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

For re-users of public sector information

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The National Archives

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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.
Guidance for the Re-use of Public Sector Information Regulations 2015 for re-users

Who should read this Guidance?

Current and potential re-users of public sector information, such as:
- commercial and non-commercial re-users
- academic and education sectors
- app developers
- third sector
- civil society
- community-based organisations
- public sector bodies that re-use information from other public sector bodies
- researchers

Welcome


This Guidance tells you what the 2015 Regulations mean for you if you want to re-use public sector information. There are separate Guidance documents for public sector bodies and for the cultural sector – libraries (including university libraries), museums and archives – to help them comply with the 2015 Regulations.

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 for which a public sector body does not hold the 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.
What is re-use?

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

Scope at a glance

<table>
<thead>
<tr>
<th>Bodies</th>
<th>Information</th>
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</thead>
<tbody>
<tr>
<td><strong>in scope</strong></td>
<td><strong>out of scope</strong></td>
</tr>
<tr>
<td><strong>in scope</strong></td>
<td><strong>out of scope</strong></td>
</tr>
<tr>
<td>Central government</td>
<td>Public sector broadcasters</td>
</tr>
<tr>
<td></td>
<td>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</td>
</tr>
<tr>
<td></td>
<td>Information produced, held or disseminated outside public task</td>
</tr>
<tr>
<td>Local government</td>
<td>Educational and research establishments</td>
</tr>
<tr>
<td></td>
<td>Information that is not accessible</td>
</tr>
<tr>
<td>Public corporations</td>
<td>Cultural and performing arts establishments (other than libraries, museums and archives)</td>
</tr>
<tr>
<td></td>
<td>Information restricted or excluded, for example under access legislation</td>
</tr>
<tr>
<td>Libraries (including university libraries)</td>
<td>Parts of higher education institutions not otherwise in scope</td>
</tr>
<tr>
<td></td>
<td>Information whose copyright does not belong to the public sector body</td>
</tr>
<tr>
<td>Scottish Government and Parliament</td>
<td>Crests, logos, insignia</td>
</tr>
<tr>
<td>Welsh Government and Assembly</td>
<td>Personal data that must be protected</td>
</tr>
<tr>
<td>Northern Ireland Executive and Parliament</td>
<td><strong>in scope</strong> (including university libraries, museums and archives)</td>
</tr>
<tr>
<td></td>
<td><strong>out of scope</strong></td>
</tr>
</tbody>
</table>
### Key changes at a glance

<table>
<thead>
<tr>
<th>2005 Regulations</th>
<th>2015 Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulations apply to public sector bodies, including local government</td>
<td>Scope extends to include cultural sector: libraries (including university libraries), museums and archives</td>
</tr>
<tr>
<td>Only accessible information is re-usable</td>
<td>Information produced, held or disseminated by within a public sector body’s public task must be re-usable (unless restricted or excluded)</td>
</tr>
<tr>
<td>Make information available</td>
<td>Make information available through open licences and machine-readable formats whenever possible</td>
</tr>
<tr>
<td>No obligation to allow re-use</td>
<td>Obligation to allow re-use of information unless access is restricted or excluded, or from a cultural sector body</td>
</tr>
<tr>
<td>Standard licences encouraged</td>
<td>Encourages open, non-restrictive licences</td>
</tr>
<tr>
<td>Permits charging for re-use</td>
<td>Marginal cost pricing is the default; in most cases this will be nil for online or digital information</td>
</tr>
<tr>
<td></td>
<td>Certain public sector bodies, and libraries, museums and archives may charge higher than marginal cost</td>
</tr>
<tr>
<td>Prohibits exclusive licences</td>
<td>Same except for a few public sector bodies limited scope for exclusive licensing if they are required to charge or if there is not alternative to making the information available</td>
</tr>
<tr>
<td>Complaints process established</td>
<td>Complaint may be escalated to a body that can make binding decisions on most issues, and potentially to a First-Tier Tribunal</td>
</tr>
</tbody>
</table>
What do the 2015 Regulations mean for different parts of the public sector?

