



PUBLIC SECTOR INFORMATION GUIDANCE NOTE 1: LINKS BETWEEN ACCESS AND RE-USE

Explains the interface between access and re-use and provides simple wording on re-use that can be used in responses to access requests

The distinction between access and re-use

1 Access to most public sector information is provided by the Freedom of Information Acts¹ and by the Environmental Information Regulations.² But provision of information under this access legislation does not mean that the recipient has an automatic right to re-use it, for example to publish it, or adapt it in some way. Most information supplied in response to an access request will be protected by copyright and permission to re-use it will be required.

2 The Re-use of Public Sector Information Regulations provide a framework for obtaining this permission. However, they do not apply unless the document has already been provided to an applicant or is otherwise accessible to the applicant. They do not provide a means of obtaining access to information that is not already accessible, whether under access legislation or by some other means.

The right to give permission to re-use information

3 A public body can usually provide information received from a third party in response to an access request but it may not be able to give permission for re-use of that information. That right remains with the owner of the copyright which will not necessarily be the body holding the information. The PSI Regulations do not apply to information where copyright is owned by a third party.

¹ Freedom of Information Act 2000 http://www.opsi.gov.uk/acts/acts2000/ukpga_20000036_en_1 and Freedom of Information (Scotland) 2002 http://www.oqps.gov.uk/legislation/acts/acts2002/asp_20020013_en_1

² Environmental Information Regulations 2004 <http://www.opsi.gov.uk/si/si2004/20043391.htm> and Environmental Information (Scotland) Regulations 2004 http://www.oqps.gov.uk/legislation/ssi/ssi2004/ssi_20040520_en_1

4 Most material created by central government departments is protected by Crown copyright. The Office of Public Sector Information (OPSI) is responsible for Crown copyright. Permission to reproduce Crown copyright material can usually be obtained from OPSI through its website www.opsi.gov.uk .

Access and re-use requests

5 Access requests should be made in accordance with the requirements of the relevant access legislation. The public body should assume that re-use of the information is not intended unless the applicant specifies otherwise and should handle the request in accordance with the relevant access legislation alone.

6 Re-use requests for information that has not already been provided or is not otherwise already accessible should be handled in the first instance as access requests and the response requirements of access legislation, including deadlines, should be met. Only if it is decided that the information should be provided will the information become eligible for re-use and at that point the re-use element of the request will become a valid re-use request.

7 Re-use requests for information that has already been provided or is otherwise already accessible should be made in accordance with the PSI Regulations and will be handled under those Regulations.

Access and re-use complaints and appeals

8 Complaints against refusals to supply information or about the handling of access requests should be made to the Information Commissioner or, for bodies covered by Scottish access legislation, the Scottish Information Commissioner. Details of rights of further appeal will be given by the Information Commissioners when they issue their decisions.

9 Complaints against refusals to give permission to re-use information or about the handling of a re-use request should be made to the Office of Public Sector Information. Details of rights of further appeal will be given by OPSI when it issues its recommendations.

10 Relevant contact details are given at the end of this guidance note.

Copyright notices

11 When supplying information in response to an access request public bodies should make it clear if there any limitations on re-use. Here is some sample wording that could be used for this purpose:

Sample wording

Most of the information that we provide in response to Freedom of Information Act 2000 *[or other access legislation as appropriate]* requests will be subject to copyright protection. In most cases the copyright will be owned by *[insert name of public sector organisation]*. The copyright in other information may be owned by another person or organisation, as indicated on the information itself.

You are free to use any information supplied for your own non-commercial research or private study purposes. The information may also be used for any other purpose allowed by a limitation or exception in copyright law, such as news reporting. However, any other type of re-use, for example by publishing the information in analogue or digital form, including on the internet, will require the permission of the copyright owner.

For information where the copyright is owned by the *[insert name of public sector organisation]* details of the conditions on re-use can be found on our website at *[insert details]*.

For information where the copyright is owned by another person or organisation you must apply to the copyright owner to obtain their permission.

Relevant contact details

Information Commissioner's Office

Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF
Tel: 01625 545 745
mail@ico.gsi.gov.uk www.informationcommissioner.gov.uk

Office of the Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews
Fife KY16 9DS
Tel: 01334 464610
enquiries@itspublicknowledge.info
www.itspublicknowledge.info

Office of Public Sector Information (OPSI)

The National Archives
Kew
Surrey TW9 4DU
licensing@opsi.gov.uk
www.opsi.gov.uk