

The Guide to the Re-use of Public Sector Information Regulations 2015

ico.

Information Commissioner's Office

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About the guide

About the Guide to RPSI

This guide is for public sector bodies covered by the Re-use of Public Sector Information Regulations 2015 (RPSI). It provides a brief introduction to RPSI and explains the role of the ICO. The ICO deals with complaints about how public sector bodies have dealt with requests to re-use information.

For more detailed information you should consult the comprehensive guidance on RPSI for public sector bodies and for those wishing to re-use public sector information produced by the National Archives.

What is RPSI?

What is public sector information for RPSI purposes?

Public sector information means information that you produce as part of your public task. 'Public task' means your core role and functions, as defined in legislation or established through custom and practice.

It is possible that you may hold some information that is not part of your public task. If so, this would not be covered by RPSI.

RPSI does not apply to information that would be exempt from disclosure under information access legislation, ie the Data Protection Act (the DPA), the Freedom of Information Act (FOIA), the Environmental Information Regulations (EIR), the INSPIRE regulations, the Freedom of Information (Scotland) Act, the Environmental Information (Scotland) Regulations and the INSPIRE (Scotland) Regulations.

However, information that would be exempt from an access request under section 21 of FOIA or section 25 of the Freedom of Information (Scotland) Act because it is already reasonably accessible to the requester (for example because it is on your website) would normally be available for re-use.

RPSI does not apply to recorded information you hold if someone else holds the intellectual property rights (eg copyright or database right). You can only permit re-use if you hold the intellectual property rights in the information.

Further Reading

 [Guidance on public task statements, The National Archives website](#) 

External link

What is re-use?

Re-use means using public sector information, for a purpose other than the initial public task it was produced for.

Typically, this would mean an individual, a company or other organisation taking information you have produced and republishing it or using it to produce a new product or resource, often by combining it with other information. This is sometimes, though not always, on a commercial basis. RPSI is intended to encourage re-use of public sector information.

RPSI is about permitting re-use of information and how it is made available. It is not about accessing information, which is dealt with under information access legislation.

Does it apply to me?

Bodies covered by RPSI are referred to as public sector bodies and are listed in regulation 3. They include central and local government and a number of other specified bodies. Regulation 3(1)(aa) is a general clause that defines other bodies covered by RPSI.

RPSI applies to libraries (including university libraries), museums and archives. However, documents held by educational and research establishments, public service broadcasters and cultural and performing arts bodies (other than libraries, museums and archives) are excluded.

RPSI is UK-wide, ie it applies to public sector bodies in England, Wales, Scotland and Northern Ireland. The ICO will deal with complaints about public sector bodies in any part of the United Kingdom.

Obligations

Publishing an information asset list

You have to publish a list of the main information you hold within your public task. This should include information that you already publish proactively and unpublished information.

If you already produce a publication scheme under FOIA or the Freedom of Information (Scotland) Act, it is likely that much of the information in the asset list will already be in the publication scheme, and so it may be possible to combine the two documents.

Dealing with requests for re-use

People who want to make a request for re-use must submit the request in writing, with their name and address for correspondence, and specify the information they want to re-use and the purpose they intend to use it for.

If you make your information available under [the Open Government Licence](#) (OGL) no request has to be made, but re-users must follow the terms of the OGL.

When you receive a request to re-use information you must respond within 20 working days. You can extend this time if the information is extensive or the request raises complex issues, but you must inform the requester of this within the 20 day period.

You must permit re-use in response to a request, unless you are a library, museum or archive, in which case you can decide whether to permit re-use. Remember that RPSI does not apply to information that would be exempt from disclosure under information access legislation, and so you do not have to permit re-use of exempt information.

If you have not previously disclosed the information requested, then you should also deal with this as an access request under the appropriate legislation eg FOIA, EIR, the Freedom of Information (Scotland) Act or the Environmental Information (Scotland) Regulations in order to decide whether the information is exempt. This will be the first stage of dealing with the request and you must go on to deal with the re-use request.

You must make the information for re-use available in the format and language in which you hold it. If you don't already hold it in an open and machine readable format with metadata, but it's possible and appropriate to make it available in this way, then you should do so. 'Machine readable' means that the information is structured so that software can extract specific elements of the data. Open formats, such as CSV are preferable to proprietary formats such as XLS. The [Government Service Design manual](#) contains useful advice on appropriate formats for making information available.

For more information, read our guidance:

Further Reading

 [How to disclose information safely – removing personal data from information requests and datasets](#)

Charges

You can charge for permitting re-use, but with some important exceptions. You can only charge for the marginal costs of reproducing, providing and disseminating the information. For example, if you provide a copy of a dataset on disk for re-use, you could charge for the cost of the disk and postage. In many cases, however, these costs will be negligible, and if you are publishing the information on your website, you are unlikely to be able to make a charge. Also, under the Open Government Licence, information is made available for re-use free of charge.

You should note that if information is made available for re-use under the Open Government Licence it will be difficult to then make a charge at a later date. Therefore, it is important that you are clear about the basis upon which you are permitting re-use at the outset.

The exceptions to the default position of marginal cost concern public sector bodies required to generate revenue to cover:

- a substantial part of the costs relating to their public task;
- documents for which the public sector body is required to generate revenue to cover a substantial part of their costs;
- libraries, museums and archives.

