



# UK Government Licensing Framework

for public sector information

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## Section A: Context, principles and regulation

### 1. Introduction to the UK Government Licensing Framework

The UK Government Licensing Framework (UKGLF) provides a policy and legal overview of the arrangements for licensing the use and re-use of public sector information both in central government and the wider public sector. It sets out best practice and standardises licensing principles.

The UKGLF sets out the Government's guiding principles for licensing the use of public sector information. These are:

- simplicity of expression – the terms should be expressed in such a way that everyone can understand them easily;
- non-exclusivity – so that access can be provided to a range of users on fair and equal terms;
- fairness of terms;
- non-discrimination – terms are extended fairly to all for similar uses;
- the need for acknowledgment and attribution; and
- the need for transparency by publishing standard licence terms.

The UKGLF provides a coherent standard approach to licensing through a portfolio of licensing solutions developed to cover the following situations:

- free use and re-use for all purposes, both commercial and non-commercial - the **Open Government Licence**;
- free use and re-use for non-commercial purposes only – the **Non-Commercial Government Licence**; and
- where charges are made for the re-use of information, including in the context of s102 of the Protection of Freedoms Act 2012<sup>1</sup> and under the Re-use of Public Sector Information Regulations 2015 - the **Charged Licence**

In addition, the UKGLF provides guidance for public sector bodies as to the terms and conditions which should be included in licences where charges are applicable. It also highlights some of the issues that public sector bodies need to take into account in such situations. This guidance is not intended as a replacement for independent advice and public sector bodies should seek their own legal advice before drafting a licence for situations where charges are allowed under the Re-use Regulations.

The UKGLF also identifies licensing solutions that can be adopted for licensing the use and re-use of software and source code.

#### 1.1 Who should read this?

The UKGLF has been developed in order to meet the needs and interests of:

- the public, including community groups and social organisations;
- the information re-user community in both the public and private sectors and in civil society; and
- the public sector Licensors and Information Providers.

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<sup>1</sup> Protection of Freedoms Act 2012 which amends s11 of the Freedom of Information Act 2000

Through the UKGLF the government:

- **directs** central government departments and agencies;
- **strongly encourages** Information Fair Trader Scheme (IFTS) members; and
- **invites** the wider public sector;

to adopt:

- the policies and principles set out in the UKGLF in their licensing activities; and
- the Open Government Licence as the default licence for public sector information that is available for use and re-use free of charge.

in making public sector information available for re-use. In doing so the UKGLF supports the Re-use Regulation requiring that applicable conditions for re-use are available to the public (Regulation 16(3)).

## 1.2 Scope

The UKGLF addresses the use and re-use of the following types of information:

- non-personal information subject to copyright and database right that is collected and produced by government and the public sector and which is published or accessible under access legislation such as the Freedom of Information Act or the Environmental Information Regulations (much of this information will be accessible on public sector websites or already published by the public sector);
- previously unpublished datasets released by the public sector on portals, such as data.gov.uk;
- original and open source software and source code produced by the public sector or commissioned under Framework 1 of the NESTA agreements (see glossary and references) or similar agreements;
- datasets released under s102 of the Protection of Freedoms Act 2012; and
- any other document that is available to be re-used under the Re-use of Public Sector Information Regulations 2015.

## 1.3 Status of the Framework

The UKGLF will evolve to include additional guidance and licensing solutions, as the Government's approach to licensing the use and re-use of public sector information develops. We welcome comments and views about the UKGLF and its licensing solutions. Contact The National Archives at [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

## 2. Policy context

As part of its transparency and open data agendas, Government is committed to opening up access to information created and held by government and the wider public sector.

The UK public sector creates, collects and holds substantial amounts of information, ranging from spatial and weather data, health and crime statistics, to photographs. Much of this information is available online at no charge, through websites and portals such as data.gov.uk. Government is also committed to making further sources of information available and creating a climate to facilitate this across the public sector.

The removal of barriers to re-use, by introducing simple and transparent licensing processes, will encourage use and re-use of public sector information. This increased use and re-use will:

- promote creative and innovative activities that will deliver social and economic benefits and enhance job creation for the UK;
- provide stimulus to the knowledge and digital economy, especially in the information and publishing industries;
- make government more transparent and open in its activities, ensuring that the public are better informed about the work of the government and the public sector;
- equip people and organisations with the power and resources they need to make a real difference in their communities;
- help government achieve its objectives through active involvement, participation and contribution by businesses and the public;
- enable users, both professional and non-professional, to obtain information in formats and ways not necessarily offered by the public sector; and
- improve the flow of information from the public sector to the public leading to better informed decisions, efficiency and compliance with the law and regulations.

### **3. Legal context**

#### **3.1 Intellectual property rights**

Intellectual property rights protect certain categories of information and works that are the result of human intellectual endeavour. The main types of intellectual property rights are copyright, database rights, trade marks, designs and patents.<sup>2</sup>

The UKGLF only applies to information protected by copyright and database right.

#### **3.2 Copyright and database right**

Copyright is an intellectual property right protected by law<sup>3</sup> and applies automatically to:

- literary (or written) works, including reports, correspondence, statistics, instruction manuals, computer programs, source code and software, newspaper articles and some types of database;
- artistic works, including paintings, engravings, photographs, sculptures, collages, architecture, technical drawings, diagrams, maps and logos;
- dramatic works, including dance or mime;
- musical works;
- layouts and typographical arrangements in published works;
- recordings of a work, including sound and film; and
- broadcasts of a work.

It governs the extent to which anyone may re-use, issue to the public, use or adapt the works, in whole or in substantial part, without permission from the copyright owner.

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<sup>2</sup> Further information on intellectual property in general can be found on the UK Intellectual Property Office website at: [www.ipo.gov.uk/home.htm](http://www.ipo.gov.uk/home.htm).

