



Australian Government

Office of the Australian Information Commissioner

Open public sector information: from principles to practice

**Report on agency implementation of the
Principles on open public sector information**

February 2013

A decorative graphic consisting of several overlapping, wavy lines in shades of purple, blue, orange, and red, flowing from the left side of the page towards the right.

**Professor John McMillan
Australian Information Commissioner**

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Foreword

Accessible information is the lifeblood of a robust democracy and a productive economy. As part of a worldwide movement, the Australian Government is fundamentally changing the way that information is valued, managed, used and shared with others.

The concept that best captures this trend, both in Australia and internationally, is the term 'public sector information' (PSI). This describes data, information or content that is generated, collected, or funded by or for the government or public institutions.

PSI is a valuable resource that underpins all the essential public functions that government discharges. It can be an equally valuable resource outside government. People and business can use PSI to evaluate, respond, research, plan, discover, invent, innovate and aspire.

The true value of information is realised only when others can use and build upon it to create new ideas, inventions and strategies. Open PSI is the necessary policy setting to make that happen. It requires, in essence, that government information and data is managed in a way that makes it readily discoverable, accessible and reusable by business and the community.

This report details the results of a survey conducted by the Office of the Australian Information Commissioner (OAIC) on how 191 Australian Government agencies manage PSI. The survey was structured around the eight *Principles on open public sector information* (Open PSI principles) that were published by the OAIC in 2011.¹

The key finding of this report is that Australian Government agencies are actively embracing an open access and proactive disclosure culture. The high response rate to this survey confirms that finding. The widespread and growing use of digital and web technologies to support a PSI transformation is another sign.

There are nevertheless many policy challenges and practical obstacles that must be tackled. It is more a time of transition than fulfilment.

This transition – or cultural shift – is more successful when built on four elements: agency leadership, officer innovation, community engagement and investment in information infrastructure. Those four elements were identified by agencies themselves as key issues in developing national information policy.

Shortcomings in existing policies, structure and information management practices are highlighted by the survey responses:

- Transitioning to open access and proactive publication requires cultural change, including more active sponsorship of this philosophy by agency leaders; this is particularly important to overcome resistance or disengagement within agencies.

¹ Office of the Australian Information Commissioner, *Principles on open public sector information, Report on review and development of principles* (May 2011) www.oaic.gov.au/publications/reports/Principles_open_public_sector_info_report_may2011.html.

- Existing systems for record keeping, information governance, information release and user consultation are not suitably designed for the new era of open PSI, in which government information and data must be valued as a core agency asset and a national resource.
- Information management systems do not always apply uniformly across agencies; from an open PSI perspective there can be indefensible differences in information management practices across agency branches and locations.
- A great deal of valuable information is held by agencies in legacy documents that must be reformatted for digital publication; this can be a costly and technologically challenging process.
- Not all agencies have the technical specialisation and capacity to implement open PSI, on issues such as attachment of metadata, conformance to WCAG 2.0 and data release in an open and standards-based format.
- The default position of open access licensing is not clearly or robustly stated, nor properly reflected in the practice of government agencies.
- Agencies have been successful in identifying information that is *required* to be published under the Information Publication Scheme, but have not been as successful in identifying or prioritising other information that can be published through the agency website or on open data portals.
- Budgetary limitations hamper the capacity of agencies to be more dynamic in implementing an open PSI culture.

An open PSI access strategy is vital to enable Australia to fully enjoy the economic, regulatory and cultural benefits of an open government model. Great strides to unlock PSI assets have recently been taken through the combined impact of the Government's Gov 2.0 strategy, freedom of information changes, the innovation agenda, a shift in public service culture, and service delivery reform. This is an ideal platform from which to move forward.

In preparing this report the OAIC has been greatly encouraged by the passion and dedication of the staff across the Australian Public Service who are working to strengthen open access and proactive disclosure practices. They know it is a continuing challenge. May this report, based on the experience, wisdom and views of dedicated staff across government, strengthen this effort.

Prof John McMillan
Australian Information Commissioner

Background to the PSI survey

In November 2011, the OAIC published *Issues paper 2: Understanding the value of public sector information in Australia* (Issues paper 2).² The major proposal of Issues paper 2 was that the OAIC conduct a survey of Australian Government agencies to gather information about how the Open PSI principles were being implemented by agencies – the PSI survey.

The Issues paper built on recent developments that heralded a new approach to managing, sharing and publishing government information. One development was the report in December 2009 of the Government 2.0 Taskforce – *Engage: Getting on With Government*, which recommended that the commercial, research and community sectors be given a greater opportunity to reuse and add value to PSI.³ As recommended by the Taskforce, a *Declaration of Open Government* was issued in July 2010 that affirmed the Government's commitment to establish a pro-disclosure culture and to make government information more accessible and useable.⁴ Another development was the amendment of the *Freedom of Information Act 1982* (Cth) (FOI Act) in November 2010 to include a new objects clause which declares that 'information held by the Government is to be managed for public purposes, and is a national resource'.⁵

The OAIC invited public comment on the proposal in Issues paper 2 to conduct a PSI survey.⁶ Roundtable discussions were held with 26 Australian Government agencies. The draft survey was refined during that process to closer align the survey questions with the Open PSI principles, to frame the questions so as to obtain quantitative results, and to include a glossary to assist respondents and encourage consistency and comparability of responses.

The OAIC commissioned ORIMA Research to conduct a dual survey – the PSI survey, together with a survey of Australian Government agencies on compliance with their obligations under the Information Publication Scheme (IPS; IPS survey).⁷ A copy of the PSI survey is available on the OAIC website.⁸

² Office of the Australian Information Commissioner, *Issues Paper 2: Understanding the value of public sector information in Australia* (November 2011) www.oaic.gov.au/publications/papers/issues_paper2_understanding_value_public_sector_information_in_australia.html.

³ Government 2.0 Taskforce, *Engage: Getting on with Government 2.0*, Department of Finance and Deregulation (22 December 2009) www.finance.gov.au/publications/gov20taskforcereport/index.html.

⁴ Department of Finance and Deregulation, Commonwealth of Australia, *Declaration of Open Government* (16 July 2010) <http://agimo.gov.au/2010/07/16/declaration-of-open-government/>.

⁵ Freedom of Information Act 1982, s 3(3).

⁶ See a list of submissions received at www.oaic.gov.au/news/consultations.html#issues_paper2.

⁷ ORIMA Research, *Information Publication Scheme: Survey of Australian Government Agencies, Compliance with IPS obligations – Appendix A: Survey Questionnaire*, Office of the Australian Information Commissioner (August 2012) www.oaic.gov.au/publications/reports/2012_IPS_survey_report_extras/IPS_survey_appendix_a.html.

⁸ Office of the Australian Information Commissioner, *Information publication scheme and public sector information scheme survey of Australian Government agencies* (May 2012) www.oaic.gov.au/publications/reports/2013_IPS_supplementary/IPS_PSI_questionnaire.pdf.

The IPS/PSI survey was carried out by ORIMA Research in April and May 2012. It was completed by 191 agencies (78%) of the 245 that were approached (many that did not participate are small boards or committees that are supported by larger agencies). The OAIC complemented the survey by conducting focus group discussions with a variety of Australian Government agencies. In August 2012, the OAIC published preliminary findings from the PSI survey and focus group discussions, *Open public sector information: government in transition*.⁹ The methodology of the PSI survey and information about the focus groups is set out in Appendix A – PSI survey methodology. In addition to the survey, in February 2012 the OAIC offered an internship to a student from the University of Technology, Sydney (UTS) Master of Arts in Knowledge and Information Management program. The intern, Bronwyn Allen, conducted a pilot study to collect data on the open PSI landscape from a reuser perspective; this study is summarised in Appendix B – Summary of UTS intern research project: *Access to and use of public sector information: The academic reuser perspective*.

Outline of this report

Part 1 of this report gives a précis of the main findings of the PSI survey. It identifies the Open PSI principles that agencies found most challenging, and the priority areas for action to address those challenges.

Part 2 of the report, which is the major part of the report, presents the survey results for each of the eight Open PSI principles. This is accompanied by a discussion (drawn from the survey and focus groups) of the issues encountered by agencies in implementing each principle.

Part 3 of the report is the OAIC's analysis of contemporary themes facing Australian Government agencies in implementing an open access agenda that is supported by robust information management and governance.

⁹ Office of the Australian Information Commissioner, *Open Public Sector Information: Government in Transition* (August 2012) www.oaic.gov.au/publications/reports/open_psi_government_transition.html.

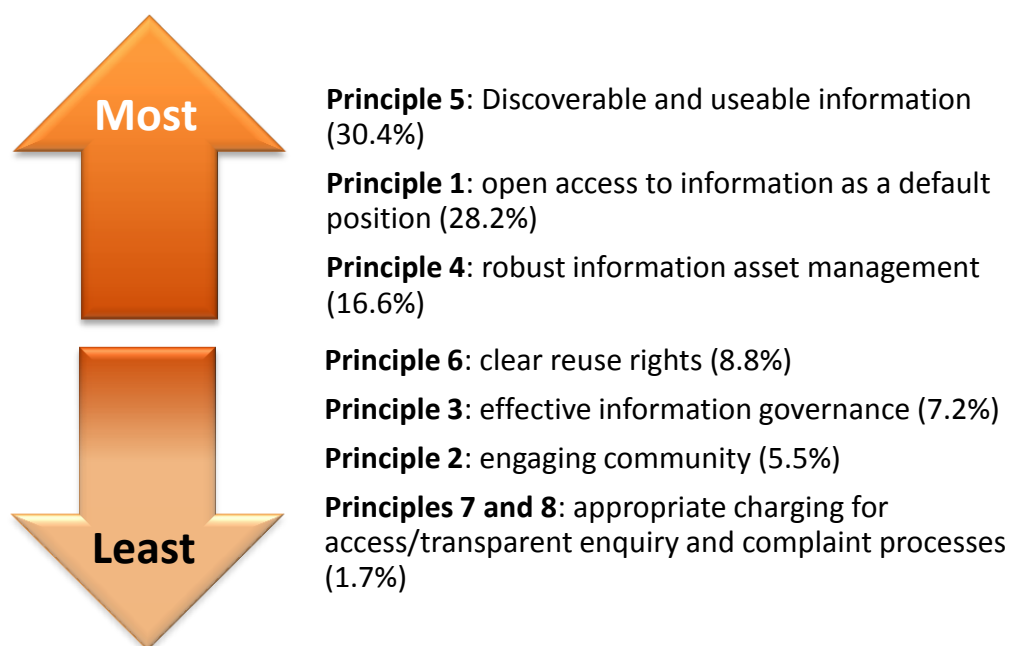
1. Summary of findings

Overview of key challenges

Agencies were asked a number of overarching questions in the PSI survey to help identify the key challenges they face in proactively publishing PSI. The three principles most selected by agencies were:

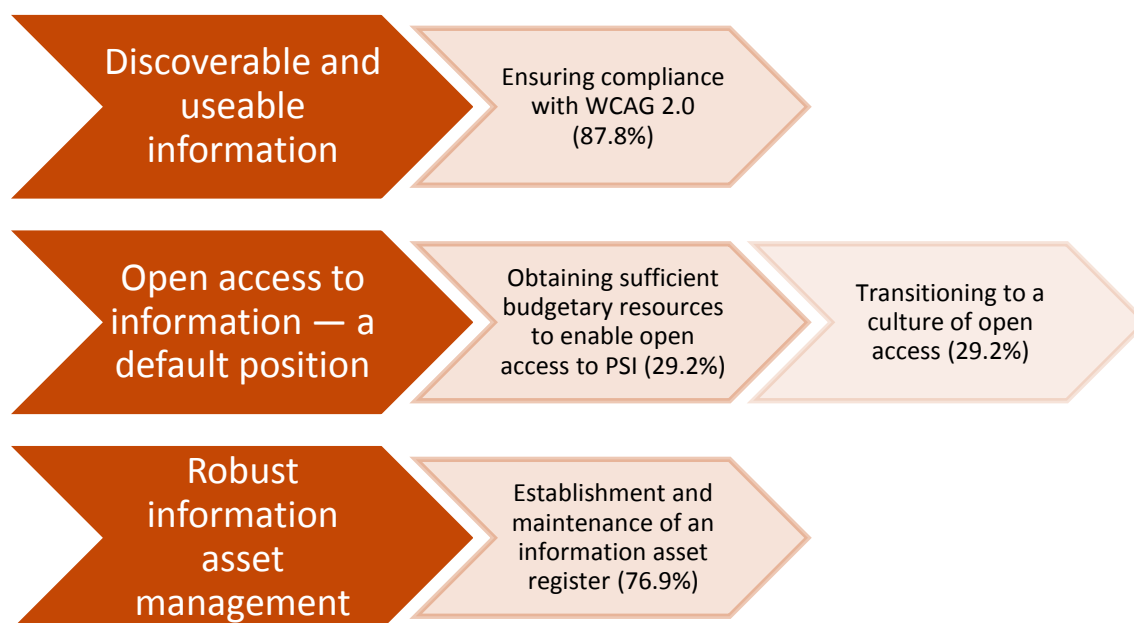
- Principle 5 – ‘making information discoverable and useable’, which was selected by 30.4 per cent of agencies as the most challenging principle to implement
- Principle 1 – ‘adopting a default position of open access to information’, selected by 28.2 per cent of agencies
- Principle 4 – ‘robust information asset management’, selected by 16.6 per cent of agencies.

Figure 1: Open PSI principles that agencies found most challenging to implement



Agencies that identified principle 5 as most significant identified conformance with WCAG 2.0¹⁰ as the largest challenge in making PSI more discoverable and useable (87.8 per cent of agencies). Agencies that identified Principle 1 were divided in choosing resourcing and culture as the largest challenges in moving to a default position of open access to PSI (29.2 per cent for each). Agencies that identified Principle 4 selected establishing and maintaining an information asset register as the largest challenge in ensuring more robust information management (76.9 per cent).

¹⁰ See *Web Content Accessibility Guidelines (WCAG) 2.0* at www.w3.org/TR/WCAG/. See also Department of Finance and Deregulation, Commonwealth of Australia, *Web Accessibility National Transition Strategy* (June 2010) www.finance.gov.au/publications/wcag-2-implementation/index.html.

Figure 2: Most challenging aspects of Principles 5, 1, and 4

Priority areas for action

Those are the key challenges. Five priority areas for action to address those challenges are summarised below. The objective in addressing those challenges is to provide a suitable platform for effectively implementing the Open PSI principles in Australian Government practice.

1. Awareness

Many agencies would benefit from greater awareness of existing government policies. These range from aspirational policies promoting more open government and greater community engagement, to technically-oriented policies relating to metadata standards and open data licensing options. Raising policy awareness and compliance through whole-of-government education and training must be a key strategy.

2. Guidance

Some existing government policies on open access to PSI require further development or refinement. Agencies would benefit from clearer guidance on:

- community engagement standards
- open PSI strategic planning
- information asset registers
- upgrading ICT systems to include information government reform – for example, to meet the requirements of the Digital Transition Policy¹¹

¹¹ National Archives of Australia, *Digital Transition Policy* (March 2012) www.naa.gov.au/records-management/digital-transition-policy/.

- open licensing
- WCAG 2.0 conformance, including:
 - conformance by design
 - managing non-text content
 - publishing or providing access to legacy documents, having regard to the resource burden of making print-only legacy documents WCAG 2.0-conformant
 - prioritising increased open access to legacy documents, including suitable amendments to the Web Guide,¹² Australian Government Intellectual Property Manual¹³ and Guidelines on Licensing Public Sector Information for Australian Government Agencies¹⁴
- when it may not be appropriate to release PSI assets under open licensing terms, in favour of seeking to monetise PSI assets.

3. Collaboration

Collaboration among agencies could be better enabled through a cross-agency forum or working group in which experiences, strategies and resources on open government issues could be shared. The first task of a cross-agency group could be to identify existing agency resources that could be shared among agencies for guidance, adoption or adaptation.

4. Investment

Further investment in existing data sharing infrastructure, particularly data.gov.au, would enable the value and potential of agency PSI holdings to be better realised.

Automated publication of datasets can greatly facilitate the publication and updating of datasets while minimising the administrative cost to agencies. Additional resources to facilitate curation and quality control would assist in maintaining the utility and functionality of data.gov.au, so that high-value information assets will be more easily discoverable.

The option of working with State and Territory governments to cross-federate Australian Government data portals, including data.gov.au, should also be explored and supported.

5. GLAM opportunities

Further examination is required of the challenges and opportunities for the galleries, libraries, archives and museums (GLAM) sector, to improve the openness of GLAM information, data and content.