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 or non-restrictive licence.

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

Libraries, museums and archives

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

Restricted exclusive licensing will be permitted, especially where the museum, archive or library is working with a partner on a digital access project.

They also retain the right to decline requests for re-use unless this is discriminatory (and such decisions may be challenged).

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 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 restricted or excluded).

Marginal cost pricing is the default model. For many public sector bodies this will be nil, especially for information already online or in digital format. 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. They will also need to produce information asset lists.

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


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.

Access and re-use

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

Information is made accessible in a variety of 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)

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

All public sector bodies should make clear when granting access to public sector information if there are any restrictions on re-use.

Public sector body information 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 exclusions and protection of personal data. Cultural sector bodies are permitted to decline requests for re-use (unless the information has already been made available for re-use, including by itself).

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.
<table>
<thead>
<tr>
<th>Re-use</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required of public sector bodies</strong></td>
</tr>
<tr>
<td>Release information in existing format, preferably electronically</td>
</tr>
<tr>
<td>Use or open licence such as the <a href="#">Open Government Licence</a> (OGL) or</td>
</tr>
<tr>
<td>the least restrictive licence possible</td>
</tr>
<tr>
<td>Consider allowing re-use of information</td>
</tr>
<tr>
<td>Permit re-use of information (unless restricted or excluded or from a</td>
</tr>
<tr>
<td>cultural sector body)</td>
</tr>
<tr>
<td><strong>Recommended to public sector bodies</strong></td>
</tr>
<tr>
<td>Make information open and machine-readable; use formal open standards</td>
</tr>
<tr>
<td>Use an open licence whenever possible</td>
</tr>
<tr>
<td>Proactively release and allow re-use of as much public sector</td>
</tr>
<tr>
<td>information as possible</td>
</tr>
</tbody>
</table>

**Resources:**
- The National Archives – Re-using public sector information
- Information Commissioner’s Office – How to access information from a public body

**Key Principles and Objectives**

The 2015 Regulations establish a UK framework that facilitates re-use of public sector information.

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*, we use the term 'information' in this Guidance to reflect the wider focus on different types of documents, open data and information as understood in access legislation (such as the [Freedom of Information Act 2000](#)).

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
- retain protection of personal data
The 2015 Regulations apply only to information already available or published, or provided to a requester (for example through a Freedom of Information Act request).

**Re-use promotes transparency, accountability and growth**

Public sector 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](http://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)](http://www.opendatainstitute.org) 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)
- EC Guidance on recommended standard licences, datasets and charging for re-use
- Freedom of Information Act 2000 and Freedom of Information (Scotland) 2002 (as amended)
- Local Government Act 2010
- Local Government Access to Information Act 1985
Openness of Local Government Bodies Draft Regulations 2014 (draft)
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.

There is strong legal protection for sensitive information such as:

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

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.

Resources:
Eight data protection principles
Information Commissioner – Accessing personal data (for the public)

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

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

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

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.

Crown copyright

Most information produced, held or disseminated by Crown bodies (most of central government) is under Crown copyright. Most Crown copyright information is available under the Open Government Licence (OGL), with attribution of source. The OGL liberalises re-use of public sector information.

If Crown copyright information is not under an Open Government Licence, and no re-use licence or conditions are apparent, you can seek permission to re-use through The National Archives at psi@nationalarchives.gov.uk

The National Archives administers Crown copyright and database rights through 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.

**Third-party copyright**

Re-use can be granted by a public sector body only for information for which it holds the associated copyright. Large portions of public sector libraries, museums and archive collections will include information with third-party copyright.

To facilitate re-use, public sector bodies should keep a catalogue of what information has third-party copyright, and contact information for the copyright owner whenever possible. If that would breach protection of personal information, the public sector body may act as an intermediary.

