



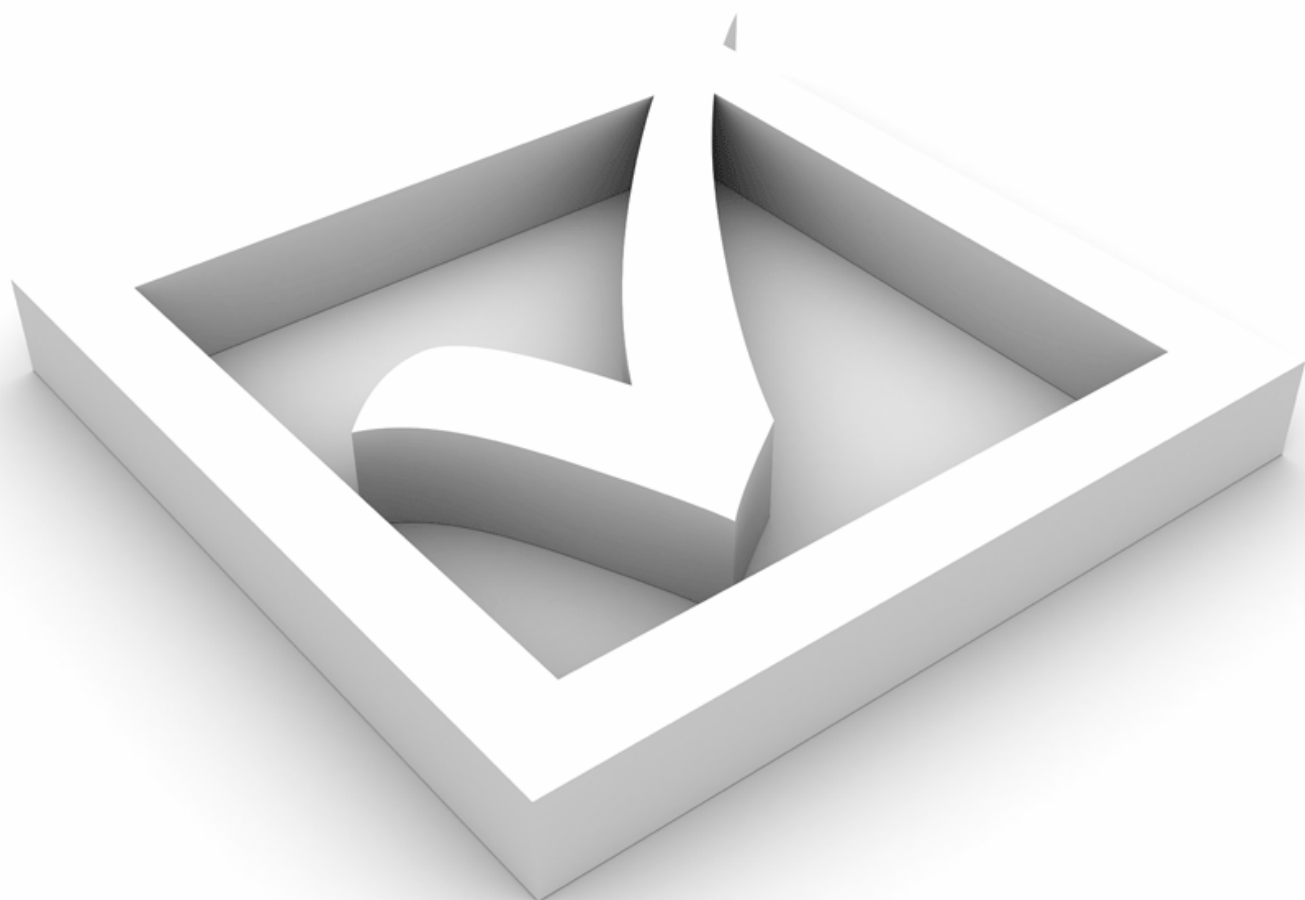
OPSI

Office of Public Sector Information

Information Fair Trader Scheme Report

Driving Standards Agency

February 2009



<u>PART ONE: INTRODUCTION</u>	<u>3</u>
<u>PART TWO: KEY CHANGES</u>	<u>5</u>
<u>PART FOUR: PROGRESS</u>	<u>9</u>
<u>APPENDIX 1: SUMMARY OF RECOMMENDED ACTIONS</u>	<u>11</u>
<u>APPENDIX 2: LICENCE REVIEW</u>	<u>12</u>
<u>APPENDIX 3: IFTS WEBSITE ASSESSMENT</u>	<u>16</u>

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PART ONE: INTRODUCTION

Information Fair Trader Scheme

1. The Information Fair Trader Scheme (IFTS) is the best practice model for the public sector to demonstrate compliance with the Re-use of Public Sector Information Regulations 2005. IFTS ensures that re-users of public sector information can be confident that they will be treated reasonably and fairly by public sector information providers.
2. IFTS is also the mechanism by which the Controller of HMSO regulates those Crown bodies with a delegation to administer their own licensing. All such bodies with a delegation must remain accredited to the Scheme. The Driving Standards Agency (DSA) has such a delegation.

