

Guidance on the Re-use of Public Sector Information Regulations 2015 and Best Practice Advice

For public sector bodies

Practical Guidance on applying **SI 2015 No. 0000** on The Re-use of Public Sector Information Regulations 2015 which implement European Directive 2013/37/EU

Version control:
v1 – [month] 2015

The National Archives

© Crown copyright 2015



You may use and re-use this information (not including logos) free of charge in any format or medium, under the terms of the [Open Government Licence v3.0](#).

This Guidance was produced by:

Information Policy
The National Archives
Bessant Drive
Kew TW9 4DU
psi@nationalarchives.gsi.gov.uk

This Guidance is designed to help you comply with requirements for the re-use of public sector information. To read the relevant legislation for free, go to www.legislation.gov.uk and search for 'public sector information regulations'.

If the Regulations or our interpretations of them change, we will publish updated information on our website www.nationalarchives.gov.uk where this Guidance is available for download.

DRAFT

Contents

Welcome.....	4
Scope at a glance	5
What is public sector information?	5
Key changes at a glance	6
What do the Regulations mean for different parts of the public sector?	7
Public sector bodies.....	7
Libraries, museums and archives	7
Re-users of public sector information.....	7
Background to the 2015 Regulations.....	8
Context of the 2015 Regulations.....	8
Timeline of the 2015 Regulations.....	8
Principles and Objectives.....	9
Access and re-use.....	9
Re-use promotes transparency, accountability and growth.....	10
Jurisdiction	11
Links with other UK legislation	12
Copyright	14
Open data.....	15
Scope of the 2015 Regulations.....	17
Bodies in scope.....	17
Bodies out of scope.....	17
Information in scope	17
Information out of scope	19
Other cases	19
Public task.....	20
Public Sector Obligations	22
Key information to publish.....	22
Information asset lists	22
Permitting re-use.....	23
Responding to a request for re-use.....	23
Requests for readily available information.....	24
Requests for previously unreleased information	24
Processing requests for re-use.....	25
Notification of refusal to allow re-use	25
Non-discrimination.....	26
Non-restrictive conditions for re-use	26
Licensing re-use	27
Different licence types.....	27
Open Government Licence.....	27
Non-commercial Government Licence	28
Charged licence.....	28
Exclusive arrangements prohibited.....	28
Charging for re-use.....	29
Complaints process	29
Initial complaints process	29
Escalation.....	29
Transitional arrangements.....	29
Related best practice for public sector bodies	30
Re-use statement	30
Compliance model: Information Fair Trader Scheme	31
Information management.....	32

Guidance on the Re-use of Public Sector Information Regulations 2015 for public sector bodies

Who should read this Guidance?

Staff of public sector bodies defined in the Regulations – including central, regional, and local government and agencies – who are responsible for:

- copyright and licensing
- data production and protection
- IT and web
- access to and protection of information
- information/records
- communications and press
- finance and commercial development
- local authority staff responsible to the Information Commissioner

Welcome

Welcome to the Guidance on the Re-use of Public Sector Information Regulations 2015 (SI 2015 No. 0000) (the '2015 Regulations'). The 2015 Regulations are in force from 18 July 2015.

This Guidance is written for public sector bodies and will explain what the 2015 Regulations mean. Cultural public sector bodies and re-users have separate Guidance written specifically for them. The Guidance seeks to balance prescriptively applying the 2015 Regulations with recognising that public sector bodies have differing business models and public tasks to fulfil.

The easiest, fastest and simplest way to comply with the 2015 Regulations and implement best practice for re-use is to make public sector information:

1. Open and in machine-readable format, together with metadata
2. Available for re-use under an open licence in machine-readable format
3. Free to access or reuse

Scope at a glance

Bodies		Information	
in scope	out of scope	in scope	out of scope
Central government	Public sector broadcasters	Information in any form – including print, visual, digital, electronic, and sound recordings – that is produced, held or disseminated within the public sector body's public task	Information produced, held or disseminated outside public task
Local government	Educational and research establishments		Information that is not accessible
Public corporations	Cultural and performing arts establishments (other than libraries, museums and archives)		Information restricted or excluded, for example under access legislation
Libraries (including university libraries) Museums Archives	Parts of higher education institutions not otherwise in scope		Information whose copyright does not belong to the public sector body
Scottish Government and Parliament			Crests, logos, insignia
Welsh Government and Assembly			Personal data that must be protected
Northern Ireland Executive and Parliament			

What is public sector information?

Any information (content) whatever its medium (form) – including print, digital or electronic, and sound recordings – produced, held or disseminated by a public sector body is considered public sector information. This includes an enormous range: corporate information such as reports and financial data, codes of practices, public records, statistics, still and moving images, press releases, publication schemes, and so on.

If a public sector body holds the copyright for information it produces, holds or disseminates within its public task, then that information is in scope of the 2015 Regulations.

Information with third-party copyright is excluded from the 2015 Regulations.

Information produced, held or disseminated outside a public sector body's public task is excluded from the 2015 Regulations.

The 2015 Regulations have been developed from the [EU Amending Directive](#) which updated the 2005 Regulations on re-use. While the EU Amending Directive refers to public sector information as **documents**, this Guidance uses the term 'information' to reflect the variety of public sector bodies and the types of information they produce, hold or disseminate. It aligns to the government's focus on open data and information as understood in access legislation (such as the [Freedom of Information Act 2000](#)).

