

# BHBIA Data Analytics Guidelines

## Managing Databases

**These guidelines are part of a series designed to provide guidance on the legal and ethical issues impacting data analysts**

## INTRODUCTION

This guide highlights the key ethical and legal issues to be considered when managing or using databases, including:

- Ownership of data and data structures
- Data protection considerations

Note, a separate article dedicated to customer relationship management (CRM) data has been included in this series, so CRM is not discussed here.

## OWNERSHIP OF DATA AND DATA STRUCTURES

Different aspects of databases are protected by two pieces of legislation:

- The 1988 Copyrights, Designs and Patents Act
- The Copyrights and Rights in Databases Regulations in 1997.

Copyright law protects the creative intellectual property (IP) involved in the data structures and presentation of the data within the database, while the Database Rights protect the investment that has gone into compiling the data itself.

The Owner of a database is the person or company who initially take the initiative in obtaining or verifying its contents.

When a database is used by someone other than the Owner, the Owner has the right to prevent the copying of substantial parts of the database by asserting their Database Rights, even if the data is transformed into a completely different structure by the user.

Ownership of a database is protected for a period of 15 years from its initial creation, and this right is refreshed each time substantial changes are made to the database; in practice, making it possible to retain ongoing ownership.

### Using Database where not the owner

The Owner of a database can license it to others to use, such as list providers. Under the law, the database Owner has the right to restrict the purposes for which substantial extracts of the data are used, and these will be set out in your agreements with the database Owner. It is not permissible under the law for the Owner to restrict the use of insubstantial elements of the data so long as the user has lawful access to its contents.

Prior to sharing databases either within or outside of your company you should check to ensure that you have the appropriate rights and permissions to do so. For example some databases are provided on a limited user licence and further circulation of the data base or parts of a database within your company may breach the terms and conditions (T&Cs) of the your company's licence with the database provider.

### Creating your own database

Where databases are created by employees of companies in the course of their employment, the company is considered to be the database Owner. In this case, the database may be shared with others outside the company and the rights outlined above enjoyed.

When sharing a database with others outside your company, ensure that an appropriate agreement is put in place to determine its use. The company owning the database does not need to apply or register for Database Rights – they are automatically credited to the Owner under the 1997 regulations.

## DATA PROTECTION CONSIDERATIONS



Regardless of the ownership of the database, any personal data contained within it will be subject to data protection law (based on the General Data Protection Regulation (GDPR) and the Data Protection Act (DPA) 2018), explained in detail in other articles within this series.

In particular, attention should be paid to make sure the database:

- Contains accurate and up to date personal data
- Does not contain more personal data than is required (principle of minimisation)
- Is hosted within the European Union (EU) or other permissible states for data protection purposes
- Is only used for the purposes for which consent has been given, or for which an alternative legal basis for processing has been established
- Is kept securely with adequate controls to minimise the number of users with access to the personal data

Where third party companies have access to the database, contracts must be in place with those organisations to ensure compliance with data protection law. Similarly, any third parties provided with personal data or able to access it through the database must do so under a contract covering their use of the data.

**Tip:** Consider whether exports of data need to contain personal data – if they do not, and any personal data is omitted, this renders the data anonymous and data protection requirements no longer apply.

**For further information see:**

The Information Commissioners Office website

<https://ico.org.uk/for-organisations/guide-to-data-protection/>

The Copyright and Rights in Databases Regulations 1997

<http://www.legislation.gov.uk/ukxi/1997/3032/made>

*This guidance is provided by the BHBIA for information purposes only and is not intended and should not be construed as regulatory or legal advice. It does not cover all legislative and regulatory requirements pertaining to Members and it is the responsibility of all Members to familiarise themselves with these.*

The Guidelines are provided by the Data Analytics Guidelines Team within the BHBIA's Ethics & Compliance Committee,

Jason Bryant, Data Analytics Team Lead

Darren Kottler, Data Analytics Team

Klaas Breukel, Data Analytics Team

Catherine Ayland, BHBIA Ethics Advisor

If you have any queries about these Guidelines, please visit [www.bhbia.org.uk](http://www.bhbia.org.uk) and submit your query via 'My BHBIA' dashboard. Please note: this ad hoc advisory service is available to full BHBIA members only.

British Healthcare Business Intelligence Association

Ground Floor, 4 Victoria Square, St. Albans, Herts AL1 3TF

t: 01727 896085 • [admin@bhbia.org.uk](mailto:admin@bhbia.org.uk) • [www.bhbia.org.uk](http://www.bhbia.org.uk)

A Private Limited Company Registered in England and Wales No: 9244455