<sup>3</sup> Copyright, Designs and Patents Act 1988 [www.legislation.gov.uk/ukpga/1988/48/contents](http://www.legislation.gov.uk/ukpga/1988/48/contents)

Database right is set out in legislation as another distinct form of intellectual property right.<sup>4</sup> A database, that is a collection of data or other material that is arranged in a systematic or methodical way so that the items are individually accessible, may be protected by copyright as a literary work if the selection or arrangement of the content is such as to constitute the author's own intellectual creation. Where this element of originality does not exist, a database may be protected by database right if there has, nonetheless, been a substantial investment in obtaining, verifying or presenting the contents of the database. This protection can be applied to both paper and electronic databases.

### **3.3 Ownership of copyright and database rights**

Local authorities and other non-Crown public sector bodies own the copyright and database right in the information they produce. Copyright and database rights may also be assigned or transferred to an individual or organisation by the original owner(s).

In the case of central government and its agencies, where the agency is a Crown body, most of the information produced will be subject to Crown copyright and/or Crown database rights. Copyright and database right can be assigned or transferred to the Crown by the original owner(s).

### **3.4 Moral rights**

Moral rights<sup>5</sup> give the authors of literary, dramatic, musical and artistic works and film directors the right:

- of attribution - to be identified as the author of the work or director of the film;
- of integrity - to object to derogatory treatment that would be prejudicial to the honour or reputation of the author or director; and
- not to have a work or film falsely attributed to them.

Moral rights do not apply:

- to computer programs;
- where ownership of a work originally vested in an author's employer;
- where material is used in newspapers or magazines; and
- reference works such as encyclopaedias or dictionaries

Moral rights last for as long as copyright lasts in the work although the creator may waive his or her moral rights. Unlike copyright, moral rights cannot be sold or assigned.

### **3.5 Freedom of Information Acts and Environmental Information Regulations**

All information which has not been published or which is not accessible under information access legislation, including the Freedom of Information Acts<sup>6</sup> or the Environmental Information Regulations<sup>7</sup>, falls outside the scope of the UKGLF.

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<sup>4</sup> Regulation 13 of The Copyright and Rights in Databases Regulations 1997  
[www.legislation.gov.uk/uksi/1997/3032/contents/made](http://www.legislation.gov.uk/uksi/1997/3032/contents/made).

<sup>5</sup> Chapter 4 of the Copyright, Designs and Patents Act 1988  
[www.legislation.gov.uk/ukpga/1988/48/part/I/chapter/IV](http://www.legislation.gov.uk/ukpga/1988/48/part/I/chapter/IV)

<sup>6</sup> Freedom of Information Act 2000 [www.legislation.gov.uk/ukpga/2000/36/contents](http://www.legislation.gov.uk/ukpga/2000/36/contents) and Freedom of Information (Scotland) Act 2002 [www.legislation.gov.uk/asp/2002/13/contents](http://www.legislation.gov.uk/asp/2002/13/contents).

Rights of access to public sector information are provided by the Freedom of Information Acts and by the Environmental Information Regulations. Provision of information under current access legislation does not provide the recipient with an automatic right to re-use it in all cases. However, the Protection of Freedoms Act 2012<sup>8</sup> which amends s11 of the Freedom of Information Act contains provisions under which certain public sector owned datasets will be re-useable at the point of access by means of a specified licence. With some exceptions, the Re-use of Public Sector Information Regulations place a general duty on public sector bodies to permit re-use of accessible information.

Most information supplied in response to an access request will be protected by copyright and permission to re-use it will be required. Statutory provisions for access and re-use complement each other but are, in most cases, separate and distinct.

### **3.6 Data Protection Act 1998**

The Data Protection Act 1998<sup>9</sup> (DPA) defines UK law on the processing of data on identifiable living people and protects personal data. Photographs of identifiable individuals could be considered to be personal data under DPA. The UKGLF does **not** authorise the re-use of any personal data.

### **3.7 The Re-use of Public Sector Information Regulations 2015**

The Re-use of Public Sector Information Regulations 2015 (the PSI Regulations)<sup>10</sup> established principles and rules for public sector bodies when making public sector information available for re-use in response to a request from a potential re-user. They also establish a complaints process for re-users.

Further information about the PSI Regulations, public sector information policy and best practice can be found on The National Archives website.<sup>11</sup>

Under the PSI Regulations, re-use of information occurs where information is used for a purpose other than the original purpose for which it was created by a public sector body, within its public task.

Re-use often involves the combination of information from different sources to create new products and services. For instance, in addition to publishing road maps Government also publishes information on the location of cycling accidents. When these pieces of information are combined they enable the planning of safer routes around dangerous areas.

The 2015 Regulations replaced earlier 2005 Re-use Regulations and have added further elements to the principles and rules put in place in 2005. The 2015 Regulations:

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<sup>7</sup> Environmental Information Regulations 2004 [www.legislation.gov.uk/uksi/2004/3391/contents/made](http://www.legislation.gov.uk/uksi/2004/3391/contents/made) and Environmental Information (Scotland) Regulations 2004 [www.legislation.gov.uk/ssi/2004/520/contents/made](http://www.legislation.gov.uk/ssi/2004/520/contents/made).

<sup>8</sup> Section 102 of the Protection of Freedoms Act 2012

<http://www.legislation.gov.uk/ukpga/2012/9/part/6/crossheading/publication-of-certain-datasets/enacted>

<sup>9</sup> [www.legislation.gov.uk/id/ukpga/1998/29](http://www.legislation.gov.uk/id/ukpga/1998/29)

<sup>10</sup> [www.legislation.gov.uk/uksi/2015/1415/contents/made](http://www.legislation.gov.uk/uksi/2015/1415/contents/made).

