Name of Policy: Re-Use of Public Sector Information Policy

Effective From: 27/11/2015

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<th>Date</th>
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<tr>
<td>Date Ratified</td>
<td>04/11/2015</td>
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<td>Health Informatics Assurance Group (HIAG)</td>
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<td>01/11/2017</td>
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<td>Sponsor</td>
<td>Director of Finance and Informatics (i.e. the SIRO)</td>
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<td>Expiry Date</td>
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This policy supersedes all previous issues
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<thead>
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<td>04/11/2015</td>
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</tbody>
</table>
## Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Introduction</td>
<td>4</td>
</tr>
<tr>
<td>2. Purpose of the Policy</td>
<td>4</td>
</tr>
<tr>
<td>3. Policy Scope</td>
<td>4</td>
</tr>
<tr>
<td>4. Roles and Responsibilities</td>
<td>5</td>
</tr>
<tr>
<td>5. Definitions</td>
<td>6</td>
</tr>
<tr>
<td>6. Exclusions</td>
<td>6</td>
</tr>
<tr>
<td>7. The Public Task</td>
<td>6</td>
</tr>
<tr>
<td>8. The Information Asset List</td>
<td>7</td>
</tr>
<tr>
<td>9. Advice and Assistance</td>
<td>7</td>
</tr>
<tr>
<td>10. Charges and Licences</td>
<td>7</td>
</tr>
<tr>
<td>11. Handling a Re-Use Request</td>
<td>7</td>
</tr>
<tr>
<td>11.1 A Valid Re-Use Request</td>
<td>7</td>
</tr>
<tr>
<td>11.2 Re-Use of Information Already Published</td>
<td>8</td>
</tr>
<tr>
<td>11.3 Statutory Deadlines</td>
<td>8</td>
</tr>
<tr>
<td>11.4 Re-Use Decisions</td>
<td>8</td>
</tr>
<tr>
<td>11.5 Complaints and Appeals</td>
<td>8</td>
</tr>
<tr>
<td>11.6 External Appeals</td>
<td>9</td>
</tr>
<tr>
<td>11.7 Amendments to the Datasets Provisions in the FOIA</td>
<td>9</td>
</tr>
<tr>
<td>12. Training</td>
<td>9</td>
</tr>
<tr>
<td>13. Equality and Diversity</td>
<td>9</td>
</tr>
<tr>
<td>14. Monitoring and Compliance of the Policy</td>
<td>9</td>
</tr>
<tr>
<td>15. Consultation and Review</td>
<td>10</td>
</tr>
<tr>
<td>16. Implementation of the Policy (including raising awareness)</td>
<td>10</td>
</tr>
<tr>
<td>17. References</td>
<td>10</td>
</tr>
<tr>
<td>18. Associated Documentation (Policies)</td>
<td>11</td>
</tr>
</tbody>
</table>

### Appendices

- Appendix 1: Summary of Definitions Used in the Policy
- Appendix 2: Open Government Licence v.3.0 (OGL)
Re-Use of Public Sector Information Policy

1 Introduction


RPSI imposes an obligation on public sector bodies to make information they produce, hold or disseminate as part of their public task available for re-use for commercial and non-commercial purposes unless restricted or excluded. Conditions of re-use, standard charges (if any), a list of main documents available for re-use, and means of redress must be made publically available.

The main objective of the legislation is to remove obstacles to obtaining public sector information for use by businesses and individuals. The principle behind this is to unlock the potential of information held by public authorities in order to stimulate technology driven economic growth (e.g. creation of new products, services and jobs), and to realise the wider societal and democratic benefits of that public resource. It is also intended to increase the openness, transparency and accountability of public functions.

The Trust supports these principles and is committed to making information that falls within the scope of RPSI available for re-use under the framework outlined in this policy.

