

## **RSS RESPONSE TO DCMS CONSULTATION ON MARGINAL COST RESTRICTION ON PUBLIC SECTOR DATA RE-USE**

8 September

### **1 Introduction**

- 1.1.1 The Royal Statistical Society (RSS) is a membership organisation for statisticians and data scientists, and we advocate for the importance of statistics and data. Representing over 10,000 members, we champion the role of statistics and data in society, working to ensure that policy formulation and decision-making are informed by evidence for the public good.
- 1.1.2 This consultation is seeking to address an important challenge: government data has huge potential to add value when it can be re-used but public bodies often face practical barriers to making data available for re-use. These include insufficient funding, competing organisational priorities, difficulties in developing business cases for investment, and a lack of incentives to invest in reusable data infrastructure. We strongly support efforts to increase the availability, quality and usability of public sector data.
- 1.1.3 However, we are currently unconvinced by the case for additional charging and are strongly concerned that any localised benefits of introducing new arrangements would be outweighed by the wider costs and risks. Public sector data delivers substantial public value beyond direct commercial applications. It underpins official statistics, academic research, innovation, democratic accountability, policy evaluation, public understanding, and the effective delivery of public services. We believe it is important that the default position should remain that public sector data is made available as openly as possible and at the lowest feasible cost. We are not persuaded that a broader expansion of charging powers is justified. We recognise that there may be a small number of exceptional and time-limited cases where charging could be necessary to make a dataset available that would otherwise remain unavailable. However, such cases should be treated as exceptions requiring strong evidence and robust governance.
- 1.1.4 Overall, we would prefer to see greater attention paid to the underlying causes of underinvestment in data. In many cases, the challenge appears to be not the absence of charging powers, but difficulties in securing funding for data services whose benefits accrue across organisations, sectors and society more broadly. There have been numerous reviews and studies of public sector data sharing which have concluded that the principal barriers to

sharing data are often cultural and organisational rather than the cost of sharing.<sup>1</sup> It is not clear that simply introducing charging would overcome these barriers without the cost of charging generating significant income for the organisation – and in that case we would have serious concerns about the implications for open data.

- 1.1.5 Should government decide to expand charging powers, any new arrangements should be narrowly targeted, proportionate, transparent and focused on improving data availability and quality, rather than creating general revenue-raising opportunities. Particular protections should apply to data used in the production of official statistics, and care should be taken to ensure that researchers, charities, civil society organisations and public bodies are not prevented from accessing data that delivers significant public benefit.
- 1.1.6 Finally, any future reforms should be developed with a clear understanding of the changing data landscape, including increasing private-sector ownership of data, the growing commercialisation of data markets, and the impact of artificial intelligence on both the demand for and value of public sector data.

## 2 Impact of current rules

### 2.1 *What are the benefits and drawbacks of the current rules on charging for the re-use of public sector data?*

- 2.1.1 The current framework supports important principles of openness, transparency and equitable access to public sector information. It helps ensure that researchers, charities, businesses, civil society organisations and members of the public can access and re-use data without significant financial barriers. This has enabled substantial public value to be generated from public sector data through research, innovation, public accountability and the production of official statistics. The current approach also reflects the fact that public sector data often generates value that extends well beyond the organisation that originally collected it. The

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<sup>1</sup> For example, the [Independent Review of the UK Statistics Authority by Professor Denise Lievesley CBE](#) (2025) and the OSR's [Data Sharing and Linkage for the Public Good](#) (2023).

benefits can include improved public services, economic activity, better policy making, academic research and democratic scrutiny.

- 2.1.2 However, we recognise that the current framework may not always provide public bodies with sufficient incentives or resources to invest in making data more accessible, interoperable and reusable. Data-owning organisations frequently face budgetary pressures and may struggle to secure funding for activities that primarily benefit external users. In practice, this can result in datasets being difficult to access, poorly documented, or unavailable in forms that support effective re-use.
- 2.1.3 The existence of these challenges does not necessarily imply that wider charging powers are the most effective solution. Government should also consider whether reforms to incentives, funding arrangements and business case processes could better support the development and maintenance of high-quality data assets.