<sup>11</sup> <http://www.nationalarchives.gov.uk/information-management/re-using-public-sector-information/psi-directive-transposition-and-re-use-regulations/>.

- require public sector bodies to allow the re-use of existing and generally accessible information they create, collect or hold, making re-use mandatory in most cases;
- extend the scope of the Regulations to cover public sector information held by museums, libraries (including university libraries) and archives;
- introduce the general principle that charges for re-use should normally be set at marginal cost, with exceptions in certain circumstances; and
- introduce a redress mechanism for complaints by re-users operated by the Information Commissioner's Office with the power to make binding decisions enforced through the First-tier Tribunal.

Re-use helps to deliver three key government priorities: public sector transparency; increased public involvement in achieving government objectives; and increased economic growth.

### **3.8 The INSPIRE Regulations 2009**

The INSPIRE Regulations 2009<sup>12</sup> require public authorities that are responsible for spatial (geographical) information to make their spatial information accessible to other public bodies across Europe to support effective decision making and policy development. This may also involve combining spatial information with other types of information in the development of new products and services. The INSPIRE Regulations also require public authorities to make their information accessible to members of the public. In some cases public authorities are obliged to make their spatial information available in a form which is capable of being re-used and the terms and conditions which can be imposed on re-use by public authorities and members of the public may be limited.

The UK Location Council<sup>13</sup> endorsed the UKGLF as the licensing framework for the use of spatial information covered by the INSPIRE Regulations.

## **4. Licensing principles and practice**

### **4.1 Why are licences necessary?**

A licence is a mechanism that gives people and organisations permission to re-use information and other material that is protected by copyright or database right. A licence should also provide clarity as to what users and re-users are permitted to do and whether there are any restrictions on the extent of that permission. In the context of the UKGLF, the licences ensure that users are aware of the need to use the information in a responsible manner and not in ways which mislead others, misrepresent the information or suggest endorsement by a public sector body.

A licence is not required for information where copyright or database right have expired.

### **4.2 Third party rights**

Public sector bodies can only license the re-use of information in which:

<sup>12</sup> [www.legislation.gov.uk/ukxi/2009/3157/made](http://www.legislation.gov.uk/ukxi/2009/3157/made)

<sup>13</sup> UK Location Council was responsible for implementation of INSPIRE from December 2009 to March 2013

- they own the copyright and /or database right; or
- they have been authorised by the owner to license its re-use.

Where the public sector body does not have the authority to license, the onus will be on the re-user to contact the copyright/database right owner for permission to re-use. The Re-use of Public Sector Information Regulations 2015 require public sector bodies to notify requesters who have asked to re-use documents (where the copyright is owned by a third party) of the name of the owner of the relevant IP rights, or from whom the document was obtained, where this is known to the public sector body (Regulation 9(4)).

### **4.3 Acquired Rights**

Often public sector bodies will have acquired rights by licence to use information for specific purposes. This often occurs in the context of photographs which are commissioned by a public sector body. For example, a public sector body may have obtained the rights to publish a photograph for educational and non-commercial purposes only. In these circumstances, the public sector body would not be able to license the re-use of the photograph for wider use.

### **4.4 Identification of third party rights**

In the interests of transparency, when a public sector body publishes or supplies a copy of information that body should, where practicable, identify any part of the information in which rights are owned by a third party and if there are any known limitations on the use and re-use of this information. This will have the following benefits:

- the public sector body will have ensured compliance with Regulation 9(4) of the Re-use of Public Sector Information Regulations in respect of this information;
- the re-user will know who to contact to obtain permission;
- the re-user will know what limitations, if any, there may be on re-use;
- the re-user will know what information falls outside the scope of the UKGLF; and
- it will reduce the liability and risk for the re-user and the public sector body.

The question of third party rights also arises in the context of derived data.

### **4.5 Derived data**

Derived data is a term that is used to describe new datasets or information that have been created using an existing dataset or information asset as its source.

Where, during the creation of new data, an existing dataset or information asset, including data attribution or textual content, has been:

- copied;
- replicated;
- reproduced; and
- generalised.

Data could be considered to be derived if it encapsulates a significant proportion of the original, or source, data.

As the derived data would be protected by copyright and/or database right, each user in the information chain would need to be appropriately licensed.

Where individuals and organisations intend to make derived data available, whether to other public sector bodies or to others, they need to understand the relevant terms and conditions relating to any third party rights and the practical implications.

#### **4.6 Compatibility and openness**

The Open Government Licence is intended to be compatible with the Creative Commons Attribution licence which is recognised by the information community and used internationally.

The Open Government Licence conforms to the Open Definition<sup>14</sup> principles.

#### **4.7 Machine-readable licensing**

Machine readability in the context of licensing means the ability for a computer to extract a description of the terms and conditions from a licence document. This allows, for instance, a computer program to query whether a machine-readable licence permits commercial re-use, or whether it requires an attribution statement. It then becomes possible to determine quickly whether two datasets are licensed under compatible terms and conditions. As such it is seen as an important step in enabling the large scale integration of datasets from different sources.

The Open Government Licence and the Non-Commercial Government Licence include a summary of their terms in a simple, machine-readable format which will continue to be developed as more descriptions and ontologies become available.

#### **4.8 Licence hyperlinks**

It is helpful to tell search engines, like Google, that the links to the Open Government Licence and the Non-Commercial Government Licence are to licences, and not general links. There is a special way to do this in HTML, by using the rel="license" attribute. This will flag up with web crawlers and other internet users using automated systems that the information is subject to a licence with particular terms and conditions which can be found by following the link.<sup>15</sup>

Where, possible, Information Providers should point to the permanent identifier for the Open Government Licence by embedding the following link:

```
<a href="http://reference.data.gov.uk/id/open-government-licence" rel="license">Open Government Licence</a>
```

Alternatively, where Information Providers do not use the rel="license" attribute, they can put in a simple hyperlink:

```
<a href="http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3">Open Government Licence</a>
```

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<sup>14</sup> <http://opendefinition.org/od/>

<sup>15</sup> For further information on this method, please see: [microformats.org/wiki/rel-license](http://microformats.org/wiki/rel-license).

