

# Sharing research data and protecting intellectual property

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Research Data Service

Image: Gears Money Europe Euro Currency Teeth Grinder [cropped], Max Pixel, Public Domain

# WHO IS THIS GUIDE INTENDED FOR?

You should read this guide if you are considering commercially exploiting<sup>1</sup> research data, including software, which meet any of the following criteria:

- Created using UK Research and Innovation (UKRI) or industry funding
- Created in collaboration with external partners (e.g. other universities, industry, charities)
- Created by or in collaboration with students, including PhD students
- Involves sensitive information

## SUMMARY

Most major UK funding bodies require you to make your research data accessible at the end of a project. If you are planning to patent or otherwise commercially licence your research outputs, this requirement can appear to present a conflict. However, there are several things you can do to protect your intellectual property and still meet your funder's expectations on data sharing, such as:

- Allow time for patent filing before article and data publication
- At the beginning of your project, make sure any research contracts cover ownership, use and commercialisation of research outputs. This may involve negotiation with funders and collaborators

- If your research involves human participants, make sure your consent forms allow for commercialisation of research data
- Select journals and data repositories that will allow you to place embargoes and/or other restrictions on your data

## Introduction

Data sharing is increasingly required by funders and journal publishers, but this should not prevent you capitalising on your intellectual property (IP). If your data or your research in general has commercial applications, you may not be able to share your data openly, but there are different approaches that will allow you to meet funder expectations and still protect your IP.

**If you think your research has commercial applications, please contact [Research Commercialisation](#) as soon as possible, and before publishing any data or research findings.**

## Challenge: timescales for IP protection

Applying for patents or deciding on an appropriate licence or other form of IP protection takes time. Initial patent filing typically takes three months, and it can take up to eighteen months for the patent to be granted. If elements of your research are published in the meantime this may void your patent application.

**Solution:** If you think your research may have commercial applications, contact [Research Commercialisation](#) as soon as possible, ideally during the planning stages of your project, and

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<sup>1</sup> Bringing a product or service to market, for example by applying for a patent or trademark

before publishing any data. You may still be able to meet funder expectations on data sharing by publishing research data under an embargo or by applying usage restrictions to your data. Contact [Research Commercialisation](#) to find out what embargo or access restrictions are required, and then contact the [Research Data Service](#) or your chosen data repository to set them up.

[Contracts Team](#) for help in setting up contracts that will allow you to commercialise your research, or if your project is already underway, to find out the implications of existing agreements including third party content licences.

If you are confident that you/the University owns the data in question, contact [Research Commercialisation](#) for advice on commercialising

### Challenge: data ownership and third party content

You cannot commercialise or publish data that belong to someone else without explicit permission. The University normally has ownership of primary data generated in the course of research undertaken by researchers in its employment, but grants, contracts or collaboration agreements may set out different terms for data ownership. Students typically own their own IP, but again this may vary between projects.

If your data include content generated by someone else, their content will have a licence governing the terms under which it can be re-used. For example, the GNU General Public Licence (GPL) requires that derived software be distributed under the same licence terms, so if you have written a piece of software that depends on code or libraries licensed under GPL, you will not be able to apply a different revenue-generating licence.

**Solution:** Data ownership is best established at the planning stage of a research project via appropriate contractual agreements. Contact the [Division of Research, Enterprise and Innovation \(DREI\)](#)

### Challenge: ethical restrictions

If your research involves human participants, you may not be able to make commercial use of the research data without their clear consent. There may be other sensitivities which can restrict what you can do with the data; for example, if your dataset includes information on rare or endangered plants or animals, or information which may have an impact on national security.

**Solution:** Make sure that your consent forms include the possibility of commercial use of anonymised research data. This should be done at the project planning stage. Contact the [DREI Research Governance Team](#) for advice on constructing consent forms, and on what to do if your data contains other types of sensitive information.

Any commercial use of research data should be in line with the Data Protection Act and good research practice principles – see the [Secretary's Office](#) and the [Research Governance](#) pages for more information, training and guidance.

## Challenge: funder restrictions

Generally, most major UK funding bodies permit restrictions or delays in data sharing in order to capitalise on IPR. Exceptions include:

- **AHRC** - plans for commercialisation must be outlined in grant applications, otherwise the expectation is that research outputs will be made freely available
- **MRC** and the **Wellcome Trust** - you should discuss plans for commercialisation with their respective Technology Transfer divisions prior to data collection
- **NERC** - data generated as part of a NERC-funded project, including model code, must be made publicly available via a NERC data centre. The data owner must grant NERC a nonexclusive licence to allow NERC to manage and supply the data for reuse.

**Solution:** Provided your funder is not one of the exceptions listed above, you may be able to meet expectations on data sharing and still commercialise your research by publishing data with embargo or access/usage restrictions. Contact [Research Commercialisation](#) to find out what embargo or access restrictions are required, and then contact the [Research Data Service](#) or your chosen repository to set them up.

## Challenge: collaborator restrictions

If you are working in collaboration with any universities, industrial or other partners they may have placed restrictions on what you can do with research outputs, including data.

**Solution:** Restrictions on commercial use of research outputs should be established at the planning stage of a research project via appropriate contractual agreements. Contact the [DREI Contracts Team](#) for help in setting up collaboration agreements that will allow you to commercialise your research, or to find out the terms in your existing agreements.

## Challenge: journal and/or data publisher restrictions

Some journal publishers require you to make data underpinning your papers available with licences which may not be compatible with commercialisation. For example, if you publish in PLoS you will have to make any underpinning data available under a Creative Commons Attribution licence ([CC-BY 4.0](#)), which permits users to reuse your data for any purpose (including commercially). Similarly, some data repositories will only publish your data with one licence, which again may not be compatible with commercialisation - Dryad, for example, requires that all data are published with a Creative Commons Zero waiver ([CC0](#)), also known as public domain.

In addition, your journal publisher may require you to make your data available as soon as your article is published. As noted previously, this timescale may not be compatible with completing a patent application.

**Solution:** Check your journal publisher's terms for data publication prior to manuscript submission, and choose a data repository that will allow you to apply an appropriate licence to your data. The [Research Data Service](#) can help with this.

Your publisher may permit you to share your research data under an embargo or with usage restrictions. Contact [Research Commercialisation](#) to find out what embargo or access restrictions are required, and then contact the [Research Data Service](#) or your chosen data repository to set them up.

# SOURCES OF ADVICE

## Research Commercialisation Team

Website: <http://www.bristol.ac.uk/business/research-commercialisation/>

Contact details: <http://www.bristol.ac.uk/business/innovate-and-grow/research-commercialisation/contact-us/>

## DREI Contracts Team

Website: <http://www.bristol.ac.uk/red/contracts/>

Contact details: <http://www.bristol.ac.uk/red/contracts/contactdetails/>

## DREI Research Governance Team

Website: <http://www.bristol.ac.uk/red/research-governance/>

Email: [research-governance@bristol.ac.uk](mailto:research-governance@bristol.ac.uk)

## Secretary's Office

Website: <http://www.bristol.ac.uk/secretary/>

Contact details: <http://www.bristol.ac.uk/secretary/contact/>

## Library Research Data Service

Website: <http://www.bristol.ac.uk/staff/researchers/data/>

Email: [data-bris@bristol.ac.uk](mailto:data-bris@bristol.ac.uk)

Contact details: <http://www.bristol.ac.uk/staff/researchers/data/contacts/>