## **2.2 *Are you aware of any public sector data assets that you would like to re-use, but which are not disclosed for re-use?***

- 2.2.1 We are aware of examples where valuable public-interest datasets are only available through fragmented or ad hoc mechanisms rather than through systematic publication and reuse arrangements. For example, work on Public Health Funerals in England has relied on data obtained through Freedom of Information requests to individual local authorities. Such data has clear value for understanding deprivation, ageing and wider social trends, and illustrates how greater reusability of public sector data could support research and policy development.
- 2.2.2 More generally, our concern is less about specific examples and more about ensuring that public sector data is designed, funded and maintained with future reuse in mind. We also note ongoing challenges around discoverability and transparency. For example, it is not always easy to identify the datasets that underpin official statistics through a single authoritative catalogue, which can itself be a barrier to reuse.

## **2.3 Do you think current rules on charging affect whether public bodies make data available for re-use, or whether they do so in ways that meet the needs of businesses and other users?**

- 2.3.1 Current arrangements may influence the willingness and capacity of some public bodies to make data available for re-use. In particular, organisations may struggle to justify investment in data services where the benefits accrue principally to other organisations, sectors or society as a whole. However, we would caution against viewing charging rules as the primary cause of these challenges. In our view, barriers often arise from wider issues including organisational incentives, funding structures, business case requirements and competing operational priorities.
- 2.3.2 Addressing these issues directly may in some cases provide a more effective route to increasing the availability and quality of public sector data than expanding charging powers. We encourage government to ensure that any reforms are based on a clear understanding of the underlying causes of underinvestment in data assets and infrastructure.

## **3 Changing current rules**

### **3.1 Do you think it is appropriate for public bodies to charge above marginal costs for the re-use of data assets they hold, if the resulting revenues can be used to make more data available for re-use?**

- 3.1.1 In very limited circumstances, where there is a clear and evidenced case that charging is necessary to make additional data available that would otherwise remain unavailable, we consider it potentially defensible to charge above marginal costs to make data available for re-use. Any such charging should be proportionate, transparent and time-limited. The burden of proof should rest with the public body to demonstrate that charging is needed to support the release, maintenance or improvement of the dataset in question.
- 3.1.2 The default expectation should remain that public sector data is made available at marginal cost or as open data wherever possible.

**3.2 *Do you think it is appropriate for public bodies to charge above marginal costs if revenues can be used to make better quality or more useful data available for re-use?***

3.2.1 There may be circumstances in which charging above marginal cost could support improvements in data quality, documentation, metadata, interoperability or service provision. If this approach is adopted, there should be a clear and transparent link between the revenues generated and the data improvements being funded. Users should be able to understand how revenues are being used and how these investments are increasing the value and usability of the data. We would be concerned if charging became a routine mechanism without clear evidence that it is delivering meaningful improvements in data quality and accessibility.

**3.3 *Do you think it is appropriate for public bodies to charge above marginal costs if revenues can be used to improve public sector data foundations and infrastructure?***

3.3.1 Our view is that charging to enable specific and time-limited investment in widening the shareability of specific datasets might be defensible in specific circumstances. It is appropriate for that revenue to be spent on improving data infrastructure insofar as it is necessary to make that data available. However, our strong view is that investing in data foundations and infrastructure should be a key priority of government – this would unlock value from a much wider range of public sector data assets. But funding this work should not be dependent on raising funds from selling datasets: there is little difference between this and charging purely in order to boost the general public coffers.

**3.4 *Do you think it is appropriate for public bodies to charge above marginal costs if revenues can be used to improve public services?***

3.4.1 We are also deeply sceptical about this proposal. There is an important distinction between charging to improve data assets and data infrastructure in a time-limited way as required to provide data and charging to support general public service delivery. We do recognise the financial pressures faced by public bodies and can accept that recovering the incremental costs necessary to turn an otherwise unusable or unavailable dataset into a reusable data service may sometimes be justified. However, generating revenue from public data, or using data charges to subsidise unrelated public services, is quite different. We also believe there is

a risk that the full possible public value of datasets will not be achieved with an aggressive charging regime based on assumptions about the creation of private value.

- 3.4.2 Providing access to public sector data should be regarded as a core function of government. We would therefore be concerned if revenues from charging for data were routinely used to support unrelated service delivery activities. We would encourage government to place clear limits on the purposes for which any revenues generated through charging may be used.