¹² Department of Finance and Deregulation, Commonwealth of Australia, *Web Guide* (January 2012) <http://webguide.gov.au/web-2-0/gov-2-0-primer/>.

¹³ Attorney-General's Department, Commonwealth of Australia, *Australian Government Intellectual Property Manual* (March 2012) www.ag.gov.au/RightsAndProtections/IntellectualProperty/Documents/IntellectualPropertyManual.doc.

¹⁴ Attorney-General's Department, Commonwealth of Australia, *Guidelines for Licensing Public Sector Information (PSI) for Australian Government Agencies* (February 2012) www.ag.gov.au/RightsAndProtections/IntellectualProperty/Documents/GuidelinesforlicensingPSIforAusGovagencies.doc.

Some GLAM agencies have had significant success with open data and content initiatives. In the short term, it may be beneficial to establish a GLAM-specific cross-agency practice group to provide GLAM agencies with a forum to share open government experiences, strategies and resources. GLAM agencies may also benefit from tailored guidance on implementing open government practices and the Open PSI principles.

2. Results

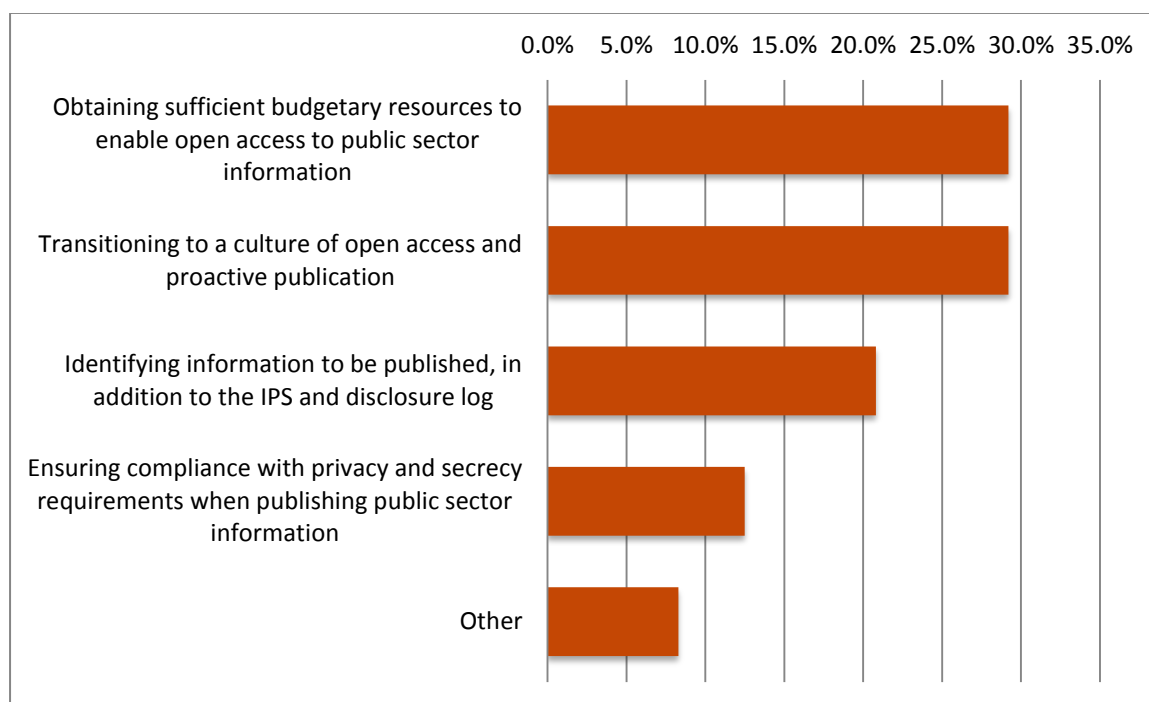
Open PSI Principle 1: Open access to information – a default position

Information held by Australian Government agencies is a valuable national resource. If there is no legal need to protect the information, it should be open to public access. Information publication enhances public access. Agencies should use information technology to disseminate public sector information, applying a presumption of openness and adopting a proactive publication stance.

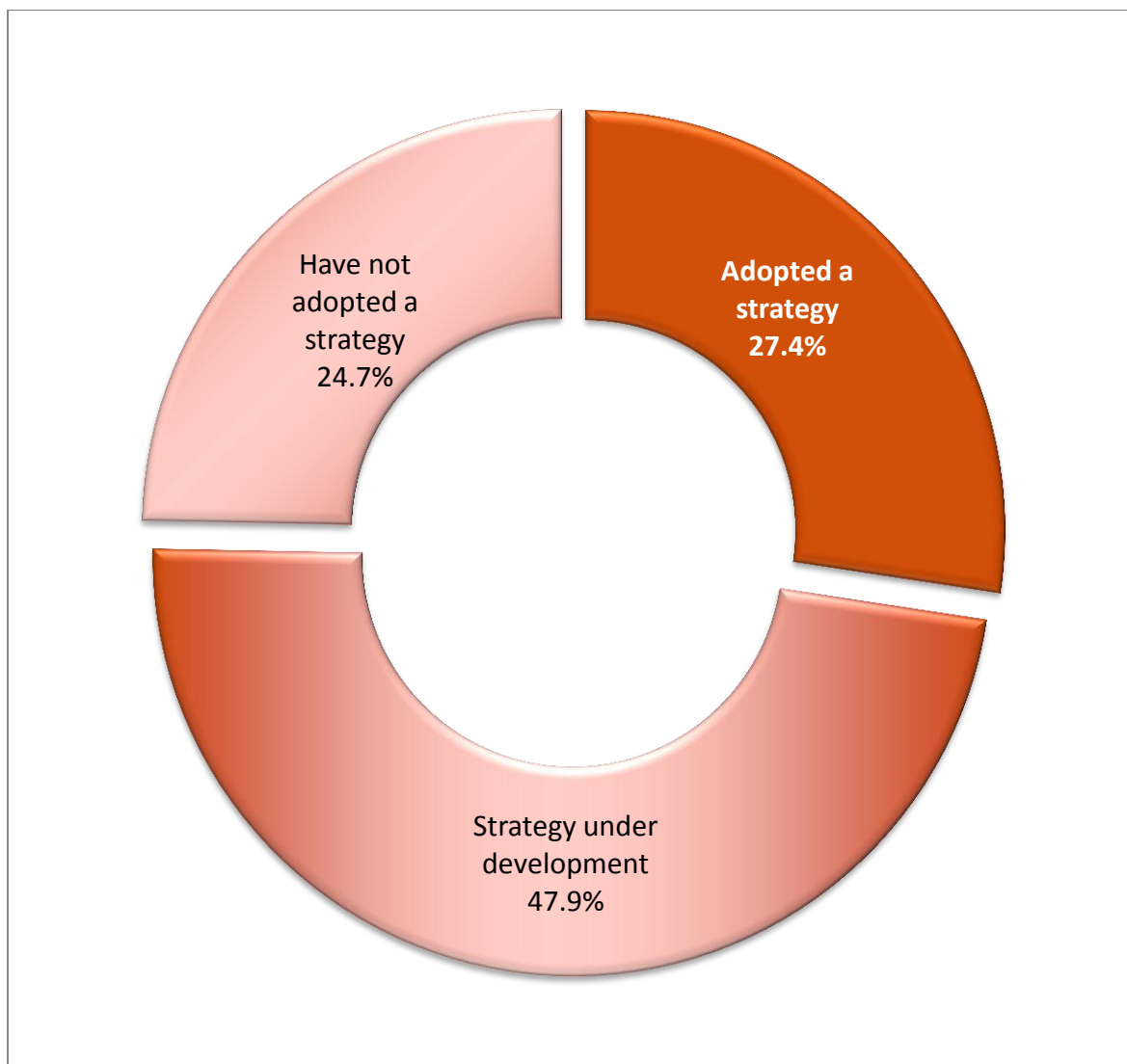
Survey results

Of the agencies surveyed, 28.2 per cent selected Principle 1 as the most challenging principle to implement. This was the second most highly ranked principle by difficulty (see Figure 1). This group of agencies reported that the most challenging aspects of Principle 1 were transitioning to a culture of open access and proactive publication (29.2 per cent), and the resourcing implications of enabling access (29.2 per cent) (Figure 3).

Figure 3: Aspects of Principle 1 identified as the most challenging to implement



Of all the agencies participating in the survey, 27.4 per cent reported that they had developed and adopted a strategy for increasing open access to agency PSI holdings (Figure 4). A further 47.9 per cent reported that they were developing a strategy. Many of the agencies that were engaged in strategic planning noted that it was a very challenging process.

Figure 4: Agency adoption of strategies to increase open access to PSI**Discussion***Transitioning to a culture of open access and proactive publication*

Implementing open government principles requires leadership, particularly if cultural change in the agency is also required. Agencies in which senior management actively promote open access reported significant progress in moving the agency to a different cultural setting with new policies and procedures. Greater difficulty was reported by some larger agencies or by those with specialised sections that operated somewhat independently from the rest of the agency.

A comprehensive strategy or agency plan was reported as essential for effective implementation of open government programs (this is

considered in more detail in the discussion of Open PSI Principle 3: Effective information governance, below). Some agencies reported that senior management did not always fully understand or appreciate the open government agenda. The publication of PSI was

‘[A]n open information culture does not necessarily exist in all parts of the organisation.’
— Large agency

perceived by management in some agencies to be a risk – for example, there was concern that liability might arise from inaccurate, misinterpreted or misused information, or that commercial value in PSI assets might be eroded or eliminated through open access.

Resource constraints

Many agencies reported that resource constraints were hindering the transition to a default position of open access. Making PSI assets more open and available often required a considerable amount of work. Agencies stated that many of their PSI assets were not in a suitable form for publication, and staff were required to devote time and resources to make them suitable for publication.

Agencies also stated that, as specific open government goals are not mandatory, they could often be classified by senior management as non-critical and low priority in an environment of competing agency obligations. This resistance to publication may be stronger if it is not clear that the assets are in public demand.

*‘In an environment of limited and reducing resources ... resources for this purpose are a very low priority.’
— Large agency*

Small and micro agencies appear to be particularly disadvantaged, due to a lack of sufficient information and communications technology (ICT) infrastructure, and staff with specialist skills and experience. Some agencies reported that the costs associated with establishing and maintaining systems and procedures to promote open access were either a major cost burden or simply cost prohibitive. In contrast, several large and very large agencies reported being able to accommodate open government initiatives within their budgets, and either possessing or being able to acquire suitable infrastructure and qualified staff.

Identifying information for publication

Many agencies found it challenging to identify information for publication. The reasons included:

- the lack of an agency register of information assets
- an absence of internal systems or mechanisms to assist in identifying information to publish
- difficulty in establishing whether information assets could be published due to the complex nature of the PSI held by the agency, including problems in reconciling open access with:
 - confidentiality, security or privacy concerns
 - third party intellectual property rights (see also the discussion of Open PSI Principle 6: Clear reuse rights, below), or
 - reliable knowledge about which PSI assets are in public demand.

Open PSI Principle 2: Engaging the community

Australian Government policy requires agencies to engage the community online in policy design and service delivery. This should apply to agency information publication practices. Agencies should:

- consult the community in deciding what information to publish and about agency publication practices
- welcome community feedback about the quality, completeness, usefulness and accuracy of published information
- respond promptly to comments received from the community and to requests for information
- employ Web 2.0 tools to support community consultation.

Survey results

Principle 2 was selected by 5.5 per cent of agencies as the most challenging principle to implement. This group of agencies was evenly split on the most challenging aspects of Principle 2 – between identifying reusers, and establishing effective processes to consult the community.

Discussion

Identifying reusers

Some agencies, particularly agencies that have not historically included public consultation as part of their core business, reported that they were unsure how to identify, contact and consult with users. Large agencies experiencing this difficulty reported that it could be particularly complex to identify relevant reusers where:

- different sections or practice groups within the agency deal with different kinds of information assets, and
- those assets are in demand by different categories or groups of reusers.

Within the one agency there may be numerous different processes for identifying and engaging reusers. A coordinated or whole-of-agency approach might not be practicable, effective or desirable.

Establishing effective processes

Many agencies reported that they were using social media to engage with the community on general issues, including PSI. However, some agencies reported that, because of security restrictions placed on agency computer systems and internet access, they were unable to use social media to engage with stakeholders. In particular, staff could not access social media platforms such as Facebook, Google+, Twitter or online forums and blogs.

Some large agencies also reported that, as a result of their size and the extent of public interest in their information holdings, interacting with the community could be highly time-consuming and resource intensive. However, the majority of agencies appear to be working to engage with interested stakeholders and the general public on PSI issues. Agencies reported that they have mechanisms in place to identify information assets that are:

‘Security implications prevent us from accessing the public through social media.’
– Large agency

- of interest to clients/industry stakeholders (55 per cent)
- of interest to the general community (50.3 per cent), and
- in public demand, and held by the agency (44.5 per cent).

These mechanisms generally comprised direct contact with stakeholders or the general public. Some agencies reported that their websites enabled the public to provide comments or feedback, or make requests regarding PSI. Many agencies reported that they were able to integrate PSI engagement into their existing engagement mechanisms (for example, via general contact details or enquiries lines).

‘[I]t’s a matter of making contact with someone, talk about the type of data they would make available, under what conditions, and then just work through it. And then it’s just a matter of keeping in touch ...’
– EC, academic reuser

Agencies with pre-existing stakeholder engagement programs (such as consultation groups, working parties or advisory boards) reported using those mechanisms to deal with PSI issues. For example, some agencies have established regular meetings with academic and industry reusers of their PSI, to help inform their PSI handling and publication practices.

Open PSI Principle 3: Effective information governance

Australian Government agencies should manage information as a core strategic asset. A senior executive ‘information champion’ or knowledge officer in the agency should be responsible for information management and governance, including:

- providing leadership on agency compliance with the Information Publication Scheme and Disclosure Log
- ensuring agency compliance with legislative and policy requirements on information management and publication
- managing agency information to ensure its integrity, security and accessibility
- instigating strategic planning on information resource management
- ensuring community consultation on agency information policy and publication practices.

The senior officer should be supported by an information governance body that may include people from outside the agency.

Survey results

Principle 3 was identified by 7.2 per cent of agencies as the most challenging principle to implement. Of those agencies, 83.3 per cent reported that ‘instigating strategic planning on information resource management’ was the most challenging aspect of this principle.

Discussion

Agencies attributed the difficulties in instigating strategic planning to a number of issues; however, the prominent issue was leadership. This was the case even though 93 per cent of agencies have appointed a senior executive officer with IPS responsibility.¹⁵ The extension of this responsibility to proactive disclosure seems necessary.

Several agencies reported that their senior management are working to ensure agency compliance with legislative and policy requirements on information management and publication, and are leading the transition towards a proactive disclosure culture.

Many agencies also reported that they lacked staff with sufficient expertise or experience in establishing and implementing strategic planning. Some agencies noted that strategic planning on information management could be difficult, given the breadth and complexity

‘There is definitely a necessity for senior management to get on board with these issues.’
— Large agency

¹⁵ ORIMA Research, Information Publication Scheme: Survey of Australian Government Agencies, Compliance with IPS obligations, Report by ORIMA Research, Office of the Australian Information Commissioner (August 2012) www.oaic.gov.au/publications/reports/IPS%20Report%20August%202012.pdf at 18–9.

of the PSI held, and the associated resources and staff time required to carry out the planning process.

Open PSI Principle 4: Robust information asset management

Effective information management requires agencies to:

- maintain an asset inventory or register of the agency's information
- identify the custodian of each information holding and the responsibilities of that officer
- train staff in information management
- establish clear procedures and lines of authority for decisions on information publication and release
- decide if information should be prepared for publication at the time it is created, and the form of publication
- document known limitations on data quality
- identify data that must be managed in accordance with legislative and legal requirements, including requirements relating to data security and protection of personal information, intellectual property, business confidentiality and legal professional privilege
- protect information against inappropriate or unauthorised use, access or disclosure
- preserve information for an appropriate period of time based on sound archival practices.

Survey results

Principle 4 was selected by 16.6 per cent of agencies as the most challenging principle to implement. Of those agencies, 76.9 per cent reported that the most challenging aspect of the principle was the 'establishment and maintenance of an information asset register'.

Many agencies have yet to establish an information asset management register. At the time the PSI survey was conducted, only 35.6 per cent of all agencies surveyed had done so. However, a further 33 per cent reported that they intended to develop an information asset management register within the next 12 months.

Most of the established registers did not (at the time of the survey) include information about agency PSI holdings, other than documents expressly required to be published under the IPS:¹⁶

- 55.9 per cent of agencies that had established a register reported that it only included the information required to be published under the IPS

¹⁶ *Freedom of Information Act 1982* (Cth), s 8(4).