For the Non-Commercial Government Licence the following permanent identifier should be used:

```
<a href="http://reference.data.gov.uk/id/non-commercial-government-licence" rel="license">Non-Commercial Government Licence</a>
```

Alternatively, where Information Providers do not use the rel="license" attribute, they can put in a simple hyperlink:

```
<a href="http://www.nationalarchives.gov.uk/doc/non-commercial-government-licence">Non-Commercial Government Licence</a>
```

## **5. Regulation and best practice**

### **5.1 Complaints**

The PSI Regulations establish a complaints process for those who are dissatisfied with the handling of a request for re-use made in accordance with those regulations. It is open to potential re-users of public sector information that have exhausted the public sector body's own internal complaints procedure, to refer their complaint on to the Information Commissioner's Office. Further information about the complaints procedure are on the ICO website<sup>16</sup>

### **5.2 Information Fair Trader Scheme (IFTS)**

The National Archives manages the Information Fair Trader Scheme (IFTS), which sets and assesses standards for public sector bodies. It requires them to encourage the re-use of information and reach a standard of fairness and transparency. Any public sector body can apply to become IFTS accredited. Further information about IFTS can be found on The National Archives website<sup>17</sup>.

### **5.3 Charging for the use and re-use of public sector information**

It is UK Government policy to support the re-use of its information by making information produced by central government departments available for re-use under simple licensing terms and, where possible, only charging the marginal cost of production for permission to re-use. In practice, this means public sector information can usually be used and re-used free of charge, especially where the information is published online. The Open Government Licence should be the default licence where public sector information is made available for re-use free of charge. This maximises the social and economic value of the information.

If public sector bodies find it necessary to charge for re-use of their information, they will be subject to the charging provisions in the PSI Regulations and/or the INSPIRE Regulations in the case of spatial information and/or The Freedom of Information (Release of Datasets for Re-use) (Fees) Regulations 2013.

The PSI Regulations set out a charging regime allowing re-use charges to be applied up to, but not in excess of:

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<sup>16</sup> <https://ico.org.uk/for-organisations/guide-to-rpsi/complaints/>

<sup>17</sup> [www.nationalarchives.gov.uk/information-management/ifts.htm](http://www.nationalarchives.gov.uk/information-management/ifts.htm)

- in most cases, marginal costs of the reproduction, provision and dissemination of documents (for electronic information this will usually mean no charge);
- direct costs, and indirect costs of collection, production, reproduction and dissemination and a reasonable return on investment, in cases where either the public sector body is required to generate revenue to cover a substantial part of its costs, or where the public sector body is required to generate revenue to cover a substantial part of costs relating to the documents in question;
- for libraries (including university libraries), archives and museums, direct costs, and indirect costs of collection, production, reproduction, dissemination, preservation and rights clearance and a reasonable return on investment.<sup>18</sup>

For information about charging under the INSPIRE Regulations see *Data Sharing Operational Guidance: Licensing and Charging*<sup>19</sup>. The Re-use Regulations require that any charges for re-use must be calculated in accordance with the accounting principles applicable to each public sector body. Charging for re-use is also subject to the HM Treasury guidance in *Managing Public Money*.<sup>20</sup> The guidance and principles in *Managing Public Money* will also be relevant to other bodies such as local authorities in judging what constitutes a reasonable charge.

Where central government departments and agencies (whose information is subject to Crown copyright and/or Crown database right) wish to charge for the re-use of their public sector information and charges are allowed under the Re-use Regulations, they are required to justify departures from the marginal cost model against a published set of criteria<sup>21</sup>. This justification ensures that Government does not limit or restrict re-use. Departments and agencies that satisfy the criteria and application process will license their information under a delegation of authority from the Controller of Her Majesty's Stationery Office. It is a condition of this delegation that the Department or agency joins the IFTS.

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<sup>18</sup> Regulation 15 stipulates the charging provisions.

<sup>19</sup> [location.defra.gov.uk/wp-content/uploads/2010/04/Data-Sharing-Operational-Guidance-Part-2-v1-0.pdf](https://www.location.defra.gov.uk/wp-content/uploads/2010/04/Data-Sharing-Operational-Guidance-Part-2-v1-0.pdf)

<sup>20</sup> [www.hm-treasury.gov.uk/psr\\_mpm\\_index.htm](https://www.hm-treasury.gov.uk/psr_mpm_index.htm)

<sup>21</sup> [www.nationalarchives.gov.uk/information-management/ifts/cost-pricing.htm](https://www.nationalarchives.gov.uk/information-management/ifts/cost-pricing.htm)

## Section B: Licensing models for public sector information

### 6. Overview

The UKGLF provides a portfolio of licensing solutions to enable public sector bodies to make their information available for use and re-use in the following ways:

- Free use and re-use for all purposes, both commercial and non-commercial - the **Open Government Licence**;
- Free use and re-use for non-commercial purposes only - the **Non-Commercial Government Licence**; and
- Guidance on developing licences where charges are applied.

More detailed explanations of these licensing solutions are provided below and a summary table can be found at Annex A.

#### 6.1 The Open Government Licence

The Open Government Licence (OGL) is a licensing model which facilitates the use and re-use of a broad range of public sector information. The OGL is available online<sup>22</sup> and is a simple licensing mechanism, which:

- can be adopted across the UK public sector;
- is the default licence for a wide range of information owned by the Crown and specified in the Controller's offer (see Section 7);
- covers copyright and database right;
- covers any information that an Information Provider and/or rights owner offers for re-use under its terms and conditions;
- is intended to be compatible with the Creative Commons Attribution Licence (CC-BY4.0<sup>23</sup>), which covers copyright and database right;
- supports the inclusion of machine-readable description and semantic web properties;
- does not require registration or charge; and
- has as few restrictions as necessary.

