions were received and the 5 outreach event attracted nearly 200 delegates.

Analysis of responses from both activities show: -

- Broad consensus on the proposal to use in the SI the definition of 'public authority' already used in the Environmental Information Regulations<sup>1</sup>. This was agreed in the knowledge that the interpretation of public authority continues to be a matter of interpretation by the courts.
- Support for the proposal that the definition of public authority in the SI should not include parish/community councils. However the consultation has highlighted that there should be further clarification in the SI so as not to exclude these organisations from the data sharing benefits of INSPIRE.
- Broad agreement on the proposed derogations relating to data access and data sharing. The consultation has however highlighted the need for guidance to help providers and users.
- There is also a need for further guidance on a range of detailed issues including relevant 'spatial data' and 'datasets' and on 'public task'
- There is a need to develop a broad based assessment of actual costs and benefits to complement the provisional Impact Assessment
- Implementation and details of how it will happen and what it means to particular organisations remains a priority and there is a clear need for ongoing communication and guidance.

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<sup>1</sup> Environmental Information Regulations 2004 and Environmental Information (Scotland) Regulations 2004

## **2 Introduction**

### **2.1 Background**

The Government Code of Practice on Consultation recommends that a formal consultation should take place at a stage when there is scope to influence policy outcome.

The INSPIRE Directive<sup>2</sup> is to be transposed into UK law and Defra is working with the devolved administrations to prepare the necessary statutory instruments (SIs) to do this. The plan is to have one SI transposing the Directive in England, Wales, and Northern Ireland and the Scottish Government will prepare a complimentary SI.

As a precursor to finalising the drafting of the SIs Defra, in conjunction with the devolved administrations, undertook this public consultation and held 'outreach' events in each country to allow for wider discussion of the issues surrounding transposition and implementation. These activities took place between 3 March 2009 and 26 May 2009 and their outcomes will inform the drafting of both SIs.

### **2.2 Purpose of this document**

This document provides a summary of the responses received during the consultations, an outline of the method of analysis, and the themes that emerged. The results are presented along with emerging conclusions.

## **3 Consultation Process**

### **3.1 Consultation Activities**

Alongside a formal written consultation exercise Defra undertook a small number of outreach events to communicate the INSPIRE objectives to the wider community, and to clarify the nature of the transposition exercise.

Despite the differences of approach these two consultation exercises delivered broadly consistent messages on the policy issues underlying this transposition.

#### **3.1.1 Consultation Document (CD)**

The CD was sent to named stakeholders in England, Northern Ireland and Wales by Defra on 3 March 2009. On the same day it was made publicly

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<sup>2</sup> Further background on the Directive itself can be found in the consultation document, Consultation on the transposition of EC INSPIRE Directive 2007/2/EC into UK law <http://www.defra.gov.uk/corporate/consult/inspire/index.htm>

available on the Defra website. Shortly afterwards the Scottish Government sent the same information to its stakeholders.

The CD asked for views on specific proposals regarding the definition of 'public authorities' and legal limitations (derogations) for the publication and sharing data and services. Views were also sought on the draft Impact Assessment (IA) published at the same time. Respondents also had the opportunity to raise other issues relating to the transposition and, for example, to the subsequent implementation of the Directive.

The consultation ended on 26 May.

### **3.1.2 Outreach Workshops**

As part of the INSPIRE consultation exercise and broader communications on the UK Location Programme, Defra worked in partnership with AGI<sup>3</sup> to put on 5 'outreach' events. These took place between 28 April and 12 May 2009.

The transposition element of these outreach events followed a consistent format comprising a relatively high level briefing on the Government's general approach to transposing Directives and the issues raised by this particular transposition. Those attending were then broken up into groups to discuss issues and provide feedback. They were provided with a set of questions for those who wanted them but not constrained to stick to it if the group wished to discuss other issues. Their feedback was collated, summarised and represented to attendees at the end of each event. These results are provided separately as Appendix C.

## **3.2 Analysis methodology**

Although the consultation paper asked for views on certain aspects of the approach to implementing the Directive, the open nature of some questions allowed comment on any part of the document. This meant that the method of analysis was key to accurate and objective reporting of the results.

At the highest level, the submissions were categorised with regard to location, and with regard to organisation type.

All submissions were assessed individually, with the key comments on each being recorded against each of the questions to which it applied, along with the general position taken i.e. agreement with the approach being taken, or some degree of negative response (-1 to -4). The detail of the scale used is presented in Section 5. By doing the analysis in this way, it was possible to assess the degree of support for proposals, which questions aroused the greatest level of debate, and which questions had the most negative reaction.

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<sup>3</sup> Association of Geographic Information

In surveying and recording the responses for each question in this way, common 'themes' of concern emerged and these were used to categorise the responses. Analysis of the themes and the supporting evidence contained in the responses forms the heart of this report; it is this information that will be taken forward to determine and shape the drafting the SI.

A full list of those who responded is given in Appendix A

## **4 Submission Analysis**

### **4.1 Overview**

Forty six responses were received to the written consultation but in total, representatives from 243 bodies contributed to the written consultation and outreach events.

The nature of the responses to the CD varied significantly. Some submissions were brief, one page responses, with comments on only one or two aspects of the CD, others stretched to ten or more pages covering many aspects of the Directive, questioning how it will work in practice.

Copies of all responses are available in the Defra Information Resource Centre<sup>4</sup>

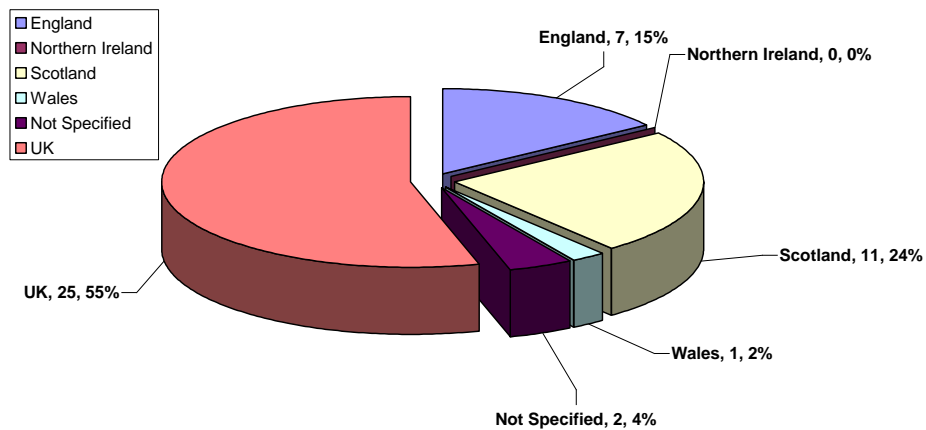
### **4.2 Origination of Responses**

#### **4.2.1 Location**

More than half, (56%) of the responses to the CD came from bodies representing the UK as a whole which is helpful in assessing the adoption of this UK-wide measure. Fig 4.2.1 below shows the breakdown of responses by location. The largest number of country specific responses came from Scotland; no responses were received from Northern Ireland. These responses did not highlight any national issues that would deflect from a consistent UK approach to transposition.