Key changes at a glance

2005 Regulations	2015 Regulations
Regulations apply to public sector bodies, including local government	Scope extends to include cultural sector: libraries (including university libraries), museums and archives
Only accessible information is re-usable	Information produced, held or disseminated within a public sector body's public task must be re-usable (unless restricted or excluded)
Make information available	Make information available through open licences and machine-readable formats whenever possible
No obligation to allow re-use	Obligation to allow re-use of information unless restricted or excluded, or from a cultural sector body
Standard licences encouraged	Encourages open, non-restrictive licences
Permits charging for re-use	Marginal cost pricing is the default, in most cases this will be nil for online or digital information Certain public sector bodies such as information traders, and libraries, museums and archives may charge higher than marginal cost
Prohibits exclusive licences	Same except for some cultural and other public sector bodies that have limited scope for exclusive licensing
Complaints process established	Complaint may be escalated to a body that can make binding decisions on most issues, and potentially to a First-Tier Tribunal

What do the Regulations mean for different parts of the public sector?

Public sector bodies

For most public sector bodies, particularly those which already make their information available for re-use under the [Open Government Licence](#), the 2015 Regulations will largely mean business as usual.

Accessible information which is produced, held or disseminated by the public sector body must be made available for re-use (unless it is otherwise restricted or excluded).

Marginal cost pricing is the default model. For many public sector bodies this will be nil. They will be required to justify any charges in excess of marginal cost pricing.

Public sector bodies need to be clear what their public task is, because this determines what information falls within scope of the 2015 Regulations.

The 2015 Regulations continue to give public sector bodies a means to express their transparency, fairness, and non-discrimination.

Libraries, museums and archives

Many cultural sector bodies are already complying with the 2015 Regulations through their best-practice approach to the information they produce, hold or disseminate. Essentially this means making their information re-usable.

They will continue to be able to charge re-users to cover the costs of collection, production, reproduction, dissemination, preservation and rights clearance of the information, plus a reasonable return on their investment.

Open licensing is encouraged but some exclusive licensing will be permitted, especially where the museum, archive or library is working with a partner on a digital access project, as this increases the potential for re-use of their information.

They also retain the right to decline requests for re-use (although such decisions may be challenged).

Re-users of public sector information

For re-users, the 2015 Regulations should make re-use easier. In general, any information that is accessible, either because it has been published or because it has been released under access legislation, should be available for re-use under an open licence.

For most re-use, charges will be at marginal cost, which in practice will be nil in many cases.

Timeline of the 2015 Regulations

The [Amending Directive on the Re-use of Public Sector Information \(2013/37/EU\)](#) (the 'Amending Directive') of the European Parliament and of the Council was adopted by the Council and the European Parliament on 26 June 2013, and enters into force in the UK as the Re-use of Public Sector Information Regulations 2015 (the '2015 Regulations'). The 2015 Regulations improve harmonisation among public sector bodies and update the previous regulations, [The Re-use of Public Sector Information Regulations 2005](#).

Background to the 2015 Regulations

Information produced, held or disseminated by public sector bodies constitutes a vast, diverse and valuable pool of resources. In ['Market Assessment of Public Sector Information'](#) (commissioned by the Department for Business Innovation and Skills in 2013), the value of public sector information to consumers, businesses and the public sector in 2011–12 was estimated to be approximately £1.8 billion (in 2011 prices).

Since the original EU Directive was adopted in 2003, the amount of accessible information has increased exponentially. In parallel, there is a continuous evolution in technologies for analysis, processing and exploitation of information. This rapid technological evolution makes it possible to create new services and new applications which are built upon the use, re-use, aggregation or combination of information.

The removal of barriers and the simplification of processes therefore represent a major opportunity for the UK and other European countries. Although significant progress has been made since the original PSI Directive came into force, significant challenges remain. The Amending Directive and the UK's 2015 Regulations seek to overcome those challenges.

Context of the 2015 Regulations

The 2015 Regulations establish the UK framework for the re-use of public sector information. The purpose is to make information easier to re-use, resulting in economic, social and civil benefits.

Principles and Objectives

The 2015 Regulations are based on the principles of fairness, transparency, non-discrimination and consistency of application.

The 2015 Regulations deliver the following:

- encouraging proactive publication of information that is easy to re-use
- mandatory re-use permission for all information produced, held or disseminated within public task unless re-use is otherwise restricted or excluded (with some exceptions for libraries, museums and archives)
- the easy identification of public sector information that is available for re-use
- transparency of terms, conditions and licences
- the availability of most public sector information for re-use at nil or marginal cost
- clarity of any charges to be made for re-use (with explanation of the basis of the charge)
- use of open or non-restrictive licences for re-use, especially through the [Open Government Licence](#) (OGL)
- processing of requests for re-use in a timely, open and transparent manner
- enhancement of an accessible complaints process including a body to make binding decisions
- retains protection of personal data

Access and re-use

There is a distinction between access to, and re-use of, public sector information.

Information is made accessible in various ways including:

- publishing the information on official websites
- free leaflets, pamphlets and books
- priced publications (often through private sector publishers who publish information on behalf of the public sector body)
- in statutory registers or provided for a fee as part of a commercial transaction
- on mobile platforms and through social media
- through an access to information request
- through a re-use request
- displaying or holding information (e.g., artefacts on display in a museum, records in an archive)

Re-use means the use of public sector information for a purpose different from the initial purpose for which it was produced, held or disseminated.

Public sector body information within public task is presumed to be re-usable once access is obtained, unless the information is otherwise restricted or excluded.

Common examples of restrictions and exclusions include third-party copyright exclusion and protection of personal data. All public sector bodies should make clear when granting access to public sector information if there are any restrictions on re-use.

Access issues must be resolved by the public body holding the information before any re-use can be made.