First verification

3. DSA was first verified in April 2004 and then re-verified in May 2006.

Re-verification

4. Re-verification is important as organisations change and staff move on. It is also an opportunity for OPSI to ensure that the recommendations of the last verification have been fully implemented. The recommendations made after the May 2006 visit and DSA's progress in meeting them can be found in part four of this report.
5. The frequency of re-verification is based on several risk factors. These include the complexity of the system that is in place to licence public sector information, how critical the information is to the body in question, the standard of compliance with recommendations from the previous verification, and the degree of policy change that is envisaged. DSA is assessed as being low risk.

Licensing Activity at DSA

6. DSA is one of the Executive Agencies that forms the Safety, Service Delivery and Logistics Group within the Department for Transport. It has been a Trading Fund since 1 April 1997 with a turnover of £168 million per year as of 2007/08 funded mostly through fees and revenue from other road safety initiatives. Royalties from sales of publications, classed as a non-statutory commercial activity, account for about £2.2 million per year, with publication licences accruing £412,000 annually.
7. Crown copyright licensing takes place from the Intellectual Property Department, part of the Learning Materials Department, which in turn is part of the Driver Education and Learning directorate. It offers 8 types of licence agreement. 4 are fee-free as they are not for commercial gain – educational, British Sign Language, Research, and Memoranda of Understanding. 2 incur a fixed one-off fee – translation and Approved Driving Instructor (ADI). It also has a pre-paid Crown copyright licence for which there are no current licensees. Finally, the most popular of the licences is the royalty-based Crown copyright

licence which allows the re-use of the driving Theory Test question banks. Separately, fees are charged for the provision of the question banks (of which there are 5) on CD ROM in file formats which allow on-screen electronic re-use or high resolution printing. In addition to the Theory Test question banks, Crown copyright licensees can also purchase a maximum of 16 simulated Hazard Perception Test (HPT) video clips. These licensed clips will not be used in the live test but are provided for licensees to include within their products.

8. The section responsible for publications has a memorandum of understanding with the Intellectual Property Department on the same basis as a Crown copyright licence to receive question bank material. This includes delivery of the material and observation of embargo dates. It then creates products in conjunction with its “strategic partner”, the Stationery Office (TSO). Royalties that the question bank content within these products generates are paid to the Intellectual Property Department.

Overall Assessment

9. As detailed in part four of this report, DSA has made progress against the recommendations that were made at the last verification.
10. In this report we:
 - Note the positive impact that recent appointees have had on the efficient administration of Crown copyright
 - Endorse the protocols that are observed in separating the licensing and publishing functions
 - Suggest that differential royalty rates for electronic/hard copy material be reviewed
 - Recommend that the output from the recent asset review that was conducted to support information assurance be utilised to re-visit the DSA’s public-facing Information Asset Register (IAR)
 - Comment positively about the educational and technological innovations that the Agency is involved in
11. Based on the team’s assessment, DSA is re-accredited to IFTS and should be re-verified in 3-4 years.

PART TWO: KEY CHANGES

12. DSA has produced a Crown copyright action plan since our last visit, setting out its response to key recommendations in the Office of Fair Trading's (OFT) Commercial Use of Public Information (CUPI) report, making a commitment to expand the re-use of its information by observing stringent deadlines for dealing with requests and increasing both the number and variety of licensees. At the same time, the Agency vowed to maintain equity in the supply of material to its publishing arm and third party publishers. We have found while reviewing documents and conducting interviews that the proposals set out in the plan have been adhered to.
13. Policy questions relating to copyright and re-use are overseen by the Head of Learning Materials who has been in post for some time. Day-to-day licensing is led by the Intellectual Property Manager, assisted by the Copyright Administrator. Both of these individuals are relatively recent appointees, but they have quickly acquainted themselves with the Agency's licensing procedures and have maintained high standards, making improvements in some areas. In the case of the Intellectual Property Manager, their legal background has reduced reliance on the Agency's external legal advisers.
14. The Chief Executive of the organisation has renewed her commitment to IFTS and has confidence in those staff with delegated responsibility for information trading, supporting protocols which separate publishing from licensing. Strategically, publishing contracts are occasionally discussed at board level, while the chief executive could recall only one instance of a potential complaint relating to licensing being brought to her attention. The organisational priority at the moment is gauging the impact of the recession on the activities of the Agency and monitoring the impact of changes like the introduction of Criminal Records Bureau (CRB) checks on driving instructors.
15. There is now no separate commercially-focused directorate, the publishing arm coming under Driver Education and Learning. This perhaps underscores how central educational imperatives are to the overall aims of the Agency.
16. DSA is not part of the first phase of the Trading Funds Assessment.

