Public Sector Information
Open Data Directive

A checklist for Intellectual Property, Research Data and Open Science

What is the 2019 PSI - Open Data Directive?

It is the latest major upgrade of the PSI (Public Sector Information) legislation in the EU. It amends previous PSI directives which first introduced a regulatory framework for Public Sector Information establishing the principle of reuse by default.

The **PSI – Open Data Directive** poses an even stronger requirement on reuse by default, expands the type of PSB covered and, very importantly for Open Science, establishes the principle that research data resulting from publicly funded research must be Open Access by default.

What is the scope of its application?

The directive covers documents held by Public Sector Bodies (PSB) in Member States (MS) at national, regional and local levels.

What is included?

It includes national governments, ministries, state agencies and municipalities, as well as organisations funded mostly by or under the control of public authorities.

Since the 2013 update, museums, libraries, including university libraries and archives are also included, although special rules apply.

With 2019 reform the scope has been further expanded to certain public undertakings under specific rules.

How can OpenAIRE help?

OpenAIRE provides a range of resources and services targeting RPOs and RFOs to support in the adoption, implementation and monitoring of Open Science policies.

Which documents and licenses?

• It regulates the **reuse of documents** held by Public Sector Bodies. Documents are defined as any representation of acts, facts or information — and any compilation of such acts, facts or information — whatever its medium (paper, or electronic form or as a sound, visual or audiovisual recording).

Note.

This definition is not intended to cover computer programmes, however, Member States (MS) may extend the application of this Directive to computer programmes.

• It regulates the reuse of documents held by PSB and establishes the rule that such documents **shall be reusable for commercial and non commercial purposes.**
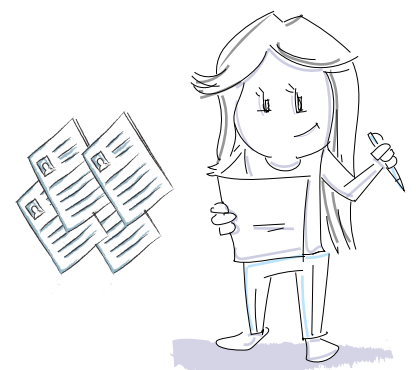
More specifications:

■ **Member States** will be asked to **develop policies for open access to publicly funded research data**. This implies a mandatory open access status for all research data produced with public funding.

■ As for the "**high value datasets**" defined as documents the **re-use** of which is associated with **important benefits for the society and economy**, will be governed by a separate set of rules.

Thematically, these datasets identify geospatial, earth observation and evironment, meteorological, statistics, companies and company ownership, and mobility as high value areas. The EC will identify the relevant dataset in 2021.

■ Stronger transparency requirements for public – private agreements involving public sector information, avoiding exclusive arrangements.

About Research Data and Open Science

• The 2019 Directive clarifies that under the **national open access policies, publicly funded research data should be made open as the default option**. However, this "**open by default**" rule should apply only to research data that have already been made publicly available by researchers, research performing organisations or research funding organisations through an institutional or subject-based repository.

• This **should not impose extra costs** for the retrieval of the datasets or require additional curation of data.

• Also applicable to research data made **publicly available** through other data infrastructures than **repositories**, through **open access publications**, as an attached file to an article, a data paper or a paper in a data journal.

• When it comes to **privacy, protection of personal data**, confidentiality, national security, legitimate commercial interests and to intellectual property rights of third parties should be duly taken into account, according to the principle '**as open as possible, as closed as necessary**'.

National Implementations and OS Policies

These rules will need to be implemented by **Member State** in what the Directive calls **national open access policies**, but also **these documents have to follow a common and coordinated approach**.

National Level Intervention:

• The **inclusion of software** in the definition of documents of PSB covered by the Directive;

• The extension to other **data infrastructures** such as OA publications, as an attached file to an article, a data paper or a paper in a data journal as the type of first publication that will trigger the open by default rule;

• **National OA policies** should contain a clear identification of a licence or licence type;

• EC Decision of 22/02/2019 "**adopting Creative Commons as an open licence under the European Commission's reuse policy**" C(2019)1655/F1, indicates a clear orientation for the convergence towards a common standard licence as the default option.