Under the OGL, information may be used and re-used for both commercial and non-commercial purposes. Licensees are required to include an attribution statement, usually specified by the Information Provider, in any use of the information.

Where a public sector body licenses its information under the OGL it should insert a visible statement asserting this and provide the Open Government Licence URI (Uniform Resource Indicator) or URL (Uniform Resource Locator) in the information.

Further guidance on how the Open Government Licence works can be found on The National Archives website at [www.nationalarchives.gov.uk/information-management/uk-gov-licensing-framework.htm](http://www.nationalarchives.gov.uk/information-management/uk-gov-licensing-framework.htm).

The National Archives has also developed, with help from the Government Digital Service, the OGL symbol as a simple way of identifying when information can be used and re-used. The OGL symbol shows users, at a glance, that information is covered by

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<sup>22</sup> <http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3>

<sup>23</sup> <http://creativecommons.org/licenses/by/4.0/legalcode>

the OGL. Public sector bodies are therefore encouraged to use the symbol on their websites and in publications wherever possible. Further guidance on the use of the OGL symbol is available at <http://www.nationalarchives.gov.uk/information-management/re-using-public-sector-information/re-use-and-licensing/guidance-for-information-providers/use-ogl-symbol/>

## **6.2 The Non-Commercial Government Licence**

The UKGLF default position is that public sector information should be licensed for use and re-use free of charge under the OGL. However, there are specific circumstances where information may only be released for use and re-use for non-commercial purposes. The Non-Commercial Government Licence<sup>24</sup> has been developed to meet those situations.

Under the Non-Commercial Government Licence information may be used and re-used free of charge for non-commercial purposes only. Licensees are required to include an attribution statement, usually specified by the Information Provider, in any use of the information.

This licence:

- covers any information that an Information Provider and/or rights owner offers under its terms and conditions;
- covers information owned by the Crown only when an Information Provider holds a delegation of authority from the Controller of Her Majesty's Stationery Office to license its own information and has made an express offer to license it under the terms of the Non-Commercial Government Licence.

Where a public sector body licenses its information under the Non-Commercial Government Licence, it should insert a visible statement asserting this and provide the Non-Commercial Government Licence URI (Uniform Resource Indicator) or URL (Uniform Resource Locator) in the information.

## **7 Licensing arrangements for Crown information – the Controller's Offer**

The Controller of Her Majesty's Stationery Office (the Controller) manages Crown copyright and Crown database right on behalf of Her Majesty The Queen. Further information about the meaning of Crown copyright and Crown database right can be found in Section 3.3.

### **7.1 Controller's Offer**

Subject to the exclusions set out under point 7.2 below and in the Open Government Licence itself, the Controller offers information which is subject to Crown copyright and Crown database right, or to copyright or database right which has been assigned to or acquired by the Crown (Crown information), for use under the terms of the Open Government Licence. This information includes:

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<sup>24</sup> [www.nationalarchives.gov.uk/doc/non-commercial-government-licence](http://www.nationalarchives.gov.uk/doc/non-commercial-government-licence)

- information owned by the Crown previously made available under the Click-Use Licences<sup>25</sup>; and
- source code and software originated by the Crown under Framework 1 of the NESTA agreements (see glossary and references) or similar agreements.

## 7.2 Crown information not covered by the Controller's Offer

The following information is not covered by the Controller's offer:

- personal data;
- information that has not been not been accessed by way of publication or disclosure under information access legislation (including the Freedom of Information Acts for the UK and Scotland) by or with the consent of the Information Provider;
- information that is licensed by Crown bodies under a delegation of authority<sup>26</sup> from the Controller, unless otherwise specified;
- departmental logos, crests, military insignia and the Royal Arms except where they form an integral part of a document or dataset;
- departmental graphics and campaign images developed to support specific campaigns and policy initiatives, unless otherwise indicated;
- third party rights that the Information Provider is not authorised to license;
- other intellectual property rights, including patents, trade marks, and design rights;
- identity documents, such as the British Passport<sup>27</sup>; and
- source code and software that has been developed from or combined with a source that is subject to an open source licence (see Section 9 below) or commissioned under Frameworks 2 to 6 of the NESTA agreements (see glossary and references) or similar agreements.

## 8. Licensing where charges apply

As explained earlier, Government policy is that public sector information should be licensed for use and re-use free of charge under the OGL. However, there are circumstances where it is appropriate to charge for use and re-use. The Charged Licence<sup>28</sup> is designed for use in such situations, particularly in the context of s102 of the Protection of Freedoms Act 2012.

We have also produced general guidance to assist public sector bodies in drafting licences that involve charges, see Annex B. This guidance takes into account the charging provisions of the PSI Regulations and INSPIRE.

Please note, however, that this guidance is not a substitute for public sector bodies seeking their own legal advice on the contents and use of licences for the re-use of their information. We recommend that legal advice is sought before offering any information for use and re-use where charges are made.

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<sup>25</sup> the PSI Licence and the Value Added Licence

<sup>26</sup>For a list of authorities holding a delegation, see [www.nationalarchives.gov.uk/information-management/ifts/members.htm](http://www.nationalarchives.gov.uk/information-management/ifts/members.htm).

<sup>27</sup> Identity documents are exempt from the Controller's Offer because there is potential for these documents to be used fraudulently.

<sup>28</sup> [The Charged Licence](#)

## **9. Licensing software and source code**

### **9.1 Software and licensing**

The public sector produces software or source code as well as types of content such as documents and data. Often, new software is built on elements taken from existing software. Software is protected by copyright, and this makes licensing considerations important.