Information which is re-usable while it is in local authority custody should remain re-usable under the 2015 Regulations, regardless of any transfer to an archive or other public sector body. If information is not under an open licence, a request for re-use should be made to public sector body that holds the information.

Re-use: Regulations 4 and 5	
Required	Recommended
Release information in existing format, preferably electronically	Make information open and machine-readable; use formal open standards
Permit re-use of information (unless restricted or excluded)	Proactively publish information for re-use
Consider release of information in response to a Freedom of Information Act (FOIA) request	Proactively release and allow re-use of as much public sector information as possible

Resources:

[The National Archives – How to manage your information](#)
[The National Archives – Re-using public sector information](#)

Re-use promotes transparency, accountability and growth

Information plays a key role in meeting the UK Government's [Transparency Programme](#) and promoting democratic engagement as well as economic growth. The 2015 Regulations multiply this transparency and accountability.

From 2010 all government departments were expected to release information on finance, resources, procurement and the government estate. From 2011 this included information concerning key public services including health, education, crime and justice, and transport.

In June 2010 the Government created the [Public Sector Transparency Board](#), an expert group to advise on, and drive forward, its transparency agenda. It published 14 [public data principles](#) that can be grouped under five main themes:

- the proactive release of public data (information) in a timely and consistent way

- making public information available from one simple, easy to find access point (www.data.gov.uk)
- public information to be re-used under open licences
- making public information available in [open standard formats](#)
- the production of inventories with supporting metadata.

Greater transparency and increasingly open data were important strands of the 2011 [Plan for Growth](#). The Government set out its plans to release more aggregate data and explore the commercial value of open data. 'Open data' describes information which is accessible, available in digital machine-readable form and which can be re-used under open licence terms. The independent [Open Data Institute](#) (ODI) was established to look at demonstrating the commercial value of open data.

The importance of openness and transparency was further emphasised in the 2012 White Paper [Unleashing the Potential](#). This spelled out how open data contributes to increased transparency and highlighted the need to get more reliable, usable information into the public domain.

Resources:

[Cabinet office - Transforming government services to make them more efficient and effective for users](#)

[Government Digital Strategy \(digital by default\)](#)

[Local Government Association – Making transparency work for you: case studies](#)

[Local Government Association - Transparency guidance](#)

[Local Government Transparency Code 2015](#)

[National Information Infrastructure](#)

[Open Government Licence](#)

[Open Government Partnership](#)

[The United Kingdom Report on the Re-use of Public Sector Information 2013](#)

[Transparency code for smaller authorities](#)

[Transparency Programme](#)

[UK Government Licensing Framework](#)

Jurisdiction

The Amended Directive applies only to EU members. It does not permit discrimination among re-users based on their location. The 2015 Regulations (which implement the EU Directive) apply in the UK. Other member states will have transposed the Amended Directive into their own legal systems.

Links with other UK legislation

The 2015 Regulations intersect with other legislation, and seek to balance access to and re-use of public sector information with protection of copyright and personal information.

Access to a large amount of public sector information is provided for under different regimes which are collectively referred to in this Guidance as 'access legislation'. The 2015 Regulations provide a framework for re-use of information once access has been obtained.

Relationships with other rights of re-use

Information obtained under access legislation presumes the re-usability of the information unless it is otherwise excluded (for example by third-party copyright or exemption). However, permission may still have to be sought for re-use (unless it is provided under an open licence).

Freedom of Information Act

In 2012, the government amended the Freedom of Information Act 2000 (FOIA) to create a 'right to data' comprising new duties for certain public authorities to make datasets available and provide for citizens' rights to re-use them. These provisions were inserted into sections 11A, 11B and 19 of FOIA by the Protection of Freedoms Act 2012.

The 2015 Regulations amend sections 11A and 19 of FOIA regarding release of datasets or portions of datasets for re-use. These changes mean that where a document is covered by the 2015 Regulations, then it is the Regulations and not FOIA which will govern the re-use of such dataset information and their entry on a publication scheme.

The new rights to re-use under the 2015 Regulations have been consolidated with the FOIA provisions where a dataset is within the scope of the Regulations. For datasets or public authorities out of scope of the 2015 Regulations, there is no change. The access and means of communication requirements of FOIA, including sections 1, 11, 11A and 19, remain the same.

Resources:

[Environmental Information Regulations 2004](#) and [Environmental Information \(Scotland\) Regulations 2004](#) (as amended)

[Freedom of Information Act 2000](#) and [Freedom of Information \(Scotland\) 2002](#) (as amended)

[EC Guidance on recommended standard licences, datasets and charging for re-use](#)

[Local Government Act 2010](#)

[Local Government Access to Information Act 1985](#)

[Openness of Local Government Bodies Draft Regulations 2014](#) (draft)

[The Protection of Freedoms Act 2012](#)

Data Protection Act

The 2015 Regulations do not reduce the protections of the [Data Protection Act 1998](#) (DPA), and do not apply to information restricted by the protection of personal data.

Access to personal data (for example, in a public register) does not automatically make it re-usable. Any subsequent use or re-use of any personal data must be lawful under the DPA, which controls how personal information is used.

Everyone responsible for using data has to follow strict rules called 'data protection principles'. They must make sure the information is:

- used fairly and lawfully
- used for limited, specifically stated purposes
- used in a way that is adequate, relevant and not excessive
- accurate
- kept for no longer than is absolutely necessary
- handled according to people's data protection rights
- kept safe and secure
- not transferred outside the UK without adequate protection

The public sector body is responsible for complying with the DPA when making information available for re-use. After permission to re-use has been granted, the re-user is responsible for complying with the DPA.