In cases where the copyright owner is unknown, copyright protection still applies and the public sector body cannot grant permission to re-use.

**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
- Intellectual Property Office – Exceptions to copyright: Libraries, archives and museums
- The National Archives – Copyright and publishing
- The National Archives – Copyright and re-use statements
- The National Archives – Copyright guidance

**Open data**

Under Regulation 11, public sector bodies should publish 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 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 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, they may publish statistical summaries or metadata about the information in open format as an alternative and to promote re-use.

Resources:
- 5-star Open Data step diagram
- Cabinet Office – Open Standards for Government
- Cabinet Office - Improving the transparency and efficiency of government and its services
- GOV.UK – Open Data
- INSPIRE Regulations 2009
- INSPIRE Amendment Regulations 2012
- INSPIRE (Scotland) Regulations 2009
- INSPIRE (Scotland) Amendment Regulations 2012
- Open Data Institute and Open Data Certificates
- Open Data User Group (ODUG)
- Scottish Government Open Data Strategy
- Standards Hub – How we select standards
- The National Archives – Open Government Licence
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.

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 (but not 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 FOIA 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 out of scope**

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

• 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](https://www.legislation.gov.uk/ukpga/2000/32) or section 25 of the [Freedom of Information (Scotland) Act 2002](https://www.legislation.gov.uk/ukpga/2002/60) 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

### 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 all 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.

#### Resources:

- Crown Commercial Service
- Government Contracts Finder
- National Audit Office – Transforming government’s contract management
- The Open Contracting Data Standard (OCDS)

#### Public task

Information that falls within a public sector body’s public task is produced, held, collected or disseminated to fulfil the body's core role and functions, whether statutory or established through common administrative practice.

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 of HMSO or the Queen's Printer for Scotland (QPS) (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))

Remember:

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 they produce, hold or disseminate 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.

Resources:
The National Archives – General information on public task
The National Archives – Public task principles

Obligations – public sector bodies and re-users

Key information to be published by public sector bodies

<table>
<thead>
<tr>
<th>Key information</th>
<th>Required of public sector bodies</th>
<th>Recommended to public sector bodies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Information produced, held or disseminated within a public sector body’s public task</td>
<td>Make information available digitally, in open format and machine-readable, together with its metadata, whenever possible</td>
<td></td>
</tr>
<tr>
<td>Public task (unless you are using the OGL)</td>
<td>Public task (even if using the OGL)</td>
<td></td>
</tr>
<tr>
<td>Information asset lists of published and unpublished information within public task</td>
<td>Include information not within public task that may be available for re-use</td>
<td></td>
</tr>
<tr>
<td>Standard licence terms (including the OGL)</td>
<td>Use an open or non-restrictive licence whenever possible</td>
<td></td>
</tr>
<tr>
<td>Details of any charges</td>
<td>How charges are calculated</td>
<td></td>
</tr>
<tr>
<td>How to make a request to re-use information</td>
<td></td>
<td></td>
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<tr>
<td>How to make a complaint or seek a review of a decision on re-use</td>
<td></td>
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</tbody>
</table>
**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. Information 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.

**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).

Most public sector bodies must allow the re-use of the information they produce, hold or disseminate within their public task.

They must be open, transparent and fair in processing requests for re-use.

Generally, exclusive licences are not permitted but there are limited exceptions, such as when information cannot otherwise be made available, and for certain bodies such as libraries, museums and archives.

**Responding to a request for re-use**

Response by a public sector body 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 re-users can obtain the information
- supplying the information to the requester, if it hasn’t already been supplied (including under access legislation)
- explaining if there is any charge for information
- offering terms and conditions for re-use, usually in the form of a licence
- declining to give permission to re-use and the grounds for the decision
- explaining the complaints process

Public sector bodies must respond to requests within 20 working days, including finalising any licence offer.
Any extension past 20 days must be reasonable, and the public sector body must tell the requester their expected timeframe and reasons for the delay.

