



Information Fair Trader Scheme

Verification of commitment to information fair trading

Registers of Scotland

February 2008

Unlocking the potential of public sector information



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PART ONE: INTRODUCTION

Information Fair Trader Scheme

1. The Information Fair Trader Scheme (IFTS) is the best practice model for public sector bodies wishing to demonstrate good practice in the re-use of public sector information. 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 of authority to administer their own licensing. All such bodies with a delegation must remain accredited to the Scheme. Registers of Scotland has a delegation.

First verification

3. Registers of Scotland was first verified in May 2004 and was accredited to the Scheme.

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. Registers of Scotland was undergoing its first re-verification during this visit.
5. The frequency of re-verification is based on several risk factors including the complexity of the licensing system, how critical the information is and the standard of compliance with recommendations from the previous verification. Taking these factors into account, together with the significance of the licensing revenue to Registers of Scotland, the organisation is assessed as being low risk.
6. OPSI is grateful for the high level of co-operation that it received in advance and during the re-verification. All requested documentation was sent to OPSI in good time, and any supplementary materials called for during the visit were delivered promptly.

Licensing Activity

7. Licensing is a relatively small activity for Registers of Scotland. The organisation derives the majority of its revenue from the collection of fees for registration of deeds relating to property and other legal documents in the public registers which the Keeper of the Registers of Scotland is required by statute to compile and maintain. This is a function which has been central to its role since 1617, and which constitutes approximately 90% of overall income. The majority of fees levied are subject to a Statutory Instrument (The Fees in the Registers of Scotland Amendment Order 2005), and these charges are not subject to change except by further legislation.

8. The Registers of Scotland maintains a range of public registers. Although the original information provided for the registers is not Crown copyright, the creation, composition and maintenance of these registers results in material which is subject to Crown copyright. This makes up the majority of Registers of Scotland's Crown copyright material. Amalgamations of data, for example statistics on property values, and the licensing of forms were of particular interest to the verification team.
9. Registers of Scotland maintains a series of registers relating to property and other legal areas. Its position is analogous to that of a Trading Fund, although the former status could not be maintained after devolution. As a result, special provisions were made in Section 9 of the Public Finance and Accountability (Scotland) 2000 Act which ensured continuity, and require it to recover its costs and to generate a return on capital employed.
10. Registers of Scotland's business strategy is relatively stable, although there are some moves towards greater use of electronic media. Major initiatives here include the Automated Registration of Title to Land (ARTL) which allows online registration instead of the traditional paper-based method, and also the use of electronic forms allowing applicants to use standardised documents to enter their Land Register application forms (mentioned in paragraph 28). Internally, Registers of Scotland has introduced an Electronic Data & Records Management System (EDRMS) which is a 'Vignette' product. This will compile automated files on the history of business transactions.
11. These initiatives are likely to have a limited impact on licensing activity. Registers of Scotland may be able to research potential increases in the re-use of the material it produces, for instance media applications for information on property values, but this is likely to be given less weight than other priorities. Registers of Scotland has a variety of channels for the distribution of its data including:
 - **Registers Direct** – aimed predominantly at the business-to-business market, this allows users to access information from the registers electronically. However, it also has some benefits for members of the public, and is available in their Customer Service Centres.
 - **Customer Service Centres** – most of the organisation's work is conducted at Meadowbank House. However, the re-verification team also visited Customer Services practitioners based at Erskine House (which deals with members of the public) and saw a brief demonstration of the 'Registers Direct' facility. The key practitioner in licensing, from the Legal Services Team, is also based in Erskine House.
 - **Land Register Reports** – these provide comprehensive property reports and are aimed at those involved in conveyancing.

There has also been a recent development in the establishment of a stand-alone Communications and Customer Services Directorate. This will be investigating the potential of innovation in service delivery.

12. To summarise, licensing activity for the Registers of Scotland is not a pivotal revenue stream for the organisation. As a proportion of income, it has remained at approximately 0.25% (around £200,000 per annum) of the total revenue taken by Registers of Scotland, with material licensed to approximately 20 customers.

Action Since Last Verification

13. The recommendations from the previous visit, as detailed in Part Four of this report, have led to some changes in policy. The key example is a move away from licensing arrangements conducted via correspondence towards more formalised contracts.