There is stronger legal protection for more sensitive information, such as:

- ethnic background
- political opinions
- religious beliefs
- health
- sexual health
- criminal records

Public sector bodies should develop and publish a privacy policy and an information charter that explains the steps they take to ensure personal information is kept secure, and how they use it.

Resources:

[Eight data protection principles](#)

[GOV.UK – the Data Protection Act](#)

[Information Commissioner – Data Protection Principles](#)

[Information Commissioner - Guide to Data Protection for organisations](#)

[Information Commissioner – Data protection and privacy and electronic communications](#)

[The National Archives – Data Protection Act](#) for archives, including a code of practice

Examples:

[The National Archives - Privacy Policy and Information Charter](#)

[Cabinet Office: Personal Information Charter](#) (includes Twitter policy)

Public Records Act

The National Archives has extensive guidance on complying with the provisions of the Public Records Act.

Resource:

[The National Archives – Public Records Act](#)

Copyright

Copyright and re-use

Copyright protects material such as literary works, artistic works, software and databases, and stops others from using such material without permission. It prevents people from:

- copying it
- distributing copies of it, whether free of charge or for sale
- renting or lending copies of it
- performing, showing or playing it in public
- making an adaptation of it
- putting it on the internet

The relaxation of copyright assertion by public sector bodies facilitates re-use.

The 2015 Regulations do not change copyright law, or its protections or exceptions.

Copyright in re-used information does not grant copyright in the original information, even if that information is in the public domain or otherwise out of copyright. This principle applies to all re-use, even if it has been granted under an open licence.

Example: if you publish a new digital edition of Shakespeare's collected works, you hold only copyright for the typographical arrangement of your edition (covering aspects such as format, editorial notes and design) but you do not hold and cannot claim copyright in the underlying literary work.

Copyright	
Required	Recommended
No infringement of third-copyright	Clearly state the copyright status of your information
	Maintain records of third-party rights to facilitate accurate and prompt responses to requests for re-use
	If information production is contracted outside of the public sector body, make clear what elements of the contracted work fall within or outside the public task
	Make clear in any contracts or licences what and when copyright resides with or reverts to the public sector body

Crown copyright

Most information produced, held or disseminated by [Crown bodies](#) (most of central government) is covered by [Crown copyright](#). Most Crown copyright information is available under the [Open Government Licence](#), which liberalises re-use of public sector information.

The National Archives administers Crown copyright and database rights on behalf of the Controller of Her Majesty's Stationery Office (the 'Controller') and the Office of the Queen's Printer for Scotland (OQPS).

In some cases the Controller and the OQPS delegate Crown copyright licensing responsibility to government departments, notably information traders, provided they can demonstrate their observance of fair trading principles.

Note that the Crown does not share copyright with external or other public sector bodies. Crown copyright will take precedent over other copyright; other bodies may be asked to assign their copyright to the Crown. Public sector bodies should be very clear in any contractual relationships where copyright belongs.

Resources:

[Copyright, Design and Patents Act 1988](#)

[Copyright and Rights in Databases Regulations 1997](#)

[Intellectual Property Office – Copyright](#) (links to a variety of resources)

[Intellectual Property Office – Exceptions to copyright: Copyright material held by public bodies](#)

From The National Archives:

– [Copyright and publishing](#)

– [Copyright and re-use statements](#)

– [Copyright guidance](#)

– [How copyright applies](#)

– [Information Fair Trader Scheme](#)

– [Open Government Licence](#)

– [Overview of Crown copyright for governmental departments](#)

Open data

Under Regulation 11, public sector bodies should make information and related metadata available through [open licences and machine-readable formats](#) and using [formal open standards](#) whenever possible.

An open licence enables anyone inside or outside government to access, use and share your data. The [Open Government Licence](#) (OGL) is the standard open licence for central UK departments and agencies publishing open data. Other public sector bodies and local authorities are also encouraged to use it.

A machine-readable format is structured so that software applications can easily identify, recognise and extract specific data from it. The format should be standardised through an open process and approved by the Open Standards Board. This ensures interoperability with other programs and licences, such as the environmental framework in [INSPIRE](#).

Public sector bodies may re-use open data they have published, or which has been published by another body, for activities inside and outside their own public task.

Some public sector bodies may hold information that may be unsuitable to be released as open data, for example if it includes personal or commercially-sensitive information. In such cases, publishing statistical summaries or metadata about the information in open format would be an alternative and promote re-use.

Best practice for open data extends to data consistency (i.e., not making unnecessary changes to data unless they add value) and release schedules (i.e., consistently release the same types of information according to a set and published schedule). These practices are simple ways to contribute to making information more easily re-usable.

Resources:

[5 star open data step diagram](#)

[GOV.UK – Open Data](#)

[Government Service Design Manual](#)

[INSPIRE Regulations 2009](#)

[INSPIRE Amendment Regulations 2012](#)

[INSPIRE \(Scotland\) Regulations 2009](#)

[INSPIRE \(Scotland\) Amendment Regulations 2012](#)

[The National Archives – Open Government Licence](#)

[The National Archives – Copyright and publishing](#)

[Open Data Institute and Open Data Certificates](#)

[Open Data User Group \(ODUG\)](#)

[Public Data Group](#)

[Scottish Government Open Data Strategy](#)

[Standards Hub](#) (includes Open Standards Board)

[The National Archives – Open Government Licence](#)

[The National Archives – Copyright and publishing](#)

www.data.gov.uk

For public sector bodies new to open data principles, a [non-governmental explanation of open data licensing](#) has been produced by the Open Educational Resources Intellectual Property Rights Support Project.