- 11.8 per cent reported that the register included only PSI assets not covered by the IPS
- 32.4 per cent reported that the register included IPS content as well as other PSI assets, and
- 29.4 per cent reported that they published the register on their website.

Discussion

Larger agencies have much larger information holdings

Agencies reported that reforming their information management practices and, in particular, establishing an information asset register generally required that a full information asset audit be conducted.

Notably, medium, large and very large agencies reported collecting and generating vastly more information per employee than smaller agencies. Larger agencies tend to be older and have disproportionately larger archives of legacy documents (most of which exist only as printed documents). Some larger agencies reported that conducting an audit would be logistically difficult and a substantial cost burden, if not cost prohibitive, due to the sheer size of their existing information holdings.

In contrast, small and micro agencies generally reported that they were more able to reform their information management practices. Specifically, such agencies tend to have fewer locations and smaller, more manageable information holdings. Some smaller agencies reported that they had successfully conducted information audit processes. Several smaller agencies reported that many if not most of their PSI assets tended to be publications intended for public use; accordingly, these assets were likely to be available online already.

Dislocation and information silos

Medium, large and very large agencies reported that, as a function of their size and structure, there were often particular impediments to conducting an information audit:

- The agency may have offices in multiple locations, including different cities and states.
- Some agencies reported that different practice groups within agencies worked independently or in effective isolation, without substantial interaction with other parts of the agency.
- Different offices or different parts of the agency may have implemented different ICT systems. In some cases, those systems were not compatible with each other. This

‘Our information is still dispersed.’
— Large agency

was a particular problem for agencies that had been combined with or had absorbed other agencies through machinery of government changes.

These conditions led in some agencies to the evolution of multiple ‘information silos’, which can be inefficient and hinder information sharing and use. For example, one agency reported that, during an auditing process, it discovered that several different sections of the agency had inadvertently purchased identical copies of an information product. Silos must be broken down to conduct an effective audit.

Insufficient ICT

Some agencies reported that their existing ICT systems do not facilitate robust information asset management. Several agencies reported that their systems do not require sufficient (or any) metadata and cannot perform a global search across the full scope of agency content. This would make it difficult to identify or locate relevant information assets.

Uncertainty and lack of expertise

Several agencies reported that they were uncertain about how to approach reforming their information management processes. For example, several agencies reported that they lacked staff with specialist information and knowledge management qualifications and expertise, and that this limited the progress of their information management reforms.

‘[O]ur main problem is who will be responsible for establishing and maintaining it [an information asset register]? It’s a lack of understanding of what to do, and how to do it. There is interest and people are engaged, but people don’t know where to start.’ —
Large agency

Open PSI Principle 5: Discoverable and useable information

The economic and social value of public sector information can be enhanced by publication and information sharing. This requires that information can easily be discovered and used by the community and other stakeholders. To support this objective, agencies should:

- publish an up to date information asset register
- ensure that information published online is in an open and standards- based format and is machine-readable
- attach high-quality metadata to information so that it can be easily located and linked to similar information using standard web search applications
- publish information in accordance with the *Web Content Accessibility Guidelines* version 2 (WCAG 2.0) endorsed by the Australian Government in November 2009.

Survey results

Principle 5 was selected by 30.4 per cent of agencies as the most challenging principle to implement. A large majority of those agencies (87.8 per cent) said that conforming to WCAG 2.0 was the most challenging aspect of this principle.

Discussion*Publishing PSI online*

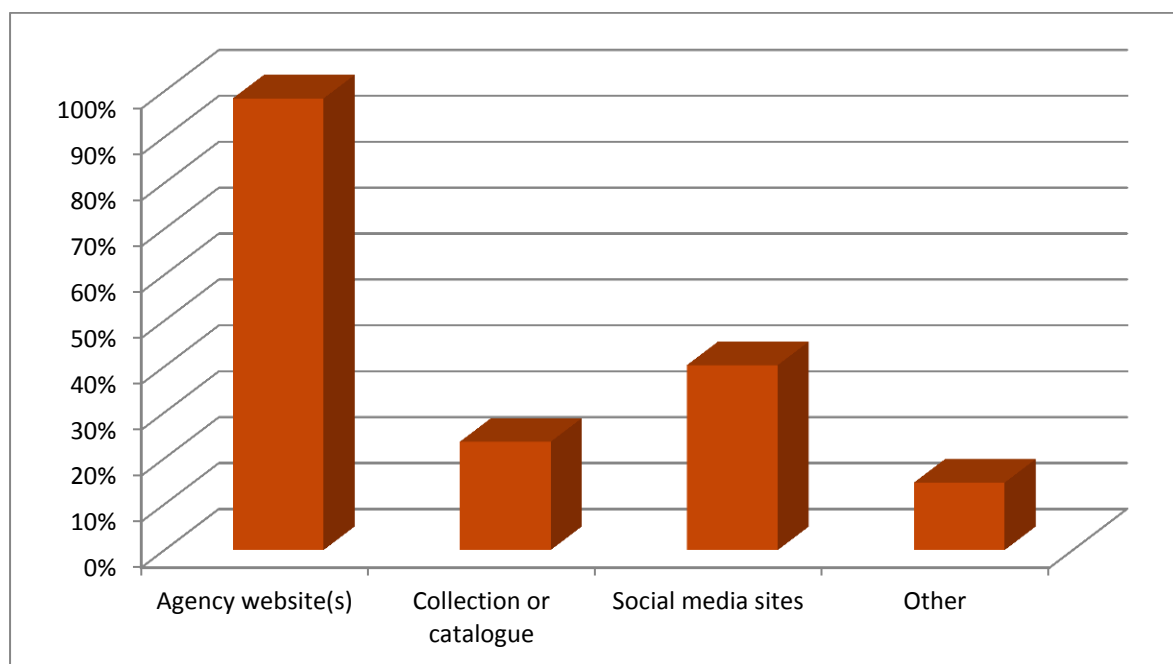
Agencies are using a wide range of online publication channels to publish PSI (Figure 5). 98.4 per cent of agencies reported that they publish PSI on their websites. Many agencies make

use of online social media channels to publish PSI assets or make the public aware that PSI assets are available. 40.3 per cent of agencies reported that they publish PSI on social media, with Facebook, Twitter and YouTube being the most used platforms.

Independent research suggests that at least 73 per cent of Australian Government agencies are using social media.¹⁷ Australia.gov.au lists social media channels operated by agencies, including 89 Facebook pages,¹⁸ 133 Twitter accounts¹⁹ and 75 YouTube channels.²⁰

Of the agencies surveyed, 23.6 per cent reported that they publish PSI in an online collection or catalogue, including data.gov.au.

Figure 5: Internet location of published PSI

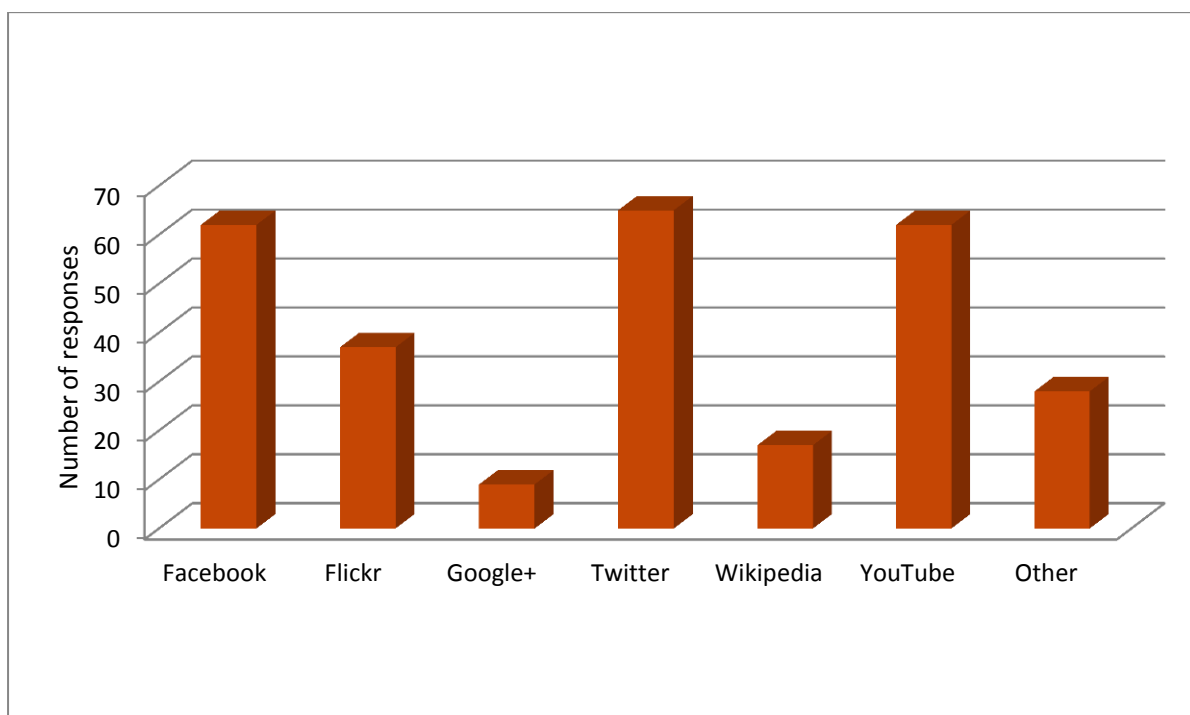


¹⁷ Craig Thomler, 'What are Australian Government agencies using social media to achieve?' on *Craig Thomler's professional blog – eGovernment and Gov 2.0 thoughts and speculations from an Australian perspective* (23 April 2012), <http://egovau.blogspot.com.au/2012/04/what-are-australian-government-agencies.html>.

¹⁸ Department of Finance and Deregulation, Commonwealth of Australia, *Australian Government Facebook pages*, Australia.gov.au (16 January 2013) <http://australia.gov.au/news-and-media/social-media/facebook>.

¹⁹ Department of Finance and Deregulation, Commonwealth of Australia, *Australian Government Twitter sites*, Australia.gov.au (21 January 2013) <http://australia.gov.au/news-and-media/social-media/twitter>.

²⁰ Department of Finance and Deregulation, Commonwealth of Australia, *Australian Government YouTube channels*, Australia.gov.au (21 January 2013) <http://australia.gov.au/news-and-media/social-media/youtube>.

Figure 6: Social media sites used by agencies to publish PSI

Open and standards-based formats

Of agencies surveyed, 38 per cent reported that all or most of the PSI they publish is in open and standards-based formats. Overall, 77.5 per cent of agencies reported publishing at least some PSI in open and standards-based formats.

WCAG 2.0

WCAG 2.0 identifies techniques to create and manage web content (including dynamic and static text, and visual and audio information) to ensure accessibility for people with disability, for example, who use assistive technologies like screen-readers.

‘Not everyone puts stuff into metadata properly ... It’s just really hard to find data sometimes, you have to put a lot of time into it.’
— EC, academic reuser

Generally, websites that are more accessible are also more user-friendly for all users.

Many agencies reported difficulty in conforming to the requirements of WCAG 2.0 in publishing PSI holdings. Of the agencies that identified Principle 5 as the most challenging principle to implement, 87.8 per cent reported that ‘ensuring compliance with WCAG 2.0’ was the most challenging aspect of the principle.

The majority of agencies that participated in the post-survey focus groups reported that they found it difficult to publish PSI in a manner that conforms to WCAG 2.0. Several agencies, particularly micro and small agencies, reported that:

- WCAG 2.0 is complex and overly technical
- it is difficult to interpret some specific requirements of WCAG 2.0, and

- some agencies lacked staff with sufficient qualifications, experience and expertise to interpret and apply WCAG 2.0.

Many agencies expressed confusion over how to conform to WCAG 2.0 with respect to non-text content, such as maps or radar images, or dynamic content such as live streams.

Many agencies also stated that they had difficulty publishing PSI assets in a manner that conformed to WCAG 2.0 without having to allocate significant staff time and resources. This resource burden was considered to be prohibitive to publication.

For example, several agencies reported that they had legacy PSI assets that only existed in print form; the easiest way to make these assets available would be to scan the documents (as Portable Document Format: PDF) and publish them online. However, scanned PDF documents are not necessarily machine-readable and so may not conform to WCAG 2.0. To make such documents accessible, agencies would have to devote time and resources converting them to an accessible form. This would have to be done either by using text conversion methods such as Optical Character Recognition (which are problematic, and often require labour intensive manual review and error correction) or by manually transcribing the documents. Accordingly, many agencies face the difficult choice of publishing legacy assets in a format that does not comply with WCAG 2.0, or not at all.

Metadata

Strikingly, 42.3 per cent of agencies reported that they do not routinely apply metadata to the information they publish on the internet. In the post-survey focus groups, agencies reported that:

- some agency staff do not appreciate the benefits of attaching metadata, and consider attaching metadata a pointless and time-consuming administrative task that impedes or takes away from core business
- agency systems often do not require the attachment of standard metadata to documents created or published by the agency
- existing agency content management systems hinder (or at least do not facilitate) the attachment of rich metadata, and this makes attaching metadata a time-consuming and frustrating task.

Some agencies contended that these issues had contributed to an agency culture that does not value metadata.

‘We have out-dated and superseded technology. The sheer volume of documents is a problem for us to comply ... we do not have the technology to convert PDF into an accessible format. And when we do have the technology, we have the time factor and the resource or manpower issue.’
— Large agency

Open PSI Principle 6: Clear reuse rights

The economic and social value of public sector information is enhanced when it is made available for reuse on open licensing terms. The *Guidelines on Licensing Public Sector Information for Australian Government Agencies* require agencies to decide licensing conditions when publishing information online. The default condition should be the Creative Commons BY standard, as recommended in the *Intellectual Property Principles for Australian Government Agencies* that apply to agencies subject to the *Financial and Management Accountability Act 1997*. Additional guidance on selecting an appropriate licence is given in the *Australian Governments Open Access and Licensing Framework* (AusGOAL).

Survey results

Principle 6 was selected by 8.8 per cent of agencies as the most challenging principle to implement. Of those agencies:

- 53.3 per cent identified ‘transitioning towards Creative Commons BY standard as a default position’ as the most challenging aspect of the principle, and
- 20 per cent identified ‘determining an appropriate open licence’ as the most challenging aspect.

Although most agencies did not identify Principle 6 as a significant challenge, only 28.3 per cent of all agencies surveyed reported that they had adopted the *Creative Commons Attribution 3.0 Australia* (CC BY)²¹ standard as a default position; 24.6 per cent of agencies reported that they intended adopt CC BY or another open licensing option within the next 12 months.

A further 4.7 per cent of agencies reported that they had adopted a default position of releasing PSI under other open licensing terms.

Of all agencies surveyed, 24.6 per cent reported that, in the last 12 months, they had published all or most of their PSI under open licensing terms that facilitate reuse. A further 23 per cent reported that at least some of their PSI was published on this basis. Only 16.2 per cent reported that they had not released any information under open licences.

Discussion

The Government position on open licensing

The *Intellectual Property Principles for Australian Government Agencies* (IP Principles) provide:

11(b) Consistent with the need for free and open re-use and adaptation, public sector information should be licensed by agencies under the Creative Commons BY standard as the default.

²¹ See ‘Creative Commons Attribution 3.0 Australia (CC BY 3.0)’ licence summary on the Creative Commons Australia website at <http://creativecommons.org/licenses/by/3.0/au/>.

... Agencies should license their public sector information under a Creative Commons licence or other open content licence following a process of due diligence and on a case-by-case basis.²²

The IP Principles are elaborated upon in the *Australian Government Intellectual Property Manual* (IP Manual), and supplemented by the *Guidelines on Licensing Public Sector Information for Australian Government Agencies* (Licensing Guidelines).²³

The current iteration of the IP Manual was released in March 2012. The IP Principles were adopted as Government policy in October 2010, when an amended *Statement of Intellectual Property Principles for Australian Government Agencies* was released.²⁴ The amended Statement reflected the position in the Government's response²⁵ to the open licensing recommendations of the report of the Government 2.0 Taskforce.²⁶

The IP Manual explains that agencies have flexibility with respect to licensing:

Agencies should be aware that for other forms of content, standard format licences are also available and may be used where an agency has determined that the Creative Commons BY licence (or other Creative Commons licence) is not suitable for the particular material in question.

In some limited circumstances, agencies may also need to consider the use of a more restrictive, non-open content licence, which will further restrict permitted uses of the material, where it is genuinely necessary to do so in order to protect the material or the Commonwealth's interests.²⁷

This position is reflected in the Licensing Guidelines, which provide that '[u]se of more restrictive licensing arrangements for new material should be reserved for special circumstance [sic] only'.²⁸

Notwithstanding this clear government direction to agencies to adopt the CC BY standard as a default, agencies reported that there are barriers to doing so, as discussed below.