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<sup>4</sup> Information Resource Centre, Ergon House, c/o 17 Smith Square, London SW1P 3JR  
Tel: 020 7238 6575



**Figure 4.2.1 – Breakdown of Response by Location**

#### **4.2.2 Organisation Type**

Responses were also categorised by organisation type to understand the make-up of opinions and this is shown in Figure 4.2.2 below. There was a broad based response from different types of organisation but given that the intended SI will be particularly about the duty placed on public authorities, it is perhaps unsurprising that 20 of the 46 responses, (43%) came from local and central government.

An analysis of issues by organisation type is at Table 5.2(b) although given the relatively low number of responses it is difficult to assess the significance of these comments received to the organisation type as a whole.

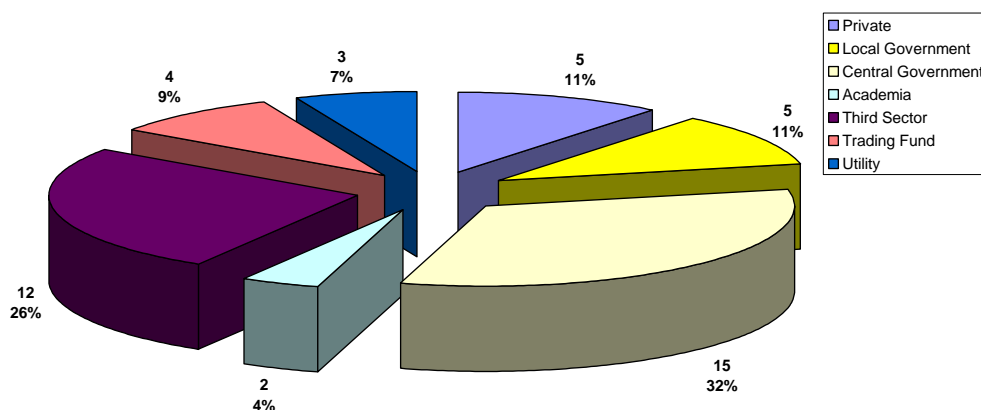


Figure 4.2.2 – Responses by organisation type

## 5 Consultation Results

### 5.1 Overview

The questions in the CD are summarised below and set out fully in Appendix B. The full context of these questions is provided by the consultation document.<sup>5</sup>

Summary of consultation questions

Views on-

- (1) The definition of 'public authority' to be used
- (2) Derogations on:
  - (a) The lowest level of government to which the Directive will apply
  - (b) Network Services
  - (c) Data access and sharing between public authorities
- (3) Any other issues about the transposition
- (4) The INSPIRE Impact Assessment
- (5) Any other comments on the consultation document

<sup>5</sup> <http://www.defra.gov.uk/corporate/consult/inspire/index.htm>

Table 5.1 gives the statements used to assess each response; each statement has a corresponding numeric value. The colours are used in the graphs 5.1(a), and 5.1(b).

Value	Description
-4	An emphatic concern that the approach for the SI or Impact Analysis has severe deficiencies, and is unacceptable
-3	A strong concern that the approach for the SI or Impact Analysis has deficiencies that may lead to great confusion, and/or will become unworkable
-2	An express concern that the approach for the SI or Impact Analysis has a deficiencies that may lead to considerable confusion, and/or could be mis-applied
-1	A concern that the approach for the SI or Impact Analysis requires clarification, and/or an addition to avoid confusion
0	Question raised on matter of implementation or similar; neither positive nor negative
1	General agreement

**Table 5.1 - Scale Descriptors**

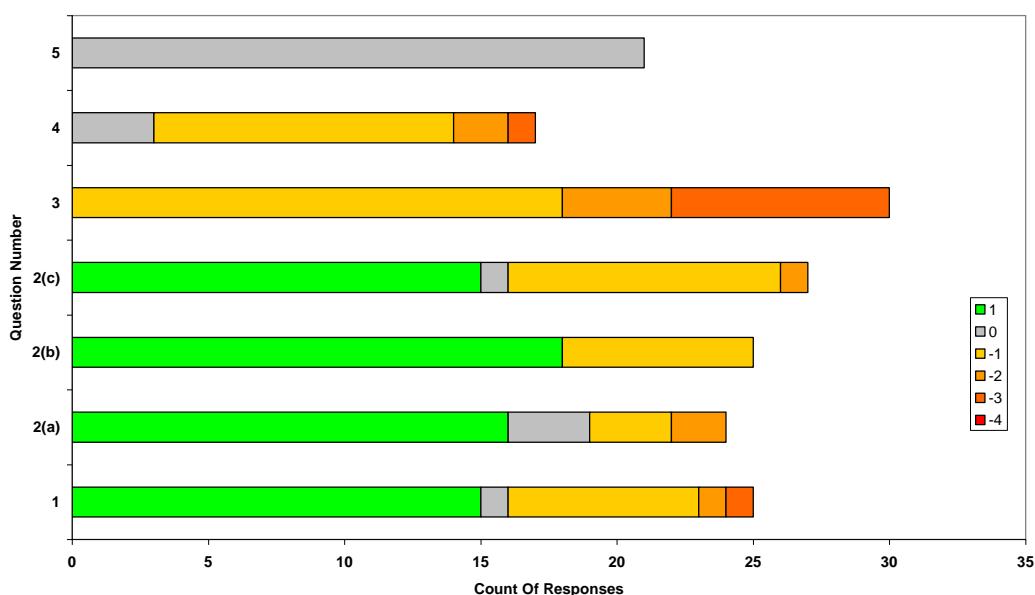
**Note: Analysis and categorisation of the responses.**

Respondents may have agreed with the principle set out in a particular question, but sought clarity on another aspect of the paragraph of the CD to which the question related. In these cases, the supplementary clarification was categorised under Questions 3 or 5 as appropriate i.e. the response spanned two questions; this was true in many cases.

For example, a respondent replying to Question 2(a) about the derogation applying to the 'lowest level of government may have agreed in principle that this should apply to parish/community councils, but also raised the issue that clarity was required on the definition of 'public task'. This additional dimension of the response was categorised under Question 3.

This approach ensured that responses to the original questions (the primary purpose of the consultation) were recorded, while making sure that other important comments and concerns were also captured.

The length of the bars in the graph (Figure 5.1(a)) show the level of response to each question; and the colours illustrate the degree of support or level of concern associated with each one.