Scope of the 2015 Regulations

Bodies in scope

Most public sector bodies are within the scope of the 2015 Regulations, which also bring the cultural sector (libraries, including university libraries, museums and archives) into scope.

Examples of public sector bodies are: agencies, government departments, local government, devolved institutions including the [Scottish Parliament](#), the [National Assembly for Wales Commission](#), and the [Northern Ireland Assembly Commission](#). Most [National Health Service](#) bodies and various non-departmental bodies, such as the [Environment Agency](#), are also included.

If a public sector body carries out research activities (but is not a research establishment) it and the resulting research information are in scope.

Resources:

[Cabinet Office – Categories of Public Bodies](#)

[Cabinet Office – Openness and Accountability](#)

[Cabinet Office – Public Bodies 2014](#)

[Office of National Statistics – Classification of Public Sector Bodies](#) (updated regularly)

[The National Archives – Determination and change of status](#)

[The National Archives – List of Crown bodies](#)

The National Archives – Scope flowchart [\[insert link when available\]](#)

Bodies out of scope

Regulation 5.3 excludes the following types of public sector bodies:

- public sector broadcasters and their subsidiaries and other bodies or their subsidiaries for the fulfilment of a public service broadcasting remit, for example the BBC
- educational and research establishments including organisations established for the transfer of research results (such as research councils), schools and universities (except for university libraries which are in scope)
- cultural and performing arts establishments (such as orchestras, operas, ballets and theatres), other than libraries, museums and archives which are in scope

Information in scope

The Regulations define information by relating it to 'content' which is information in any form – including print, visual, digital, electronic, and sound recordings. Examples of public sector information in scope include:

- primary and secondary legislation
- official records of the Proceedings of the UK and Scottish Parliaments, the Northern Ireland Assembly and the National Assembly for Wales

- codes of practice
- geospatial data produced by organisations such as the Ordnance Survey and the UK Hydrographic Office
- meteorological data produced by the Met Office
- consultation and policy documents
- statistics produced by the Office for National Statistics
- financial and performance data
- annual reports published by government departments, agencies and local authorities
- statutory registers such as those for birth, death and marriage and land titles
- patent information collected and produced by the Intellectual Property Office
- health and safety guidance and reports published by the Health and Safety Executive
- forms issued by local and central government such as tax forms
- press notices
- still and moving images
- technical reports
- local planning information
- publication schemes (required under Freedom of Information Act legislation)
- information held by libraries, museums and archives where they hold the copyright

The 2015 Regulations apply only to information produced, held or disseminated within a public sector body's [public task](#).

If the information is a relevant copyright work under the Freedom of Information Act (FOIA), and the 2015 Regulations do not apply, then the re-use provisions in FOIA still apply and re-use permission should be granted.

Example: if a public sector body is excluded from the 2015 Regulations, but is a FOIA 'authority', then the right to re-use information comes from FOIA.

Information produced, held or disseminated by a public sector body must not be reclassified as outside its public task in order to avoid compliance with the 2015 Regulations.

Public sector information	
Required	Recommended
Information produced, held or disseminated within public task must be accessible and re-usable (unless restricted or excluded)	Make information available and re-usable whenever possible
Do not reclassify information as outside public task to avoid compliance	Proactively publish information
	Make information and metadata available in open format and open licences whenever possible

Resources:

[Cabinet Office – Improving the transparency and efficiency of government and its services](#)
[The National Archives – Public task](#)

Information out of scope

Some public sector body information is excluded regardless of the body that produces, holds or disseminates it. This is set out in 2015 Regulation 5 and includes:

- information that falls outside the scope of the [public task](#) of the public sector body
- information in which the relevant copyright is owned or controlled by a different person or organisation that is not in scope (third-party copyright)
- parts of documents containing only logos, crests or insignia
- information exempt from release under [access legislation](#), including where a person or company has to show a particular interest to access it

An exception to this is where section 21 of the [Freedom of Information Act 2000](#) or section 25 of the [Freedom of Information \(Scotland\) Act 2002](#) applies. These sections cover information which is 'reasonably accessible' to the requester. For example, information published on a public sector body's website would be exempt from an access request by virtue of being already reasonably accessible. This information would normally be available for re-use

- information that contains personal data which must be protected

If a public sector body shares research information with a research partner institution, that is not considered re-use and is out of scope.

Other cases

Trading funds and other bodies

Trading funds (information traders) are established under the [Government Trading Fund Act 1973](#). Typically, they operate in specialised fields and self-fund from their activities, and are permitted to charge for their information. HM Land Registry is an example of a trading fund.

Value-added services are often built around information provided as part of their [public task](#). Public sector bodies that deliver such services must ensure that the information produced, held or disseminated as part of their public task, and which is then re-used for their own commercial services, is available to others on the same terms and conditions.

Public/private partnerships

Some public sector bodies develop information products and services with partners in either the public or private sectors.

In line with its transparency and efficiency agendas, the government expects contracts between the public and private sectors to be standard, transparent and open. Contracts should confirm that public sector information created will be re-usable. Most contract information is published on the [Crown Commercial Service's](#) website.

For pre-existing information that is jointly owned by private and public sector partners and where it is impossible to identify the copyright elements owned by each partner, re-users

will need the permission of both parties. The partners may agree to nominate one partner who will have responsibility for processing requests for re-use.

Public sector bodies may still separately and individually fulfil their own obligations to provide information under [access legislation](#).

