



NERC Policy on Licensing and Charging for Information

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Policy Statement

NERC will make its information available through the following means:

- View only - access limited to view only with no copy or re-use permissions
- Open data - freely available for use under the Open Government Licence (OGL)
- Re-use Licencing - Information Products for which a charge may be levied
- NERC Services - contractual arrangements

All information held by NERC are considered to be public good and they will normally be made available for others to use and re-use.

NERC will make its Environmental Data available as View Only, Open Data and under Re-use licencing free of charge apart from special cases detailed (see section 4).

NERC will make its Information Products available as View Only, Open Data, under Re-use licencing and services subject to charges as detailed (see section 4).

Charges and licencing arrangements will be clearly explained.

Charges levied will be compliant with Government legislation and guidance.

Charges will be levied in a consistent manner.

1. Policy Requirement

NERC has a policy on licencing and charging for information in order to:

- Explain why, when and how NERC will apply charges (for information)
- Enable any charges to be applied transparently and consistently
- Meet relevant legislation and Government guidance on charging for information on open data provision and on licencing
- Protect NERC's intellectual property rights and intellectual property rights of third parties.

The policy will be reviewed at regular intervals to ensure it continues to reflect the Government's policies on licencing and charging and NERC's continuing commitment to openness and transparency.

Relevant legislation and government guidance includes:

[HM Treasury 'Managing Public Money \(published 2007, updated 2012\)](#)

[HM Government Open Data White Paper 'Unleashing the Potential' \(2012\)](#)

[Department for Business Innovation and Skills \(BIS\) Open Data Strategy 2014 – 16](#)

[Environmental Information Regulations \(2004\)](#)

[Information Commissioner's Office: The Guide to the Environmental Information Regulations](#)

[Guidance on charging from the Information Commissioner's Office "Charging for environmental information"](#)

[The Re-use of Public Sector Information Regulations 2015](#)

2. How NERC releases its Information

NERC makes its information available through the following means:

- **View-only**, where an applicant or viewer is given access but strictly limited to viewing the information only and is not given permission to copy it or to reuse it except to the extent that a re-use licence is not legally required. For example, a viewer is not permitted to copy it or re-use it. Although a license is not required by law, NERC will in such cases encourage a viewer to take out a licence to give the viewer more detailed instructions and provide more flexibility on what can and cannot be done with the information. NERC encourages viewers to take their own legal advice to determine the extent to which they can copy the information.

View only access meets NERC's obligations under the Freedom of Information Act and Environmental Information Regulations to provide access to information, as well as the EU INSPIRE Directive. A viewer may need legal advice to determine the limits of, for example, intellectual property infringement and fair dealing.

- **Open data.** Most of NERC's information, and in particular its data holdings, are made freely available for all uses under the [Open Government Licence](#) which grants a user "open" rights to use and re-use the information subject only to proper acknowledgement. NERC's software is generally made available under similar licences e.g. the [GNU – General Public Licence](#) but often NERC will retain the executable source code in order that it can continue to develop the software for the public good.

Note that some data, particularly personal data, may have confidentiality issues and may need special conditions which are not available with the OGL.

- **Re-Use Licensing.** NERC defines re-use as any use other than that for which the information was originally created. NERC wishes to provide enhanced data to its customers and so has produced "Information Products" to make its Environmental Data more accessible and user friendly. In order to be able to continue to maintain and develop Information Products, NERC reserves the right to charge for re-use rights whilst, subject to exceptions (see sections 6, 8, 9 &10) offering free re-use of the underlying data and free view only rights to its Information Products.
- **NERC Services** such as where NERC staff are contracted to carry out our professional services, for example, compiling and refining data, creating bespoke products, reports, etc., all according to a customer or user requirements.

3. Defining Environmental Data and Information Products

NERC makes a distinction between Environmental Data and Information Products where:

- **Environmental Data** are individual items or records (both digital and analogue) usually obtained by measurement, observation or modelling of the natural world and impacts of humans upon it, including all the necessary calibration and quality control elements; and
- **Information Products** are created by adding another level of intellectual input that refines or adds value to the original Environmental Data through interpretation and/or combination with other data or Information Products, or creates a new product.

This approach reflects current UK Government Policy and Guidance.

4. Key charging principles

All information held by NERC is considered to be a public good and they will normally be made available for others to use and re-use.