Overall Assessment

14. The Registers of Scotland has licensing as a more marginal corporate concern than the majority of other IFTS members. As a result, such activity is conducted on a more improvised basis than many other organisations involved, with no specific licensing department in place. However, it has taken significant steps to formalise licensing activity since the initial accreditation, with particular regard to the implementation of standardised contracts for licensees and growing awareness as to the procedure required for generating such materials and the role of the legal team.
15. The Registers of Scotland has a sound, competent approach to licensing, especially with regards to openness and fairness (helped by the statutory regime under which it operates). By increasing the level of transparency in its operations, this could be demonstrated to any potential applicants without major policy changes.
16. The Registers of Scotland has been re-accredited to IFTS. Based on the team's analysis of the Registers of Scotland as a low risk organisation, the organisation should be re-verified in 3-4 years time.

PART TWO: KEY CHANGES AND CONTEXT

17. Registers of Scotland's strategic approach has not changed significantly since our last verification, although there have been some changes in personnel connected with licensing activity. The level of licensing is fairly constant, although re-use and related information management policies are evolving and gaining in prominence internally.
18. Registers of Scotland operates within various legislative frameworks, including the Competition Act and the 2005 Public Sector Information Regulations, the latter coming into force since the last verification. The INSPIRE Directive also has potential relevance to the organisation.

PART THREE: HIGHLIGHTS AND AREAS FOR IMPROVEMENT

Openness

19. The Registers of Scotland is an organisation which has a long-established culture of openness in terms of allowing access to the information which it holds. The Registers of Scotland maintains a range of public registers. These include the Land Register of Scotland, the Register of Sasines (title deeds), Judicial Registers and a register of Community Interests in Land. In addition to this, Registers of Scotland is hoping to increase the coverage of the Land Register and develop electronic registration facilities in the period to 2011.
20. The registers are open for public scrutiny as a matter of course. However, these are intended to be used for individual queries, thus limiting the possibility of re-use (particularly commercial). In addition, much of the re-use which does occur is by solicitors on behalf of clients who are registering title to land. This activity is subject to a statutory fees order, usually for single use applications for data, or enquiries where a multiple series of such applications occur. The IFTS re-verification focused on the provision of bulk reports and information on data trends.
21. There is some manipulation of the data sets held by Registers of Scotland to produce bulk reports or information on trends in property values. The media has expressed some interest in statistics concerning house prices being available at shorter intervals, indicating that there may be some growth in licensing activity in the future. The recently created Communications and Customer Services team is currently investigating such potential and may recommend greater promotion of such licensed materials.
22. Registers of Scotland is very open about the data held which is available for public use, and now has increased the number of methods which citizens may access its material (e.g. 'Registers Direct' facilities at the Erskine House and Glasgow customer service centres). The Land and Property page on the Registers' website also catalogues available services, whilst the 'About Us' page publicises the main registers compiled by the organisation.
23. Registers of Scotland is generally very open about the pricing of its material and is subject to tight statutory controls. Where it is required to do work over and above its standard services, it explains the 'time-and-line' basis on which it will calculate the cost of this additional work. In respect of land and property data reports, we found that the charging for such reports is well documented internally and consistent with a spreadsheet that the organisation maintains as a basis for calculating report fees. This issue is the subject of a recommendation in paragraph 33.
24. The major issue concerning openness which has arisen at Registers of Scotland relates to 'private searchers' who have requested access to

the entire register on a daily basis with preferential re-use rates. Registers of Scotland has thus far not given permission for this, arguing that it would create a 'shadow register', undermining the statutory role of the organisation. It does, however, periodically consult its stakeholders about the bulk pricing of and speed of access to its material.

25. OPSI welcomes such consultation exercises as supportive of the re-use agenda.
26. Registers of Scotland contributes departmental entries to the Government Information Asset Register. Although the organisation does not use this mechanism to market its materials in a vigorous fashion, there is ample information available to potential re-users on the material held by the Registers of Scotland.

Fairness

27. Registers of Scotland trades in the bulk of its material under the provisions of the statutes previously mentioned. As a result, this promotes a culture of fairness in its pricing which extends to its more tailored work. We found no evidence of any preferential arrangements in its licensing.
28. The service of allowing applicants to be issued with forms licences has become active since the last visit. These are issued at a cost of £120. As discussed elsewhere in this report, the prices for land and property data reports are relatively standardised.
29. Given these factors, and the fact that there is evidence of a high level of consistency in the limited amount of licensing which takes place outside of the statutory fees framework, there are no recommendations to be made on the matter of fairness.