PSI that may not be suitable for release under open licensing

Some agencies noted that their PSI assets included sensitive information such as intelligence or diplomatic data that could result in damage to national interests or diplomatic relationships if released.

²² *Australian Government Intellectual Property Manual*, above n 13 at 6.

²³ *Guidelines on Licensing Public Sector Information for Australian Government Agencies*, above n 14.

²⁴ Attorney-General's Department, Commonwealth of Australia, *Statement of Intellectual Property Principles for Australian Government Agencies* (1 October 2010) www.ag.gov.au/RightsAndProtections/IntellectualProperty/Documents/StatementofIPprinciplesforAusGovagencies.pdf.

²⁵ Department of Finance and Deregulation, Commonwealth of Australia, *Government Response to the Report of the Government 2.0 Taskforce* (30 June 2010) www.finance.gov.au/publications/govresponse20report/.

²⁶ Engage: Getting on with Government 2.0, above n 3.

²⁷ *Australian Government Intellectual Property Manual*, above n 13 at 184.

²⁸ *Guidelines on Licensing Public Sector Information for Australian Government Agencies*, above n 14 at 1.

Another area of concern was information as to which the intellectual property right was held by a third party, such as commissioned reports or research covered by conditions of contract that prevented release under open licensing terms. These information assets could not be released under open licensing terms without infringing third party intellectual property rights.

The need for restricted release is acknowledged in the IP Manual and Licensing Guidelines. They provide that some material may not be suitable for open licensing, including national security information, commercially sensitive information, and material subject to third party copyright.²⁹

‘We have licensing agreements with third parties ... for raw data that prevent ... [us] from being able to provide open access to our location information.’
— Small agency

Commercial reuse of PSI

Some agencies were reluctant to release PSI assets if doing so would compromise a potential revenue stream for the agency. The particular concern was that the private sector could monetise the information asset or otherwise derive a profit from its use.

This concern was strongest where the agency had already commercialised its information assets – for example, by selling scientific survey or monitoring data for commercial use. Agencies were concerned that releasing such assets under open licensing terms would compromise the value and profitability of a saleable asset.

Managing risk

Generally, agencies reported that before they released a PSI asset they would assess whether it was suitable for release under open licensing terms. This could include conducting a risk assessment and seeking legal advice. This process could have resulting resourcing implications, as well as delaying or impeding the release of PSI, or impeding the adoption of the CC BY standard or other open licence as a default.

‘But we don’t want other people profiting or making money where we can.’
— Large agency

Potential risks that were noted by agencies included a loss of control over the uses to which information released under open licensing terms could be put, possible misuse of information, and liability and reputational damage resulting from misuse.

A contrast can be drawn between these concerns and new rules that form part of the FOI Act, following its amendment in 2010. An agency cannot consider reputational damage to the Government, misinterpretation of information or possible confusion as public interest factors that support non-disclosure.³⁰

²⁹ Australian Government Intellectual Property Manual, above n 13 at 185.

³⁰ Freedom of Information Act 1982, s 11B(4).

New PSI assets

Several agencies reported that they now include clauses in contracts to ensure that PSI assets acquired by the agency can be released under open licensing terms. Similarly, agencies that fund research reported making research grants conditional on the release of research data under open licensing terms. The OAIC notes that this approach ('open by design') was recommended by the Government 2.0 Taskforce, and agreed to in principle by the Government.³¹

The UK Government has recently committed to making all publicly funded research publicly accessible in an electronic format, searchable and reusable (including licensing under CC BY) by 2013.³² The Government has also provided £10 million to assist universities to transition to the open access model.³³

This approach is being adopted in some research sectors in Australia. The National Health and Medical Research Council (NHMRC)³⁴ and the Australian Research Council (ARC)³⁵ have both implemented open access policies that provide that 'publications arising from an [NHMRC/ARC] supported research project must be deposited into an open access institutional repository within a twelve month period from the date of publication'.

'The more information you release, the more publicly available the material is, and the less control we have over the information ... this is where our reputation or how we are reflected as the Australian Government might be in danger.'
— Large agency

³¹ *Engage: Getting on with Government 2.0*, above n 3 at 10.

³² Research Councils UK, *Guidance for the RCUK Policy on Access to Research Outputs* (17 July 2012) www.rcuk.ac.uk/documents/documents/RCUK%20_Policy_on_Access_to_Research_Outputs.pdf.

³³ Department for Business, Innovation and Skills, Government of the United Kingdom and Northern Ireland, 'Government invests 10 million to help universities move to open access' (Media Release, 7 September 2012) <http://news.bis.gov.uk/Press-Releases/Government-invests-10-million-to-help-universities-move-to-open-access-67fac.aspx>.

³⁴ National Health and Medical Research Council, Commonwealth of Australia, *Dissemination of Research Findings, NHMRC revised policy on the dissemination of research findings* (25 January 2013) www.nhmrc.gov.au/grants/policy/dissemination-research-findings.

³⁵ Australian Research Council, *ARC Open Access Policy* (10 January 2013) www.arc.gov.au/applicants/open_access.html.

Open PSI Principle 7: Appropriate charging for access

The FOI Act requires agencies to facilitate public access to information at the lowest reasonable cost. This principle applies when information is provided upon request or is published by an agency. Other Acts also authorise charges for specific documents or information access.

Agencies can reduce the cost of public access by publishing information online, especially information that is routinely sought by the public. Charges that may be imposed by an agency for providing access should be clearly explained in an agency policy that is published and regularly reviewed.

Survey results

Principle 7 was selected by 1.7 per cent of agencies as the most challenging principle to implement.

Discussion

Of all agencies surveyed, most reported that they do not generally charge for access to PSI. Charging is more likely to be used when a request is administratively laborious or complex to complete, or there are other unreasonable resource implications. Some agencies reported that they had structured their charging regime to deter excessive or vexatious requests.

'I'd say more recently the only charges usually relate to administrative charges ... It's a long time since we've actually had to pay for data.'
— EC, academic reuser

Several small and micro agencies stated that the costs of administering a charging regime would in most cases outweigh the amount to be collected; accordingly, charging was not applied except in exceptional circumstances.

Agencies that do charge reported that they have a transparent charging regime, usually on their website. Charging was based on the resources involved in large requests, including photocopying, printing and postage. Some agencies reported that they applied specific charges for printing lengthy research publications, or requests for several hard copies of a single publication, particularly when the publication was already available for download in a digital format.

Some agencies reported that they drew a distinction in charging, according to whether the PSI was likely to be used for commercial or non-commercial purposes. Charges would normally be applied if PSI access was for commercial purposes.

Open PSI Principle 8: Transparent enquiry and complaint process

Agency decision making about information publication should be transparent. This can be supported, within the agency's information governance framework, by an enquiry and complaints procedure for the public to raise issues about agency publication and access decisions. The procedure should be published, explain how enquiries and complaints will be handled, set timeframes for responding, identify possible remedies and complaint outcomes, and require that written reasons be provided in complaint resolution.

Survey results

Principle 8 was selected by 1.7 per cent of agencies as the most challenging principle to implement.

'We have a complaint process for all complaints, not specifically PSI.'
— Medium agency

Discussion

Most agencies appear to be successfully handling PSI enquiries and complaints. The majority of all agencies surveyed reported that they accept enquiries and complaints in relation to PSI through existing processes, including telephone hotlines, dedicated email addresses or website feedback forms. Some agencies reported that they monitor requests for information to determine information that is in public demand and should be prioritised for publication.

'Feedback and complaints are through the usual channels and they are transparent.'
— Medium agency

3. Analysis

This part of the report provides further OAIC commentary on the major themes in the PSI survey and focus group responses. Most of the themes that are discussed below are relevant to more than one of the Open PSI principles.

Strong agency leadership

The commitment and support of agency leaders is essential to effectively implementing the Open PSI principles. At a practical level, this requires agency senior managers to:

- actively endorse Principle 1, which requires that open PSI is the default position of the agency
- be aware of the agency's PSI holdings and acknowledge their value
- recognise that PSI must be managed as a core strategic asset, and
- ensure that effective PSI management in accordance with the Open PSI principles becomes the standard business practice of the agency and is budgeted for accordingly.

There is also clear value in having a senior executive 'information champion', 'knowledge officer' or information governance body that has a broad responsibility for information management, including IPS and PSI assets, and has the authority to drive reform. In the post-survey focus groups, agencies that had appointed an information champion with sufficient scope and authority reported being better able to promote open government cultural change.

Strategic management of PSI assets

Government agencies face budgetary challenges and priority setting in all their activities. PSI management and disclosure are not immune from those pressures. It is likely to be cost prohibitive for most if not all agencies to earmark and prepare all relevant PSI assets for publication. The difficulty may be greater for larger and older agencies that have vast stores of legacy PSI assets. It may also be an inefficient budget commitment to publish legacy PSI assets if there is no demand for them.

The OAIC suggests that agencies initially adopt a 'triage' approach, establishing:

- which agency PSI assets are in demand (for example, through community consultation; see *Public engagement*, below)
- which assets could be made available, and
- which assets should be prioritised.

Agencies will need to understand what information assets they hold (see *Information management*, below). Medium and long-term planning can then focus on dealing with legacy documents.

Strategic planning should also focus on modifying standard business practices to ensure that new PSI assets are generated in a way that facilitates publication in an open and accessible

form. For example, use of standard document templates, including standardised styles, can facilitate the conversion of documents to HTML in a way that conforms to accessibility requirements. This will assist in achieving long-term efficiencies (see also *Facilitating conformance to WCAG 2.0* below).

Some agencies commented that it would be valuable if a template strategic plan on information resource management was made available to all agencies. This could assist agencies with limited staff and resources to conduct their own comprehensive information management strategic planning. Given the wide variety of functions and activities across the spectrum of agencies, any template plan would need to be a flexible one.

Alternatively, agencies that have already carried out a strategic planning process may be able to assist other agencies by making their strategic plans available for adoption or adaptation. This inter-agency interaction could be effected by direct communication between agencies, regular working group or community of practice meetings, or facilitated indirectly through forums such as www.govdex.gov.au.

Public engagement

Agencies that are accustomed to undertaking public consultation appear to experience little difficulty in extending this to consultation on PSI issues. They appear also to be embracing the opportunities offered by Web 2.0 technology.

The following general observations about public consultation are directed to all agencies, but may have greater relevance to agencies that have not consulted previously with PSI reusers or have not used web 2.0 technology for this activity.

Expansion of existing engagement and enquiries processes

Many agencies appear to have expanded their existing engagement and enquiry processes to respond to PSI queries. This is a logical evolution and clearly efficient. It is important that the enquiry processes can respond to experienced callers as well as those who are making a general enquiry and rely on the agency's expertise to guide them appropriately. For example, in Allen's pilot study of academic reusers (see Appendix B), subjects reported a high level of satisfaction with the responsiveness of agencies about access enquiries once contact was made, but noted that there was a lack of clear direction about whom to contact in the first instance (see also the discussion of Open PSI Principle 5: Discoverable and useable information, above).

A minimum standard for tailoring an agency's enquiry processes to different audiences could include:

- information about open government and open access to PSI on agency websites
- contact information for PSI queries on the websites
- training for enquiries staff about how PSI queries and requests are processed.

The PSI survey focused on the views and experiences of Australian Government agencies only. It would also be beneficial to conduct in-depth investigation into the experiences and views of stakeholders regarding the adequacy of agency engagement with the public.

Using Web 2.0 for public engagement

Web 2.0 technology offers new platforms for communication and consultation with stakeholders. It also provides agencies with new opportunities efficiently to engage and interact with the public at large, identify stakeholders and gauge public demand for agency PSI holdings. Web 2.0 tools need to be selected with care for each particular activity, and will not necessarily replace more traditional methods of consultation.

Many agencies reported that they are uncertain about how to exploit the opportunities offered by Web 2.0. Comprehensive whole-of-government guidance could be provided in this area.

The OAIC notes that the Government 2.0 Primer³⁶ contained in the *Australian Government Web Guide* (Web Guide) contains information on:

- the use of social media and online consultation,³⁷ and
- developing social media and moderation policies.³⁸

The Primer also links to examples of social media and moderation policies.

This existing material could be expanded upon and more widely publicised across Government. Agency staff may benefit also from specific training on effective use of social media. For example, the OAIC notes that the UK Cabinet Office recently released whole-of-government guidance for public servants on the use of social media. The guidance covers when it may be appropriate to use social media, how to use social media effectively and how to overcome technical barriers.³⁹

The resource burden of increasing public engagement can be significant, especially for smaller agencies using Web 2.0 technology. It would assist agencies if template policies were available for adoption or adaptation by agencies, such as a template social media/online comment policy. This would help achieve whole-of-government efficiency and consistency, reduce uncertainty for agency staff and reduce the burden on agencies in adopting Web 2.0 technology.

Information management

Effective information asset management is complex and poses different and continuing challenges for each agency. PSI management is only one part of the challenge, but it is encouraging that 33 per cent of agencies reported that they intended to develop

³⁶ *Web Guide*, above n 12.

³⁷ Department of Finance and Deregulation, Commonwealth of Australia, *Social Media*, Web Guide (29 August 2012) <http://webguide.gov.au/web-2-0/online-consultation/social-media/>.

³⁸ Department of Finance and Deregulation, Commonwealth of Australia, *Government 2.0 planning and governance*, Web Guide (4 January 2012) <http://webguide.gov.au/web-2-0/gov-2-0-primer/government-2-0-planning-and-governance/#develop>.

³⁹ Cabinet Office, Government of the United Kingdom and Northern Ireland, *Social media guidance for civil servants* (17 May 2012) www.cabinetoffice.gov.uk/sites/default/files/resources/Social_Media_Guidance.pdf.

information asset management registers within the next 12 months (see the discussion of Open PSI Principle 4: Robust information asset management, above).

The majority of agencies are currently working to meet the requirements of the National Archives *Digital Transition Policy*.⁴⁰ This work includes introducing new and improved digital records management systems that will facilitate better information resource management, including the management, discoverability and openness of PSI assets. Some agencies reported that they have successfully combined their information management reform processes with the transition to new ICT systems. There are significant efficiencies to be gained in combining these processes. However, agencies would benefit from guidance on how best to do this.

Some agencies also reported that successful information management outcomes were facilitated by hiring specialised records management staff. However, many agencies, particularly smaller agencies, lack the resources to do this.

The Guidelines issued by the Information Commissioner under s 93A of the FOI Act, to which agencies must have regard, recommend that agencies have an IPS information register as a part of their information asset management framework.⁴¹ The recent OAIC survey of IPS compliance indicates that at least 50% of agencies subject to the FOI Act have developed internal IPS information registers.⁴²

The utility of an information asset register will be increased if it lists not only information published under the IPS but all agency PSI assets. Many agencies have substantial PSI holdings and it may not be feasible for agencies to publish all those assets in the short term. However, a publicly accessible register that includes unpublished PSI assets is an important transparency statement, and could assist agencies to establish which assets are in public demand and to be prioritised for publication.

‘We want an example, a template of an information asset register that we can all adopt, and that we can adjust and amend depending on our agency service and industry type.’
— Large agency

The PSI survey results suggest a need for guidance on how to develop and implement information management reform, including information asset management registers. Several agencies suggested that a template register together with prescriptive guidance would promote efficiency and consistency across government.

⁴⁰ *Digital Transition Policy*, above n 11.

⁴¹ Office of the Australian Information Commissioner, *Guidelines issued by the Australian Information Commissioner under s 93A of the Freedom of Information Act 1982* (29 January 2013) www.oaic.gov.au/publications/guidelines/complete_foi_guidelines_january2013.pdf at 4.

⁴² *Information Publication Scheme: Survey of Australian Government agencies: Compliance with IPS obligations*, above n 7 at 15.

A major impediment to effectively establishing a register is locating and triaging legacy documents, particularly documents that are not in a digital form. This is discussed in more detail below.

In the short term, agencies may need to focus on:

- creating systems that facilitate good information management practice, and discoverability and openness for information assets currently in use or that will be created or acquired, and
- identifying and opening high-value legacy assets.