### **9.2 Open source**

Many developers release their work under open source licences. Open source licences allow software to be re-used freely, and free of charge. This provides a growing pool of software components from which other software developers may draw. Such software developers also benefit in other ways, for example, from peer review of their work, and access to communities of potential collaborators.

### **9.3 Policy on the licensing of software and source code**

Government departments<sup>29</sup> and other public sector bodies that are involved in developing their own software and source code are encouraged to make their software and source code available as openly as possible. This requires a flexible approach to licensing. Developers across public sector may choose to release their software and source code under the Open Government Licence. Alternatively, the Open Source Initiative maintains a list of approved open source licences<sup>30</sup> covering software and source code that can be used.

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<sup>29</sup> All Crown bodies now have delegated authority from the Controller to license their software and source code using open source licences.

<sup>30</sup> <https://opensource.org/licenses>

## Glossary

(\* indicates a term in the Open Government Licence or the Non-Commercial Government Licence)

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| Charged Licence                                | The Charged Licence offers a legal solution to enable the provision and use of public sector information where charges for such use and re-use are made.   |
| Commercial use                                 | Use that is intended for or directed toward commercial advantage or private monetary compensation. For the purposes of the UK Government Licensing Framework, 'private monetary compensation' does not include the exchange of the Information for other copyrighted works by means of digital file-sharing or otherwise provided there is no payment of any monetary compensation in connection with the exchange of the Information.   |
| Controller of Her Majesty's Stationery Office* | The official appointed by Letters Patent from Her Majesty The Queen to manage copyright and database right owned by the Crown.   |
| Copyright*                                     | Part of the family of intellectual property rights including trade marks, designs and patents. Copyright applies automatically when a work is created in a material form. Copyright applies to literary works, such as website articles/annual reports; artistic works maps, drawings, paintings and photographs; films; sound recordings and typographical arrangements. The first owner of copyright will normally be the artist/author or organisation that created the work (except for Crown copyright). Copyright subsists in a work regardless of the level of artistic or literary merit. The standard term of copyright is the life of the author plus 70 years.                      |
| Creative Commons                               | A non-profit organisation which offers a suite of licences to copyright holders to enable them to license their work. The licences offered are all free and licences offered allow the copyright holder to stipulate the certain conditions on how the work may be re-used.  |
| Creative Commons Attribution Licence (CC-BY)   | A licence developed to allow the use of information covered by copyright with the requirement that the source of the information is acknowledged.  |
| Crown Copyright*                               | Crown copyright is an intellectual property right which applies to works created by servants or officers of the Crown in the course of their duties (section 163, Copyright, Designs and Patents Act 1988). Such works are not subject to the usual rules on first ownership of copyright that would provide that ownership rests with the author or organisation that produced the work. In the case of Crown servants, regardless of the department or agency for which they work, copyright rests with the Crown. It is then managed by the Controller of Her Majesty's Stationery Office on behalf of the Crown. Unlike standard copyright, Crown copyright lasts for 50 years from end of |

the calendar year in which the work was published and a maximum of 125 years for unpublished works.

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| Crown Database Right*                            | Where a database is created by an officer or servant of the Crown in the course of their duties then the first owner of the database right will be the Crown by virtue of Section 14(3) of the Copyright and Rights in Databases Regulations 1997. In the UKGLF, database right covered by that regulation is referred to as Crown Database Right but it should be noted that unlike Crown copyright, Crown database right is not a distinct category of right.  |
| Database Right*                                  | An intellectual property right which applies to databases defined by the Copyright and Rights in Databases Regulations 1997 as 'a collection of independent works or materials arranged in a systematic or methodical way and are individually accessible by electronic or other means'. The protection of databases in this way is unique to the European Union. Database right apply only to the collection of works, not to the individual works contained within it. Database right protection lasts for 15 years from when the database was completed but the 15 year period will restart if the database is altered significantly. |
| Delegation of Authority                          | Authority granted by the Controller of Her Majesty's Stationery Office to Crown bodies enabling them to license the re-use of information which they produce. Crown bodies with complete delegations to license information include trading funds, however some departments have partial delegations to license the use of particular information. All Crown bodies with delegations of authority are subject to the supervision of the Information Fair Trader Scheme.  |
| Environmental Information Regulations 2004 (EIR) | A means to request access to information relating to the environment. Requests for information in England, Northern Ireland and Wales are governed by the Environmental Information Regulations 2004. Requests made in Scotland are covered by the Environmental Information (Scotland) Regulations 2004. Together they implement the EC Directive 2003/4/EC.  |
| First-tier Tribunal                              | The judicial body acting as route of appeal against decisions made by the Information Commissioner's Office under the Re-use of Public Sector Information Regulations.   |
| Freedom of Information (FOI) Acts                | The Freedom of Information Act 2000 extends to England Northern Ireland and Wales. Scotland is covered by its own Freedom of Information (Scotland) Act 2002.  |
| Her Majesty's Stationery Office (HMSO)*          | The organisation responsible for the licensing and management of Crown copyright, and for publishing official publications and legislation under the authority of Her Majesty The Queen. HMSO is a part of The National Archives.  |
| Information*                                     | For the purposes of the UK Government Licensing Framework, 'information' means information protected by copyright or by  |

database right (for example, literary and artistic works, content, data and source code). Information can include data, text from public sector body websites, annual reports, statistics, diagrams, graphs, images and software.