Other cases	
Required	Recommended
Tell re-users of any third-party copyright elements in the information they want to re-use	Make it clear, where known, who the re-user should contact about requesting re-use of third-party rights information
No breaches of the Data Protection Act 1998	Maintain adequate records of where third-party rights rest so re-use requests can be handled quickly and accurately
	Make clear in any contracts/licences what elements of contracted work fall within or outside their public task
	Make clear in any contracts and licences what (and when) copyright resides with the Crown or other public sector body

Resources:

[Crown Commercial Service](#)

[Government Contracts Finder](#)

[National Audit Office – Transforming government’s contract management](#)

[The Open Contracting Data Standard \(OCDS\)](#)

Public task

Public sector bodies should define and publish what their public task is. It is required for public sector bodies that:

- trade in information and charge for re-use of information
- license information under delegated authority from the Controller or the Queen’s Printer for Scotland (such as the Met Office and Ordnance Survey)
- charge above marginal cost
- offer non-open licences (an open licence includes the [Open Government Licence \(OGL\)](#))

Public task information is information that a public sector body must produce, hold, collect or provide to fulfil its core role and functions. Information that is within public task:

- is essential to the public service of the public sector body
- is produced, held or disseminated as part of a statutory requirement
- is produced, held or disseminated by established custom and practice
- enjoys authoritative status by virtue of being issued by the public sector
- comes from the public sector body as the only source

The 2015 Regulations do not apply to information outside the scope of the public task of the public sector body.

Public sector bodies may not define information as outside their public task in order to avoid the 2015 Regulations.

Remember that if the 2015 Regulations do not apply, re-use permission may still be possible if the public sector body is an 'authority' under the Freedom of Information Act.

Public Task	
Required	Recommended
<p>Transparent description of the core aims, functions and responsibilities of the public sector body, whether statutory or customary:</p> <ul style="list-style-type: none"> • what does the body do (e.g., produces, holds or disseminates information, serves the general public in a particular area like health, advises a minister) • what type of body it is (e.g., central or local government) • under what authority it operates (e.g., established under a particular act) and any legislation it must follow • review schedule • date 	<p>Also describe:</p> <ul style="list-style-type: none"> • additional legislation that affects or impacts the body (e.g., Public Records Act, Local Government Transparency Code) • information created within the public task • any other information available for access and re-use, and any terms and conditions (e.g., licences) • specific contact information for re-use requests (unless covered by an open licence) • where to locate a publication scheme and/or asset list
Public task (unless using the Open Government Licence (OGL))	Define and publish public task (even if using the OGL)
No reclassification of information as outside public task to avoid the 2015 Regulations	
Public sector bodies also covered by INSPIRE will still need to understand and define their public task for the purposes of that Directive	

Resources:

From The National Archives:

- [General information on public task](#)
- [Guide to drawing up a statement of public task](#)
- [Public task principles](#)

Examples:

- [Environment Agency – Public Task Statement](#)
- [Ordnance Survey – Public Task](#)
- [The National Archives – Public task](#)

Public Sector Obligations

Key information to publish

Key information to publish	
Required	Recommended
Information produced, held or disseminated within a public sector body's public task	Make information available digitally, in open format and machine-readable, together with its metadata, whenever possible
Standard licence terms (including if you are using the Open Government Licence (OGL))	Use an open or non-restrictive licence whenever possible
Details of any charges	How charges are calculated
Public task	
How to make a request to re-use information	
Information asset lists	
How to make a complaint or seek a review of a decision on re-use	

Information asset lists

Public sector bodies must already publish their publication schemes under sections 19-20 of the Freedom of Information Act. Under the 2015 Regulations, they must also publish an [information asset list](#). Asset lists include both published and unpublished information.

An information asset is information that a public sector body produces, holds or disseminates that is of interest or value to itself and potentially to re-users. It includes information within the [public task](#). A public sector body may wish to include information not within public task to provide a comprehensive information asset list.

An information asset list is simply a register of these information assets, usually categorised using a standard classification method. It helps re-users know what may be available.

Asset lists: Regulation 16	
Required	Recommended
Publish a detailed list of main information within public task including: <ul style="list-style-type: none"> • what is available for re-use (published and unpublished) with relevant metadata • how the information can be obtained • any terms or conditions for re-use (e.g., through a licence) 	Also include information not within public task to provide a comprehensive list of information that may be available for re-use Make information available in machine-readable format (including metadata) Make information and metadata electronically searchable Facilitate cross-linguistic searches whenever possible (use international thesauruses and

	lexicography for metadata) Include other relevant information such as date, file size, etc.
--	--

Asset List resources:

From The National Archives:

- [Assets List](#)
- [Information Assets and Business Requirements](#)
- [Information Asset Register](#) (model IAR)
- [Information Assurance and Cybersecurity Training](#)
- [Managing Digital Continuity](#)

Asset List examples:

- [Department for Transport – Information Asset Register](#)
- [Home Office Information – Asset Register](#)

Permitting re-use

Where re-use is permitted for more than one party, including by the public sector body itself, it must be on the same terms and conditions (non-discriminatory).

Terms and conditions may vary for different types of re-use, but they must not discriminate among different types of re-users (e.g., commercial, non-commercial, educational, charity).