Using Web 2.0 to support open PSI

Agencies are embracing Web 2.0 technology to facilitate proactive publication of PSI that is discoverable and useable. There is Government policy support for this trend in the endorsement of most of the Government 2.0 Taskforce report recommendations, and in the *Web Accessibility National Transition Strategy* that endorses and adopts WCAG 2.0.⁴³ The Strategy requires that all agency websites must conform to WCAG 2.0 Level A (the lowest level of WCAG 2.0 conformance) by December 2012, and Level AA (the middle level of conformance) by December 2014.⁴⁴

Facilitating conformance to WCAG 2.0

WCAG 2.0 is a complex and nuanced document that can be difficult to interpret, particularly for people without relevant technical expertise. It is clear that agencies, particularly agencies that lack in-house staff with technical expertise in web design and implementation, could benefit from more guidance on how best to implement WCAG 2.0.

The World Wide Web Consortium (W3C) has published support materials⁴⁵ on how to comply with WCAG 2.0, including *How to Meet WCAG 2.0*.⁴⁶ However, this material is still quite technical. AGIMO continues to develop and deliver advice on accessibility issues through a number of channels, including the Web Guide and the AGIMO Blog.⁴⁷

There nevertheless remains a clear need for plain English guidance on basic methods to conform to WCAG 2.0, including:

- guidance aimed at content creators on how to produce documents that can be easily published in a form that is WCAG 2.0 conformant

⁴³ Web Accessibility National Transition Strategy, above n 10.

⁴⁴ *Web Accessibility National Transition Strategy*, above n 10 at 8.

⁴⁵ World Wide Web Consortium (W3C), *Web Content Accessibility Guidelines (WCAG) Overview* (2 October 2012) www.w3.org/WAI/intro/wcag.php#subhomenav.

⁴⁶ World Wide Web Consortium (W3C), *How to Meet WCAG 2.0: A customizable quick reference to Web Content Accessibility Guidelines 2.0 requirements (success criteria) and techniques* (3 January 2012) www.w3.org/WAI/WCAG20/quickref/.

⁴⁷ See the Australian Government Information Management Office (AGIMO) Blog at <http://agimo.govspace.gov.au/category/accessibility/>. AGIMO also operates an email address (wcag2@finance.gov.au) and telephone hotline (02 6215 1653) for agencies to address questions about WCAG 2.0.

- specific guidance on how to conform to WCAG 2.0 for non-text content, including complex images-based content (such as maps and charts) and dynamic content (such as live streams).

With respect to legacy documents that exist only in printed form, there is a tension between the Government's mandatory requirement for WCAG 2.0 conformance, and the push towards proactive disclosure of PSI. Specifically, the cost and resource implications of creating accessible versions of legacy documents can be substantial and often prohibitive. The Web Guide relevantly provides:

Until otherwise stated, agencies must not rely upon any web technology that cannot claim WCAG 2.0 conformance. That is, any technology may be used, but where it cannot prove its accessibility support, agencies must provide multiple accessible formats.

...

Agencies must provide other alternative formats upon request, but should not rely on this defence, nor consider it an appropriate long-term solution to providing accessible versions. **Alternative formats should always be published at the same time** [emphasis added].

Conformance to this policy poses the danger that documents that cannot be provided in an accessible format will not be published at all. This is an issue that is being taken up by the OAIC, so that the policy of proactive publication of PSI assets is not hindered. As an alternative, agencies could address this issue by:

- preparing a comprehensive information asset register that includes legacy PSI assets
- publishing the register in a WCAG 2.0 conformant format, and
- generating and providing accessible versions of relevant legacy documents on request.

This would ensure that legacy PSI assets are discoverable to the public. Individuals who require accessible versions could then make a request to which the agency must promptly respond. This approach would ensure agencies expend resources on converting legacy documents where there is an established demand.

Supporting agency conformance to metadata standards

A high proportion of agencies – more than 40 per cent of those responding to this survey – do not routinely apply metadata to their publications.

The Web Guide states that the use of the AGLS metadata standard is a mandatory minimum requirement for agencies.⁴⁸ The survey results suggest a possible need for whole-of-government awareness-raising and training.

⁴⁸ Department of Finance and Deregulation, Commonwealth of Australia, *Metadata (AGLS)*, Web Guide (3 September 2012) <http://webguide.gov.au/finding-content/metadata-agls/>.

The consistent use of high-quality metadata is essential for ensuring that documents are discoverable and searchable. This assists public access as well as internal information asset management.

**‘Metadata is a cultural issue ... You have good metadata when you have good business procedures and processes, it’s not just a software program.’
— Large agency**

Allen’s pilot study of academic reusers (Appendix B) suggests that the failure to attach sufficient and high-quality metadata is hindering discoverability and reuse of agency PSI assets. Allen’s subjects reported that they primarily discovered PSI through word of mouth (either from colleagues or contacts within agencies). Allen’s subjects also reported that they often found agency websites and other online search tools

ineffective. Documents cannot be reused if they are not discoverable. In short, poor-quality metadata can substantially undermine the reuse of PSI and prevent the maximisation of PSI value.

The barriers to effective use of metadata are both technological and cultural. Good metadata forms the basis of good information management. It is the responsibility of agency management to ensure that agency ICT systems facilitate the attachment of consistent high-quality metadata to documents. Staff also need to be properly trained so they understand the importance and benefits of good metadata practice and can integrate it into their day-to-day business practices.

The OAIC strongly recommends that agencies prioritise the upgrading of their ICT systems if they do not have content management systems with effective metadata functionality.

Data.gov.au

Agencies have strongly embraced the concept of central data repositories and catalogues. A large proportion of agencies now publish PSI to an online collection or catalogue, including 55.8 per cent that use data.gov.au (see Publishing PSI online in the discussion of Open PSI Principle 5: Discoverable and useable information, above).

Agencies that publish on data.gov.au commented on deficiencies in the site, including:

- Datasets must generally be uploaded and updated manually, which can be time and labour intensive, particularly for agencies that have large numbers of datasets.
- Data.gov.au does not facilitate automated entry of metadata. Nor are there transparent standards for metadata (although the site does require the entry of mandatory minimum metadata). As a result, the use of metadata across the information assets published on data.gov.au is inconsistent. This can compromise searchability and discoverability.

**‘A massive issue with data.gov.au is that it is not searchable because of a lack of metadata.’
— Small agency**

- Data.gov.au lacks functions and features that are displayed by other government data repositories. For example, the current search function does not take advantage of the full range of metadata attached to uploaded PSI assets, and does not enable users to filter searches by tags or categories.

Case study: dataACT

dataACT (<https://data.act.gov.au/>) was established in August 2012. dataACT is an open data initiative that aims to facilitate access to and use of Australian Capital Territory (ACT) Government data assets.

dataACT is based on the Socrata Open Data Platform, which is specifically designed for data hosting, management and publication. The US Government data.gov site is also based on Socrata.

dataACT has three core components:

- Automated publication. Data is uploaded from across the ACT Public Service through data integration systems that will update individual datasets automatically as staff continue to build and develop those datasets. Once data integration systems have been established, the ongoing costs and resource implications of publication are negligible. Project staff estimate that the costs of implementing data integration facilities into any particular agency ICT system will be in the order of \$5000.⁴⁹
- Making data available in a machine-readable and consistent range of data formats or Application Programming Interfaces (APIs). This enables users to easily explore, download, reuse and create new applications with public sector data. Further, dataACT supports format transcoding to enhance data transportability: uploaded datasets can be converted by users into the format that they require. This facilitates reuse and accessibility by enabling compatibility across different ICT systems (including accessibility software).
- Enabling interpretation. dataACT includes some basic data visualisation tools to make graphs or maps that can be embedded on external websites. This enables the creation of customised views of datasets for particular community needs or specific initiatives. Embedded visualisations remain linked to datasets; when a dataset is updated, the linked visualisation is also updated.

⁴⁹ This estimate assumes a base level of proficiency on the part of data custodians. The estimate includes costs incurred for both the acquisition of the target dataset, hosting of the dataset, and the publication of the dataset in multiple formats.

Data.gov.au is a highly valuable initiative and is capable of being a key enabler to Australia's open government initiatives. However, it is limited in its current implementation. It will have greater value as a central data repository if steps are taken to make it a more dynamic and flexible repository of high-quality PSI assets that is easily navigable and searchable and that actively facilitates reuse.

'A lot of government departments put out these nice mapping viewers and things, which are good for one user group, but a lot of people want the actual data, not just a view of the data.'

— VM, academic reuser

Initially this will require:

- the redevelopment of data.gov.au to provide additional functionality, including (at a minimum) automated publication of datasets, and improved navigability and searchability, and
- sufficient ongoing resourcing to data.gov.au to ensure it is adequately maintained, and that agencies are provided with sufficient support to maximise their use of data.gov.au (for example, support to assist agencies to implement data integration systems to automate publication).

The next step would be the articulation by Government of a clear policy requiring agencies to publish high-value datasets on data.gov.au. There should also be links to and interoperability with State and Territory data repositories, with the aim of implementing a cross-federated system. This would enable searchability across the data repositories of several (or all) Australian governments from any single portal, including data.gov.au. An effective cross-federated model would greatly enhance searchability and discoverability of Commonwealth, State and Territory PSI assets, which would lead to greater reuse.⁵⁰

Open licensing

Establishing a default position of open licensing

Of concern, from an open government/open data perspective, is that two thirds of agencies (65.4 per cent) responding to this survey said they are yet to adopt a default position of open licensing (see Open PSI Principle 6: Clear reuse rights, above). A low take-up of open licensing will inhibit the optimal reuse of PSI, and in turn the policy of open PSI.

'[I]t's a lack of clarity of the implication if we adopt open licensing ... people are willing – they just need the comfort of understanding all of the issues of risk and how they should be treated and how they could be mitigated.'

— Large agency

⁵⁰ The OAIC notes that AusGOAL is currently developing the functionality to federate government data portals in Australia. See 'data.x.gov.au' on the AusGOAL website at www.ausgoal.gov.au/data.x.gov.au.

Open licensing, and the use of Creative Commons licences as a default position, requires an important cultural shift by Australian Government agencies. A shift of this kind requires active agency leadership to support the change, and to ensure that agency staff are equipped to assess and apply the licensing requirements of the IP Principles and IP Manual. This could ideally be part of the role of a senior executive ‘information champion’ (see Open PSI Principle 3: Effective information governance, above).

Another precondition for a cultural shift to more open licensing is a clear statement of government policy in support of this change. The major guideline document used in Government is the IP Principles, as elaborated upon in the IP Manual. A revised Manual was issued by the Attorney-General’s Department in March 2012 ‘to reflect Government decisions relating to the promotion of Government 2.0 and the use of open content licensing’.⁵¹

The IP Principles state that ‘public sector information should be licensed by agencies under the Creative Commons BY standard as the default’ (Principle 11(b)).⁵² However, that straightforward message is clouded by other features of the Principles as elaborated in the Manual. Two such features – regarding the commercialisation of government information assets, and the use of licences other than Creative Commons – are discussed below under the headings *Consistent licensing* and *Commercial use of PSI* respectively.

A third concern is that the IP Principles adopt a narrow definition of ‘public sector information’. The Principles define it as material that ‘agencies are generally obliged to publish or otherwise allow free public access to’.⁵³ Examples given are:

- material that has been published for the purpose of ‘informing and advising the public of government policy and activities’
- ‘information that will enable the public and organisations to understand their own obligations and responsibilities to Government’, and
- information that enables the public ‘to understand their entitlements to government assistance, [obtain] access to government services, or [comply] with public accountability requirements’.

The OAIC has adopted a far broader definition of public sector information. In Issues paper 2, the OAIC agreed with the OECD definition: ‘information, including information products and services, generated, created, collected, processed, preserved, maintained, disseminated, or funded by or for the Government or public institutions’.⁵⁴ As the Issues paper explained, the objective in adopting a broad definition is to implant the notion that all information held by government is a national resource that may be suitable for sharing with business and the wider community. The narrower definition of PSI in the IP Principles may not convey the same message to agencies.

⁵¹ See ‘Versions’ on the cover page of the Australian Government Intellectual Property Manual.

⁵² *Australian Government Intellectual Property Manual*, above n 13 at 6.

⁵³ *Australian Government Intellectual Property Manual*, above n 13 at 5–6.

⁵⁴ Understanding the value of public sector information in Australia, above n 2 at 9.

A useful comparison can also be drawn with the *UK Government Licensing Framework for public sector information*, published in July 2011.⁵⁵ It does not define ‘public sector information’ but gives as examples previously unpublished datasets released on data.gov.uk, original and open source software, and non-personal information collected or produced by government agencies that would be accessible under the UK *Freedom of Information Act 2000*. Other comments in the Framework amplify that expansive approach by explaining that it forms part of a ‘transparency and open public data agenda’ whose objectives include the ‘removal of barriers to re-use’, to ‘promote creative and innovative activities’, ‘provide stimulus to the knowledge and digital economy’ and ‘improve the flow of information from the public sector to the public’.

The results of the PSI survey and the feedback provided by agencies in the post-survey focus groups suggest that they either find that the IP Manual does not convey a clear and unequivocal message, or are unfamiliar with the requirements of the Manual and the flexibility that it provides in licensing PSI. This indicates a need to re-appraise the Manual, followed by greater awareness-raising and training across Government.

There may be similar uncertainty among reusers. Allen’s pilot study of academic reusers (Appendix B) reported that some reusers found the terms for PSI reuse to be inappropriate and overly restrictive.⁵⁶ For example, one academic reported that they had worked with datasets

‘If we don’t address licensing it will become a difficult issue that will bite us all ... the most rapid form of research is data intensive. It is fostering innovation by people in government and outside. Having five different licences does not facilitate the mashing up of information ... One licence would make everyone’s life easier.’
— Small agency

where the licence restricted the use of the data to a single project; any subsequent use of the data required a fresh request and additional transaction costs.

Consistent licensing

As noted above, Principle 11(b) in the IP Manual states that ‘public sector information should be licensed by agencies under the Creative Commons BY standard as the default’. The clarity of that message is clouded by other comments – for example, that this is ‘the default or starting position’, that the starting position is to ‘consider Creative Commons licences or other open content licences’, and ‘agencies should only apply the Creative

⁵⁵ The National Archives, Government of the United Kingdom and Northern Ireland, *UK Government Licensing Framework for public sector information* (July 2011) www.nationalarchives.gov.uk/documents/information-management/uk-government-licensing-framework.pdf.

⁵⁶ Bronwyn Allen, *Access to and Use of Public Sector Information: The Academic Re-user Perspective* (June 2012) Office of the Australian Information Commissioner at 9.

Commons “BY”, or other open content licence, to particular PSI following a process of due diligence on a case by case basis’.⁵⁷

This equivocal message carries the dual danger that agencies will regard the default position as a flexible option, and that a proliferation of open licences could develop that are similar yet customised. This could weaken public confidence in reusing PSI if licensing conditions are unclear or more onerous than those associated with Creative Commons – for example, that a licence can be revoked at any time. The default position should be strengthened to limit these risks.

A useful comparison can again be drawn with the *UK Government Licensing Framework for public sector information*. It states that the Government ‘**directs** central government departments and agencies ... and **invites** the wider public sector to adopt ... the Open Government Licence as the default licence for public sector information that is available for use and re-use free of charge’.⁵⁸ The *Open Government Licence for public sector information* (2010)⁵⁹ is a separate document, issued by the (UK) National Archives. In plain language over two pages, the Licence advises the public that ‘[y]ou are encouraged to use and re-use the Information that is available under this licence ... freely and flexibly, with only a few conditions’. The conditions require attribution and that the user does not claim official status, misrepresent the source of the information, or use it in breach of privacy laws. Subject to those conditions, users are advised that they may ‘copy, publish, distribute and transmit the Information; adapt the Information; exploit the Information commercially’.

Another consideration in support of consistency in open licensing by national government agencies is that there are growing pressures for consistency between the Australian Government and State and Territory governments, as well as international consistency.

Cross-jurisdictional transfer of information is common, and reusers increasingly rely upon data obtained from multiple jurisdictions. It is important that there are consistent licensing practices among governments or countries that have a similar information economy and a shared commitment to open government.

‘Creative Commons is an instrument of public policy. If you don’t want people to use your information, don’t publish it. There are six standards under Creative Commons. If you don’t agree with their terms you need to budget for legal fees for altering licences ... Why would anyone want to make changes to Creative Commons when the purpose of the licence is to create certainty about owners’ and reusers’ rights which have been upheld by the courts?’
— Small agency

⁵⁷ Australian Government Intellectual Property Manual, above n 13 at 184.

⁵⁸ UK Government Licensing Framework for public sector information, above n 55 at 4–5.

⁵⁹ The National Archives, Government of the United Kingdom and Northern Ireland, *Open Government Licence for public sector information* (2010) www.nationalarchives.gov.uk/doc/open-government-licence/open-government-licence.htm.