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|---------------------------------------|--|
| Information access legislation*       | The Freedom of Information Act 2000, Freedom of Information (Scotland) Act 2002 and Environmental Information Regulations 2004 (EIR).  |
| Information Commissioner's Office     | The body charged with investigating complaints under the Re-use of Public Sector Information Regulations 2015, and with making decisions in respect of complaints.   |
| Information Fair Trader Scheme (IFTS) | A scheme to set and assess standards for public sector bodies in allowing the re-use of their information. Any public sector body may apply to become IFTS accredited. However, all Crown bodies that hold a delegation of authority from the Controller of HMSO must become IFTS accredited.  |
| Information Provider*                 | The person, creator or organisation providing the information for re-use under the Open Government Licence or the Non-Commercial Government Licence.   |
| INSPIRE                               | Infrastructure for Spatial Information in the European Community (INSPIRE). The INSPIRE Regulations 2009 - separate but essentially consistent regulations covering England, Northern Ireland and Wales; [SI 2009 No 3157] and Scotland [SSI 2009 No 440] - implement the EC Directive 2007/2/EC.  |
| Licence* (noun)                       | A legal document giving permission to use information.   |
| License* (verb)                       | The act of giving formal (usually written) authorisation.  |
| Licensor*                             | The party that grants a licence to others. In the Open Government Licence, the Licensor is any Information Provider which has the authority to offer information under the terms of the Open Government Licence or the Controller of Her Majesty's Stationery Office, who has the authority to offer information subject to Crown copyright and Crown database right and information subject to copyright and database right that has been assigned to or acquired by the Crown. In the Non-Commercial Government Licence, the Licensor is any Information Provider which has the authority to offer information under the terms of the Non-Commercial Government Licence. |
| Machine-readable                      | The capability of storing data in a format that can be accessed and read by an automated sensing device, for example, by a computer system or web query.   |
| NESTA framework agreement             | In consultation with industry and public bodies, NESTA (National Endowment for Science, Technology and the Arts) has drafted six intellectual property rights frameworks for public commissions. These frameworks do not relate to publicly owned data. More   |

details can be found at

[www.nesta.org.uk/areas\\_of\\_work/creative\\_economy/ipr\\_frameworks](http://www.nesta.org.uk/areas_of_work/creative_economy/ipr_frameworks)

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| Non-Commercial use*                        | Use that is not intended for or directed toward commercial advantage or private monetary compensation. For the purposes of the UK Government Licensing Framework, 'private monetary compensation' does not include the exchange of the Information for other copyrighted works by means of digital file-sharing or otherwise provided there is no payment of any monetary compensation in connection with the exchange of the Information.                          |
| Non-Commercial Government Licence*         | The Non-Commercial Government Licence offers a legal solution to enable the provision and use of public sector information under a common set of terms and conditions at no charge for Non-Commercial use only. It enables any public sector information holder to make their information available for use and re-use under its terms. The main requirement for re-users is to attribute the Information Provider and source.                                      |
| Office of Public Sector Information (OPSI) | A part of The National Archives, OPSI is the regulator of the public sector information holders in their information trading activities under the Information Fair Trader Scheme.   |
| Open Definition                            | An Open Knowledge Foundation and Open Definition Advisory Council initiative which sets out principles that define openness in relation to data and content.  |
| Open Government Licence (OGL)*             | The Open Government Licence offers a legal solution to enable the provision and use of public sector information under a common set of terms and conditions at no charge. It enables any public sector information holder to make their information available for use and re-use under its terms. The main requirement for re-users is to attribute the Information Provider and source.  |
| Open Source Initiative                     | The Open Source Initiative (OSI) is a non-profit corporation with global scope formed to educate about and advocate for the benefits of open source and to build bridges among different constituencies in the open source community.   |
| Personal data*                             | Defined in the Data Protection Act 1998 as 'data which relate to a living individual who can be identified -<br>(a) From those data, or<br>(b) From those data and other information which is in the possession of, or is likely to come into the possession of, the data controller,<br>and includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual.' |
| Privacy and Electronic                     | Rules that govern the use of electronic marketing.  |

Communications  
(EC Directive)  
Regulations  
2003

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| Public sector information                            | Information produced by central and local government or any other public body as defined in the Re-use of Public Sector Information Regulations 2005.  |
| Re-use of Public Sector Information Regulations 2015 | The statutory framework for enabling and promoting the re-use of public sector information, implementing relevant European Union Directives and replacing the earlier 2005 Re-use Regulations.   |
| Source code  | Program instructions written by a software developer and later translated (usually by a compiler) into machine language that a computer can understand.  |
| The National Archives (TNA)                          | The National Archives is a government department and an executive agency of the Ministry of Justice. It incorporates the Office of Public Sector Information, Her Majesty's Stationery Office and the Historic Manuscripts Commission. It is the official government archive for England, Wales and the United Kingdom. It advises on the creation, management and preservation of official information. |
| Third party rights                                   | Information, the rights for which are not owned by the Information Provider or Licensor.   |
| Trading Funds  | Government departments which charge for the services they provide and are able to recover the cost of its outgoings under the Trading Funds Act 1973. Trading funds include the major information providing departments, such as Ordnance Survey, Met Office, UK Hydrographic Office and the Land Registry.  |
| URI  | Uniform Resource Identifiers (URIs) are short strings or characters that identify resources in the web: documents, images, downloadable files, services, electronic mailboxes, and other resources. They make resources available under a variety of naming schemes and access methods such as HTTP, FTP, and internet mail addressable in the same simple way.  |
| URL  | A Uniform Resource Locator (URL) is a type of URI that identifies a resource via a representation of its network location.   |