NERC will generally make its Environmental Data available as View-only, Open Data and under Re-use licensing terms free of charge, apart from occasions when charges may be applied as set out in section 6.

NERC will make its Information Products available as View-only, Open Data, under Re-use licensing and Services. It reserves the right to charge for the supply and use of its Information Products for re-use and as services, especially where they are required for commercial re-use applications. Where it does charge the charges and licensing arrangements will be clearly explained, compliant with Government legislation and guidance, and applied in a consistent manner.

NERC policy is consistent with the Freedom of Information Act and Data Protection (Appropriate Limit and Fees) Regulations 2004. As a public authority, NERC is bound by statutory requirements of the Act which gives a general right of access to recorded information held by NERC, subject to certain conditions and exemptions. In most cases, the costs of complying with requests will be met by NERC. However, the right of access to information needs to be balanced with our need to continue to carry out our public functions. The Fees Regulations do not apply to the Environmental Information Regulations 2004. Under the Environmental Information Regulations, NERC may make a reasonable charge for supplying information except where access is provided by way of inspection on the premises or for inspection of a public register.

NERC and its Centres are not signatories to the [Reuse of Public Sector Information Regulations 2015](#) (PSI) although NERC supports the principles of the legislation, including transparency, making available its information in easy-to-use and read format. Furthermore, where charges are levied most will only be a PSI “cost recovery” level, although NERC reserves the right to make a reasonable (rate of return on its investment in information).

Where necessary NERC will pass on charges in order to meet third-party and contractual obligations.

For NERC to not charge would inhibit NERC’s ability to:

- Maintain high quality information which is considered fit for purpose and a public good;
- Provide Open Data and Environmental Data free of charge.

5. Why does NERC either issue licences or request use of licences for Use and Re-use of its information?

Almost all information supplied by NERC is accompanied by *terms of use* or a *licence* in order to achieve one or more of the following:

- Ensure that NERC information are safe, remain secure, are managed effectively and used appropriately;
- Assist NERC in managing its intellectual property rights and ensuring that due copyright acknowledgement and relevant citation is given;
- Protect third party intellectual property rights and meet NERC’s contractual obligations;
- Explain NERC’s limits of liability for the information it supplies;
- Ensure that where NERC information is intended to be re-used appropriate terms and conditions are described, including any usage or royalty charges that may apply.

Licences for information are related to the use to which the product is being put and will be for a determined period.

The range of licences used by NERC is designed to be simple and easy to use.

6. Special cases where charges may apply to Environmental Data

NERC does not charge for access to Environmental Data, but may charge for reuse. There may be occasions where NERC charges for data where they are newly created for a customer and provided as part of NERC Services and in the following special cases:

- Where a request involves third party materials for which NERC or its licensees are obliged to pay a fee;

- Where a request is large and/or complex (evaluated by NERC on a case-by-case basis) and charges at rates permitted by Freedom of Information legislation –
 - Where there is a significant degree of geographical complexity to the request (e.g. multiple, spatially extensive or intricate areas) or where a large proportion of a dataset is requested, which results in significant processing effort;
 - Where the type of materials requested are not readily accessible and require significant effort to extract (e.g. for analogue materials or digital materials in non-standard formats);
 - Where the delivery method requires a significant degree of manual intervention by NERC staff e.g. where online automated delivery is not possible and postal, e-mail or on-disk delivery is therefore required, or during user visits to NERC data centres;
 - Where significant use of consumables is required to complete a request (e.g. disks or other delivery media).

Where information is provided as “view-only” under FOI legislation NERC will make no charges apart from those permitted under that legislation, and in many cases there may be no charges at all. At all other times NERC will endeavour to minimise any charges for the supply of information. In circumstances where charges are required these will be clearly explained to the requester.

7. How NERC sets its charges for Re-use and Services in relation to its Information

NERC’s charges are based on relevant UK and EU Government legislation, guidance and principles. This includes, but is not restricted to, the Freedom of information Act 2000, the Environmental Information Regulations 2004, the HM Treasury managing Public Money guidance, the UK INSPIRE Regulations, and Protection of Freedoms Act 2010, clause 10. NERC will clearly explain the required charges and will publish procedures for dealing with any queries or complaints regarding these charges (link or reference required to this guidance). The level of the charge may depend on the specific information requested, the amount of it provided, the method of access, and the use to which it will be put. Charges will be applied fairly and without discrimination for equivalent uses of the same data, with no exclusive supply. The charging and licensing approach for some of the main user sectors are explained in the following sections (user requests relating to sectors not described here will be assessed on a case-by-case basis).