**Figure 5.1 (a) – No. of Responses by consultation question**

There are generally more responses to the ‘open’ questions, 3 and 5, which allowed comment on any aspect of the proposed SI and implementation. Comments on Question 5 were categorised as ‘0’, as many of these were really requests for further information on implementation.

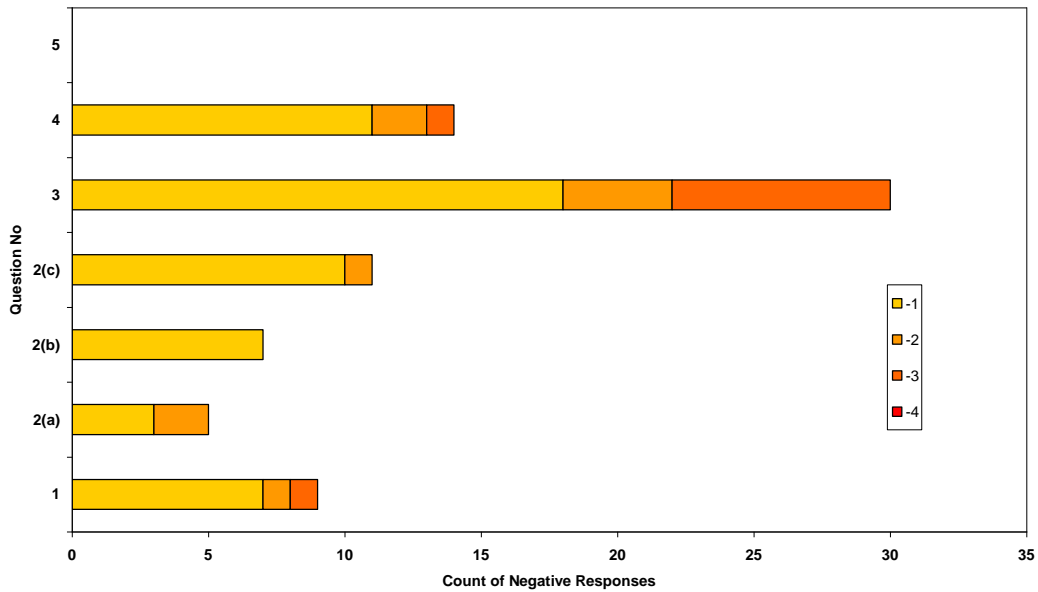
All of the specific questions about legal transposition (i.e. Questions 1, 2a, 2b and 2c) received support in principle of 50% or more. For comparative purposes negative responses have been charted separately in Figure 5.1(b), and illustrate particularly the level of responses in Question 3.

This graph clearly illustrates that: -

- There were no concerns with Question 2(b) the derogations on provision of Network Services<sup>6</sup>; and
- No proposals in the CD were unacceptable i.e. rated with -4 (Red)

The graph perhaps highlights the breadth of views on aspects of the Directive and perhaps points to a need to provide more guidance on its application in the UK.

<sup>6</sup> Those issues raised concerned practical implementation and not opposition to what was proposed



**Figure 5.1 (b) – Negative responses by consultation question**

## 5.2 Overview of questions and themes

Respondents to the CD and participants at the outreach events were broadly supportive of INSPIRE, and the approach being taken to drafting the SI.

However a common theme that cut across a number of issues was that in drafting the SI, Defra will make use of existing legislation on environmental information, freedom of information and exchange, access and release of this information. Respondents wished to know how definitions from existing legislation will impact and operate alongside the proposed SI.

Table 5.2(a) below shows the number of responses; percentage of responses and respondents to each question and theme that emerged from the consultation exercise.

The column showing ‘%age of respondents’ gives a clear indication of the level of interest in particular aspects of the consultation; it does not indicate the criticality of the issue; that is being dealt with by Defra as part of its further analysis of responses. Nevertheless, it clearly shows the level of interest in implementation (Question 5) with twenty nine comments from twenty one respondents.

Consultation Question	Theme No.	Themes Description	Concerns	Concerns as %age of responses	Concerns as %age of respondents
Question 1		The definition of 'public authority' to be used	9	7%	20%
Question 2a		The lowest level of government to which the Directive will apply	5	4%	11%
Question 2b		Derogations on provision of Network Services	7	6%	15%
Question 2c		Derogations on data access and sharing between public authorities	11	9%	24%
Question 3	1	Concern over definition of 'public task'	5	4%	11%
	2	Concern over the definition of 'spatial data' and 'spatial information' and which datasets and themes will be covered	19	15%	41%
	3	Clarity on charging	19	15%	41%
	4	Minimum charging to maintain data quality, and a 'reasonable return on investment'	7	6%	15%
Question 4		Impact assessment	14	11%	30%
Question 5	1	SI, INSPIRE implementation and ongoing support	10	8%	22%
	2	Governance of INSPIRE	9	7%	20%
	3	Responsibilities between governing bodies	10	8%	22%

**Table 5.2 (a) - Common themes from the consultation responses**

Table 5.2 (b) below, shows how the consultation questions and themes were grouped against organisation type. The analysis emphasises two things: -

- (1) There was across the board interest from most types of organisation about practical implementation, governance and responsibilities
- (2) Most comments about the impact assessment came from public authorities – i.e. central and local government.

Consultation Question	Theme No.	Theme Description	Organisation Type							Total
			Academia	Central Government	Local Government	Private	Third Sector	Trading Fund	Utility	
Question 1		The definition of 'public authority' to be used		6			2		1	9
Question 2a		The lowest level of government to which the Directive will apply		1	1		2	1		5
Question 2b		Derogations on provision of Network Services		2			4		1	7
Question 2c		Derogations on data access and sharing between public authorities	2	5	1		2		1	11
Question 3	1	Concern over definition of 'public task'		2			1	2		5
	2	Concern over the definition of 'spatial data' and 'spatial information' and which datasets and themes will be covered		8	2	1	5	2	1	19
	3	Clarity on charging	1	6	1	3	4	2	2	19
	4	Minimum charging to maintain data quality, and a 'reasonable return on investment'		1	1	1	4			7
Question 4		Impact assessment		7	3	1		2	1	14
Question 5	1	SI, INSPIRE implementation and ongoing support		5	3		1	1		10
	2	Governance of INSPIRE			2	2	4	1		9
	3	Responsibilities between governing bodies		3	3		2	1	1	10
<b>Total no. responses included in themes</b>			<b>3</b>	<b>46</b>	<b>17</b>	<b>8</b>	<b>31</b>	<b>12</b>	<b>8</b>	<b>125</b>
<b>Total no or organisations</b>			<b>2</b>	<b>15</b>	<b>5</b>	<b>5</b>	<b>12</b>	<b>4</b>	<b>3</b>	<b>46</b>

Table 5.2 (b) – Themes vs organisation type

## 5.3 Supporting evidence and comments

### 5.3.1 The definition of 'public authority' to be used

Fifteen (60 %) of those responding to this question supported the use of the Environment Information Regulations (EIR) definition of 'public authority'. Nine respondents had some concerns and only in two cases were these 'strong' or 'emphatic'.