Creative Commons has been adopted by a number of other jurisdictions, nationally and internationally.⁶⁰ Another option that is strongly taking root in Australia is the Australian Governments Open Access and Licensing Framework (AusGOAL) suite of licences.⁶¹ AusGOAL has been funded and developed by Australian governments to develop an Open Access and Licensing Framework. The OAIC, along with a number of other national agencies, actively participates in and supports the AusGOAL program. The common belief is that a stronger default position in Australia towards open licensing on a nationally consistent basis will ensure that Australia keeps pace with global trends and provides a superior service to the Australian community.

Creative Commons licences

Creative Commons is an international non-profit organisation that provides free licences and tools that copyright owners can use to allow others to legally share, reuse and remix their material. Creative Commons Australia, the organisation's local affiliate, has developed a suite of Australian Creative Commons licences that are compatible with Australian law. The Australian suite of licences is interoperable with the international licences.

The *Creative Commons Attribution 3.0 Australia* (CC BY) licence allows licensed material to be copied, distributed, displayed and remixed or built upon, including for commercial purposes, provided the user credits the original creator/s (and any other nominated parties).⁶² This does not affect any copyright in the licensed material.

- Creative Commons also offers other, more restrictive licences. These include licences that authorise, for example:
- only non-commercial use
- distribution and display or verbatim copies of the licensed material, but not derivative works.⁶³

Creative Commons licences have been adopted by a number of other national governments.⁶⁴

⁶⁰ Creative Commons, *Government use of Creative Commons: Featured Government Case Studies* (21 December 2012) http://wiki.creativecommons.org/Government_use_of_Creative_Commons.

⁶¹ See 'AusGOAL Suite of Licenses' on the AusGOAL website at www.ausgoal.gov.au/the-ausgoal-licence-suite.

⁶² *Creative Commons Attribution 3.0 Australia*, above n 21.

⁶³ See 'About the Licences' on the Creative Commons Australia at <http://creativecommons.org.au/learn-more/licences>.

⁶⁴ *Government use of Creative Commons: Featured Government Case Studies*, above n 60.

AusGOAL

AusGOAL – the Australian Governments Open Access and Licensing Framework – is a framework intended to assist information providers to make appropriate licensing decisions that facilitate open access to public sector information, with the main component being the use of the Creative Commons Australia licences.

Through this licensing framework, AusGOAL makes it possible for organisations to manage their risks when publishing public sector information in a way that drives innovation and entrepreneurial activities, providing enhanced economic and social benefits to the wider community.⁶⁵

AusGOAL is also aligned with numerous open government initiatives around the world, and supports the OAIC's Open PSI principles.⁶⁶

Commercial reuse of PSI

PSI assets that are available for reuse under open licensing terms such as CC BY or an equivalent AusGOAL licence will be more available for commercial reuse. This was acknowledged implicitly in the Government's response to the Government 2.0 Taskforce report, which noted that PSI is a national resource that should be released on permissive licensing terms to maximise its economic value.⁶⁷ The OAIC's Open PSI principles also embody this view. In summary, open PSI can be an economic stimulant by:

- allowing new and novel uses of existing information assets; agencies may not have the capability, opportunity or objective to commercialise and exploit their own PSI assets
- reducing the commercial barriers for individuals, academia and the non-profit sector, and the private sector to reuse government data, and
- facilitating the development of commercial enterprises that will benefit not only the originator of the enterprise, but also the community as a whole in terms of the growth of the national economy and the taxation base available to government.

‘Taking the extra step of licensing
under Creative Commons BY
standard makes it clear that reuse
is permissible.’
— Small agency

⁶⁵ See ‘Overview’ on the AusGOAL website at www.ausgoal.gov.au/overview.

⁶⁶ See ‘Overview’ on the AusGOAL website, above n 65.

⁶⁷ *Government Response to the Report of the Government 2.0 Taskforce*, above n 25.

The IP Manual acknowledges that commercial reuse of PSI is an open licensing and Gov 2.0 objective. However, the message is qualified and may not trigger a marked cultural departure from former government practice. Principle 13 in the IP Principles states that '[a]gencies should be responsive to opportunities for commercial use and exploitation of IP, including by the private sector'.⁶⁸ This can be read as giving equal if not greater priority to government exploitation and protection of PSI assets. Another similar comment in the IP Principles is that '[w]here IP is suitable for commercialisation, the private or other sectors should be considered'.⁶⁹ As noted earlier in this paper, public sector information is defined in the IP Principles as material that agencies 'are generally obliged to publish or otherwise allow free public access to'.

'[I]t's about pushing out information so the information could be used for projects that the agency does not have time or the money to create ... we pushed out some data, and a cool interactive application was created out of it.' — Large agency

There is a need to strike a balance between agencies commercialising or monetising their PSI assets, and facilitating business and community reuse and innovation. It is doubtful, from an open government perspective, that the IP Principles and Manual satisfactorily strike that balance at present.

Case study: Australia Bureau of Statistics: making statistics free and available for use

In 2005, the Australian Bureau of Statistics began making its statistical datasets available free of charge online, and under licensing terms that enabled reuse. In 2008, the ABS adopted the CC BY licence for content released on its website. The ABS subsequently experienced a substantial increase in the download and use of its statistics products.

A September 2011 report titled *Costs and Benefits of Data Provision*,⁷⁰ prepared by John Houghton for the Australian National Data Service, found that:

[T]he net cost to the Australian Bureau of Statistics (ABS) of making publications and statistics freely available online and adopting Creative Commons licensing was likely to have been around \$3.5 million per annum at 2005–06 prices and levels of activity, but the *immediate cost savings for users were likely to have been around \$5 million per annum*. The wider impacts in terms of additional use and uses bring substantial additional returns, with our estimates suggesting overall costs associated with free online access to ABS publications and data online and unrestrictive standard licensing of around \$4.6 million per annum and *measurable annualised benefits of perhaps \$25 million (ie more than five times the costs)* [emphasis added].

⁶⁸ Australian Government Intellectual Property Manual, above n 13 at 67.

⁶⁹ Australian Government Intellectual Property Manual, above n 13 at 7.

⁷⁰ John Houghton, *Costs and Benefits of Data Provision*, Australian National Data Service (September 2011) <http://ands.org.au/resource/houghton-cost-benefit-study.pdf>.

In particular, Houghton suggests that open licensing is a key component to reducing impediments to the downstream use of PSI:

It is not simply about access prices, but also about the transaction costs involved. Standardised and unrestrictive licensing, such as Creative Commons, and data standards are crucial in enabling access that is truly open (ie free, immediate and unrestricted) ... The efficient economic solution for the dissemination of PSI is likely to be free *libre* and free *gratis* (ie making it freely available online and using unrestrictive licensing such as Creative Commons).

Charging for access to PSI

Australian Government agencies have long experience in deciding when to charge for public access to information. Many agencies have sold publications and specialist manuals and subscription services on a commercial basis, and most agencies have had to decide whether to impose access charges under the FOI Act. The new requirement in s 8D(5) of that Act – that agencies publish details of any access charges for material published under the IPS – has also drawn attention to the issue.

Only a small proportion of agencies (1.7 per cent) in this survey identified appropriate charging as the most challenging Open PSI principle to implement (see Open PSI Principle 7: Appropriate charging for access, above). The small amount of charges collected under the FOI Act (\$421,298 in 2011–12) can perhaps be viewed in the same light.⁷¹

Charging nevertheless remains an important issue. The Government 2.0 Taskforce observed that cost-recovery approaches to charging for PSI can stifle reuse and innovation. There can be a counterproductive outcome if charging costs the economy more through lost opportunity.⁷²

The issue is also the subject of an early report by the OAIC, at the request of Government, on *Review of Charges under the Freedom of Information Act 1982: Report to the Attorney-General*.⁷³ FOI access charges are covered also by the terms of reference for the review of the FOI Act being undertaken in 2012–13 by Dr Allan Hawke AC.⁷⁴

The OAIC is mindful that some agencies rely on the revenue stream provided by the sale of their PSI holdings (see, for example, the discussion of the GLAM sector in *PSI issues for galleries, libraries, archives and museums*, below). Charging for access to PSI is consistent

⁷¹ Office of the Australian Information Commissioner, *Annual Report 2011-12* (28 September 2012) www.oaic.gov.au/publications/reports/annual-report_11-12/index.html at 127–9.

⁷² *Engage: Getting on with Government 2.0*, above n 3 at 62.

⁷³ Office of the Australian Information Commissioner, *Review of Charges under the Freedom of Information Act 1982: Report to the Attorney-General* (February 2012) www.oaic.gov.au/publications/reports/2012_Charges_review_report_FINAL.html.

⁷⁴ Attorney-General's Department, Commonwealth of Australia, *Review of the Freedom of Information Act 1982 and the Australian Information Commissioner Act 2010: Terms of Reference* (29 October 2012) www.ag.gov.au/Consultations/Documents/ReviewofFOIlaws/Signed%20terms%20of%20reference%20-%20FOI%20Act%20review%20-%2029%20October%202012.pdf.

with Government policies on the commercialisation of PSI assets as set out in the IP Manual and Licensing Guidelines.

Case study: UK whole-of-government PSI charging regime

Other jurisdictions have sought to achieve whole-of-government consistency with respect to charging for PSI. The UK Government supports a policy of charging only the marginal cost of production, where possible, for access to PSI.⁷⁵ In practice, this means PSI can often be reused free of charge, especially where the information is published online.

Public sector bodies in the UK that decide to charge for reuse of their information are subject to the charging provisions in *The Reuse of Public Sector Information Regulations 2005*⁷⁶ (PSI Regulations) and/or *The INSPIRE Regulations 2009*⁷⁷ (in the case of spatial information). The PSI Regulations set out a charging regime, allowing reuse charges to be applied up to, but not in excess of, the cost of collection, production, reproduction and dissemination of documents and a reasonable return on investment. Where public sector bodies wish to charge for the reuse of their PSI, they are required to justify departures from the marginal cost model against a published set of criteria. This justification ensures that the UK Government does not unnecessarily limit or restrict reuse.

Case study: The EU Directive on the Reuse of Public Sector Information

In 2003, the European Union (EU) adopted the *Directive on the Reuse of Public Sector Information* (the Directive). The aim of the Directive was to harmonise PSI policies in member states, imposing certain obligations and reducing barriers to reuse.

The explanatory memorandum to the Directive relevantly states that a low-pricing policy for access to PSI 'gives the highest benefits to society as a whole'.⁷⁸

The Directive:

- provides that a levy imposed by an EU member state for access to PSI cannot exceed a certain ceiling
- directs that the ceiling is to be calculated based on the costs incurred to produce the PSI, together with a 'reasonable return on investment'.⁷⁹

⁷⁵ See section 15 of *The Re-use of Public Sector Information Regulations 2005* (UK) at www.legislation.gov.uk/uksi/2005/1515/contents/made.

⁷⁶ *The Re-use of Public Sector Information Regulations 2005* (UK), above n 75.

⁷⁷ See *The INSPIRE Regulations 2009* (UK) at www.legislation.gov.uk/uksi/2009/3157/contents/made.

⁷⁸ Commission of the European Communities, Explanatory Memorandum - Proposal for a Directive of the European Parliament and of the Council on the re-use and commercial exploitation of public sector documents (5 June 2002) http://ec.europa.eu/information_society/policy/psi/docs/pdfs/directive_proposal/en.pdf.

⁷⁹ Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the reuse of public sector information [2003] OJ L 345/90 at 14 http://ec.europa.eu/information_society/policy/psi/docs/pdfs/directive/psi_directive_en.pdf.

- permits and encourages the levying of lower charges (or no charges at all) for access to PSI, and
- requires that public sector bodies indicate the method used to calculate charges on request.

In making the Directive, the EU considered research which indicated that the restrictive approaches to PSI in Europe were depressing innovation and costing European economies billions of euros annually.⁸⁰ Nevertheless, the Directive granted agencies the discretion to engage in a certain level of profit-seeking behaviour in relation to the release of PSI.

Comparative studies between Europe and the US, where PSI has been available more readily and cheaply, show that PSI-reliant industries are generally more developed than in the EU. For example, in the US, meteorological data was easily and cheaply available at the cost of reproduction.⁸¹ This has led to the development of businesses that package and present weather information for specialist users ranging from commercial fishing fleets to golfers. In the EU, where the same information has historically been comparatively expensive to acquire, a similar industry has not developed.

Complaints and enquiries processes

Many agencies in the survey have successfully expanded their existing enquiries and complaint processes to cover PSI-related issues (see Open PSI Principle 8: Transparent enquiry and complaint process, above). This is an efficient and effective use of resources. The agencies that participated in the post-survey focus groups had yet to encounter a PSI-related enquiry or complaint that could not be dealt with by their existing processes.

As public awareness of PSI grows and demands for access to PSI increase, agencies may receive an increasing number of enquiries. The OAIC notes the growth in popularity of novel uses of PSI, such as data journalism.⁸²

While ad hoc processes may be successful for handling small numbers of enquiries, a purpose-designed and transparent enquiries and complaints process may be required for larger scale activity. This may be more efficient and suitable for both agencies and reusers. When existing enquiry and complaint processes are used it should be clear to the public that they can deal with PSI matters. Guidance is available from sources such as the Commonwealth Ombudsman *Better practice guide to complaint handling*.⁸³ Agencies with more experience in this area can also provide guidance and templates to other agencies.

⁸⁰ Explanatory Memorandum — Proposal for a Directive of the European Parliament and of the Council on the re-use and commercial exploitation of public sector documents, above n 78.

⁸¹ James Boyle, *The Public Domain: Enclosing the Commons of the Mind* (Yale University Press, 2008) <http://thepublicdomain.org/thepublicdomain1.pdf> at 221–22.

⁸² See, for example, *The Guardian's 'Data Blog'* at www.guardian.co.uk/news/datablog.

⁸³ Commonwealth Ombudsman, Commonwealth of Australia, *Better practice guide to complaint handling* (1 April 2009) www.ombudsman.gov.au/docs/better-practice-guides/onlineBetterPracticeGuide.pdf.

PSI issues for galleries, libraries, archives and museums

Galleries, libraries, archives and museums (the GLAM sector) are the collectors and custodians of artistic and historical material of national significance.

The Government 2.0 Taskforce considered issues relating to the economic value of PSI in relation to cultural institutions. In particular, Professor John Quiggin prepared a report for the Taskforce, *Project 6: The value of Public Sector Information for cultural institutions*.⁸⁴ Professor Quiggin noted a general lack of specific funding for open PSI initiatives, and that as a consequence, most Australian cultural institutions have been required to implement their digitisation strategies as ‘unfunded mandates’.

Even so, in some respects, GLAM agencies have been at the forefront of open PSI. Projects including the Powerhouse Museum’s online object collection catalogue,⁸⁵ the National Library of Australia’s *Trove* website⁸⁶ and the National Archives of Australia’s *Mapping our Anzacs*⁸⁷ have made an unprecedented amount of information about Australia’s cultural content, or digitised versions of that content, available to the public. Further, they have made that information and content accessible to any Australian (indeed, any person) with internet access, rather than restricting it to those persons within physical reach of the collections. In that sense, open PSI and proactive publication can assist GLAM agencies to achieve their core purpose of preserving cultural content for the benefit of all Australians. It is only when those cultural assets are accessible that the benefit is fully realised.

Case study: Powerhouse Museum object catalogue

The Powerhouse Museum first made its object collection catalogue available online in July 2006. It has been continuously updated since that time. At the time of writing, approximately 70% of the Museum’s active and electronically documented collection is searchable through the catalogue.⁸⁸ The catalogue includes zoomable photographs, detailed descriptions, statements of significance and additional notes (although older items which predate the current digital catalogue system generally have less information). Catalogue content is licensed under the Creative Commons Non-Commercial Attribution licence.⁸⁹

⁸⁴ Professor John Quiggin, *Project 6: The value of Public Sector Information for cultural institutions*, Government 2.0 Taskforce (October 2009) <http://gov2.net.au/projects/project-6/>.

⁸⁵ See the Powerhouse Museum’s online collection database at www.powerhousemuseum.com/collection/database/menu.php.

⁸⁶ See the National Library of Australia’s Trove website at <http://trove.nla.gov.au/>.

⁸⁷ See the National Archives of Australia’s ‘Mapping our Anzacs’ infographic at <http://mappingouranzacs.naa.gov.au/>.

⁸⁸ See ‘About the collection database’ on the Powerhouse Museum website at www.powerhousemuseum.com/collection/database/about.php.

⁸⁹ See the ‘Attribution-Non Commercial 3.0 Australia (CC BY-NC 3.0)’ licence summary on the Creative Commons Australia website at <http://creativecommons.org/licenses/by-nc/3.0/au/>.

