This information guide contains general responses to common concerns about making research data available. This follows on from our Information Guide *Introduction to Ownership of Rights in Research Data*. Further information is available in our *Guide to Choosing a Licence for Research Data*. For guidance on using someone else's research data, please consult our *FAQ:Using Research Data.* There is a *Glossary* available to explain some of the terms used.

This information guide may not address specific concerns about specialist research data but there are suggested further sources at the end. It may also be necessary to consult any funding or collaboration agreement relevant to the research.

Thinking about making research data available

| Funder & Institutional requirements | Data Management Plan | Ownership of rights | Choice of licence | Choice of respository |

The question of when and how to make research data available can arise throughout a research project. This information guide will consider in particular how research data can be made available under **open access** principles.

The following questions will be considered in this information guide:

- Why should research data be made available?
- How should research data be made available?

(Questions about what research data is and the automatic ownership rights in research data are addressed in our Information Guide - *Introduction to Ownership of Rights in Research Data*)

Questions to think about before, during and after research projects

Open Access: free availability on the public internet, permitting any users to read, download, copy, distribute, print, search, or link to the full texts of these articles, crawl them for indexing, pass them as data to software, or use them for any other lawful purpose, without financial, legal, or technical barriers other than those inseparable from gaining access to the internet itself. The only constraint on reproduction and distribution, and the only role for copyright in this domain, should be to give authors control over the integrity of their work and the right to be properly acknowledged and cited.
(Source: The Budapest Declaration on Open Access, 2002)

What is in research data?
Will specialist advice be required on intellectual property rights, confidentiality, data protection law or ethics?

Our Information Guide *Introduction to Ownership of Rights in Research Data* provides more information.

Before

Are there funder or institution requirements on the research data?

Read your funding agreement or funder/institution's principles on data (e.g. the *Research Councils Common Principles on Data Policy*)

During

Role of Data Management Plans?
DMP includes information on data handling, methodology, sharing and licensing and curation and preservation.

The UK Data Services has a guide to Data Management Plans here and institutions may also provide guidance

What rights are there in the research data?
Different rights are protected differently by the law. A Privacy Impact Assessment is needed for personal data

Our Information Guide *Introduction to Ownership of Rights in Research Data* provides more information as does the Information Commissioners Office

Is there any part of the research data that cannot be made available?
Consider redacting research data to remove personal data, confidential information or third party intellectual property.

The UK Data Services has a guide to anonymisation here. Your institution Ethics Board may also provide guidance. Permission may be required from third parties who own rights in the research data.

Is there an obligation to make research data available (ethical or legal)?
Check institution or funder guidelines or requirements from publishers for the output

This may be stipulated by institutions or data repositories, as well as by publishers of research output.

How long should the research data be kept for?

More information about this is given later in the guide.

What licence should be applied to the research data?
A licence allows a reseacher to control further re-use of research data and require attribution. If different parts of the research data need different licences, consider compatibility.

See pages 3-5 as well as our Information Guide on Choosing a Licence for Research Data.

Why should research data be made available?

Globally, the benefits of making research data publicly available under **open access** are being recognised and promoted.

RCUK, other UK Funders and the European Commission under the *Horizon 2020* plan have committed to principles of open access. RCUK has a set of [*UK Common Principles on Data*](#) explaining values that it expects researchers to abide by in funding research, subject to legal and ethical constraints. Research funded by one of the Research Councils usually carries an obligation to make the research data available.

Open access requirements have also been introduced into the next **Research Excellence Framework**, This has led many universities and institutions to adopt open access policies towards both publications and research data.

Publishing research output in an open access journal often carries the obligation to make the research data available on an open access basis.

Some of the benefits of open access to data are: -
- Prompt and widespread dissemination of research findings
- Data is more discoverable and more often cited
- Efficiency of research process
- Transparency in data
- Increased public understanding of research
- Recognition of the public interest in research
- Increased research integrity and validity

How is research data licensed?

Licensing is a way the owner of protected rights can amend the default position that legally protected research data cannot be used without the owner's permission to make it easier to access and use research data.
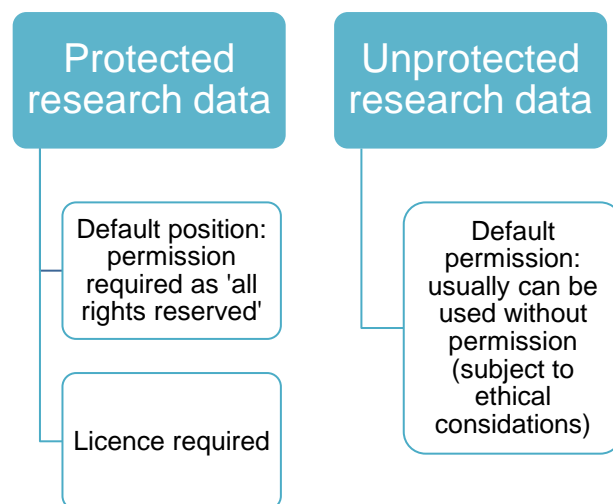
Licences take a variety of forms, as explained in our Information Guide *Choosing a Licence for Research Data*. Different licences can be applied to different parts of research data. Most licences are irrevocable.