PART THREE: HIGHLIGHTS AND AREAS FOR IMPROVEMENT

Openness

17. DSA takes a positive approach to re-use, seeing the dissemination of its material as key to fulfilling its core driver education remit. It regards licensing of its material to third parties as part of the goal of reaching as wide an audience as possible. While it currently gauges its raw material as too large to be downloaded, it is supportive of the innovative use of new technology, so that products containing DSA material can now be utilised on computer game consoles and mobile phones.
18. While it has recently reviewed how it licenses requests from researchers and looked into the potential of its library of images, the focus of DSA's licensing continues to be consolidating the portfolio of licences which allow the re-use of the Theory Test question banks and the associated Hazard Perception Test clips. What may have potential going forward is an exciting initiative that the Agency is working on to develop a standard of accreditation for the content and delivery of training materials. This would ensure consistent, well-evidenced safety messages would be given to target groups like young drivers as part of a training package produced in collaboration with other bodies that are active in the field of health and safety, like the Fire and Rescue Service. At the moment, the focus is on exploring accreditation models and setting up a stakeholder group, but in time licensing arrangements may need to be drawn up.
19. The Agency's requirement that licensees submit artwork in advance so that DSA can assure itself that the licensee is not trying to present the material as an official DSA publication appears reasonable. It would also seem to be in order to expect publications to be produced to a minimum presentational standard and for the Agency to stipulate that the licensee must use the current version of the Theory Test questions. Its rationale for not permitting the use of "live" Hazard Perception test clips – that it would undermine the ability of the test to measure responsiveness – is sound.
20. While it is relatively easy to locate information about the core material that is available for re-use on its website, it is some time since the organisation compiled an inventory of information resources on the basis of their re-use potential. Looking at its entries on Inforoute, the Government's Information Asset Register (IAR), these appear to date from January 2003. Last year, in line with recommendations in the Hannigan Report to support information assurance, DSA conducted a systematic internal review to identify information assets and their owners. **We recommend that DSA reviews and updates its IAR entries, making use of the outputs from its recent asset review where appropriate.**

Fairness

21. DSA has a very consistent approach to licensing. It publishes the formula that it uses to determine royalty calculations, the fees for those licences that attract a fixed fee and the charges for the provision of material on CD ROM. A comparison between its stated policies and the individual files that we examined on-site demonstrated that there is fairness in the administration of licences.
22. In respect of its royalty calculation, DSA requires a differential rate according to whether the product sold is “electronic” - 15% or “paper-based” – 10%. **It is not clear why the Agency applies these differential rates and it should publish its rationale for this or move to a standard royalty rate.**
23. One of the “customers” for DSA’s question banks and Hazard Perception Test clips is the publishing arm of DSA itself. Having reviewed the arrangements for the Intellectual Property Department’s licensing of this material to the publishing arm, we found that, while there is scope for further formalisation, the protocols that are in place to ensure equity of treatment as between the publishing arm and third party publishers are respected by the parties involved. The Head of Learning Materials acts as a conduit between the two functions and works on the basis of communication between them being consistent with fair trading principles. The individual responsible for producing publishable files reports to the Head of Learning Materials rather than directly to publishing personnel.
24. Scrutiny of the file which governs the memorandum of understanding between the licensing and publishing functions, shows that updates on the status of the question banks, provision of the material and embargo requirements are notified to/required of DSA publishing on the same basis as to third party publishers, and royalty statements are pursued and logged as they would be if the licensee was an external company.

Transparency

25. DSA performs well on the question of transparency. Its policy of making all of its template licences available on its website allows prospective licensees to clearly see what terms and conditions they will be required to sign up to.
26. The Agency sets out the easily-comprehensible steps that will be followed in transacting a licence and has provided a Crown copyright licence application form through which licensees can specify their requirements.