Transparency

30. We previously recommended that licensing case files should contain a tracking sheet detailing progress of applications. The Registers of Scotland did initiate action but did not fully implement this initiative. Whilst it would be advisable to complete this work, it was noted by the IFTS team that the paperwork created an easily-deduced audit trail.
31. There is also a move away from the use of paper hard copies towards electronic archiving. It would be beneficial if computerised records of transactions could be monitored using an equivalent system to the tracking sheet mentioned in paragraph 30.
32. The filing at Registers of Scotland was of a high standard and we found an auditable trail of business decisions. Retrospective completion of a tracking sheet outlining business decisions would have been possible in licences examined during the visit, lessening concerns over the transparency of any actions taken during licensing.

33. The Registers of Scotland has a spreadsheet which calculates the charges to be applied to land and property data reports. Many of these reports are standardised data extracts. **We recommend that Registers of Scotland publishes details of its charging policy for land and property data reports.**
34. We note that some requested reports are non-standard and recognise that Registers of Scotland will not be able to quote exact prices for these.

Compliance

35. Registers of Scotland prepared well in advance of the re-verification and demonstrated that it has considered the potential licensing implications of its work. Interviewees analysed licensing issues in some depth and were in a position to give clear answers as to their personal responsibilities in this area.
36. The work of the legal team, which has expanded since the first verification visit, is supporting compliance. Registers of Scotland has taken an active interest in the work of OPSI, and has clearly indicated its desire to comply with the principles of IFTS. It was also noted during the visit that those processing licences within the organisation were aware of the work of the legal team, and when they should be referring matters to the head of the legal team.
37. Since the first visit, the Public Sector Regulations of 2005 have come into effect. As a public sector body, Registers of Scotland should explicitly demonstrate compliance with the PSI Regulations. **We recommend that Registers of Scotland publishes a short statement on its website stating that it complies with the 2005 Public Sector Information Regulations, setting out their relationship with its licensing activity. This should also include a web link to the Regulations in full.**
38. As is standard policy, the Keeper of the Registers should also update the IFTS commitment on the website, making reference to the PSI Regulations.
39. It would not be economically viable to establish a team of staff who would handle licensing in isolation, as the revenue raised for such work would not cover the costs of this unit. As a result, it is acceptable for the current arrangements to continue, provided that the audit trail is detailed thoroughly throughout such cases.
40. The move away from licensing conducted via correspondence towards more formalised documentation has helped with compliance. This work has been conducted in partnership with the Queen's Printer of Scotland, which is based in Norwich. Given that these arrangements are subject to imminent change, OPSI may need to offer some support during the interim period.

41. During the licence review conducted by OPSI, the arrangements made by Registers of Scotland were appraised as 'good'. The comments made primarily relate to potential improvements in wording, rather than any major concerns about breaches of IFTS principles. Details can be found at Appendix 2. The website review at Appendix 3 also found that the electronic information available to the public generally met with IFTS requirements.

Challenge

42. Registers of Scotland has in place a clear complaints policy, with an internal appeals process and the possibility of escalation if these methods are exhausted. Staff awareness on this is high, and the policy is also publicised on the website and through pamphlets readily available to the public. The details and amount of complaints are also noted at a corporate level, with trends analysed and possible implications investigated.

43. Since the last visit, the role of OPSI has been added to the website in the section on Crown copyright. However, the general complaints page only mentions the role of the Scottish Public Services Ombudsman, which could lead to some confusion should a licensee wish to complain to OPSI.

44. We recommend that the Registers of Scotland web page concerning general complaints policy features a link to the section discussing OPSI's role as an external investigator in cases where complainants are dissatisfied with the internal complaints procedure.