Open Access principles recognise that it may not always be possible, legal or wise to make research data fully available. Confidential (private) data may be protected by law or releasing the research data may have implications for the researcher's reputation or future research.
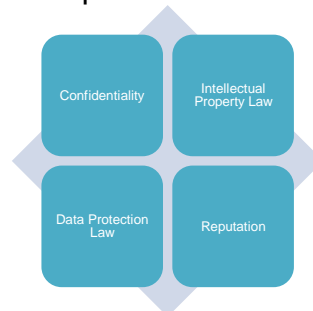
Questions to think about before choosing a licence

Are there any legal rights in the research data?

Automatic legal rights such as **copyright** and the **sui generis database right (SGDR)** are explained in our information guide – *Introduction to Ownership of Rights in Research Data*. Novel inventions or products or processes can qualify for **patent** protection (if registered). Specialist advice should always be sought.

Is the researcher an employee of a research institution or a student?

Depending on the employment contract and the institution's intellectual property policies, the law may recognise an employee's copyright as being owned by the employer.

Is there a contractual relationship between the researcher and any other party (e.g. funder)

A collaboration or funding agreement may specify that the ownership of the deliverable research lies with the funder, or that the funder has an automatic licence in the research.

Has any of the data been obtained from a third party who imposed terms and conditions?

For example, research data collated through social media platforms will be subject to that platform's terms and conditions, which may specify how the data can be used or made available.

Does the research data contain any personal data belong to research subjects?

Data protection law imposes obligations on those obtaining and using **personal data** (information that identifies an individual including their name and factors specific to their physical, physiological, genetic, mental, economic, cultural or social identity). The **data subjects** also have rights to object to **data processing** and request deletion of data. For more information see the [Information Commissioner's Office](#).

Sub-sets of the research data may be more sensitive than others.

What will the impact of licensing be?

Many researchers fear that making research data publicly available will result in circumstances arising beyond their control, for example re-use in research that reflects badly on the researcher or which generates substantial profits for another party. Repositories and institutions usually have research management professionals who will be able to discuss these fears before a licence is chosen.

What repository should be used and will the repository suggest a licence?

There are multiple repositories for research data, depending on the category of research data, and many institutions operate their own.

Does the researcher owe any obligations of confidentiality or ethics in respect of the data?

Obligations of confidentiality may be imposed by contract or implication. Most researchers are expected to abide by ethical codes of conduct.

Has the research been produced in an international collaboration?

This information guide focuses on UK and EU law. Cross border collaborations, particularly those with the US, may present specific difficulties in licensing. For example, the **SGDR** is not recognised in the US. Further, data protection law in the US is weaker than in the EU. You should always seek specialist advice on international collaborations for research.

How will the researcher and contributors be acknowledged?

Licences can require or waive rights to be **attributed** as the owner of the rights. However, this does not waive ethical considerations and good academic practice on acknowledging sources, for example institution citation guidelines or the CASRAI [Contributor Role Taxonomy (CRediT).](#)

Is there a need for granularity of licensing?

This may apply if different terms need applied to different sub-sets of the research data. For example, if raw data needs to be treated differently from aggregated data, or where commercial exploitation may be anticipated for elements of the data.

The Registry of Research Data Repositories provides a database of possible repositories: - https://www.re3data.org/

Other repositories that provide supporting documents include [OpenAIRE.eu](#) and [Openminted.eu](#). Some funders may have a preferred repository. For example, the ESRC funds the [UK Data Service](#) repository. Institutions may provide first choice or back-up repositories.

How will a licence be communicated?

Metadata allows electronic documents to carry standardised information describing the origin, authorship, geographic location, access conditions and licence attached to research data.

Research Data Alliance provides a [Metadata Standards Directory](#) that can be searched for discipline-specific standards and associated tools. The UK Data Service has more useful information on attaching metadata [here](#). Different repositories and funders may allow or encourage higher levels of metadata.

A good **Read Me** file also helps communicate information about the research data and the licensing terms.

More Information Guides
- *Introduction to Ownership of Rights in Research Data*
- *Choosing a Licence for Research Data*
- *FAQ: Using Research Data*

Legal sources
- Copyright, Designs and Patents Act 1988
- Directive 96/9/EC of 11 March 1996 on the legal protection of databases

Useful links
- [UK Data Service](#)
- [OpenMinTeD](#)
- [OpenAIRE](#)
- [MANTRA EUDATHorizon2020](#)