The concern over the EIR definition of public authority was two-fold: (1) the role of NGOs and others (as holders of environmental information) in the EIR definition: and (2) that the EIR definition may be problematic in practice.

- (1) Specific requests were made for assurance that relevant data held by a range of bodies such as NGOs or the private sector on behalf of public authorities will be included in the SI, and that these organisations should be subject to INSPIRE compliance.
- (2) Some respondents wanted clarification on whether utilities and railways companies were within scope of the EIR definition of public authority. *In the response to the CD the Information Commissioner's office also noted the issue of utility companies in particular and pointed out that electricity companies did not fall within the definition of public authorities and that the Information Tribunal had ruled that Network Rail did not fall within the EIR definition either.*

One respondent argued in its response to the CD that Section 3(3) of the EIR should apply so that the regulations 'shall not apply to any public authority to the extent that it is acting in a judicial or legislative capacity'. This is consistent with Article 3.9 of the Directive which says: "Member States may provide that when bodies or institutions are acting in a judicial or legislative capacity, they are not to be regarded as a public authority for the purposes of this Directive".

#### **Conclusion:**

There was no support or suggestions for an alternative definition of public authority from that used in the EIR. This was echoed in the feedback from the outreach events. On this basis we propose to adopt the definitions in the EIR. There remains a concern that this definition is open to legal reinterpretation. This is particularly relevant to utility companies. However, in using this definition there is a need to ensure that good effective communication in place so that data producers and users are clear about current practices.

### **5.3.2 Question 2(a): The lowest level of government to which the Directive will apply**

Sixteen (66%) of those responding to the question supported in principle the proposed derogation limiting the application of the Directive to District Councils and above in England (and the equivalent in the rest of the UK). But three points of qualification emerged: -

- (1) Some respondents noted that while parish and town councils should rightfully be exempted from data collection and dissemination where there is no legal requirement, this exemption should not result in such bodies being excluded from having full access to INSPIRE services for the purposes of carrying out public tasks. This is particularly relevant in connection with data sharing.
- (2) Clarity is also required on whether “lowest level of government” extends to lower levels of other types of public authorities: and if so, what criteria should be used to define such a body.
- (3) It was also suggested that in relation to Annex 1, Paragraph 9(c)(i), there may be a conflict between data that bodies are ‘legally required’ to collect or disseminate, and what constitutes ‘falling in the scope of its public tasks’.

#### **Conclusion:**

There was relatively high acceptance of this proposal and conversely the low numbers voicing concern over the proposed way forward. This echoed the views expressed during the outreach events. However, in the light of comments made, Defra has looked again at the wording of Article 4.6 of the Directive: “By way of derogation from paragraph 1, this Directive shall cover spatial data sets held by or on behalf of a public authority operating at the lowest level of government within a Member State only if the Member State has laws or regulations requiring their collection or dissemination.” In the light of the potential advantage from data sharing for parish/community councils Defra recommends that these bodies are not excluded from INSPIRE in the way originally proposed. Instead, they would remain public bodies for the purposes of data sharing etc. but only fall in scope of INSPIRE data/services obligations where they also have legal obligations to collect or disseminate relevant data sets or services.

### **5.3.3 Question 2(b): Derogations on provision of Network Services**

There were no substantive comments received either as part of the written consultation or during the outreach events disagreeing with the proposal set out in Question 2(b), although it was argued that INSPIRE should be at least, if not more, liberal than EIR in area of public access. However seven

respondents expressed views about the way these derogations may be implemented:

These centred in particular on the possibility that restrictions on access to data may be inappropriately applied on grounds of confidentiality of commercial or industrial information; claims of intellectual property rights; or simply from attempts by organisations to minimise effort.

Clarification was also sought on whether the definition of 'confidentiality of personal data' extended to individual properties (and not only specific individuals, as appears to be implied).

### **Conclusion:**

The concerns over restrictions on access should be addressed through the proposed independent appeals process that will be put in place, supported by guidance from the Coordination Unit. This will be helped also, as the ICO has pointed out, by the fact that information available under INSPIRE will be subject to the narrower EIR exceptions rather than wider FOIA exemptions.

### **5.3.4 Question 2(c): Derogations on data access and sharing between public authorities**

Fifteen (56%) of the twenty eight respondents to Question 2(c) agreed in principle with the proposals set out in the consultation document. Of the eleven respondents who had any concerns, only one of these was an express concern. This question generated a range of different issues:

(1) Two responses pointed out that the proposal on data sharing set out in Annex 1, Paragraph 30 did not include limits on sharing personal data and that without such provision there is a risk that the SI may contravene European Data Protection Directive 95/46/EC.

(2) Clarification was also requested from respondents on derogations: -

- (a) Limiting data access on utility assets for purposes of national security
- (b) Limiting data sharing with regard to rare species:
- (c) Limiting access to research data: it was argued that derogations being proposed are inconsistent with the EIR derogations

(3) Concern was also raised on:

- (a) Possibility that data sharing derogations may be used inappropriately in an attempt by bodies to minimise effort
- (b) 'Confidential' information being shared among public authorities without express permission, and clear definition of what can be considered confidential: this is not clear in Re-use of Public Sector Information Regulations

- (c) Data releases from UK government departments must comply with the Statistics and Registration Services Act 2007, so the derogations should take account of this; and
- (d) Whether the derogations affect parish and town councils?

**Conclusion:**

The consultation has raised a wide range of issues. Item (1) will be taken forward in further discussions with respondents and most of the remainder in (2) and (3) can be expanded on in guidance in due course

**5.3.5 Question 3: Themes from additional comments**

Four main themes emerged from additional comments made in response to Question 3 or have been drawn together here from statements made in responses to other questions.

As shown in Graph 5.1(a), thirty respondents made comments or voiced concerns on other aspects of the proposed SI. Some of the responses covered several points so were allocated accordingly across several themes. Eighteen (60%) of these were rated ‘-1’ i.e. ‘A concern that the approach for the SI or Impact Analysis requires clarification’; of the others, four voiced an express concern, while eight indicated a strong concern.

These additional themes are discussed in the following sections.

**5.3.6 Question 3 - Theme 1: Concern over definition of 'public task'**

This theme emerged from five responses in connection with the application of INSPIRE to spatial data sets held by public authorities (CD Annex 1, Paragraph 9(c)(i)). In all cases respondents were seeking greater clarity in the use of this term.