PART FOUR: PROGRESS SINCE LAST VERIFICATION

Recommendation	Priority	Summary of action	Status
<i>Transparency</i>			
We recommend that the Keeper publishes his IFTS commitment on the website.	High	Commitment now available on the website.	Completed
We recommend that a simple checklist or review sheet be used to ensure that files document decision-making processes accurately.	Medium	Work on this commenced although remained incomplete. However, it was noted by the IFTS team that the paperwork reviewed during this visit created an easily-deduced audit trail.	On-going
<i>Compliance</i>			
We recommend that some brief guidance on competition law be provided, possibly as an addition to the existing Guidance notes on Crown copyright.	High	Staff now have clear guidance on competition law.	Completed
The interim policy on Crown copyright is clear and we would like to see this published on the Registers of Scotland website.	Medium	There is a full section on Crown copyright now available on the website.	Completed
In order to ensure continued compliance with IFTS, we recommend that one group is given overall responsibility for issuing licences.	Medium	The legal department now has primary responsibility for licensing.	Completed
<i>Challenge</i>			
The role of HMSO in investigating complaints should be published and explained to customers when relevant.	High	This is stated on the website and a link to the general complaints section will be created.	On-going

APPENDIX 1: SUMMARY OF RECOMMENDED ACTIONS

This is a summary of recommendations to:

- remedy any identified weaknesses
- strengthen the commitment to Information Fair Trading.

Principle	Ref	Recommendation	Priority
Transparency	33	We recommend that Registers of Scotland publishes details of its charging policy for land and property data reports.	M
Compliance	37	We recommend that Registers of Scotland publishes a short statement on its website stating that it complies with the 2005 Public Sector Information Regulations, setting out their relationship with its licensing activity. This should also include a web link to the Regulations in full.	M
Challenge	44	We recommend that the Registers of Scotland web page concerning general complaints policy features a link to the section discussing OPSI's role as an external investigator in cases where complainants are dissatisfied with the internal complaints procedure.	M

APPENDIX 2: LICENCE REVIEW

Licence Review 1

Licence: **Forms Licence**

Date of Review: March 2008

1. Clarity of licence terms

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

Clause 8b: There is a stray 'you' here. The rest of the licence is not in the form where 'we' and 'you' are used as indicating licensor and licensee

8e: The meaning of this clause, notably the final element, is not entirely clear. Section regarding clearing any copyrights that they may hold in their versions of the Official Forms requires further clarification.

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?

Clause 10: It would be standard practice for any additional Official Forms to be added to Schedule A, but there is no obvious provision for this

3. **Fairness**

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

No apparent issues identified here

4. **Consistency**

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

Schedule A: The bold note at the end does need clarification. The list is of Official Forms, so the layout of them cannot require approval. What it should say is that the layout of Forms derived from these Official Forms requires approval

Schedule B paragraph 5: This appears to contradict the note in Schedule A discussed above, since there is clearly no permitted variation in the layout at all. If the Forms must be identical to the Official Forms there does not appear to be any freedom given to the licensee.

5. Practical Arrangements

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

No apparent issues identified here.

6. Restrictiveness of terms

Are any of the terms unnecessarily restrictive?

No apparent issues identified here.

7. Additional Comments

Licence Review 2

Licence: Licence Template (Land & Property Data)

Date of Review: March 2008

Evaluation Criteria

1. Clarity of licence terms

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

Clause 1.5: The passage stated 'subject to all the conditions contained in this Licence' would appear to be intended to mean that the conditions in the licence apply to contractors. However, this point needs to be explicit to ensure greater clarity.

Clause 1.6: Would be better expressed as an obligation ('must') rather than a fact ('will')

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?

Clause 2.2: Statement requires as to who is the Queen's Printer for Scotland. The noun 'licence' is spelt thus, not 'license'.

Clause 2.4: Specific statement as to which intellectual property rights are referred to here is required. Crown copyright is an intellectual property right. A better form of words should say something like 'all intellectual property rights apart from copyright and database rights ...'

Clause 5.1: Statement required as to how much notice should be given. Registers of Scotland should also consider whether it intends licensees to contact the Information Commissioner at the UK level, or the Scottish Information Commissioner.

Clause 5.4: This sort of clause would normally allow a period for rectification before termination could happen.

3. Fairness

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

No apparent issues identified here.

4. Consistency

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

Covering letter (penultimate paragraph): Registers of Scotland should also consider whether it intends licensees to contact the Information Commissioner at the UK level, or the Scottish Information Commissioner.

5. Practical Arrangements

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

Annex A, clause 1.4: this refers to 'delivery terms noted above' but there are no such terms set out in earlier paragraphs.