2 Purpose of the Policy

The purpose of the Policy is to:-
• Ensure the Trust is compliant with RPSI
• Provide a policy framework that is consistent and transparent in its approach to permitting the re-use of the Trust’s published information and the handling of individual requests for re-use
• Support the principles of openness, transparency and stimulation of economic growth
• Address the re-use of data sets under section 11(5) of FOIA

3 Policy Scope

The Policy applies to:-
• All Trust employees as well as agency staff, contractors and volunteers; and
• Information produced, held or disseminated by the Trust as part of its public task

4 Roles and Responsibilities
<table>
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<th>Role</th>
<th>Description</th>
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| **Trust Board** | The Trust Board is responsible for: -  
- Defining the Trust’s strategy in respect of the re-use of information, taking into account the legal requirements and the principles of transparency and accountability  
- Ensuring that sufficient resources are provided to support the requirements of the strategy, and  
- Defining the Trust’s public task |
| **Chief Executive** | The Chief Executive has the ultimate responsibility for ensuring that the Trust complies with its statutory obligations. The Chief Executive will:-  
- Sign off the Trust’s Statement of Public Task |
| **Senior Information Risk Officer (SIRO) i.e. the Director of Finance and Informatics** | The Trust’s Senior Information Risk Officer (SIRO), which is the appointed Director of Finance and Informatics, will:-  
- Identify any risks that may be associated with RPSI, and  
- Sign off complex requests for re-use |
| **Directors/Heads of Departments/Senior Managers** | All Directors, Heads of Departments and Senior Managers are responsible for ensuring that this Policy and its associated procedures are disseminated, implemented, and communicated to their area of responsibility for compliance purposes. They will:-  
- Ensure their Directorates comply with this Policy  
- Ensure their staff receive training on RPSI (as part of the induction and mandatory Information Governance training), and  
- Provide support and resources where necessary to implement this Policy |
| **Health Informatics Assurance Group (HIAG)** | The Health Informatics Assurance Group will oversee the establishment and operational levels of the Policy. The HIAG will:-  
- Monitor the Trusts compliance with this Policy, performance indicators and complaints and implement appropriate measures, where required, to improve service delivery  
- Ensure that the Trust’s public task is determined and a Statement of Public Task is published on the Trust’s website  
- Ensure that an Information Asset List is created, published on the Trust’s website and is kept up-to-date |
| **Information Governance Team** | The Trust’s Information Governance Team will:-  
- Manage the RPSI request response process  
- Present bi-monthly and annual reports on RPSI activity to the HIAG  
- Create and maintain an Information Asset List under RPSI  
- Incorporate RPSI obligations into the Information Governance induction and mandatory training session for all staff, and  
- Provide ad-hoc training and advice, as and when needed |
| **Information Asset Owners** | Information Asset Owners, i.e. staff responsible for producing, holding or disseminating information as part of the Trust’s public task will:  
- Assist the Information Governance Team with requests for re-use of information within their specific areas of responsibility, and  
- Identify and inform the Information Governance Team of any information which should be published on the Trust’s Information Asset List |
| **All Staff** | All staff are responsible for forwarding all information re-use requests to the Information Governance Team for a response to be facilitated. |
5. Definitions

A summary of the definitions referred to in this Policy are in Appendix 1.

6. Exclusions

The Trust will not permit the use of information where:-

• It is restricted or exempt from disclosure under the information access legislation (as defined in Appendix 1)
• It is not produced, held or disseminated as part of the Trust’s public task
• A third party owns intellectual property rights to the document
• It contains personal data which must be protected

7. The Public Task

Only information that is required to be produced, held or disseminated as part of the Trust’s public task will be made available for re-use under RPSI.

As recommended by The National Archives, the Trust will produce a statement of its public task. The purpose of this statement will be to:-

• Inform its applicants of what falls within the scope of RPSI
• To inform the Trust of what information should be included as part of the Trust’s Information Asset List
• Demonstrate the Trust’s commitment to public transparency and accountability

The public task statement will be published on the Trust’s website and will be reviewed at least once every four years. All reviews will take into consideration the views of stakeholders and any re-use challenges to date.

8. Information Asset List

The Trust’s Information Asset List will include both published and unpublished documents. It will specify how each listed document is available, along with any applicable charges and conditions for re-use. The register will be published on the Trust’s website along with any required licence details as a means of redress under FOIA and RPSI. The content of the register will be reviewed and updated at least once a year.