Further, the Museum offers direct data access to the catalogue by offering a free API (Applied Programming Interface). This allows users to embed catalogue objects in their own webpages, develop their own interfaces to the collection or integrate the entire catalogue or part of the catalogue into their own services. For example, the catalogue is fully searchable through *Trove*, the National Library of Australia's online catalogue of Australian cultural content. This greatly enhances the discoverability of the catalogue content.

The Museum has also made a dataset of the catalogue metadata available for download on its website and on data.gov.au.

Cultural content and PSI

The GLAM sector faces a different set of issues to those experienced by other APS agencies. Firstly, unlike most agencies, GLAM agencies are often required to leverage their collections to generate a significant proportion of their operating budgets. In many cases, this is authorised by specific legislation.⁹⁰

Secondly, GLAM holdings are often in the form of cultural content, rather than information or data. That content often takes the form of physical objects, such as manuscripts, sculptures, paintings or films. The logistical difficulties of providing online access to cultural content are generally more complex than those associated with raw data or text documents.

However, there is a distinction to be drawn between cultural content, and data about that content. Where GLAM agencies cannot make their cultural content available online, there may still be great benefit in publishing data *about* that content, such as catalogues or databases of descriptions. This can maximise the searchability and discoverability of content holdings.

The funding implications of proactive publication

In June 2012, the OAIC conducted an informal consultation with six GLAM agencies to help identify some of the challenges they face with respect to increasing open access to their collections.

A primary concern expressed by those agencies was that the Government's position on open access to PSI, and the OAIC's Open PSI principles – specifically, the push towards proactive publication of PSI, or publication at marginal cost – was contrary to the funding models of most GLAM agencies.

This concern may reflect unnecessary apprehension about the policy of open PSI and proactive publication. It does not require all GLAM cultural content and data to be made available online and for free. For example, Principle 1 of the Open PSI principles relevantly

⁹⁰ Examples include s 7(2) of the *National Gallery Act 1975* (Cth) and s 6(2) of the *Australian War Memorial Act 1980* (Cth).

provides that if there is no 'need to protect the information' then it should be open to public access, in line with a default position. Where a GLAM agency relies on the revenue gained from leveraging its PSI holdings, and providing open access to content or data would compromise that revenue stream, the OAIC would not expect open access to be provided.

Principle 7 provides that agencies should 'facilitate public access to information at the lowest **reasonable** cost' [emphasis added]. Where a GLAM agency relies on the revenue gained from leveraging its content or data to enable its continued operation, it may be reasonable to charge for access. It is also likely to be reasonable to charge for access where such charging is expressly authorised by legislation.

Similarly, the Licensing Guidelines relevantly provide that archival material that constitutes Government information should be made open, but provides that the following kinds of material are unlikely to be suitable for open licensing:

- material held by cultural institutions for the value of its expression (eg a novel subject to third party copyright ownership, an artistic work such as a painting or sculpture that was created pursuant to Government funding or that has been preserved by a public institution)
- ...
- artistic works that are Commonwealth copyright
- paintings and drawings
- sculptures
- photographs exhibited as a work of artistic expression.

This position is also reflected in the IP Manual.

However, the Open PSI principles and the IP Manual would encourage the proactive publication of data *about* cultural content, such as catalogues. In the same manner as an Information Asset Register, the publication of catalogues and databases online can greatly improve discoverability and searchability, particularly with respect to content that is in storage and not currently on display.

Proactive publication of cultural content

Where GLAM agencies have digital versions of cultural content available, there may be a substantial benefit in making that material available online.

For example, the US Library of Congress⁹¹ experienced positive results in crowdsourcing the tagging of digital scans of historical photographs uploaded to Flickr Commons to facilitate searchability (2008).⁹² This process has also been successfully employed locally. For example, the Victorian Public Records Office has established a wiki on its website⁹³ to

⁹¹ See the United States Library of Congress' website at www.loc.gov/index.html.

⁹² See the United States Library of Congress' photo stream on Flickr at www.flickr.com/photos/library_of_congress/.

⁹³ See the PROV wiki at http://wiki.prov.vic.gov.au/index.php/PROV_Wiki_-_Home.

crowdsource tagging and transcription of historical documents. In both cases, GLAM agencies were able to crowdsource work that would have been time-consuming and costly for the agencies to do themselves.

Other issues

The OAIC's informal consultation with GLAM agencies raised other challenges they face, including:

- the cost implications of publishing cultural PSI
- determining what PSI should be published
- managing third party rights, including copyright, and
- providing appropriate context when publishing cultural content.

While those concerns are not exclusive to GLAM agencies, the OAIC notes that the logistical difficulties associated with cultural content may sometimes require a different approach.

It is clear that further examination is required, from an open government perspective, of the experiences of GLAM agencies and the challenges they face. Some GLAM agencies are already well advanced in implementing open government practices, and this success can be built upon. GLAM agencies are well-placed to share their experiences and expertise with other agencies in the sector. Further support could be provided by establishment of a sector-specific open government forum, or through international forums such as Open GLAM.⁹⁴

Keeping abreast of international developments

Open government is unquestionably a global movement. Governments across the world are striving to increase transparency, promote citizen engagement and, relevantly, facilitate business and community use of PSI.

The global nature of the movement has been substantially strengthened by initiatives such as the international Open Government Partnership.

The Open Government Partnership

On 20 September 2011, the Open Government Partnership (OGP) was launched in Washington DC by eight national governments.⁹⁵ The OGP is a multilateral initiative that aims to secure concrete commitments from national governments to:

- promote transparency
- empower citizens
- fight corruption
- harness new technologies to strengthen governance.⁹⁶

⁹⁴ See 'About' on the Open GLAM website at <http://openglam.org/about/>.

⁹⁵ The eight national governments were Brazil, Indonesia, Mexico, Norway, Philippines, South Africa, United Kingdom and the United States of America.

⁹⁶ See 'About' on the Open Government Partnership website at www.opengovpartnership.org/about.

The OGP is overseen by a steering committee of governments and civil society organisations.⁹⁷ OGP members are required to:

- endorse a high-level Open Government Declaration⁹⁸
- deliver a country action plan developed through public consultation⁹⁹
- commit to independent reporting on their progress going forward.¹⁰⁰

The OGP has received a high level of support by national governments. Since its formation, 50 additional governments have joined the partnership.

Australia has been invited to join the OGP, and is currently considering the invitation. Given Australia's strong commitment to open government, including the work outlined in this report, Australia is well placed to make a valuable contribution to the global open government movement. OGP membership could invigorate Australian open government developments by, amongst other things, clarifying Australia's open government commitments and structures in a national action plan.

In the course of preparing a national action plan, Australia would be required to make a new commitment to be addressed, but not necessarily achieved, in the first year of membership. Some of the measures outlined in the *Priority areas for action* above could meet, or be addressed in the course of meeting, this requirement.

OGP members have experienced success in using their OGP membership as a lever to:

- modernise information management practices
- undertake business and community consultation on PSI issues
- increase the accessibility and useability of data
- undertake long-range strategic planning on information policy and structures, and
- share experiences with and learn from other countries with a shared commitment to open government.

Some of the international developments in these areas are discussed below.

Open data — the next steps

There is a strong international trend to provide data portals for enabling access and use of government data sets, such as data.gov.au.

⁹⁷ See 'Governance, Staff and Donors' on the Open Government Partnership website at www.opengovpartnership.org/governance-staff-donors.

⁹⁸ See 'Open Government Declaration' on the Open Government Partnership website at www.opengovpartnership.org/open-government-declaration.

⁹⁹ See 'Country Commitments' on the Open Government Partnership website at www.opengovpartnership.org/country-commitments.

¹⁰⁰ See 'Independent Reporting Mechanism' on the Open Government Partnership website at www.opengovpartnership.org/independent-reporting-mechanism.

The logical next step in facilitating reuse of government data is building data portals that allow the discovery and manipulation of data from a range of sources, beyond a national scale.

In the arena of data portals, a small number of dominant software solutions are emerging as de facto standards. For example, CKAN, an open source data cataloguing software, has been widely adopted on national and regional levels; to date, 19 national and regional data portals have been implemented on the CKAN platform.¹⁰¹

The wide use of a single platform greatly facilitates interoperability between data portals. For example, in June 2011, PublicData.eu was launched as a research prototype of a pan-European data catalogue. It uses CKAN to retrieve, normalise and convert dataset metadata from 25 catalogues across Europe. Data is retrieved from national and regional as well as official and community-driven organisations, substantially improving searchability and discoverability of information assets.¹⁰²

Similarly, the International Aid Transparency Initiative seeks to make information about aid spending easier to find, use and compare.¹⁰³ It has set standards for the sharing of information and data and is developing a database of aid information. It also uses CKAN to:

- provide a centralised repository where publishers can register their files, and
- allow users to freely use and manipulate data.¹⁰⁴

Initiatives such as PublicData.eu and the International Aid Transparency Initiative demonstrate how the use of open source standards can facilitate not only national but global discoverability and reuse of Australian information assets. In considering the redevelopment of data.gov.au, Australia should also consider the opportunities afforded by ensuring interoperability with other national and regional data portals.

Government information management

Globally, countries are investing in government information management systems to increase interoperability and build capacity:

- Canada intends to establish a hosted government-wide solution for records and documents management to service government departments and agencies.¹⁰⁵

¹⁰¹ See 'CKAN instances around the world' on the CKAN website at <http://ckan.org/instances/#national>. CKAN has been adopted by Austria, Brazil, Netherlands, Norway, United Kingdom, Uruguay, USA, Buenos Aires, Linz, Graz, Queensland, Helsinki, Berlin, Rome, Tuscany, Aragón, Greater Manchester, Denver and Santa Cruz.

¹⁰² See the CKAN website at <http://ckan.org/>.

¹⁰³ See the International Aid Transparency Initiative (IATI) website at www.aidtransparency.net/.

¹⁰⁴ See the CKAN website at <http://ckan.org/>.

¹⁰⁵ Open Government Canada, *Canada's Action Plan on Open Government* (11 April 2012) www.open.gc.ca/open-ouvert/ap-patb-eng.asp.

- The United Kingdom is investing £158 million in government e-infrastructure, including software development, computer power, data storage, wide bandwidth networks, cyber security and skills.¹⁰⁶
- The United States of America has committed to modernising the management of government records.¹⁰⁷

Such infrastructure is essential to realising the full value of open PSI; it will make it easier for agencies to maintain and publish information assets, and for reusers to discover and access relevant PSI. For Australia to keep pace globally, it is important that we continue to invest in our information management infrastructure to take full advantage of the opportunities offered by modern technologies.

National open government leadership

This report has identified that strong agency leadership is essential to support and develop an open access culture within agencies. Leadership from Government ministers can be equally important.

The far-reaching changes in Australian open government practice that have occurred since 2009 were sponsored by Australian Government Ministers. In releasing the *Declaration of Open Government* in 2010, then Minister for Finance and Deregulation, the Hon Lindsay Tanner, commented that it was a demonstration of the Government's commitment 'to creating a culture of openness, transparency and engagement'.¹⁰⁸ Similarly, in introducing freedom of information reforms into the Parliament in 2010, then Special Minister for State, Senator Joe Ludwig, explained that the reforms were designed 'to usher in a new regime for access to government information'.¹⁰⁹ An earlier sponsor of the FOI reforms, then Special Minister of State Senator John Faulkner, had written to the Secretaries of Australian Government departments in April 2009 calling on them 'to take a lead role in facilitating the Government's policy objective of enhancing a culture of disclosure across agencies'.¹¹⁰ Another Government initiative was the creation of a dedicated ministerial position, the Minister for Privacy and Freedom of Information, held by the Hon Brendan O'Connor from September 2010 to December 2011, when the position was not continued.¹¹¹

¹⁰⁶ Cabinet Office, Government of the United Kingdom and Northern Ireland, *Open data white paper: unleashing the potential* (June 2012)

www.cabinetoffice.gov.uk/sites/default/files/resources/CM8353_acc.pdf.

¹⁰⁷ The White House, Government of the United States of America, *The Open Government Partnership: National action plan for the United States of America* (20 September 2011)

www.whitehouse.gov/sites/default/files/us_national_action_plan_final_2.pdf.

¹⁰⁸ Declaration of Open Government, above n 4.

¹⁰⁹ Commonwealth of Australia, *Parliamentary Debates*, Senate, 13 May 2010 at 2860 (Nick Sherry on behalf of Joe Ludwig).

¹¹⁰ Letter from Senator John Faulkner to Departmental Secretaries and Agency Heads, 30 April 2009 at 2 www.ag.gov.au/RightsAndProtections/FOI/Documents/Letter%20to%20Departmental%20Secretaries%20and%20Agency%20Heads.pdf.

¹¹¹ Ministerial responsibility for FOI, privacy and information policy was transferred to the Attorney-General's Department. See also the Hon Brendan O'Connor, 'Address to the Information Policy Conference' at <http://pandora.nla.gov.au/pan/122803/20111212-1530/www.ministerhomeaffairs.gov.au/Speeches/Pages/2011/Fourth%20Quarter/15-November-2011---Address-to-the-Information-Policy-Conference,-Canberra.html>.

Government leaders in other Australian jurisdictions have played a similar role in sponsoring open government reform. The significant reform of access to information laws in Queensland in 2009 and NSW in 2010 was personally sponsored by the State Premiers at the time, Premiers Anna Bligh and Nathan Rees, respectively. NSW Premier Nathan Rees spoke in 2008 in support of proactive openness and data release, stating that ‘governments have to overcome old habits of secrecy and control ... [A] huge cultural change ... that will take years to accomplish ... But we’ve got to begin the journey now’.¹¹² A directive to NSW Government agencies to implement this policy was issued in October 2008.¹¹³ A similar step was taken by Queensland Premier Campbell Newman in 2012, in announcing a new ‘open data revolution’ that would allow ‘more public access to Government information collected in all regions, in all kinds of formats, for all kinds of reasons’.¹¹⁴

There are similar examples of engaged leadership in other countries. In the United Kingdom the focus of the open government agenda since 2010 has been the proactive release of government data and information.¹¹⁵ In introducing these changes in 2010, and launching a new transparency website, the Prime Minister David Cameron announced that ‘[we] want our government to be one of the most open and transparent in the world’.¹¹⁶ The transparency website, which links directly from the Prime Minister’s homepage,¹¹⁷ contains feature pages on ‘Business Plans’ (recording progress in implementing the government’s business plans), ‘Who does what in Whitehall’, ‘Who ministers are meeting’, ‘How your money is spent’, ‘Government contracts in full’ and ‘Find all government data’. The UK Government’s transparency strategy has been taken further in a number of ways: the release of an open data consultation paper in August 2011,¹¹⁸ the release by the Minister for the Cabinet Office, the Hon Francis Maude, in June 2012 of the *Open Data White Paper: Unleashing the Potential*,¹¹⁹ and a move by Prime Minister Cameron at the G8 meeting to call on members to prioritise government transparency and open government reform with a view to combating corruption, driving economic growth and promoting accountability.¹²⁰

¹¹² Stilgherrian, ‘NSW gets its geek on’, *Crikey* (online), 4 September 2009 at www.crikey.com.au/2009/09/04/nsw-gets-its-geek-on/.

¹¹³ Department of Premier and Cabinet, Government of New South Wales, ‘Proactive Release of Information by Government Agencies’ (Media Release, M2008-19, 23 October 2008) www.dpc.nsw.gov.au/announcements/ministerial_memoranda/2008/m2008-19_proactive_release_of_information_by_government_agencies.

¹¹⁴ Department of Premier and Cabinet, Government of Queensland, ‘Queensland Government’s ‘open data’ revolution begins’ (Media Release, 9 October 2012) <http://statements.qld.gov.au/Statement/2012/10/9/queensland-governments-open-data-revolution-begins>.

¹¹⁵ The UK *Freedom of Information Act 2000* has also been reviewed by the House of Commons Justice Committee, *Post-legislative scrutiny of the Freedom of Information Act 2000* (2012). See also House of Commons Committee of Public Accounts, *Implementing the transparency agenda* (2012).

¹¹⁶ Prime Minister’s Office, ‘PM’s podcast on Transparency’, *Number 10 Podcast*, 29 May 2010 (Prime Minister David Cameron) www.number10.gov.uk/news/pms-podcast-on-transparency/.

¹¹⁷ See ‘Transparency’ on the British Prime Minister’s website at www.number10.gov.uk/transparency/.

¹¹⁸ See the consultation page for ‘Making Open Data Real’ at www.data.gov.uk/opendataconsultation.

¹¹⁹ Open data white paper: unleashing the potential, above n 106.

¹²⁰ Cabinet Office, Government of the United Kingdom and Northern Ireland, ‘Prime Minister’s letter to G8 leaders’ (Media Release, 2 January 2013) www.gov.uk/government/news/prime-ministers-letter-to-g8-leaders.