## 4 Design principles for reform

### 4.1 *What principles should guide any reform?*

4.1.1 We believe that any reform should be guided by the following principles:

- Public value: public sector data should be recognised as a public asset that generates value through research, innovation, accountability, democratic participation and improved public services. Any deviation from existing practice should be supported by an objective impact assessment.
- Open by default: charging should remain the exception rather than the norm. Public sector data should continue to be made openly available wherever possible.
- Equitable access: reforms should avoid creating barriers for researchers, charities, civil society organisations, smaller businesses or citizens.
- Protection of strategic public data assets: data used in the production of official statistics should be explicitly protected from charging arrangements and remain freely available for use in statistical production.
- Transparency and accountability: decisions about charging, pricing and the use of revenues should be transparent and subject to appropriate oversight.
- Proportionality: any charging should be limited to circumstances where it is clearly necessary and where the benefits outweigh the reduction in openness and accessibility.
- Future resilience: reforms should take account of the changing data landscape, including increasing private-sector ownership of data, trends towards data commercialisation and the growing importance of artificial intelligence.

4.1.2 Any charges of this nature would be best explored as part of a wider, more strategic review of the government's vision for the contribution that public sector data can make to and for the

country. Otherwise, the risk is that introducing additional charging serves as a merely tactical measure to address current short-term blockages to making specific datasets more available.

**4.2 *If public bodies are able to charge for a wider range of data assets under a rules-based framework, should they determine which data assets they can charge for, or should a single body be responsible for these decisions?***

4.2.1 We do not believe decisions should rest solely with individual public bodies. While public bodies will be best placed to understand the characteristics of their data assets, allowing each organisation to determine charging arrangements independently risks inconsistency, fragmentation and uncertainty for users. It may also create incentives to maximise revenue rather than promote public value. We would suggest a centrally defined framework with independent oversight and clear criteria. This would help ensure consistency, transparency and public confidence across the system.

**4.3 *What challenges might users face if public bodies can charge for a wider range of data assets, and what measures should Government take to address them?***

4.3.1 Users could face a number of challenges, including reduced affordability, inconsistent charging approaches across organisations, uncertainty about licensing conditions, and difficulties combining datasets from different sources. Researchers, charities and civil society organisations may be particularly affected if access costs increase. Smaller organisations may also face disadvantages relative to larger commercial users.

4.3.2 We would suggest that government take the following measures to address these:

- Explicit exemptions for research and statistical purposes.
- Exemptions or reduced-cost access for charities and organisations delivering public benefit.
- A clear prohibition on charging other public bodies for access to public sector data.
- Protection for data used in the production of official statistics.
- Common licensing standards and terms of re-use.
- Consistent metadata and interoperability requirements.
- Transparency regarding charging decisions and pricing models.
- A clear catalogue identifying available datasets and applicable access conditions.

4.3.3 We would also encourage government to consider protecting datasets already released as open data from being moved into chargeable access arrangements.

## 5 Reform approach

### 5.1 *What criteria and conditions should be met when determining whether it is possible to charge above marginal cost for a data asset?*

5.1.1 A public body should be required to demonstrate that:

- Charging is necessary and proportionate.
- The dataset would not otherwise be made available, maintained or improved.
- Alternative funding mechanisms have been considered.
- The expected benefits of charging outweigh any reduction in accessibility and reuse and the additional costs incurred by administering a charging system.
- Revenues will be used to improve data availability, quality or infrastructure.
- Appropriate safeguards exist for research, statistical production, charities and public-interest uses.
- There is an approach for ongoing monitoring and evaluation of the effects of charging on the creation of public value.
- It has the capability to change or remove any charging mechanism.
- The proposal is consistent with wider government objectives relating to openness, data sharing and innovation.

5.1.2 We believe explicit exemptions should be considered for data used in the production of official statistics, research purposes, public-sector use, and potentially datasets already released as open data.

### 5.2 *Is there a particular approach you would recommend to enable public bodies to charge above marginal costs for a wider range of data assets?*

5.2.1 If government decides to proceed with reform, we would favour a targeted and tightly controlled approach rather than a broad expansion of charging powers.

- 5.2.2 Charging should be permitted only where there is a clear and evidenced case that it will enable a specific improvement in data availability, quality or accessibility. Arrangements should be transparent, regularly reviewed and, where appropriate, time-limited.
- 5.2.3 If charging is introduced, we would regard cost recovery for making datasets reusable as more defensible than the use of charging as a general revenue-raising mechanism. We would be less supportive of approaches that use charging as a general mechanism for raising revenue.
- 5.2.4 More broadly, we encourage government to continue exploring alternative ways of addressing the underlying funding and incentive challenges that currently limit investment in public sector data. In many cases, improving these underlying arrangements may deliver greater benefits than expanding charging powers alone.