9. Advice and Assistance

The Trust will provide reasonable advice and assistance so far as it is reasonably expected of an authority to so. The Trust is not obliged to create or adapt any information/datasets or to provide any extracts in order to comply with a re-use request. All information available for re-use will be supplied in the pre-existing format and language in which they are held. Where it is appropriate and practicable, other formats (PDF, CSV) may be used. If the Trust concludes that in all circumstances it is not practically possible to provide the data in a re-useable format it may provide it in another format.

10. Charges and Licences

As a default, all information either:-

• Listed in the combined Publication Scheme / Information Asset List register, or
• Released in response to a specific FOI/re-use request
will be available free of charge for re-use under the terms of OGL.

The Trust may deviate from this policy where a charge is justified in specific circumstances, including but not limited to: the significant cost of making the information available for re-use; the Trust’s contractual obligations; or the type of information. Where OGL is not appropriate, either the Non-Commercial Government Licence, or the Charged Licence will be issued. Any applicable fees will be calculated in accordance with Reg. 15 of RPSI with the applicant advised in due course.

11. Handling a Re-Use Request

11.1 A Valid Re-Use Request

In accordance with Reg 6 of RPSI, a re-use request will only be valid where:
• It is writing
• It states the name of the requester and an appropriate correspondence address
• It clearly specifies the document requested, and
• States the purpose for which the document is to be re-used

Where a requester is not able to put their request in writing (e.g. due to a disability), the Trust will endeavor to accommodate any alternative arrangements with the requester, where appropriate.

11.2 Re-Use of Information Already Published

No request will be needed where the required document is already published on the Trust’s website and indicated as being available under OGL.

11.3 Statutory Deadlines

The Trust will respond to all re-use requests promptly and no later than by the 20th working day beginning with the day after receipt.

Where the requested documents are extensive in quantity or the request raises complex issues, the Trust may take longer to respond to a request. In such cases, the Trust will notify the requester of the estimated delay time in advance of the original due date.

11.4 Re-Use Decisions

Where none of the exclusions listed in section 6 apply, the Trust will permit re-use under the OGL licence and will notify the requester in writing of its decision.

Where OGL is not considered appropriate due to the circumstances of the specific request, the Trust’s response will set out its applicable charges and terms and conditions for re-use.

If permission to re-use is refused, the Trust will notify the requester in writing of the reasons for refusal. Where a request is refused because the Trust does not own the relevant intellectual property rights to the document, the notification of refusal will identify, where known, the name of the relevant intellectual property right holder or indicate who the document was obtained from.

11.5 Complaints and Appeals
Applicants who are dissatisfied with the final outcome of their request are entitled to submit a complaint to the Trust to request an internal appeal review.

All complaints should be sent to the Information Governance Team:
- By email at foirequests@ghnt.nhs.uk or
- By post to QE Gateshead, Information Department, Bensham Hospital, Saltwell Road, Gateshead, NE8 4YL

The Trust will consider the merits of any complaint and will notify the complainants in writing within a reasonable time of the outcome and the reasons for the decision. All applicants will be informed of their appeal rights with the Information Commissioner’s Office.

11.6 External Appeals

Once the Trust’s internal procedure has been exhausted applicants will be advised to redirect any further appeals to the Information Commissioner to request an independent review and decision.

The Information Commissioner can be contacted:
- By email at mail@ico.gov.uk or
- By post to: Information Commissioner’s Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

The Commissioner has the power to make legally binding decisions in respect of most aspects of RPSI. In respect of complaints in regards to charges above marginal cost the Commissioner has a power to make non-binding recommendations.

Applicants are informed that the Information Commissioner’s decision can be appealed by either party to the First-Tier Tribunal for Information Rights.

11.7 Amendments to the Datasets Provisions of the FOIA

RPSI amended the provisions governing the re-use of datasets requested under FOIA. The charging and licensing requirements in RPSI now apply to datasets which fall within its scope. The provisions of FOIA continue to apply to the calculation of charges and licensing conditions in respect of datasets which are not covered by RPSI (e.g. those that are not held as part of a public body’s public task).