Regulation 15 of RPSI sets out how the charge should be calculated.

Licences

You may impose conditions on re-use but the conditions must be as open and non-restrictive as possible.

The easiest way to do this is to use the Open Government Licence. This allows re-use of public sector information without charge for any purpose, commercial or otherwise, with minimal conditions.

However, other licences may be appropriate in particular situations, including where there is a charge for re-use. The UK Government Licensing Framework includes other types of standard licences.

Generally speaking, you must not enter into exclusive licensing arrangements with a particular person or organisation, but there are some limited exceptions to this.

Further Reading

[Licensing for re-use, The National Archives website](#)

External link

Further reading

[Public sector bodies implementation guidance, The National Archives website](#)

External link

 [Cultural sector implementation guidance, The National Archives website](#) 

External link

 [Guidance for re-users, The National Archives website](#) 

External link

Complaints

You must establish a procedure for dealing with complaints about how you have complied with RPSI.

An applicant who wishes to complain, for example about how you have handled their request for re-use, may submit their complaint to you in writing. You have to respond to the complaint within a reasonable time and explain the reasons for your decision.

Complaints to the ICO

If the applicant is not satisfied with your response to their complaint, they can complain to the ICO. Complaints to us can be about any aspect of how you handled the re-use request. Examples include:

- failing to respond to their request;
- refusing to allow re-use;
- placing unnecessary restrictions on re-use; or
- incorrectly charging a fee above marginal cost.

The ICO will investigate the complaint and assess whether you have complied with the requirements of RPSI. How we resolve the complaint will depend on what it is about. We can issue a decision notice, unless the complaint concerns charges above marginal cost, in which case we make a non-binding recommendation.

Decision notices

The ICO's decision making and investigatory powers in RPSI are taken from the equivalent provisions in FOIA. If we do not uphold the complaint, you will not have to take further action. If we decide that you have failed to comply with the requirements of RPSI, the decision notice will specify the steps you must take to comply and the time period for doing so.

The decision notice is binding on you. Unless you wish to appeal, you must take the steps specified in the decision notice and failure to do so may be treated as contempt of court.

As with FOIA, you or the complainant can appeal against our decision notice to the First-tier Tribunal (Information Rights), which is a part of the General Regulatory Chamber (GRC). The First-tier Tribunal will hear the appeal and make a decision on it.

Where we can issue a legally binding decision notice, we also have certain other enforcement powers, as we do under FOIA. We can issue an information notice to obtain information in order to help us to deal with a complaint. If necessary we can also issue an enforcement notice to compel you to take steps to comply with RPSI. You can also appeal to the First-tier Tribunal against our information and enforcement notices.

Recommendations

We cannot issue a binding decision notice if the complaint is about charges above marginal cost. You can

charge above marginal cost if you are required to generate revenue to cover part of the costs of performing your public task or the cost of particular documents, or if you are a library, museum or archive. The Regulations specify how to calculate the charge if one of these cases applies. If the complaint is that you have not calculated the charge in line with the Regulations, or that you have charged above marginal cost when you are not entitled to do so, then we can only make a non-binding recommendation. You must respond to our recommendation within 20 working days by telling us what action, if any, you intend to take and the timescale. You can say that you will change your response to the request, reaffirm it, or take no action.

If the complainant is not satisfied with your response to our recommendation, they can appeal to the First-tier Tribunal. If so their case would be against you and not the ICO. You may also appeal to the Tribunal against our recommendation.

We don't have to issue a decision notice or a recommendation if,

- the complainant has not exhausted your internal complaints procedure;
- there has been an undue delay in making the complaint;
- it is frivolous or vexatious; or
- the complainant has withdrawn or abandoned it.

Scotland

If we receive a RPSI complaint concerning a Scottish public authority as defined in the Freedom of Information (Scotland) Act 2002, then we will notify the Scottish Information Commissioner, and the two Commissioners will share information as necessary. We will issue the decision notice or recommendation.

What about datasets under FOIA?

The dataset provisions in FOIA, introduced by the Protection of Freedoms Act 2012, are to do with making datasets that have been requested under FOIA available for re-use. They cover the format in which such information should be made available, charges and licences for re-use. RPSI makes certain amendments to these provisions. As a result, the requirements relating to datasets under FOIA are now as follows.

If you are a public authority (as defined in FOIA) making a dataset available in response to a FOIA request, you must, so far as is reasonably practicable, make it available in a re-usable, electronic form. You must also make requested datasets available in your publication scheme in a re-usable form unless you are satisfied that it is not appropriate to do so.

However, if the dataset falls under RPSI, for example because it is produced as part of your public task, then you must calculate any charges for allowing re-use and deal with any licences under RPSI and not FOIA. This applies to providing the dataset in response to a request and making it available in the publication scheme.

So, for a FOIA public authority, for any dataset that is covered by RPSI, FOIA applies to the format in which it is made available, but RPSI applies to the charges and licences for re-use.

If the dataset does not fall under RPSI because you are a FOIA public authority but not a public sector body for the purposes of RPSI, then the provisions in FOIA regarding charges and licences for re-use will apply to it.