Permitting re-use: Regulation 7	
Required	Recommended
Most public sector bodies must allow the re-use of the information they produce, hold or disseminate within their public task	Permit re-use of all information unless otherwise restricted or excluded
Follow 2015 Regulations 11 to 16 for permitted re-use	
Be open, transparent and fair in processing requests for re-use	
No exclusive licences (with exceptions for some special cases)	

Resource:

- [The National Archives – Template form for requesting re-use of public sector information](#)

Responding to a request for re-use

Response means one of the following in writing (print or email):

- indicating if the information is already available and re-usable, for example under an open licence
- explaining where a requester can obtain the information

- supplying the information to the requester, if it hasn't already been supplied (including under access legislation)
- notifying the requester if it will take longer than 20 working days to reply
- explaining if there is any charge for information
- offering terms and conditions for re-use, usually in the form of a licence (including an open licence)
- declining to give permission to re-use and the grounds for the decision
- explaining the complaints process in case the requester wants to appeal a refusal

Responding to a request for re-use: Regulation 8	
Required	Recommended
20 working days to respond, including finalising any licence offer	Respond as soon as possible before 20 working days
Any extension past 20 days must be reasonable the public sector body must tell the requester their expected timeframe and reasons for the delay	Any conditions of re-use should be clearly spelled out in the copyright statement and licensing terms and conditions, for example attribution of source and nil charge for re-use
Licences must be as open and transparent as possible	Use an open licence such as the Open Government Licence (OGL) so that no written request for re-use is necessary
Protection of personal data still applies	Re-use request processes should be made clear and electronically accessible with appropriate contact details

Requests for readily available information

Most information produced, held or disseminated by a public sector body within its [public task](#) should already be accessible and available for re-use, for example by providing information on its website, or in www.local.gov.uk or www.gov.uk

If a requester can show that it already has access to the information, then re-use should be generally permitted.

Where information is already available, including by publishing it or identifying it as being available for re-use (such as by publishing details on an information asset list), a request for re-use must be answered within 20 working days.

Information made available for re-use under the [Open Government Licence](#) (OGL) does not require a request to re-use, but licence conditions must be met by the re-user.

Requests for previously unreleased information

Permission to re-use previously unreleased information is subject to access issues being resolved, such as through [access legislation](#). Requests for access and re-use may be made simultaneously so that the 20 working day response times are concurrent.

If a request for access and re-use is combined, public sector bodies may begin preparing their re-use response ahead of access being granted, so they can respond quickly once access has been resolved.

Processing requests for re-use

There is no obligation for public sector bodies to:

- create or adapt information to comply with a request for re-use. The emphasis is on the re-use of existing information, rather than creating new or changing existing information
- provide extracts of information where this would require disproportionate effort
- continue producing, storing or disseminating information purely for re-use by others. This means that once information is no longer useful or needed to meet the policy and [public task](#) aims of a public sector body, it may stop producing it. The public sector body should alert re-users if such a decision has been made

Processing a request for re-use: Regulations 10 and 11	
Required	Recommended
Respond to a request within 20 working days	Respond to a request as soon as possible
Make information available in existing format	Make information available in machine-readable format with metadata
	Comply with formal open standards whenever possible
	Use an online, non-restrictive licence such as the Open Government Licence
	Process requests electronically

Notification of refusal to allow re-use

Regulation 9 outlines the required process for refusing a request for re-use:

- response must be in writing
- reasons for refusal must be given
- the public sector body should explain the complaints processes to the requester
- in cases where refusal is based on copyright being owned by a third party, the owner of the relevant copyright should be identified, where known (data protection still applies). The same principle applies where the copyright in the information is held jointly by the public sector body and a third party
- where the owner of the third-party copyright is not known, then the name of the person from whom the information was obtained should be provided, where known and lawful under the [Data Protection Act 1998](#). If it is not known, this should be stated

Non-discrimination

Regulation 13 requires that public sector bodies must not discriminate in the conditions applied between requesters who re-use information for similar purposes. The emphasis is on the use of the information, rather than the type of re-user.

Example: a private sector company and a charity should be treated in the same way for re-use of information, whether the re-use is for commercial gain or not.

The only exception to this is where a particular user or groups of users have a statutory right to re-use information.

If a public sector body decides to use information itself, beyond the purpose for which the information was originally produced, held or disseminated, it must apply the same terms and conditions of re-use to itself (and to any associated body) as it would to any other re-user.

Example: they should consider the amount they would charge an external re-user for the information, then apply the same charge to themselves for their re-use. Conversely if they did not charge for internal re-use, then they may not charge for external re-use.

Non-restrictive conditions for re-use

Regulation 12 allows public sector bodies to set conditions on re-use of information, often through a licence. For example it may require acknowledgement of source and indication of whether or not the information has been modified by the re-user.

Conditions for re-use: Regulation 12	
Required	Recommended
Conditions may not restrict competition or discriminate among re-users	Apply non-restrictive conditions to re-use
	Use a non-restrictive licence such as the Open Government Licence

Licensing re-use

The [Open Government Licence](#) is the default for most Crown bodies, and preferred for all public sector bodies.

Licences should be as open and non-restrictive as possible.

Licensing re-use: Regulation 12	
Required or Permitted	Recommended
Licences are not required	Use an open licence such as the Open Government Licence
Use as non-restrictive a licence as possible	Publish licence conditions online
Must not be anti-competitive and must not discriminate among re-users	
Protection of personal data still applies	

Resources:

[The National Archives – Re-use and licensing](#)
[UK Government Licensing Framework](#)
[Open Government Licence](#)

Different licence types

Open Government Licence

The [Open Government Licence](#) (OGL) is the default for central government departments and agencies, and the preferred licence for all other public sector bodies.

It covers copyright and database rights. The OGL:

- does not require registration or a transaction
- provides certainty to users
- uses Plain English
- covers a lot of information including databases
- has many uses and is compatible with other licences
- is machine readable so it can be embedded in metadata
- is Open Definition conformant
- is free
- makes it easy to comply with the 2015 Regulations

Non-Crown bodies may also use the OGL.