**Conclusion:**

The Directive provides no definition public task and to define it in the SI would go beyond the minimum necessary for the purposes of transposition. A definition is contained in ‘The Re-use of Public Sector Information: A Guide to the Regulations and Best Practice<sup>7</sup>’ and the Coordination Unit may consider further guidance if this becomes necessary.

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<sup>7</sup> <http://www.opsi.gov.uk/advice/psi-regulations/advice-and-guidance/guide-to-psi-regulations-and-best-practice.doc>.

### **5.3.7 Question 3 - Theme 2: Concern over the definition of 'spatial data' and 'spatial information' and which datasets and themes will be covered**

This very broad theme draws together comments from nineteen respondents including concerns about the definition of spatial datasets and types and formats of data falling under INSPIRE.

- (1) Eleven respondents asked for clarification of the definition of 'spatial dataset', including extensively restructured datasets and whether for example protected sites would be included.
- (2) A respondent sought clarification of the status of derived data and another on whether only direct spatial data could be reported in a compliant format. Yet another sought clarification on overseas spatial data where the UK has jurisdictional rights (e.g. Falklands); and lastly, one asked whether the core reference geographies 'topographic mapping' also cover bathymetry? Finally, a respondent asked whether new spatial data products will be required to comply with INSPIRE data specifications; and if so should this be explicit in the SI
- (3) Clarification was sought on whether the Directive extends to cover information held in electronic format (e.g. PDF), or if it only relates to data held in databases; and another similarly asked whether since EIR does not require all information to be made available electronically confirmation that INSPIRE will not apply to such information.
- (4) Two respondents expressed the view that there were benefits to be gained from inclusion of datasets that are not legally required and the UK Environmental Observational Framework sought to quantify consequences of excluding such data, stating that, "we have identified that 80% of environmental observations are collected by the public sector, but of this potentially only 35% is required to be collected either through legal enforcement or other obligation"

### **Conclusion**

The consultation and outreach events have highlighted a need for further clarification of the terms used in the Directive. Defra is looking closely at all of these issues. Most are not matters for the SI since they would involve adding to the Directive and so go beyond minimal transposition. These are matters for further guidance, and education rather than for the SI

### **5.3.8 Question 3 - Theme 3: Clarity on charging**

Nineteen responses (the majority of which were not public or local authorities) raised issues concerning public authority charging for view services.

- (1) Twelve respondents sought guidance on charging mechanisms and control, including charges levied when passing on data, and for commercial purposes;

- (2) Five wanted clarity on for example Intellectual Property Rights (IPR) on datasets provided for example by Ordnance Survey.
- (3) Two asked for clarification on charging for very large volumes of frequently used data.
- (4) The Met Office said that some of their datasets are so large that it will be impractical for them to be made available as a view service, as they will be cost prohibitive.
- (5) One said the price of data should not be barrier to public engagement in planning, land use and wider environmental decisions

**Conclusion:**

INSPIRE will operate within the existing Government charging framework. If necessary, additional guidance will be produced to ensure that producers and users set it in that context.

**5.3.9 Question 3 - Theme 4: Minimum charging to maintain data quality, and a ‘reasonable return on investment’**

Seven respondents raised points about Annex 1, Paragraph 29 linked to the concept of ‘reasonable return on investment’ and also ‘minimum’ charges. Respondents were concerned that both terms are open to interpretation. Linked to this was a request for the ownership and cost of data supporting spatial planning to be reviewed.

**Conclusion:**

INSPIRE will operate within the existing Government charging framework and if necessary additional guidance will be produced to ensure that producers and users set it in that context.

**5.3.10 Question 4: impact assessment**

Less than a third (30%) of respondents – fourteen out of forty six – made comment on the impact assessment. Most of those who did were concerned about the cost to implement INSPIRE. A theme also identified in the outreach events. However, many of these responses were general in nature, stating a belief, rather than providing hard evidence of assessment. It was recognised also that there is not sufficient detail at present to provide accurate cost estimates for implementation.

General concerns were:

- (1) Belief that private sector organisations that will be in scope for INSPIRE have not been included in cost assessment
- (2) Given that implementation plans exist only at high-level, it is probable that costs may be inaccurate
- (3) Disagreement that “the underpinning infrastructure for INSPIRE can be accommodated within current planned expenditure”;

- (4) Investment in new skills and resources to achieve compliance will be expensive; concern that these have not been included in impact assessment
- (5) The Impact Assessment appears to take no account of increased ongoing costs that may be incurred after data transition i.e. the new data standards will mean new requirements
- (6) Concern that costs may spiral to exceed benefits
- (7) How will the free services that are to be provided be funded
- (8) Concern that local authorities will regard INSPIRE as an unnecessary burden from which they derive no benefits but which imposes costs;

Specific concerns raised were as follows:

- (6) The Information Commissioner noted that additional burdens may be placed on the ICO and that these costs should be taken into account in any future impact assessments
- (7) The Met Office believes that as its role is primarily that of data production, it may bear substantial costs that have not been incorporated into the impact assessment. It estimates that ongoing costs could be in the region on £2 – 4M.

### **Conclusion:**

Although the Impact Assessment raised a considerable number of concerns over costs, these mostly reflected the unknown nature of INSPIRE implementation for most organisations, and reflects the fact that the INSPIRE programme is at the early stage of scoping. Respondents will welcome more accurate cost assessments as detailed requirements emerge in time. Defra will continue to engage with stakeholders on this issue and will bring forward proposals to monitor the costs and benefits of implementation over time.

## **5.4 INSPIRE implementation and related issues**

For many respondents, the consultation document and outreach events were an opportunity to raise concerns around INSPIRE implementation and deployment in addition to issues about the proposed SI and policy principles. At the outreach events there was a significant amount of the feedback from the breakout groups related to implementation. Together these highlight the level of uncertainty over implementation that exists within organisations.

The twenty nine issues raised by twenty one organisations responding on this topic have been grouped into three broad themes. Less than half of the organisations commenting on question 5 came from central or local government. For completeness all comments have been listed, but not prioritised. Issues raised during the outreach events are at Appendix C.

