

Synopsis of main changes arising from 2019 Open Data & Re-use of Public Sector Information Directive

Old Position - 2003 Re-Use of PSI Directive (as amended in 2013) ⁱ	New position - 2019 Open Data and Re-Use of PSI Directive – main changes ⁱⁱ
Title	
	The inclusion of ‘Open Data’ in the title provides clarity and strengthens the requirement for public bodies to publish data in open formats.
General	
	The recast Directive clarifies the relationship with other EU legal instruments including the Database (96/9/EC), INSPIRE (2007/2/EC) and GDPR (2016/679/EC).
Scope	
<p>Public Bodies, who on receipt of a request for re-use must make its data available for re-use.</p> <p>Libraries (including university libraries) museums, archives, who have discretion in relation to making data available for re-use.</p>	<p>Public Undertakings are now included under the scope of the Directive. The Directive does not contain a general obligation to allow the re-use of documents produced by public undertakings. The decision whether or not to authorise re-use should remain with the public undertaking concerned. However, public undertakings must comply with the High Value Datasets requirements except in relation to data that would lead to a distortion of competition in the relevant markets.</p> <p>Publicly funded research data is also now included under the scope of the Directive. National policies will be required aimed at making this research openly available.</p>
Charging	
<p>Charging at marginal cost is the default position except where: (a) a public body is required to generate sufficient income to cover a substantial part of their costs relating to the performance of its public tasks or (b) where a public body is required to generate sufficient revenue to cover the cost of collection, production, reproduction and dissemination of the document. In these instances these costs together with a reasonable return of investment can be charges.</p> <p>The marginal cost default does not apply to libraries, museums and archives which may charge to cover the cost of collection, production,</p>	<p>Re-use free of charge is now the default, otherwise charges should be restricted to marginal costs subject to some exceptions (public bodies who are required to generate income to cover a substantial part of their costs and libraries, museums and archives where some charges can be applied).</p> <p>The exception that relates to where a public body is required to generate sufficient revenue to cover the cost of collection, production, reproduction and dissemination of the document no longer applies.</p> <p>Public bodies who charge for re-use must publish details of the charges including how they are calculated on their website.</p>

<p>reproduction, preservation and rights clearance together with a reasonable return on investment.</p> <p>The criteria for charging is set out in in Circular 16/15 issued by D/PER.</p>	<p>A list of all public bodies that are allowed to charge above marginal costs must be published by D/PER.</p> <p>Charges cannot be applied to the re-use of High Value Datasets or public funded research data.</p>
Exclusive Arrangements	
<p>No exclusive arrangements, unless for the provision of a service in the public interest or for the digitising of cultural resources.</p>	<p>Same. Additionally, details of any exclusive arrangements in place must be published online at least two months before coming into effect and should be subject to review as set out in the Directive.</p> <p>Arrangements between data holders and data re-users which do not expressly grant exclusive rights but which can reasonably be expected to restrict the availability of documents for re-use should be subject to additional public scrutiny. The essential aspects of such arrangements should be published online at least two months before coming into effect.</p>
Practical arrangements	
<p>Public bodies should ensure that practical arrangements are in place that help re-users in their search for documents available for re-use. Examples of such practical arrangements are assets lists, which should preferably be accessible online, of main documents (documents that are extensively re-used or that have the potential to be extensively re-used), and portal sites that are linked to decentralised assets lists.</p>	<p>Same.</p> <p>Additionally, where possible, public bodies should make practical arrangements to facilitate preservation of documents for re-use.</p> <p>Where possible, public bodies should make data available in open format, via the national open data portal, data.gov.ie</p>
Licences	
<p>Encourages standard, non-restrictive licences</p> <p>(Licence CC BY 4.0 has been adopted by Ireland as the standard open data licence). See Circular 12/16 issued by D/PER.</p>	<p>Same.</p>

Formats	
Encourages publication of data in open machine-readable formats that comply with formal open standards	<p>Same.</p> <p>Additionally, dynamic data should be made available immediately after collection, via application programming interface (API) and bulk download where relevant.</p> <p>Public bodies and public undertakings should where possible, make public service information available in accordance with the principles of 'open by design and default'.</p>
Request to supply information to Minister	
Must comply with requests for information from DPER on documents available for re-use	Same.
High Value Datasets (HVDs)	
N/A	<p>Certain lists of high value datasets (HVDs) will have to be made available by public bodies and public undertakings for free in machine readable format, be accessible via application programming interface (API)s and be provided as a bulk download, where relevant.</p> <p>The Commission will adopt lists of specific HVDs under each of six themes set out in an Annex to the Directive (Geospatial, Earth observation and environment, Meteorological, Statistics, Companies and company ownership and Mobility) by way of an Implementing Act (EU Regulation). These categories can be amended by the Commission via Delegated Acts.</p> <p>The availability of these datasets will be mandatory (their availability is not subject to a request for re-use). Public Undertakings will not have to make HVDs available free of charge where this would lead to a distortion of competition in the relevant markets.</p> <p>This provision will come into effect on the publication of an Implementing Act by the EU Commission (and not the date of publication of the Regulations that transpose the Directive).</p> <p>Public bodies who currently charge for HVDs and who are required to generate revenue to cover a substantial part of their costs relating to the performance of their public task and will now have to make the data available free of charge, will have a 2 year 'period of grace' from the date of publication of the Implementing Act.</p>

	The requirement to make HVDs available free of charge does not apply to libraries, museums & archives.
Request & Complaints Process	
A public body must respond to a re-use request within 20 working days or 40 days for a more complex request. If a request is declined, the grounds for refusal and redress procedures should be outlined. Refusals can be appealed to the Office of Information Commissioner.	<p>Same.</p> <p>Public Undertakings do not have to comply with requests for reuse (or redress/appeals mechanisms). The request regime also does not apply to research data.</p>

Scope at a glance

Bodies in scope	Bodies out of scope	Information in scope	Information out of scope
Public bodies, (government departments, state agencies, local government, etc.)	Public sector broadcasters	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.	Information produced, held or disseminated outside public task
Libraries (including university libraries) Museums, Archives	Cultural and performing arts establishments, such as operas, theatres, ballets, etc.	Publicly funded research data	Information that is not accessible. Information restricted or excluded, for example under FOI legislation
Public Undertakings (entities entrusted with the provision of public services (water, energy, transport, postal services, public transport services by rail and road, air carriers or marine transport services) which are funded or governed by public bodies.	Educational establishments (schools, universities etc. apart from university libraries)		<p>Information whose copyright does not belong to the public sector body</p> <p>Crests, logos, insignia</p> <p>Personal data that must be protected</p>

ⁱ The consolidated 2003 Directive as amended in 2013 is at [this link](#) and the consolidated transposing Regulations are available [here](#).

ⁱⁱ [Directive EU2019/1024](#)