



Copyright for Knowledge

Implications of the new Public Sector Information (PSI) Regulations for University Libraries

Why you need to know about the PSI Regulations

University Libraries have been added to those public sector bodies which must comply with the PSI regulations with effect from July 2015. Previously educational establishments' documents were excluded and so Universities had no duty to make their information available for re-use under the Regulations. It is therefore important that you are aware of the new requirements in order to remain compliant with the law. The new Regulations apply to documents held by University libraries only, not to documents held by Universities outside of their libraries.

What is the purpose of the PSI legislation?

The Regulations are concerned with encouraging wider re-use of information held by public bodies by anyone who wishes to do so. They result from the implementation of European Union directives in the UK. They create a duty upon public bodies to make "documents" – in a very broad sense - available for re-use by anyone who requests them. This applies only to documents within the "public task" of each public body. The relevant "documents" could be in any format.

When the original *Re-use of public sector information regulations* came into force in 2005 the education sector was excluded. The amending regulations from July 2015 have widened the scope to include public sector libraries, archives and museums, including libraries which are part of HE institutions. University libraries are now included while universities in general remain out of scope.

Do the Regulations apply to all HE Libraries?

The Regulations define "university" as follows:

"University" means any public sector body that provides post-secondary school higher education leading to academic degrees"

The Regulations certainly apply to all bodies within that broad category. It is important to note however that if a University Library has not itself re-used or allowed re-use by others of specific

documents which fall within its Public Task then it is not obliged to allow re-use of those documents in response to a request.

Implications for charging and exclusive licences

Central to the Regulations is the intention to create **a level playing field** so that if an HE Library makes information (arising from its public task) available to one person to re-use then it is obliged to make the same information available to anyone else who requests it for a similar purpose and to do so under similar terms. If the University library has re-used the information itself, then again it is required to allow others to re-use the same information for equivalent purposes under the same terms and conditions.

There is a general requirement for public bodies to make information available for re-use at marginal cost so that charges will not be a barrier to re-use. There is an exception for Libraries, Museums and Archives which allows them to add a reasonable return on investment. This means for example that when charging to make a digitised collection available for re-use the level of charging could take into account the resources which have been devoted to conservation and digitisation.

The Regulations prevent public bodies from signing exclusive contracts enabling exclusive re-use of material by another party (unless it is necessary for the provision of a service in the public interest). In the case of cultural institutions such as university libraries there is an exception allowing exclusive agreements lasting for a limited period in order for example to achieve digitisation of significant collections.

What is our “Public Task”?

Information which falls **within the public task** is covered by the Regulations and could be made available for re-use under them but this is not the case for information which falls outside the public task. For that reason it is essential that each HE library should create a statement defining its public task. The exclusion for non-public task material is only available where the scope of the public task is “transparent and subject to review”.

The public task relates to the core functions of the Library. The style and detail of the public task statement are a matter for each public body and there is no prescribed format. On the other hand the statement must be made public and be open for challenge if others think it is inaccurate or incomplete.

The National Archives (TNA) offer detailed [Guidance on public task statements](#) on their website. The statement may be equally important in deciding which information you are **not** obliged to make available for re-use because it falls **outside** the public task. Providing a lending service to students may be part of your public task for example whereas the management of the library’s café is likely to be outside the public task.

Limitations on the public task information which must be made available for re-use

Only **accessible** information must be made available for re-use. Material containing personal data of living individuals is subject to Data Protection considerations and therefore it is not “accessible”.

If the copyright in a document is owned by someone other than the university then that document is not accessible and cannot be made available for re-use. It follows that the published (and unpublished) modern material in the library's collections will not generally be affected by the Regulations. Material in which the copyright has expired and which is therefore in the public domain will be in scope to the extent that it falls within "the public task".

Applications to re-use information and appeal procedures

University libraries have an obligation to establish a procedure for applications to re-use their public task information and also an internal appeals procedure for applicants who wish to contest the original decision. The Regulations also require that a list of the main documents available for re-use must be published.

Further information

Further information on the effect of the PSI Regulations can be found on the [TNA website](#) . TNA also welcome enquiries from universities which should be sent to the following email address: psi@nationalarchives.gsi.gov.uk