Compliance

27. OPSI has carried out a review of a sample of DSA’s licences as detailed in Appendix 2. We found that these licences follow a plain English approach and are offered on reasonable terms.

28. OPSI has conducted a website review, the results of which are appended to this report. We found the sections on IFTS and Crown copyright both easy to find and informative.
29. In interviewing a wide range of staff and inspecting files, we found that there is a close fit between DSA's stated policies and its day-to-day practice.
30. DSA takes reasonable steps to monitor copyright infringements and to minimise the amount of out-of-date material in circulation.
31. Recent appointees to the Intellectual Property Department have upheld high administrative standards, improving the licensing process in some areas, as with the introduction of a file tracking sheet. They have also taken steps to brief their colleagues internally on the role of the Intellectual Property Department.
32. Those records that we checked showed that licences are generally being processed to timescales that are better than the standard maximum required by the PSI Regulations.

Challenge

33. Complaints on the basis of the PSI Regulations or DSA's membership of IFTS are handled according to four-stage process detailed on its website. Stage one involves investigation by the Intellectual Property Department with the possibility of escalation at stage two to the Chief Executive's office. The procedure then allows for recourse to OPSI (stage three) and APPSI (stage four) where appropriate.
34. Many people communicate with DSA via its contact centre based in Newcastle. Staff at the centre are briefed on who to route information licensing queries to and have access to a "knowledge base" which contains information on key topics.
35. Those interviewed could recall only one instance of a complaint relating to Crown copyright reaching stage two of the process.
36. OPSI has not received any formal complaints in respect of DSA. It received one enquiry from a translation licensee expressing disquiet about licence termination proceedings which DSA was able to resolve.

PART FOUR: PROGRESS

Recommendations of previous verification and if they have been met.

Principle	Ref	Recommendation	Priority	Action Taken	Status
Openness	18	The DSA to explore the possibility of providing electronic downloads of the updates to the theory test question bank as and when they become available.	M	DSA has explored this possibility. At the moment, it considers the size of its fully-functioning electronic question bank application and the high-resolution printable files to be too large to download.	Complete
Transparency	22	DSA to publish their standard licence terms and conditions on their website.	H	These are now on the website.	Complete
	23	DSA should consider separating out the revenues from its publishing arm to give greater accountability.	H	Royalty statements from the DSA publishing arm are now submitted to the Intellectual Property Department on the same basis as third party publishers.	Complete

	24	DSA should publish the criteria used for the process of clearing licensees' draft artwork on the website.	M	The criteria used are now on the website.	Complete
	26	DSA should consider publishing details of how long it takes to issue a licence and link to the PSI Regulations.	H	The website now explains how long it takes to issue a licence.	Complete
Compliance	28	DSA should consider the grading and resourcing of the Copyright Manager post.	H	This post has now been re-graded to Higher Executive Officer (HEO).	Complete
	29	The complaints section of the DSA website should be updated to refer to OPSI and APPSI and there should be a link through to the complaints section on the OPSI website.	H	The complaints section of the website has been updated.	Complete

APPENDIX 1: SUMMARY OF RECOMMENDED ACTIONS

This is a summary of the recommended actions to:

- remedy the weakness identified; and,
- strengthen the commitment to information fair trading.

Principle	Ref	Recommendation	Priority
Openness	20	We recommend that DSA reviews and updates its IAR entries, making use of the outputs from its recent asset review where appropriate.	M
Fairness	22	It is not clear why the Agency applies these differential rates and it should publish its rationale for this or move to a standard royalty rate.	H

APPENDIX 2: LICENCE REVIEW

REVIEW OF DSA CROWN COPYRIGHT AGREEMENT

Evaluation Criteria

1. Clarity of licence terms

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

OPSI finds that the licence terms are clearly stated and written, for the most part, in plain English. We are of the opinion that there is very little, if any, use of jargon and that legal terminology is kept to the required minimum.

2. Comprehensiveness of licence terms

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

We find that the terms of this licence are comprehensive and do not contain any extra terms which would not reasonably be expected to be found in a licence of this kind.

3. Fairness

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

OPSI finds that this licence does not contain any terms which could be seen to be unfair or discriminatory between different user groups.

4. Consistency

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

OPSI finds that this agreement contains no terms which could be said to be inconsistent or contradictory.