The Trust will observe these amended requirements by making all datasets published on the Trust’s website under FOIA or released under RPSI available for re-use under the terms of OGL. The Trust may deviate from its policy of licensing datasets for re-use free of charge under OGL where it is justified by specific circumstances, as discussed in section 10.

12. Training

The Trust will develop suitable staff training courses at appropriate levels to ensure compliance with RPSI.

Managers are responsible for identifying staff training needs and communicating these needs to the Information Governance Team for delivery purposes. All staff are required to attend mandatory information governance training sessions to ensure adequate competency levels.

13. Equality and Diversity
The Trust is committed to ensuring that, as far as is reasonably practicable, the way we provide services to the public and the way we treat our staff reflects their individual needs and does not discriminate against individuals or groups on the grounds of any protected characteristic (Equality Act 2010). This has been taken into account in the development of this Policy.

14. Monitoring and Compliance of the Policy

Responsibility for this Policy rests with the Information Governance Team. The team will maintain a register of re-use requests made under RPSI.

The Information Governance Lead will produce annually and bi-monthly reports presented to the Health Informatics Assurance Group (HIAG) to demonstrate compliance with RPSI.

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<tr>
<th>Standard/process/issue</th>
<th>Monitoring and audit</th>
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<tbody>
<tr>
<td></td>
<td>Method</td>
</tr>
<tr>
<td>Compliance with the requirement to permit re-use of public sector information</td>
<td>Reporting and monitoring of RPSI requests</td>
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15. Consultation and Review

The Policy will be reviewed annually or when required due to legislative or procedural changes. Policy approval is provided by the Health Informatics Assurance Group (HIAG).

16. Implementation of the Policy (including raising awareness)

The Policy will be disseminated via the Trust’s website.

17. References

Related legislation includes:-

- Directive 2003/98/EC
- Directive 2013/37/EU
- Re-Use of Public Sector Information Regulations 2015
- Freedom of Information Act 2000
- Environmental Information Regulations 2004
- Data Protection Act 1998
- Copyright Design and Patents Act 1988


Re-Use Licences


Guidance


18 Associated Documentation

Useful Trust Policies include:-
- Freedom of Information Policy (IG04)
- Freedom of Information Request Procedure (IG04a)
- Confidentiality and Data Protection Policy (IG06)
- Records Management Policy (IG05)
- Intellectual Property Management and Revenue Sharing Policy (RM38)
### Appendix 1: A Summary of Definitions Used in the Policy

<table>
<thead>
<tr>
<th>Definition</th>
<th>Description</th>
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<tr>
<td><strong>Re-Use of Public Sector Information</strong></td>
<td>“Re-use of public sector information” means the use of existing information held by a public body for a purpose other than the initial purpose for which the information was produced.</td>
</tr>
<tr>
<td><strong>Public Task</strong></td>
<td>The term “public task” refers to key functions and responsibilities of a public sector body derived from a legislative enactment or established by common administrative practice.</td>
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<tr>
<td></td>
<td>There is no definition of public task in RPSI. As per The National Archives’ guidance, it is any information that is produced as part of a public task which:-</td>
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<td></td>
<td>• Is essential to the public service of the public sector body</td>
</tr>
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<td></td>
<td>• Is produced as part of a statutory requirement</td>
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<td></td>
<td>• Is produced by established custom and practice</td>
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<tr>
<td></td>
<td>• Enjoy authoritative status by virtue of being issued by the public sector</td>
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<td></td>
<td>• Can only be sourced from that public body, and</td>
</tr>
<tr>
<td></td>
<td>• Is created and maintained through taxation rather than revenues or private investment.</td>
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<tr>
<td><strong>Information Access Legislation</strong></td>
<td>Access to information is governed by the Data Protection Act 1998 (DPA), the Freedom of Information Act 2000 (FOIA), and the Environmental Information Regulations 2004 (EIR), collectively referred to as “information access legislation”.</td>
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<tr>
<td></td>
<td>Compliance with information access legislation is overseen and enforced by the Information Commissioner Office (ICO), an independent body with regulatory powers to make legally binding decisions. ICO’s decisions can be appealed by either party to the First-Tier Tribunal for Information Rights.</td>
</tr>
<tr>
<td><strong>“Access Rights” and “Re-Use Rights”</strong></td>
<td>The right of access to information under information access legislation does not confer an automatic right to re-use of that information. Information disclosed to the public may continue to be protected by intellectual property rights of the public body releasing the information and/or third parties. In order to use released material in a way that is not covered by the “fair dealing” copyright and database right exceptions in the Copyright Design and Patents Act 1988 (i.e. private study, news reporting, non-commercial research, etc.), permission must be obtained from the copyright and/or database right owner.</td>
</tr>
<tr>
<td><strong>Information Asset List</strong></td>
<td>A register of the main documents available for re-use under RPSI with relevant metadata that public sector bodies are required to produce are made publically available.</td>
</tr>
<tr>
<td><strong>Publication Scheme</strong></td>
<td>This is a register that specifies the classes of information that a public sector body pro-actively publishes or intends to publish, the manner of publication (e.g. electronically, in print), and any applicable charges. Public authorities are required under FOIA to publish and regularly review information in accordance with their Publication Scheme.</td>
</tr>
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</table>
| **UK Government Licensing Framework** | This is the Government’s policy and best practice for the licensing and re-use of public sector information. It recommends that by default public sector information should be made available for re-use free of charge for both commercial and non-commercial purposes under the terms of the Open Government Licence (OGL). A copy of the standard OGL Licence is Appendix 2. Where OGL is not appropriate, public sector bodies are encouraged to use one of two other standard government licences:-  