President Obama has played a similar role in sponsoring open government reform in the United States. On his first day in office in 2009 the President signed the Transparency and Open Government Memorandum, promising ‘an unprecedented level of openness in Government’.¹²¹ The Memorandum was supported by an Open Government Directive that required all agencies to take specific actions that included the publication online in an open data format of at least three high-value data sets within 45 days.¹²² These and other plans and achievements are described in the ‘Open Government Initiative’ section of the White House website.¹²³

President Obama and former Secretary of State Hillary Clinton have both strongly sponsored the Open Government Partnership. At the official launch of the Partnership in September 2012, President Obama stated ‘a simple truth – that the strongest foundation for human progress lies in open economies, open societies, and in open governments’.¹²⁴ At the first annual conference of the Partnership in April 2012, then Secretary Clinton commented:

In the 21st century ... one of the most significant divisions among nations will not be north/south, east/west, religious, or any other category so much as whether they are open or closed societies. We believe that countries with open governments, open economies, and open societies will increasingly flourish. They will become more prosperous, healthier, more secure, and more peaceful.¹²⁵

One of the requirements for membership of the Partnership is that a country’s letter of intent to join should be approved by the head of state. Many of the letters from the 58 member countries have been signed by the head of state, deputy head or minister responsible for foreign affairs.¹²⁶

The importance of a high-level commitment was a central finding of the Independent Review Panel (the Solomon Report) that considered Queensland’s FOI legislation in 2008:

History in Queensland, as in many other jurisdictions, has proven unambiguously that there is little point in legislating for access to information if there is no ongoing political will to support its effects. ... Time has proven that it is too ambitious for freedom of information law of itself to deliver strategic change in government openness and accountability. ... The sustaining, missing

¹²¹ See ‘Transparency and Open Government: Memorandum for the Heads of Executive Departments and Agencies’ on the White House website at www.whitehouse.gov/the_press_office/TransparencyandOpenGovernment/.

¹²² The White House, Government of the United States of America, *Open Government Directive* (8 December 2009) www.whitehouse.gov/open/documents/open-government-directive.

¹²³ See ‘OpenGov Initiatives’ on the White House website at www.whitehouse.gov/open/about/initiatives.

¹²⁴ President Barack Obama, ‘Opening Remarks by President Obama on Open Government Partnership’ (Speech delivered at the launch of the Open Government partnership, Waldorf Astoria Hotel, 20 September 2011) www.whitehouse.gov/the-press-office/2011/09/20/opening-remarks-president-obama-open-government-partnership.

¹²⁵ Secretary of State Hillary Rodham Clinton, ‘Remarks at the Open Government Partnership Opening Session’ (Speech delivered at the conference of the Open Government Partnership’, Brazil, 17 April 2012) www.state.gov/secretary/rm/2012/04/188008.htm.

¹²⁶ See ‘Country Commitments’ on the Open Government Partnership website at www.opengovpartnership.org/countries.

link in getting government from a freedom of information law to real enhancements in openness and accountability is a politically supportive and enabling broader information policy context ... [p]olitical will, will make or break the system.¹²⁷

The OAIC echoed those sentiments in its 2012 submission to the Hawke Review of FOI legislation at the Federal level:

A great deal has been done across government in the last two years to embed those reforms in government practice. However, there has not since been the same explicit promotion of open government reform and cultural change by Government as occurred in 2009–10. We believe that explicit support would be valuable and timely in continuing the watershed reforms. An ideal context in which to move forward would be the adoption by Government of a national plan that restated the Government's commitment to open government, identified the key agencies with responsibility in this area and their relationship to each other, and selected key projects to be undertaken across government.¹²⁸

¹²⁷ Dr David Solomon AM, FOI Independent Review Panel, *The Right to Information: Reviewing Queensland's Freedom of Information Act*, Queensland Government (June 2008)

www.rti.qld.gov.au/_data/assets/pdf_file/0019/107632/solomon-report.pdf.

¹²⁸ Office of the Australian Information Commissioner, *Review of freedom of information legislation: Submission to the Hawke Review* (December 2012)

www.oaic.gov.au/publications/submissions/2012_12_hawke_review_foi_legislation.html.

Appendix A – PSI survey methodology

Survey implementation

The IPS/PSI survey was conducted online by ORIMA Research between 30 April and 11 May 2012. The response period was extended until 17 May 2012, primarily to give respondent agencies more time to approve their responses through the appropriate clearance channels.

The combined survey was provided to all prescribed bodies subject to the FOI Act (ie agencies). Ministers were not included, as they are not subject to the IPS requirements of the FOI Act. The PSI section of the survey (Part B of the combined survey) was not mandatory. A total of 245 agencies were contacted, of which 191 responded – a response rate of 78 per cent.

Prior to the survey commencing, the Australian Information Commissioner wrote to agency heads and FOI contact officers to inform them of the upcoming survey, and to confirm their contact details. The contact details were provided to ORIMA Research; this database was maintained and updated by ORIMA Research throughout the survey process.

Agency contacts were invited to participate in the survey via email on 30 April 2012. The invitation provided a link to the online survey and a unique password. Between 7 and 10 May, ORIMA staff sent reminder emails to agencies that had not completed the survey. ORIMA staff followed up with agencies via telephone on 16 and 17 May 2012.

After completing a preliminary review of the survey responses, ORIMA Research contacted certain agencies to verify that their responses were complete and had been submitted.

The full text and raw results of the PSI survey are available on the OAIC website and on data.gov.au.¹²⁹

Focus groups

The OAIC augmented the PSI survey results with a series of focus groups held in June 2012. The purpose of the focus groups was to gather information to add context to the results of the PSI survey, explore questions that could not be easily asked in a quantitative survey, and seek agency experiences in handling and publishing PSI.

Eighteen agencies of various sizes and functions took part in the focus groups.

To facilitate open and uninhibited discussion, the focus groups were conducted under the Chatham House rule:

When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.¹³⁰

¹²⁹ [Report and supplementary materials](#) available at www.oaic.gov.au and also at data.gov.au.

¹³⁰ See 'About' on Chatham House website www.chathamhouse.org/about-us/chathamhouserule.

The OAIC also met with representatives of the Australian GLAM sector. The GLAM representatives highlighted the range and nature of the challenges facing their sector in implementing the Open PSI principles. The issues faced by the GLAM sector are discussed in PSI issues for galleries, libraries, archives and museums, above.

Interim results

In August 2012, the OAIC published preliminary findings from the initial analysis of the PSI survey results and feedback from the post-survey focus groups.¹³¹ These interim results centred on the finding that the Australian Government is in the process of transitioning to an open access culture. Specifically, the interim results:

- provided an overview of the challenges reported by agencies
- identified areas of open government practice in which agencies were experiencing success, and
- suggested areas in which agencies could benefit from assistance.

¹³¹ Open Public Sector Information: Government in Transition, above n 9.

Appendix B

Summary of UTS intern research project: Access to and use of public sector information: The academic reuser perspective

Background

In February 2012, the OAIC partnered with the University of Technology, Sydney (UTS) to offer a student from their Master of Arts in Knowledge and Information Management program an internship within the OAIC's Information Policy team.

The internship provided an opportunity for a student to undertake a project that could augment the results of the PSI survey and enhance the findings of this report. The OAIC proposed that the intern conduct a survey of reusers of PSI, with a view to determining whether the *Declaration of Open Government* and subsequent open government initiatives have improved access to public sector information in Australia.

The OAIC decided that reusers from the academic sector were well suited for this project, as academic reusers span a wide variety of fields of study and disciplines, and are likely to be interested in and have use for the many different kinds of PSI that the Government holds.

Process

In consultation with the OAIC, the intern, Bronwyn Allen, developed a qualitative survey to examine the experiences of academic reusers of PSI. Allen's project was implemented as a pilot study to collect preliminary data on the open PSI landscape from a reuser perspective, identify potential areas for improvement and develop a viable methodology through which more extensive studies can be conducted.

Allen conducted semi-structured interviews with six academics operating in the fields of ecology, entomology, urban planning and the law. The interviews were structured to collect information on the following general questions, having regard to the OAIC's Open PSI principles:

- Is the public sector information that academic reusers require available and accessible to them?
- Are there any restrictions or barriers to effective use of PSI by academic reusers?
- Have academic reusers noticed any change in the availability and accessibility of PSI over the last five years?

Project development, methodology and findings were documented in Allen's report, *Access to and Use of Public Sector Information: The Academic Reuser Perspective*. The report is available on the OAIC's website.¹³²

¹³² [Access to and Use of Public Sector Information: The Academic Re-user Perspective](#), above n 56.

Findings and recommendations

Despite the small number of participants, Allen’s pilot study provides valuable insight into the reuser experience in Australia, and identifies successes, as well as barriers, to the effective access to and use of PSI by academic reusers.

Broadly speaking, Allen’s findings suggest that the accessibility and useability of Australian PSI has improved markedly over the past five years. However, comparisons drawn by Allen’s subjects between the accessibility of PSI in Australia and in other jurisdictions suggest that Australia, overall, is not at the forefront of an open access movement.

In particular, Allen suggests that agency culture is the major factor:

The difference between those areas where open access to PSI is effectively a default option, and those areas where it is not, seems to be culture. In the Australian legal sector, the prevailing cultural mores appear to strongly support open access to PSI as an essential prerequisite for justice and an ethical and professional obligation. In other sectors, this deep identification with the importance of open access to PSI does not seem so present. It is likely this understanding of the value and benefit of PSI is a crucial precursor to gaining effective engagement from PSI providers in the project of open access to PSI.¹³³

Allen also notes that ‘[m]any of the suggestions regarding improvements from the participants of [the] study were interventions that are already in process’.¹³⁴

The report makes the following recommendations for action by the Australian Government:

- provide guidance to PSI publishers on selecting appropriate metadata standards
- investigate agency use of restrictive licensing
- ensure that PSI maintenance and improvement programs are prioritised and budgeted for across the Australian Public Service
- encourage and support a culture that accepts the value of PSI across the APS, and
- conduct further research into the reuser experience using qualitative methodology.

‘The fact that all participants agreed that the accessibility and useability of Australian PSI has improved dramatically over the past five years is a strong indication that the efforts of the Australian Government towards open PSI have not gone to waste.’
— Bronwyn Allen

¹³³ Access to and Use of Public Sector Information: The Academic Re-user Perspective, above n 56 at 11.

¹³⁴ Access to and Use of Public Sector Information: The Academic Re-user Perspective, above 56 at 11.

Appendix C – Definitions

| | |
|--------------------------------------|--|
| Access | Where public sector information is made available, whether for free or for a charge, under licensing conditions or in formats which facilitate reuse. See also 'open access'. |
| AGLS | A metadata standard based on Dublin Core, formerly known as Australian Government Locator Service: www.agls.gov.au |
| Content | Public content often has characteristics of being: static (ie it is an established record), held by the public sector rather than being directly generated by it (eg cultural archives, artistic works where third-party rights may be important), not directly associated with the functioning of government and not necessarily associated with commercial uses but having other public good purposes (eg culture, education). |
| Creative Commons BY standard (CC BY) | A licence which lets others distribute, remix, tweak and build upon an author's work, even commercially, as long as they credit the author for the original creation. It is the most accommodating of the Creative Commons licences . |
| Crowdsourcing | A distributed problem-solving and production model. Problems are broadcast to an unknown group of solvers in the form of an open call for solutions. Crowdsourcing may produce solutions from amateurs or volunteers working in their spare time, or from experts or small businesses which were unknown to the initiating organisation. (Engage: getting on with government 2.0). |
| Cth | Commonwealth |
| Data | The representation of facts, concepts or instructions in a formalised (consistent and agreed) manner suitable for communication, interpretation or processing by human or automatic means. Typically comprised of numbers, words or images. The format and presentation of data may vary with the context in which it is used. Data is not 'information' until it is utilised in a particular context for a particular purpose. |
| Disclosure Log | Section 11C of the FOI Act requires agencies and ministers to post on their website details of information released by the agency or minister in response to each FOI access request, subject to certain exceptions. Please refer to Part 14 of the FOI Guidelines . |
| FOI Act | <i>Freedom of Information Act 1982</i> |
| GLAM | Galleries, libraries, archives and museums. |
| Government 2.0 | The use of technology to realise a more open, transparent and consultative form of government (Gov 2.0 Primer). |

| | |
|--|---|
| HTML | Hypertext markup language, a common programming language for displaying web pages and other information in a web browser. |
| Information asset | Information in the form of a core strategic asset required to meet organisational outcomes and relevant legislative and administrative requirements. |
| Information asset management framework | An asset management framework brings together key corporate planning activities and asset management. Asset management involves developing a process to manage, demand and guide the acquisition, use and disposal of assets. This process is intended to maximise service delivery potential and manage risks and costs over an asset's lifecycle. Please refer to Part 13 of the FOI Guidelines . |
| Information asset register | In accordance with Principle 5 of the Open PSI principles, an information asset register is a central, publicly available list of an agency's information assets intended to increase the discoverability and reusability of agency information assets by both internal and external users. |
| Information | Any collection of data that is processed, analysed, interpreted, classified or communicated in order to serve a useful purpose, present fact(s) or represent knowledge in any medium or form. This includes presentation in electronic (digital), print, audio, video, image, graphical, cartographic, physical sample, textual or numerical form. |
| Information Publication Scheme | Part 2 of the FOI Act establishes the Information Publication Scheme (IPS) for Australian Government agencies subject to the FOI Act. The IPS commenced on 1 May 2011 and requires agencies to proactively publish specific categories (set out in s 8(2)) of public sector information on their websites. Please refer to Part 13 of the FOI Guidelines . |
| IP Principles | <i>Intellectual Property Principles for Australian Government Agencies</i> . |
| IPS | Information Publication Scheme (see above). |
| IPS information register | An IPS information register could include the following information, with respect to information published under the IPS: <ul style="list-style-type: none"> • which agency business area owns a particular document • when the document was last updated • the formats in which the document is available and the file size • if the document is not published online, who may be contacted within the agency to arrange public access and report the number of requests that have been received |

- categories of information that were considered for publication under the IPS but were not published under s 8C (because the document contains exempt matter or publication is prohibited or restricted by an enactment).

Please refer to [Part 13 of the FOI Guidelines](#).

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| Large agency | A government agency with more than 1000 employees. |
| Licensing guidelines | Guidelines on Licensing Public Sector Information for Australian Government Agencies . |
| Machine-readable | Machine-readable data can be understood by machines through interpretation of the accompanying metadata. Releasing data in a machine-readable format increases its discoverability and useability. Formats such as PDF, while understandable by humans, are not likely to be highly machine-readable. |
| Medium agency | A government agency with between 251 and 1000 employees. |
| Metadata | Data that defines and describes other data, allowing users to find, manage, control and understand that data. For more information about metadata as it applies to public sector information, refer to the advice on Publishing Public Sector Information contained in the Australian Government Web Guide . |
| Micro agency | A government agency with fewer than 100 employees. |
| OAIC | Office of the Australian Information Commissioner. |
| Open access | Where public sector information is available at zero cost under licensing terms and in formats that allow users to copy, use, transmit and reuse the public sector information from its original form. |
| Open and standards-based formats | Electronic formats defined by open standards. |
| Open licensing | A general, royalty-free copyright license which provides users with the right to make more kinds of uses than those normally permitted under the law, at no cost to the user (Defining the 'open' in 'open content'). |
| Optical character recognition | The electronic conversion of scanned images of handwritten, typewritten or printed text into a form that a computer can manipulate. |
| Public sector information | Data, information or content that is generated, created, collected, processed, preserved, maintained, disseminated or funded by (or for) the government or public institutions. |

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| Reuse/reuser | 'Reuse' refers to the process of taking public sector information and modifying it to create something new. Someone undertaking reuse is known as a 'reuser'. Examples include converting public sector information into an alternative form, or using it as the basis of a new application. |
| Small agency | A government agency with between 100 and 250 employees. |
| Very large agency | A government agency with more than 20,000 employees. |
| WCAG 2.0 | <u>Web Content Accessibility Guidelines version 2.0</u> , published by the World Wide Web Consortium and endorsed for all Australian Government websites. |
| Web 2.0 | A term referring to technologies that encourage online discussion, sharing and collaboration. In a public sector information context, this could include online ratings/feedback mechanisms associated with an agency's public sector information (such as the mechanisms available through data.gov.au), or the use of social media to engage with users about what public sector information to publish and agency publication practices. |
| Wiki | A website developed collaboratively by a numbers of users, with any user able to add and edit content. |
| World Wide Web Consortium (W3C) | The main international standards organisation for the World Wide Web. |