5. Practical Arrangements

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

We are pleased to note that there is a separate sheet – Schedule Two – which clearly sets out the royalty payment rates and a formula to show how these rates are calculated.

6. Restrictiveness of terms

Are any of the terms unnecessarily restrictive?

OPSI does not find that any of the terms are unnecessarily restrictive.

7. Additional Comments

Although the licence is quite long, it is not unnecessarily so. We find that it is laid out well, avoids using legalistic language and unfathomable jargon, and uses plain English wherever possible to minimise the possibility of causing confusion and misunderstanding.

REVIEW OF EDUCATION CROWN COPYRIGHT LICENCE AGREEMENT

Evaluation Criteria

1. Clarity of licence terms

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

OPSI finds the Education Crown Copyright Licence Agreement uses language that is clear and jargon-free plain English. Legalistic language is not used except where it is strictly necessary.

2. Comprehensiveness of licence terms

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

We find that the Education Crown Copyright Licence Agreement provides a comprehensive and clear explanation of the licence terms and OPSI are of the opinion that this licence does not contain terms that you would not expect to find in a licence of this type.

3. Fairness

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

It is the opinion of OPSI that the Education Crown Copyright Licence Agreement does not contain a set of terms which might be considered to be unfair or that would unnecessarily discriminate between different user groups.

4. Consistency

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

We have found that the Education Crown Copyright Licence Agreement does not contain terms which would be considered inconsistent and contradictory.

5. Practical Arrangements

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

The Education Crown Copyright Licence Agreement has no requirement for the payment of fees for re-use of the material. OPSI finds that the process for administering the licence, such as the requirement for the clearance of artwork and final publication and information regarding termination of the licence by either party, were clearly laid out and user friendly.

6. Restrictiveness of terms

Are any of the terms unnecessarily restrictive?

OPSI did not find that any of the terms of the Education Crown Copyright Licence Agreement restricted the licensee unnecessarily.

7. Additional Comments

It is the opinion of OPSI that this licence is clearly written. As well as being easy to read and understand, definitions in the licence were concise.

APPENDIX 3: IFTS WEBSITE ASSESSMENT

Organisation: Driving Standards Agency
Site available at: <http://www.dsa.gov.uk>
Date assessed: 17 March 2009

- 1.1 Does the website have an Information Asset Register? **Yes, via Inforoute, the Government's IAR.**
- 1.2 If yes, how many clicks is it from the homepage? **3**
- 1.3 How long did it take to find? **2-4 minutes**
- 1.4 If there is no IAR, is there other guidance on what information is available? **N/A**
Please provide a link for the IAR page, along with comments on how easy it was to use.
<http://www.dsa.gov.uk/LinkSector.asp?linksec=5>.
The information is comprehensive, although it appears to be some time since the entries were updated
- 2.1 Does the PSB use standard licences? **Yes**
- 2.2 Are these published in full on the website? **Yes**
- 2.3 If yes, how many clicks are they from the homepage? **3**
- 2.4 How long does it take to find? **1-2 minutes**
- 2.5 How many standard licences are there? **8**
- 2.6 Is there an explanation of what different licences are for and is it clearly understood? **Yes**
Please provide a link to the standard licences here. If there are a large number of standard licences, are they proportionate to the volume of licensing carried out?
<http://www.dsa.gov.uk/Category.asp?cat=496>
The number of standard licences offered is appropriate to the licensing being carried out
- 3.1 Is there any charge made for licences? **Yes**
- 3.2 Is there an explanation of the charges? **Yes**
- 3.3 Is there an explanation of how charges are drawn up? **Yes, in the sense of how royalties are calculated, but no explanation of how the prices are arrived at**
Please provide a link to the charges here, along with any explanation of the way they are drawn up.
<http://www.dsa.gov.uk/Category.asp?cat=331>
<http://www.dsa.gov.uk/Category.asp?cat=378>
- 4.1 Is there an IFTS commitment on the website? **Yes**
- 4.2 How many clicks is it from the homepage? **3**
- 4.3 How long does it take to find? **1-2 minutes**
Please provide a link to the IFTS commitment
Can be downloaded from this page
<http://www.dsa.gov.uk/Category.asp?cat=377>

