

# Permissions worksheet

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“Legal uncertainty interferes with the productive re-use of research data...”-[Carroll, 2015](#)

## Do you have the right to make the data open

Ensure that you have the rights to make your research product open according to the definition of the commons by answering these questions. **Only if you answer yes or not applicable to all questions below can data be considered to be fully commons compliant.**

### [Permissions worksheet](#)

[Do you have permission from all colleagues or collaborators to make data freely available according to the principles of the commons?](#)

[Do you have permission from the institution or company under whose auspices the work was performed to make this object freely available according to the principles of the commons?](#)

[Do you have permission from the funding agency or other regulatory authority to make this data public, e.g., an institutional IRB board?](#)

[Do you have informed consent from any research subjects that their data may be released according to the principles of the commons?](#)

1) Do you have permission from all colleagues or collaborators to make ‘research’ data freely available according to the principles of the commons?

- a) “Open access contributions must satisfy two conditions: The author(s) and right holder(s) of such contributions grant(s) to all users a free, irrevocable, worldwide, right of access to, and a license to copy, use, distribute, transmit and display the work publicly and to make and distribute derivative works, in any digital medium for any responsible purpose, subject to proper attribution of authorship (community standards, will continue to provide the mechanism for enforcement of proper attribution and responsible use of the published work, as they do now), as well as the right to make small numbers of printed copies for their personal

use.”-[Berlin Declaration on Open Access to Knowledge in the Sciences and Humanities](#), 2003.

- b) The **work** *must* be provided as a whole ~~and at no more than a reasonable one-time reproduction cost, and should be downloadable via the Internet without charge.~~ Any additional information necessary for license compliance (such as names of contributors required for compliance with attribution requirements) *must* also accompany the work.( [OKFN Open Definition](#))
- c) Researchers creating data typically hold [copyright in their data](#). Most research outputs – including spreadsheets, publications, reports and computer programs – fall under literary work and are therefore protected by copyright. Facts, however, cannot be copyrighted (see [Carroll, 2015](#), for more details). The creator is automatically the first copyright owner, unless there is a contract that assigns copyright differently or there is written transfer of copyright signed by the copyright owner. (see page 29: <http://www.data-archive.ac.uk/media/2894/managingsharing.pdf> )  
Researchers cannot share research data sources if they do not hold copyright or have permissions from their
- d) Also:  
[http://www.ands.org.au/\\_data/assets/pdf\\_file/0006/714930/Copyright.-data-and-licensing-.pdf](http://www.ands.org.au/_data/assets/pdf_file/0006/714930/Copyright.-data-and-licensing-.pdf)

## 2) Do you have permission from the institutions or companies under whose auspices the work was performed to make this object freely available according to the principles of the commons?

- a) **Would be nice to have something here about open access and your institutions.**

Universities and their tech transfer offices are still coming to terms with software and data as scholarly communications, rather than as research assets that can be potentially monetized ([Katz, 2015](#)) . The best way to ensure that your institution does not give you trouble over releasing software or data under an open license is to follow the “Open by default; open by design” principle, by inserting language in your grant proposal that you will be releasing any software or data generated under an open source license.

- b) **[Companies](#):** “ Academic researchers and their offices of sponsored projects should carefully review drafts of sponsored research agreements and clinical trial agreements to ensure they do not inappropriately restrict a researcher’s right to disseminate the results of the scientific research they have conducted. A researcher should ensure that the agreements do not permit commercial

sponsors to revise, delete, or suppress information generated by the researcher. The terms and timing of disclosing research results that are trade secrets should be incorporated into the sponsored research agreements, not negotiated at the time of publication” - [Carroll, 2015](#)

Can we point to documents? (perhaps OECD document on international data sharing)

RDA Legal interoperability doc.

### 3) Do you have permission from the funding agency or other regulatory authority to make this data public, e.g., an institutional IRB board?

Researchers should be aware of any [national policies](#) that govern the sharing of sensitive data.

Check with you Instit IRB board? Consent forms

And funder -

### 4) Do you have informed consent from any research subjects that their data may be released according to the principles of the commons?

Researchers are required to obtain informed consent from research subjects prior to collecting data and for the use of the data thereafter. They should also familiarize themselves with any national policies that govern the sharing of human subjects' data. Where possible, consent should take into account any future use of the data, such as publishing, preservation and re-use of the data. In general, it is better to avoid [putting in any restrictions](#) that may limit re-use of data, e.g., expiration periods or other qualifications that may limit free use of data in perpetuity.

- a) See [ICPSR's recommendations](#) for language to be used in consent forms.
- b) Note that the free use of data involving human subjects assumes that the data are de-identified and suitable for deposition into the public domain. In cases where privacy must be protected, the commons allows reasonable restrictions to be placed on access to the data. However, the commons seeks to avoid requiring specific uses of the data.

- c) [From](#) UK Data Archive: Research data — even sensitive and confidential data — can be shared ethically and legally if researchers pay attention, from the beginning of research, to three important aspects:
  - i) when gaining informed consent, include provision for data sharing
  - ii) where needed, protect people's identities by anonymising data •
  - iii) consider controlling access to data
  - iv) <http://open-brain-consent.readthedocs.io/en/master/>
- 4) [Portable legal consent overview](#)