6. Restrictiveness of terms

Are any of the terms unnecessarily restrictive?

No apparent issues identified here.

7. Additional Comments

APPENDIX 3: IFTS WEBSITE ASSESSMENT

Organisation: Registers of Scotland
Site available at: www.ros.gov.uk
Date assessed: 4th March 2008

- 1.1 Does the website have an Information Asset Register?
No, as RoS contributes departmental entries to the Government IAR <http://www.opsi.gov.uk/iar/search.aspx>
- 1.2 If yes, how many clicks is it from the homepage?
N/A
- 1.3 How long did it take to find?
N/A
- 1.4 If there is no IAR, is there other guidance on what information is available?
N/A.
- 2.1 Does the PSB use standard licences?
Yes
- 2.2 Are these published in full on the website?
Yes www.ros.gov.uk/pdfs/forms_licence.pdf
- 2.3 If yes, how many clicks are they from the homepage?
2
- 2.4 How long does it take to find?
1-2 minutes
- 2.5 How many standard licences are there?
2
- 2.6 Is there an explanation of what different licences are for and is it clearly understood? **Yes**
- 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
Statutory context explained at www.ros.gov.uk/publications/feesandcharges.html
However, guidance on charges for land and property data reports could be explained: see recommendation table in main body of report.
- 4.1 Is there an IFTS commitment on the website?
Yes www.ros.gov.uk/pdfs/iftskeeper130804.pdf
- 4.2 How many clicks is it from the homepage?
2
- 4.3 How long does it take to find?
1-2 minutes

- 5.1 Is there clear and precise information on how to apply for a re-use licence?
Yes www.ros.gov.uk/aboutus/ccl.html
- 5.2 Are there a variety of methods for applying for licences?
Yes
- 5.3 Is it possible to apply online for a licence?
Yes, but only via e-mail, no online form.
- 5.4 Does it specify a timescale to grant licences?
No
- 6.1 Does the PSB have a procedure for complaints regarding licensing decisions?
Yes www.ros.gov.uk/aboutus/ccl.html
- 6.2 How many clicks is it from the homepage?
2
- 6.3 How long does it take to find?
1-2 minutes
- 6.4 Does it mention that if the complainant is unhappy they can refer to OPSI or APPSI? **Yes, however absent from general page on complaints: see recommendation table in main body of report.**
- 7.1 Does the website explain what information is not available?
No
- 8.1 Does the website outline any exceptions to normal licensing policy?
Yes <http://www.ros.gov.uk/aboutus/ccl.html>
- 8.2 If Yes, does it explain why that exception has been made?
Yes. Examples of when material is not made available free of charge or is subject to special conditions are listed.
- 8.3 How many exceptions are there?
They are not itemised, but examples are given.
- 9.1 Does the website have a Crown Copyright notice?
Yes www.ros.gov.uk/aboutus/ccr.html
- 9.2 Is it linked to from every page?
No
- 9.3 How many clicks is it from the homepage?
2
- 9.4 How long does it take to find?
Less than 1 minute
- 9.5 Is OPSI/HMSO mentioned, with contact details?
Yes
- 10.1 Does the website have an electronic search facility?
Yes
www.ros.gov.uk/htdig/search.html?&server=rosnetx1.ros.gov.uk
- 10.2 If Yes, how many clicks is it from the homepage?
1
- 10.3 How long did it take to find?

Less than 1 minute

- 11.1 Is the material available by electronic means?
Yes
- 11.2 Is it possible to download direct from the website?
Yes e.g. www.ros.gov.uk/productsandservices/lpd.html
- 12.1 Does the PSB outline its responsibilities under IFTS on their website?
Yes – most www.ros.gov.uk/aboutus/ccl.html
- 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?
Yes
- 13.1 Does the PSB outline its policy towards its trading of PSI?
Yes. However, see Q 3.3
- 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 www.ros.gov.uk/aboutus/ccr.html
- 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?
Its trading fund status, discussed in the body of this report, is referred to in its annual report, available on the website. Delegated authority is not explained as such, but is referred to on the copyright licensing page.

A clear and well-organised site, which passes this part of the re-verification process with a degree of comfort. There are some recommendations made in the body of the report which will require the website to be updated.