- A Non-Commercial Government Licence which allows the re-use of information free of charge for non-commercial purposes only, or  
- A Charged Licence where information is made available for a fee under a set of recommended conditions for re-use |
Appendix 2: Open Government Licence v.3.0 (OGL)

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- Adapt the Information;
- Exploit the Information commercially and non-commercially for example, by combining it with other information, or by including it in your own product or application.

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- If the Information Provider does not provide a specific attribution statement, you must use the following;

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- Military insignia;
- Third party rights the Information Provider is not authorised to license;
- Other intellectual property rights, including patents, trade marks, and design rights; and
- Identity documents such as the British Passport.

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The Information Provider and/or Licensor are not liable for any errors or omissions in the Information and shall not be liable for any loss, injury or damage of any kind caused by its use. The Information Provider does not guarantee the continued supply of the Information.

Governing law

This licence is governed by the laws of the jurisdiction in which the Information Provider has its principal place of business, unless otherwise specified by the Information Provider.

Definitions

In this licence, the terms below have the following meanings:-

'Information' means information protected by copyright or by database right (for example, literary and artistic works, content, data and source code) offered for use under the terms of this licence.

'Information Provider' means the person or organisation providing the Information under this licence.

'Licensor' means any Information Provider which has the authority to offer Information under the terms of this licence or the Controller of Her Majesty's Stationery Office, who has the authority to offer Information subject to Crown copyright and Crown database rights and Information subject to copyright and database right that has been assigned to or acquired by the Crown, under the terms of this licence.

'Use' means doing any act which is restricted by copyright or database right, whether in the original medium or in any other medium, and includes without limitation distributing, copying, adapting, modifying as may be technically necessary to use it in a different mode or format.

'You', 'you' and 'your' means the natural or legal person, or body of persons corporate or incorporate, acquiring rights in the Information (whether the Information is obtained directly from the Licensor or otherwise) under this licence.

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The Controller of Her Majesty's Stationery Office (HMSO) has developed this licence as a tool to enable Information Providers in the public sector to license the use and re-use of their Information under a common open licence. The Controller invites public sector bodies owning their own copyright and database rights to permit the use of their information under this licence.
The Controller of HMSO has authority to license information subject to copyright and database right owned by the Crown. The extent of the Controller’s offer to license this information under the terms of this licence is set out in the UK Government Licensing Framework.

This is version 3.0 of the Open Government Licence. The Controller of HMSO may, from time to time, issue new versions of the Open Government Licence. If you are already using information under a previous version of the Open Government Licence, the terms of that licence will continue to apply.

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Further context, best practice and guidance can be found in the UK Government Licensing Framework section on The National Archives website.