#### **5.4.1 Question 5 - Theme 1: Next steps, INSPIRE implementation and ongoing support**

- (1) Will proposed amendments to the SI be subject to a similar consultation process?
- (2) Will there be a web portal?
- (3) Which services will be subject to the Directive?
- (4) Does the metadata registration service that the coordination unit will operate include the provision of unique identifiers for data sets?
- (5) Guidance required to assess if existing systems will require upgrading or modification to be INSPIRE compliant, and to ensure that any IT investment will be future proof
- (6) Many public authorities use licensed data, with restrictions on making this available via a portal; how will this be negotiated to make sure that INSPIRE requirements are met?
- (7) How will charges and royalties be collected efficiently to ensure that these are not a barrier to access?
- (8) Recognition should be given to the fact that multiple languages will be used to access data
- (9) Will new spatial data products be required to comply with INSPIRE specifications

#### **5.4.2 Question 5 - Theme 2: Governance of INSPIRE**

- (10) Will there be central conformance testing as part of a governance function? What happens if an organisation does not comply with INSPIRE specifications? Will the coordination unit have the ability to sanction public authorities for non-compliance?
- (11) Given that Scotland will have its own SI, and own spatial data infrastructure, how will this be coordinated with agencies that have UK wide responsibilities? (e.g. for marine data)
- (12) Can central government provide a standardised toolkit to harmonise the approach for local government, and to mitigate the possibility that many such organisations will not have the necessary technical ability.
- (13) Will the coordination unit provide support for commercial users?
- (14) Will the coordination unit publish a list of data sets to be published/disseminated by public bodies under the EIR definition

#### **5.4.3 Question 5 - Theme 3: Relationship between INSPIRE and other regulatory regimes**

- (15) Will central government organisations be mandated to collate referenced versions of themes? : at present, data comes from many sources
- (16) How will the Information Commissioner, OPSI, Location Council and environmental data collectors and funders work together to achieve the overall goals of INSPIRE? In particular, what will be the role of the ICO?

- (17) Guidance is required for public authorities and members of the public to explain the interaction between FOIA, EIR and INSPIRE permitted exemptions, and the appropriate appeal routes for data access. Clarity required on whether ICO will be responsible for regulating aspects of INSPIRE or if this will fall to UKSDI Coordination unit; this is ambiguous in the consultation document.
- (18) Will existing standards be adopted: World Meteorological Organisation standards for data and service exchange, BS7666-2006, Geosci.xml
- (19) Can Defra request that the regulators, e.g. OFWAT and OFGEM, take into account any extra costs related to INSPIRE when undertaking the industry price reviews
- (20) Concern over overlap between INSPIRE and UK-EOF, and where there may be differences in scope e.g. recommendations on data policy

## **Conclusion**

The comment and issues here did not reflect any degree of negativity about the implementation of INSPIRE, something that chimes well with the outcome of the outreach events. But what is important is the identified need for continuing education, awareness and support on INSPIRE through the Location Programme. All of these comments will be passed to the implementation team to inform the development of the programme and future guidance by the Co-ordination Unit.

## Appendix A - List of Organisations that submitted a response

Organisation
Advisory Panel on Public Sector Information
AEA
Archaeology Scotland
Association of Local Government Archaeological Officers
Association for Geographical Information
British Geological Survey
Campaign to Protect Rural England
Department for Communities & Local Government
Dumfries and Galloway Council
Economic and Social Research Council
Environment Agency
Historic Scotland
Improvement and Development Agency/LGA
Information Commissioner's Office
Institute for Archaeologists
Institute of Historic Building Conservation.
Joint Information Systems Committee
Joint Nature Conservation Committee
Land Registry
Marine Environmental Data & Information Network
Met Office
Ministry of Justice
MRS Census and Geodemographics Group
National Federation of Fishermen's Organisations
Natural England
NHS National Services Scotland
North Norfolk District Council
Open Rights Group
Ordnance Survey
Private Individual
Royal Commission on the Ancient and Historical Monuments of Scotland
Royal Mail
Royal Town Planning Institute
Rural and Environment Research & Analysis Directorate
Scottish Environment Protection Agency
Scottish Natural Heritage
Scottish Water
The Archaeology Forum

The Locus Association
The Market Research Society
The National Archives
Transport Scotland
UK Environmental Observation Framework
United Utilities Group PLC
Water UK
Welsh Local Government Association

## Appendix B - Consultation Questions<sup>8</sup>

### Transposition

(1) Annex 1 Paragraph 2. We propose on grounds of consistency to adopt the definitions of 'public authority' already used in the Environmental Information Regulations (EIR) and Environmental Information (Scotland) Regulations (EIR(Scotland)), rather than the definition in the INSPIRE Directive. We would welcome your views.

#### (2) Derogations

(a) Annex 1 Paragraph 9(c)(i) concerns the limit we propose to put on the application of INSPIRE to local authorities. The Directive generally applies to public authorities but by way of derogation<sup>10</sup> covers the lowest level of government only if there are national laws or regulations requiring the collection of spatial data sets. We intend to limit the scope of this SIs so that they apply only to District Councils or above in England and their equivalents in Northern Ireland, Scotland and Wales; and then only in circumstances in which such local authorities are legally required to collect or disseminate spatial data sets. We would welcome your views.

(b) Annex 1 Paragraph 25 sets out the derogations on the provision of Network Services. For example, public access to spatial data sets and discovery services may be limited where this would adversely affect international relations, public security or national defence. The Directive proposes wider limitations for public access to spatial data sets and view, download, transformation services and services allowing spatial data services to be invoked which are also set out in paragraph 25. We propose to adopt these when drafting the SIs and would welcome your views.

(c) Annex 1 Paragraph 29 sets out the derogations on data access and sharing between public authorities when this would compromise the course of justice, public security, national defence or international relations. We propose to adopt these when drafting the SIs and would welcome your views.

(3) We would like to hear from you if you have any other issues about the way we propose to transpose this Directive or the content of the SIs

### Impact Assessment

(4) We would welcome from you detailed information about the costs and benefits of INSPIRE and in particular how information about costs and benefits might be collected following transposition.

### Other Issues

(5) Are there any other matters in this Consultation Document on which you would like to comment?

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<sup>8</sup> <http://www.defra.gov.uk/corporate/consult/inspire/index.htm>

## Appendix C – Outreach Events

### 6 Introduction

#### 6.1 Background

As part of the INSPIRE consultation exercise and broader communications on the UK Location Programme, Defra worked in partnership with AGI to put on a series of ‘outreach’ events. These events aimed to: explain to participants the principles and practical issues associated with transposition of EC Directives into UK law; provide details on the consultation questions and through a group work exercise give those attending the opportunity to discuss these questions.

#### 6.2 Timetable

Presentations took place in the following locations at which 192 delegates representing 107 public and private sector organisations attended :

Date	Location
28 April	Belfast
30 April	London
06 May	Edinburgh
07 May	Manchester
12 May	Cardiff

The results of the group sessions were collated and fed back during the afternoon plenary session. This (combined) feedback from all these locations is provided in Annex 1.