## Annex A – UK Government Licensing Framework – licensing portfolio

| Licence / guidance                | Type of Use                   | Free  | Non-transactional   | Machine-readable  | Circumstances of use  |
|-----------------------------------|-------------------------------|---|---|---|---|
| Open Government Licence (OGL)     | Commercial and Non-Commercial |    |    |    | <p>Can be used for most public sector information where use and re-use are permitted free of charge. This is the default licence for marginal cost pricing.</p> <p>Default licence for information subject to Crown copyright and database right offered for use by the Controller under the UKGLF.</p>   |
| Non-Commercial Government Licence | Non-Commercial only           |    |    |    | <p>Can be used for information made available for free use and re-use by third parties for non-commercial purposes only.</p> <p>For circumstances where the public sector body is unable to release information to third parties for commercial re-use, for example due to other contractual obligations or the type of information.</p> <p>Only used for Crown copyright information where the Information Provider holds a delegation of authority from the Controller of HMSO to license the information it produces and the Information Provider has made an express offer to license specific information under its terms.</p> |
| Charged licence                   | Commercial + Non-Commercial   |  |  |  | <p>Information subject to copyright or database right for which Information Providers choose to charge cost recovery and a reasonable rate of return for its use and re-use</p> <p>Only used for Crown copyright information where the Information Provider holds a delegation of authority from the Controller of HMSO to license the information it produces.</p>   |

## Annex B - Guidance for drafting licences where charges are made for re-use of public sector information.

Wherever possible the Government encourages public sector bodies to make the information they produce available for use and re-use free of charge. However, there are circumstances (specifically, where charging is permitted under Regulation 15 of the Re-use of Public Sector Information Regulations 2015) in which it will be appropriate for charges to be made. Where a public sector body is permitted to charge for use and re-use under the Regulations the OGL will not be the appropriate licence to use. This guidance is designed to assist public bodies with the formulation, or selection, of appropriate licence terms for use in respect of this PSI.

This guidance is not a substitute for public sector bodies seeking their own legal advice before formulating or selecting a licence to use for the information they produce. Below, this guidance suggests a number of general terms that might be included in a licence.

| Licence term      | Purpose of term  | Suggested wording   |
|-------------------|--|---|
| <b>Grant</b>      | To define the range of rights being granted by the Licensor. In the context of public sector licences, the rights granted should be on a non-exclusive basis in order to ensure that the re-use of the information is not limited to one person or organisation. | [The public sector body] grants the re-user a non-exclusive licence to use the information specified in the licence for the purposes specified in the licence.  |
| <b>Warranties</b> | This involves the Licensor providing certain assurances to the Licensee. Often warranties involve assurance around ownership of the rights being granted and the accuracy and currency of the information being licensed.  | <p>[The public sector body] warrants to the re-user that to the best of its knowledge and subject to any exclusion set out in the licence, it has the authority and power to grant the rights set out in the licence and that it does not infringe any other person or organisation's rights.</p> <p>or</p> <p>[The public sector body] does not warrant that the information covered by the licence will meet the requirements of the re-user or will be accurate.</p> |

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|---|--|---|
| <b>Personal and Statistical Information</b> | It is important to ensure that personal and statistical data is used in accordance with laws on data protection and privacy.   | The re-user confirms that they will use any personal and statistical data in accordance with the relevant UK legislation, including the Data Protection Act 1998.   |
| <b>Assignment and Sub-licensing</b>         | It may often be desirable to prevent the rights granted in the licence from being assigned to another person or organisation. Where sub-licensing is permitted, for example when a sub-contractor needs to be able to work with a derivative product containing public sector information, it is important to ensure that the obligations contained in the initial licence will also apply to all sub-licensees. | <p>This licence may not be assigned or sub-licensed. Where the re-user sub-contracts work which requires use of the information by another person or organisation (the Contractor), the information may be supplied under the following conditions:</p> <ul style="list-style-type: none"> <li>a. The Contractor shall be bound by the same obligations as the re-user under this licence;</li> <li>b. The Contractor shall not be granted the right to grant rights in the information to any other person or organisation;</li> <li>c. The Contractor shall have no right to retain the information once the period of the sub-contract has expired.</li> </ul> |
| <b>Attribution</b>                          | This involves the licensee acknowledging the source and copyright status of the information.   | The re-user shall provide an acknowledgment or attribution statement of the source [in a form set by the public sector body].   |
| <b>Charges</b>                              | This provides clarity as to any charges and royalties involved and what the payment arrangements are. Any charges made must comply with the Re-use of Public Sector Information Regulations.   | <p>The re-user shall be responsible for paying the sums detailed at Schedule [x] of the licence which are calculated in accordance with the standard fees published by the public sector body for the re-use of information of this type.</p> <p>All payments shall be made within [x] days of the date of invoice. All payments shall be subject to the payment of value added tax at the appropriate rate.</p>  |

|                                |  |   |
|--------------------------------|--|---|
| <b>Changes to this Licence</b> | It is important for the purposes of providing legal certainty that any changes to the licence terms are only legally enforceable if agreed by all parties to the licence.  | Any changes to the terms of this licence are subject to the agreement of both the public sector body and the re-user.   |
| <b>Period of the Licence</b>   | This defines the duration of the licence. Often, licences will have an automatic run on beyond an initial period subject to all parties having the right to give a period of notice to terminate.  | This licence shall remain in force for [x] years from the date of this licence and shall continue beyond that date subject to either party giving [x] months notice in writing.                             |
| <b>Termination of Licence</b>  | In addition to the right to end the licence at the end of an agreed period of time, it is advisable to include a provision for termination in case one of the parties does not comply with the terms of the licence. It is customary to build in the need to notify the other party of the breach of licence terms and to provide an opportunity for that party to remedy the breach before termination. | Each party reserves the right to terminate this licence if there is a material breach of any of the terms and the breach is not remedied within [x] days of notification of the nature of the breach.       |
| <b>Governing Law</b>           | If there is a dispute about the terms of the licence and litigation is involved it is important to be clear as to the law of which country will apply.   | This licence is made under the laws of [England and Wales or Scotland or Northern Ireland] and comes under the exclusive jurisdiction of the courts of [England and Wales or Scotland or Northern Ireland]. |