Charges for information when made will be set so that NERC can cover the marginal cost of maintenance, improvement and delivery of an Information Product. An additional charge will normally be made in order to provide a reasonable return on NERC’s initial investment.

In addition, where information provided by NERC contains and/or have used third party materials in their derivation, NERC may be required to recover charges levied by the third party.

8. Use of NERC information for academic teaching and research

NERC encourages the use of its information for teaching and research, where the research is not for commercial gain and any resulting research papers are made publicly available with full acknowledgement of NERC intellectual property. In such cases NERC considers the use to be re-use (see section 2 above). Academic use is generally aimed at Higher and Further Education institutions; however, schools are also eligible.

For such academic teaching and research, NERC will, therefore, make its information available without charge except for in the same special cases as outlined above for Environmental Data (para ref), plus the additional special cases of:

- Where the research institution requesting use of information is competing for research funding under a competitive tender which is not restricted to academic research.
- Where an Information Product has developed from commercial funding (with no recourse to public funds).

To support this flexible approach and to ensure that information provided for academic teaching and research is used appropriately and not for commercial gain, NERC will require institutions using NERC information for academic teaching and research purposes to:

- Agree to licence terms and conditions binding the institution to use the Information Products solely for bona fide academic teaching and research;
- Ensure that any students and/or non-institution staff with access are legally bound by the institution to observe the terms and conditions of the licence;
- Have an appropriate academic supervisor managing the Information Product and its intended use by research students;
- Acknowledge or cite NERC and other intellectual property right holders when it uses the Information Product;
- Clearly explain the use to which the Information Product will be put, to enable NERC to evaluate whether a request is reasonable, particularly when it appears large and/or complex (according to the same definitions described for Environmental Data – section 6 above).

Where any NERC information is used for the creation of research papers, NERC will only be concerned with the use of its Information Products where they are made public in a copy derived product.

NERC defines 'copy derived' to mean that the derived data sets includes a copy of the original information as a whole or any substantial part of it, or that the derived data set can be reverse engineered to create a copy of the original information. Non-copy derived means that the derived data set does not include a copy of the original information as a whole or any substantial part of it (as defined by Copyright legislation) and the derived data set cannot be reverse engineered to create a copy of the original information.

9. Use of NERC Information by private individuals

NERC meets its freedom of information obligations by providing access to its information as view-only. Charges may be made for the re-use of Information Products, for example, where expert interpretation and guidance is required to explain their correct use and avoid misinterpretation. In such cases these will normally be NERC Services. Other Information Products may be available without charge to private individuals for their own private use, but limited by the same special cases as outlined for Environmental Data in section 6.

NERC may ask individuals to describe their intended use for requested products, to ensure that whenever possible data and products are supplied at the lowest possible charge. It is accepted that requesters do not need to state a reason when making freedom of information requests. View only access is provided without the need to know the intended use.

10. Use of NERC Information for the Purposes of Development and Innovation

NERC encourages the use of its information for the development of commercial applications and products by any individual or organisation. To promote this, NERC offers a variety of licence agreements to cover the range from commercial innovation through to full application or product implementation.

Where any applications or products are developed from NERC Information Products, NERC will issue re-use licences for the use of licensees' copy and non-copy derived products, and reserves the right to charge licence fees and/or royalties dependent on the use.

11. Use of NERC Information Products by public authorities for public task

NERC will allow other public bodies to re-use NERC's Information Products for public task purposes. To do so NERC will issue a licence with appropriate terms and conditions and will set charges according to the principles described above. In the case of there being any doubt as to whether the proposed use is within the other body's public task, NERC will ask the other body to draw up and publish a statement of its public task that meets the public task principles and [guidance issued by The National Archives](#) in order to clarify the position.

Revision history

Version	Date	Comment
1.0	October 2012	Released as NERC policy
1.1	19/06/15	First draft by Chris Luton, BGS
1.2	24/07/15	Second draft following review by Mark Hinder NERC – dividing policy statements and accompanying guidance into different sections. Also incorporating footnotes into main text
1.3	17/08/15	Third draft following review by David Hyett, NERC
1.4	02/09/16	Fourth draft incorporating comments from Chris Luton and Ieuan Hopkins
1.5	30/09/16	Final draft - amendment of relevant legislation and government guidance by Max Volpi