Annex 2 contains a list of all the organisations that participated

### 7 Analysis


#### 7.1 Themes that emerged from these events:


- There is qualified support for basing the definition of ‘public authorities’ around that used in the Environmental Information Regulations (EIR) 2004 but there were concerns voiced at each event over some of the more detailed aspects of interpretation. Notably, whether ‘utilities’ were included or not within this definition.
- At Cardiff, two groups both challenged the exclusion of parish/community councils and this will be looked at again.
- The derogations attracted considerable debate judging by the amount of feedback it created. There was qualified support for the derogations being proposed but the devil is in the detail and this is one of those areas where supporting guidance is likely to help. There was clearly some concern that interpretation of these limits should be exposed to a public interest test and also that data suppliers may exploit these limits to withhold their data.

- There were a wide range of issues raised under the 'other transposition' question although generally these are about implementation rather than transposition.
- The question on the Impact Assessment generated an amount of scepticism over the calculation of costs and benefits. However, in discussion it appears that few of those attending had at that point had the opportunity of reading the full document.

# Annex 1: Feedback for INSPIRE Outreach Events

## Belfast

Public authorities	
	
No/Yes	Comments
Yes	"EIR provides familiar definition of a public authority, not aware of any other legislation where this is defined
BUT	Concerned whether 'utilities' and 'public advisory bodies' are within scope of the definition
BUT	Concerned about ownership of themes by for example utilities, contractors, voluntary sector, data mining companies

Derogations	
	
No/Yes	Comments
Yes	
BUT	<p>Concern that organisations could use 'public security' or IPR as a get out clause.</p> <p>There is other environmental legislation e.g. EPRTR (IPPC Directive) that has very tight definitions on public security that would be hard to get out of.</p> <p>All network services – issue taken with the drafting of the 'crib sheet description – e.g. Rather than 'limit' access turn into provide access ... not adversely affect ...</p>
	<p>On data sharing, clarification of links with FoI, DPA and EIR</p> <p>How does this affect commercial interests?</p> <p>What about cross border sharing of information?</p>

## Other Transposition Issues



Theme	Comments
Cost	Implementation Supply
Standardisation	

## Impact Assessment



Issue	Comments
No detail	What are savings based on? Lack of duplication? What are NI cost breakdowns? Reducing Headcount?
	UK? Business Areas? Accountability for Infraction Costs?
More detail	Use Geohub NI

## London

Public authorities	
	Public utilities are a special case – Current legal case about sewers
	Undersea assets - issue where commercially owned (pipelines)
	Crown Estate
	Are commercial/quasi commercial organisations delivering data/services on behalf of public authorities covered?
Yes	District Council level fine – control of datasets
No	Definition of Public Authority requires clarification e.g. RSPB, Royal Mail , Academia, Network Rail
No	What about services fronted by Public Authorities – using services / data provided by non Public Authorities

Derogations 1	
Yes	9Network Services) subject to other caveats in document
Yes	(Data sharing) provided existing commercial arrangements are respected
Yes	Generally – how do we constrain abuse of these opt-outs and non conformity e.g National Security
Yes (in principle)	Presentation in crib sheet is confusing vis a vis 'all' and 'most' Network Services. More clarity on the rules for view service, how / when freely available.
	The exclusions (derogations A-G seem sensible for most net work services
	Data sharing needs a similar list

Other Transposition Issues	
Theme	Responsibility if new datasets made accessible (covered by Metadata)
	Limits of “on behalf of a Public Authority” with respect to original datasets
	Can INSPIRE catalyse a better collection regime for Private Sector data
	Who is responsible for Policing – overall responsibility for conformance
	Concern over data specs
	Implications of currency of data

## Impact Assessment




Issue	Comments
Cost / Benefit analysis underestimated	
Who will get the benefits	
Those that had read were dubious about the figures, what method was used to derive the figures, what was the evidence.	Most not read


## Other Issues



Issue	Comments
Demonstrator on how this will work – small LA	
Give us ideas of the issues involved and the costs / benefits – funded by Defra	
How you define compliance	

## Edinburgh

Public authorities	
	
No/Yes	Comments
(Yes)	Some concerns about width/lack of precision of definition FOI and EIR already transposed – just reference those?
Yes	Concern over extensions to FOI re definition of PA - impacts on compliance to INSPIRE
Yes	Definition comprehensive
???	Information required on coverage of Scottish Water, PPPs, Fisheries Board, Universities (Scottish and UK, Churches (Commissioned with public money), Utilities e.g. Scottish Southern Energy Will the exact EIR terms apply? If not clarification ...
No	Difficulties why organisations that are outside government, like trusts and utilities. Should be data within the public interest

Derogations	
	
No/Yes	Comments
(Yes)	Is there a specific derogation where legislation prevents sharing What does compliance mean If it's too difficult or expensive to comply – is this a derogation issue Will there be a published list of data
Yes	Will there be equal access for all – how would access be restricted? Are the derogations public interest tested. How will errors in data and metadata be reported and corrected Granularity of data must be appropriate to sensitivity of data Limit data sharing where this would compromise ability to respond to competitive tender

Derogations	
	
No/Yes	Comments
Yes	Does IPR cover derived data? Deliberate omission of FOI costs for providing data
Yes	MoD might have issues

## Other Transposition Issues



Theme	Comments
Involvement of Devolved Administrations	How are implementation rules decided – what is Scotland's role
Data management	Currency, quality, updates, ongoing maintenance, access costs
Outputs	Who are end users; what's cost of delivering data sets
Fit for purpose	Who defines?
Coordination	Who owns, manages, leads INSPIRE in terms of supplying/consolidating data
Data sharing	Can this be improved within Scotland

## Other Transposition Issues



Theme	Comments
Data aggregation	In line with data sharing and will bring together best quality data sets and offer rich data and greater value
Misuse of data	What gets done with data on publication/access
Citizen centric issues	e.g. Identity theft
DPA	How does this fit with Data Protection Act
Clarity	Need/obligation to use original sources of data Is INSPIRE about all data sets or just polygons/points/lines

## Impact Assessment




Issue	Comments
	Not clear where these (costs and benefits) derive from
	Need IRs first to understand obligations, benefits
	Are benefits estimated on the same timescale as costs?
	Impacts are unknown. There will be advantages in data being available both as a provider and recipient


## Other Issues




Issue	Comments
This is too high a level for us	
Will AGI have a role?	