Personal data cannot be re-used under the OGL.

Resources:

[The National Archives – How to use the OGL](#)

[The National Archives – OGL guidance for users](#)

[The National Archives – Open Government Licence \(OGL v3\)](#)

[The National Archives – download the OGL](#)

Non-commercial Government Licence

The [Non-Commercial Government Licence](#) is an acceptable alternative when the OGL is not suitable. Crown bodies may use this only if approved by The National Archives.

Charged licence

The National Archives has produced the [Charged licence](#) which is recommended for use by public sector bodies that have a valid reason under the 2015 Regulations to charge for the re-use of the information they produce, hold or disseminate. Crown bodies may use this only if approved by The National Archives.

Resources:

[The National Archives – Charged licence](#)

[The National Archives – Charging](#)

Exclusive arrangements prohibited

Public sector bodies may not enter into exclusive arrangements for re-use because they prevent others from re-using information and inhibit competition.

There are two important exceptions: first, if there are no alternatives to providing a public task service, and second, for digitising cultural resources.

Exclusive arrangements prohibited: Regulation 14	
Required or Permitted	Recommended
Exclusive arrangements permitted when a public task service cannot be provided otherwise	Explore non-exclusive licences as an alternative. Any licence should be limited in scope and duration
The public sector body must have access to the information during the term of the agreement, and it must receive one free copy of a digitised resource at the end of the agreement	Ensure exclusive licence provides sufficient commercial incentive for restricting information re-use
Exclusive arrangements existing on 17 July 2013 must be terminated no later than 18 July 2043	Terminate as early as possible

Charging for re-use

[to follow]

Complaints process

[to follow]

Initial complaints process

[to follow]

Escalation

[to follow]

Transitional arrangements

[to follow]

DRAFT

Related best practice for public sector bodies

Re-use statement

Public sector bodies should publish a summary of how they are complying with the Regulations on their websites. You may adapt the following text as required:

Re-use of Public Sector Information

[Name of public sector organisation] complies with The Re-use of Public Sector Information Regulations 2015 [insert link] and we encourage the re-use of the information that we produce, hold and disseminate.

We are open and transparent, and treat all applications to re-use in a fair and non-discriminatory way.

Details of how we meet our responsibilities are explained on our website:

- publication of re-use conditions / standard licence terms [insert link] OR Open Government Licence [insert link]
- publication of information about charging [insert link]
- details of how to make a complaint under the 2015 Regulations [insert link]
- publication of an asset list of main information that can be re-used [insert link]
- details of exclusive agreements [insert link]

[If Open Government Licence is used:]

You are free to:

- copy, publish, distribute and transmit the information on our website
- adapt the information
- exploit the information commercially and non-commercially

and you must attribute us as the source of the information.

[If a Non-commercial Government Licence is used:]

You are free to:

- copy, publish, distribute and transmit the information on our website
- adapt the information
- exploit the information only non-commercially

and you must attribute us as the source of the information.

[If a Charged licence is used:]

The Licensee may re-use the Information, for example by:

- copying, publishing, distributing and transmitting the information
- adapting the information
- exploiting the information commercially (including by combining it with other information, data or applications, or your own Product)
- allowing end-users to use the information as authorised by an end-user licence (except that an end-user shall not have the right to sub-license the right to access the information)

[If a standard licence is used:]

If you wish to re-use any of the information that we produce, hold or disseminate please complete the application form [insert link] and return it to us. Applications can also be made in writing to:

[insert contact details]

In accordance with the Re-use of Public Sector Information Regulations 2015 [insert link] we will respond to all applications within 20 working days.

Compliance model: Information Fair Trader Scheme

The [Information Fair Trader Scheme \(IFTS\)](#) sets and assesses standards for public sector bodies, particularly those with [delegated authority](#) to licence use of Crown copyright information. It requires members to encourage the re-use of information and to reach a standard of fairness and transparency.

Any public sector body can apply to become an IFTS member, whether or not they are a Crown body. Public sector bodies licensing Crown copyright information under any licence other than the [Open Government Licence \(OGL\)](#) may only do so with the permission of the Controller of HMSO and must join the IFTS.

The IFTS principles are:

- maximisation – an obligation to allow others to re-use information unless there are compelling reasons not to
- simplicity – simple processes, policies and licences
- innovation – actively remove obstacles to re-use, and facilitate the development of new and innovative forms of re-use
- transparency – transparency of the terms of re-use, licence terms, charges and the details of what information is available for re-use
- fairness – all re-users must be treated in a non-discriminatory way for the same type of re-use
- challenge – a robust complaints process to reconsider licensing decisions

Information management

Effective information management is central to the integrity of public sector information and can make the re-use process simpler.

There are seven information principles that public sector bodies are encouraged to follow: information is:

- valued
- managed
- fit for purpose
- standardised and linkable
- re-used
- published
- citizens and business can access information about themselves

Following common information principles enables public sector bodies to align their use and management of information (both structured and unstructured) to best practice.

Any arrangements for the licensing of re-use of information should be carefully controlled and in accordance with records management standards. This would require close co-ordination of the work of licensing staff with the work of information and records managers and archivists.

Resources:

From The National Archives:

- [Asset lists](#)
- [How to manage your information](#)
- [Identifying information assets and business requirements](#)
- [Information Management Assessment Programme](#)
- [Information principles](#)
- [Keeping records to meet corporate requirements](#)
- [Managing digital continuity](#)
- [Re-use and licensing](#)
- [Information Assurance and Cybersecurity Training](#)