

BHBIA Data Analytics Guidelines

Open Access Data / Open Sources

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

INTRODUCTION

Open data also referred to as Public Access Data has gained in popularity, with developments such as 'data.gov.uk' – the open-data government initiative and the availability of the NHS Digital Hospital Episode Statistics, all which make data available that is particularly relevant to the pharmaceutical and healthcare industry under open licence.

THE OPEN DATA LICENCE

Open data must have a licence that states that it is 'open data', without a licence the data cannot be re-used in any way. The licence will state the uses that the data may be used for.



OPEN DATA IS PROTECTED

Whilst the open licence is designed to enable everyone to use the data for the benefit of the wider society, various laws and legislation still apply to open data:

- Copyright Laws
- Database Rights
- And where personal data is available Data Protection law (based upon the General Data Protection Regulation (GDPR)/Data Protection Act (DPA) 2018) and the Freedom of Information Act 2000 apply.

WHAT DOES THE OPEN GOVERNMENT DATA LICENCE COVER?

This licence is designed to enable anyone to use the data to the benefit of the wider society. Most have few restrictions, but some do not allow commercial use, so you should check carefully.

You are free to:

- Copy, publish, distribute and transmit the information.
- Adapt the information.
- Exploit the information commercially and non-commercially; for example, by combining it with other information, or by including it in your own product or application.

You must (when you do any of the above):

- Acknowledge the source of the information in your product or application by including or linking to any attribution statement specific to the Information Provider(s) and, where possible, provide a link to this licence.

But beware, the use of personal data has additional caveats!

The Open Government Licence does not cover the use of personal data. This is because any re-use of personal data must comply with data protection law. This regulation defines how personal data about identifiable, living people can be processed, and additional information on these requirements is available as part of the BHRIA guidelines.

NHS Digital – HOSPITAL EPISODES STATISTICS



Hospital Episodes Statistics (HES) is a data warehouse containing details of all admissions, outpatient appointments and A&E attendances at NHS hospitals in England. The data are provided and licenced through NHS Digital, the organisation responsible for the guardianship of NHS data in England.

This data is collected during a patient's time at hospital and is submitted to allow hospitals to be paid for the care they deliver. HES data is designed to enable secondary use, that is use for non-clinical purposes, of this administrative data. This is known within the NHS as SUS.

- There are numerous datasets and reports available to download.
- They are easy to find and can be downloaded quickly and easily.
- Under the Open Government Licence you are able to use and re-use the publicly accessible information on this website free of charge.
- Re-use includes copying, issuing copies to the public, publishing, broadcasting and translating into other languages and its subsequent use in commercial or non-commercial enterprise.

BUT, permission to re-use is subject to the following conditions

- You must not use the information for the principal purpose of advertising to promote a particular product or service;
- Ensure that your use of the information does not breach the Privacy and Electronic Communications (EC Directive) Regulations 2003 or Data Protection law.

Record level patient data (whether pseudonymised or not) provided by NHS Digital is restricted to use for certain 'purposes'.

- If you applied for the data directly, the purpose(s) will be identified in your Data Sharing Agreement.
- If you are sub-licensing the data through an intermediary, you will be limited to using the data for the purpose(s) they have been cleared for.
- For information on which data intermediary can provide information for the purpose you require, NHS Digital publishes a list of current releases which set out the purposes for which each organisation can use the data.

It is important to note, no agency will knowingly enable you to use this data for marketing purposes such as targeting, segmentation etc.

For further information see:

The Government Intellectual Property Office
www.gov.uk/government/organisations/intellectual-property-office

The Information Commissioners Office website
<https://ico.org.uk/for-organisations/guide-to-data-protection/>

BH&IA Privacy & Data Protection
<https://www.bhbia.org.uk/guidelines-and-legislation/privacy-data>

Health & Social Care Information Centre
<http://www.hscic.gov.uk/hesdata>

This guidance is provided by the BH&IA 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 BH&IA's Ethics & Compliance Committee,

*Jason Bryant, Data Analytics Team Lead
Darren Kottler, Data Analytics Team
Klaas Breukel, Data Analytics Team
Catherine Ayland, BH&IA Ethics Advisor*

If you have any queries about these Guidelines, please visit www.bhbia.org.uk and submit your query via 'My BH&IA Dashboard'. Please note: this ad hoc advisory service is available to full BH&IA members only.

British Healthcare Business Intelligence Association
Ground Floor, 4 Victoria Square, St. Albans, Herts AL1 3TF
t: 01727 896085 • admin@bhbia.org.uk • www.bhbia.org.uk

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