## Manchester

Public authorities	
	
No/Yes	Comments
No	Ambiguity - for utilities: gas, electric, water; -- fuel, major pipelines, telecoms; - civil contingencies  Border with Scotland must be seamless
Yes	
Yes	Parish councils: -Should be encouraged but not legally mandated; -- can share data work with paper maps; share electronically?  Onus on District Council's to provide a service, but there is an obligation

Derogations 1	
	
No/Yes	Comments
No	c) Commercial advantage – compromises revenue stream; charging mechanism lost  d) Definition of IPR different across EU
???	We worry that broad derogations limit the public good  UK's position limits re-use
Yes	Network services very comprehensive, quite broad  Depends on each individual case though  Metadata vs spatial data. Aggregated data provided by law  How can you appeal? Once organisation selects a reason, what happens then?  Conflicts of interest? Where is guidance to when you apply. Opt out rather than opt in

Derogations 2	
	
No/Yes	Comments
	IPR Major issue, but this has been sorted out
	Data sharing, no issues
	Public Security, needs more definition e.g. surveillance cameras
	Say yes unless there is a good reason to say no Need for use case scenarios
	Who is going to audit. Who is going to monitor

## Other Transposition Issues



Theme	Comments
OS	Most data derived from OS – will limit effectiveness of INSPIRE
Governance	Governance and arbitration – conflicts between government departments
Metadata	Current vs historic
Sanctions	What sanctions
Implementation	Who manages the allocation of classes to public bodies

## Impact Assessment




Issue	Comments
Scope	Should be definite. Provide some kind of feedback loop What is assumed, are utilities included, particularly the costs of metadata?
	Too many decisions left to understand the costs
Currency	Review in light of trading fund analysis


## Other Issues




Issue	Comments
Costs	Guidance on whether you can charge
Implementation	How is the infrastructure going to be put in place

## Cardiff

Public authorities	
	
No/Yes	Comments
(Yes)	Should this include utilities/trading funds – we think so How should their sale/change of status be dealt with in future?
	Voluntary/Third Sector – included or not? Industrial information? Trading Funds?
	Community/Parish Councils – remove the obligation also removes the benefit of data sharing
	Clarity – does it cover e.g. Housing associations, Post Office (esp PAF) and National Trust
	If naming included – national parks should be included; why 'local transport' not just transport
	What is the basis of not using the PA definition in INSPIRE

Derogations	
	
No/Yes	Comments
Yes - but	Should not be an excuse to stay out; metadata (should provide clarity of ownership) /data should be made available where possible. Specify who can access data. Should deal with aggregated sanitised data sets
	Royal Mail – IPR on addresses. Why should there be a cost attached to providing such data under INSPIRE
	Need a statement of direction on a licencing charging model for sharing primary and derived information across public and private bodies
	Charging should be explicitly addressed
	More specific; too broad e.g. Environment, more clarity

Derogations	
	
No/Yes	Comments
	Network services – difference between confidentiality and copyright. What does point (f) mean?
	Data sharing – presumption that data should be shared between Pas Provision of desensitised data Is there a conflict between existing legislation (confidentiality) and contracts?

## Other Transposition Issues



Theme	Comments
Utilities/Trading Funds	
Commercial Third Sector	Could be a good business case for them to prioritise acting
Data Sharing Licence	Simple licensing required
Non-government bodies	Restricted access to OS data
OS	No effective regulation of OS national mapping agency
Cross border data sharing	Protected/made easier

## Other Transposition Issues



Theme	Comments
UKLS	Scotland vs England/Wales
Charging	Should this be included within the consultation process?

## Impact Assessment



Issue	Comments
Have the benefits been researched/articulated	
Difficulties for justifying workload/money	
Aspirations of INSPIRE	Costs e.g. egov: funds for England, none for Wales – needs parity
Yes – we hope it will deliver its full potential	
Insufficient information provided	
Who is taking the big costs?	

## Other Issues



Issue	Comments
Must allow for innovation	What about the future?
Consider Fol/PSI/European Funding	
Agenda for Review/Regulation/Ombudsman	
Location Council – Appeal Process; Review of members	
Ramp up Communications	Regular updates, events, website, emails
Leadership/coordination from national Assembly	
IPR again	Crown copyright & OS
INSPIRE to inspire economic development	

## Other Issues



Issue	Comments
New technologies to help develop public sharing of spatial data	
Concerns over costs and how it feeds down	

## **Annex 2 - Outreach Events, Participating Organisations**

### **Organisation**

1Spatial x4  
Aberdeenshire Council  
Aligned Assets Ltd  
Arup  
Autodesk  
Belfast City Council x2  
Black & Veatch Ltd  
BODC  
British Geological Survey x 4  
British Waterways x2  
BT x 2  
Cadcorp x3  
Caerphilly CBC x2  
Cambridgeshire CC  
Cardiff City Council  
Centre for Ecology & Hydrology  
Ceredigion CC x2  
Colchester Borough Council  
ConsultingWhere Ltd  
Countryside  
Countryside Council for Wales  
Crown Estate  
Data Advance  
Defence Geographic Centre  
Derbyshire CC  
DFT  
Discovery Programme  
Dotted Eyes Ltd x6  
Dudley MB Council  
Dundee City Council  
Durham County Council  
EDINA x 2  
Edinburgh City Council x 2  
Environment Agency Wales x2  
Environment Agency x4  
Environment Systems  
Envitia Ltd x 4  
eSpatial Solutions Ltd  
ESRI (UK) x 4  
EuroGeographics  
Flintshire CC x2  
Forestry Commission x2  
Forth Valley GIS

GGP Systems  
Glasgow City Council  
Halcrow Group Ltd  
Historic Scotland  
Huntingdonshire DC x2  
Indicium UK Ltd  
Informed Solutions  
Infotech Enterprises Europe Ltd  
Innogistic  
Intelligent Addressing x2  
Intergraph UK Ltd x2  
IPL Information Processing Limited  
Know Edge Ltd  
Land & Property Services x3  
Local Gov. Information House  
Local Government Association  
Local Government Data Unit  
MacDonald Dettwiler & Ass  
Manchester Geomatics  
Marine Biological Ass  
MEDIN  
Medway Council  
Metropolitan Police x2  
Modern Maps  
Mouchel  
Natural England  
Newcastle under Lyme BC x2  
NIEA x3  
NISRA x2  
North Norfolk DC  
Nottinghamshire CC  
Open Spaces Ltd x3  
Ordnance Survey x 11  
Postcode Anywhere (Europe) Ltd  
Powys County Council  
Preston City Council x2  
RCAHMS x6  
Registers of Scotland x 4  
Rivers Agency(DARDNI) x2  
Rob Walker Consultancy  
Royal Borough of Windsor & Maidenhead  
Royal Mail x2  
RSW Geomatics  
Scottish Boundary Commissions  
Scottish Government x3  
Scottish Natural Heritage x3  
SeaZone x 3  
SEPA x3  
Siemens IT Solutions and Services  
Snowflake Software x3

Sopra Group  
South West Water  
Southwark Council  
St Helens MBC  
Stockport Council x2  
Transport Scotland  
UK Hydrographic Office x 2  
United Utilities  
University of Glamorgan x2  
Wales.info  
Welsh Assembly Government – Cartographics  
x2  
Welsh Assembly Government x5  
West Midlands Cancer Intelligence Unit  
WRc