Data protection still applies to information made available for re-use.

**Making a request for re-use**

Public sector bodies are expected to make most of their information re-useable. However, some information may be deemed unsuitable for re-use (for example because it has not been published and would not be accessible under FOIA) and re-use requests may be declined.

If public sector information is not provided under an Open Government Licence, you need to request re-use from the public sector body that produces, holds or disseminates the information. They should have information on how to make a request on their website.

Make your request:

- in writing (paper, email, or via online form where provided)
- clear and specific about what information you want to re-use
- how you intend to re-use the information
- reasonable in volume and complexity

Information may be supplied to you in the form the public sector body originally produced, held or disseminated it (e.g., in paper or film rather than machine-readable digital format). Public sector bodies are not required to reformat the information to suit a request.

The standard reply timeframe for re-use requests is 20 working days. For high-volume or complex requests, the public sector body may take longer although they must tell you if this is the case.

You may be required to have a licence agreement with the public sector body, but the terms and conditions should be as non-restrictive as possible.

**Resource:**
The National Archives – Template form for requesting re-use of public sector information

**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.data.gov.uk, www.local.gov.uk or www.gov.uk

Information made available for re-use under an Open Government Licence (OGL) does not require a request to re-use, but licence conditions must be met (for example, attribution of the source).

If you can show that you already have 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.

**Requests for previously unreleased information**

Permission to re-use previously unreleased information is subject to access issues being resolved, such as through access legislation. You may make a re-use request at the same time as an access request so that the 20 working day response times are concurrent.

The 2015 Regulations require public sector bodies to respond to a request for re-use within 20 working days unless there are special circumstances such as a very complex or high-volume request. They must inform you if processing your request will take longer than 20 working days.

**Public sector body processing of requests for re-use**

The 2015 Regulations do not change the process for requesting re-use of public sector information. They must still respond to requests for re-use in 20 working days.

Where public sector bodies are required to make their information available, they are allowed to provide it in its existing format. However, public sector bodies are being encouraged to make their information available in open format, machine-readable, and under an open licence.

Remember 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

**Notification of refusal to allow re-use**

Public sector bodies must follow the process outlined in Regulation 9 if they refuse a re-use request:

- response must be in writing
- reasons for refusal must be given
- the public sector body should explain the internal and external complaints processes open to the requester
- in cases where refusal is based on copyright or other relevant intellectual property rights being owned by a third party, the owner of the relevant intellectual property
rights should be identified, where known (data protection principles still apply). 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 re-use of the information, rather than the re-user.

Example: a private sector company and a charity should be treated in the same way and be offered the same terms and conditions to re-use 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 such as a trading arm) as it would to any other re-user.

Example: if a public sector body charges an external re-user for the information, they must 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.

**Conditions for re-use**

Regulation 12 allows public sector bodies to set conditions on re-use of information, where appropriate 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 may not restrict competition.

**Licensing of re-use**

The Open Government Licence is the default for most Crown bodies, and preferred for all public sector bodies. It covers copyright and database rights.

All licences should be as open and non-restrictive as possible.

Data protection still applies to information licensed for re-use.
Types of licences

Open Government Licence and the Non-commercial 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 and re-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

Personal data cannot be re-used under the OGL.

The Non-Commercial Government Licence (NCGL) 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 that 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.

Exclusive arrangements

Public sector bodies generally may not enter into exclusive arrangements for re-use because it prevents others from re-using information and inhibits competition.

There are two important exceptions: first, when a public service cannot be provided without an exclusive licence, and second, for exceptional circumstances such as enabling or continuing the digitisation of cultural resources.

Any arrangements must be published by the public sector body.

Charging for re-use

[to follow]
Complaints process

Initial complaints process
[to follow]

Escalation
[to follow]

Transitional arrangements
[to follow]