- 5.1 Is there clear and precise information on how to apply for a re-use licence? **Yes**
- 5.2 Are there a variety of methods for applying for licences? **Yes**
- 5.3 Is it possible to apply online for a licence? (Including emailing a form) **Yes**
- 5.4 Does it specify a timescale to grant licences? **Yes**
- 5.5 If yes, what is that timescale (in working days)? **10**
- 6.1 Does the PSB have a procedure for complaints regarding licensing decisions? **Yes**
- 6.2 How many clicks is it from the homepage? **2**
- 6.3 How long does it take to find? **<1 minute**
- 6.4 Does it mention that if the complainant is unhappy they can refer to OPSI or APPSI? **Yes**
Please provide a link to the complaints page. If there is no separate licensing complaints page, please link to the general complaints section.
<http://www.dsa.gov.uk/General.asp?id=SX101D-A78261F9&cat=331>
- 7.1 Does the website explain what information is not available? **Yes**
- 7.2 If Yes, does it explain why? **Yes**
- 7.3 How many items are listed? **1 – “live” Hazard Perception Test (HPT) clips**
Please provide a link to the page with this explanation. What is the nature of the unavailable items? Please comment if the nature of the PSB’s activity would require a larger/smaller number of exceptions than would be expected. Are the exceptions listed specific, or do they cover a whole category?
<http://www.dsa.gov.uk/Category.asp?cat=331>
The Agency explains that the Hazard Perception Test (HPT) is based on measuring the latency of a candidate’s response to developing situations as a measure of their scanning techniques and anticipation skills. Consequently, if candidates were given the opportunity to rehearse on live HPT clips in learning products this would unacceptably compromise the objectives and validity of the test
- 8.1 Does the website outline any exceptions to normal licensing policy? **No**
- 8.2 If yes, does it explain why that exception has been made? **N/A**
- 8.3 How many exceptions are there? **N/A**
What is the nature of the exceptions? Are the exceptions specific? Please provide a link to the page
- 9.1 Does the website have a Crown Copyright notice? **Yes**
- 9.2 Is it linked to from every page? **Yes**
- 9.3 How many clicks is it from the homepage? **0-1**
- 9.4 How long does it take to find? **<1 minute**
- 9.5 Is OPSI/HMSO mentioned, with contact details? **Yes. These contact details need to be updated**

- 10.1 Does the website have an electronic search facility? **Yes**
- 10.2 If yes, how many clicks is it from the homepage? **0-1**
- 10.3 How long did it take to find? **<1 minute**
Please provide a link for the search page, along with comments on how easy it was to use. If it is not present, does it say why?
On home page: <http://www.dsa.gov.uk/Index.asp>
- 11.1 Is the material available by electronic means? **Yes**
- 11.2 Is it possible to download direct from the website? **No**
- 11.3 If data is not available electronically, is there an explanation of how to obtain it? **N/A**
- 11.4 If data is sent via email, is there a specified timescale for delivery? **N/A**
- 11.5 If yes, what is the timescale (In working days)? **N/A**
Please state any other methods of receiving data. If a timescale is published, to what extent do they meet that commitment?
- 12.1 Does the PSB outline its responsibilities under IFTS on their website? **Yes**
- 12.2 Does the website explain what IFTS is aiming to achieve? **Yes**
- 12.3 Are the benefits of IFTS explained? **Yes**
- 12.4 Is the PSB using IFTS logos on their website and actively mentioning they are a member of the scheme? **No**
- 13.1 Does the PSB outline its policy towards its trading of PSI? **Yes**
- 13.2 Does the PSB explain how it arrives at decisions? **Yes**
- 13.3 Does the website have an explanation of what re-use is? **No**
- 13.4 Does the website explain what Crown Copyright is? **Yes**
- 13.5 Does the website explain why licences are sometimes needed to re-use information? **Yes**
- 13.6 Does the website explain the difference between FOI and re-use? **No**
- 13.7 Does the website explain what a trading fund and delegated authority is? **Yes, it explains that it is a Trading Fund and makes a reference to recovering costs and meeting Return On Capital Employed (ROCE) targets. It doesn't explain that it operates under a delegation of authority as such, but does say that it has been authorised by the Controller of HMSO to license information.**
Please provide a link to any explanations here.
<http://www.dsa.gov.uk/General.asp?id=SXBB01-A77F49A9&cat=26>
<http://www.dsa.gov.uk/Category.asp?cat=377>

Please enter any comments that you may have about the website, and how it promotes re-use of PSI, explains the processes of licensing and what it says about IFTS.

This website scores very well on the prominence that it gives to Crown copyright and the Information Fair Trader Scheme. Information on these topics can be easily navigated to from the home page. The clarity with which it explains what material is available and the prices that it charges is to be commended. It is also useful that the process of applying for a

licence is easy to follow. Publishing template licences in full for all the types of licence available represents best practice.