

DataTrain Archaeology Module 4

Rights and Research Data

Presentation Notes

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Slide 1 Rights and Research Data

This session is a very brief introduction to some of the legal and ethical issues relating to research data and in particular to digital research data.

The focus is on how these issues affect how you look after your research data, or to use the jargon, your own **Research Data Management**.

Slide 2 Rights and Research Data – useful stuff to know

While these issues are not things that we will have to deal with every day in our research they are very important, and knowing the basics and where to look for further information is very useful.

Even doing a PhD you will have to think about these issues. Doctoral theses are now put online as E-Theses and it is best to think about the implications of this in terms of copyright early on. We'll talk in more detail about E-these later on. For the moment, this session will run through the range of rights issues including: codes of conduct, personal and sensitive personal data, Intellectual Property Rights, Copyright, and Freedom of Information. We'll then have group discussion where you will discuss amongst yourselves how these issues might affect your research project.



Slide 3 Research Data and Codes of Conduct

As way of an introduction it is useful to remind ourselves of what the ethical Codes of Conduct have to say about rights and access to archaeological data.

The Institute for Archaeologists (UK) states that one of the standards of archaeological research and practice is the production of an “*accessible archive*”.

And, “*the archaeologist has responsibility for making available the results of archaeological work with reasonable dispatch*” – in other words in good time.

To be able to do this we need to ensure that we have authority to make public and open access our research data, while at the same time not disregarding other people’s rights. One of the main issues in this respect is Personal Data.

Slide 4 Personal and Sensitive Personal Data

Some of the data in an archaeology project may contain data about living people. These may concern project members or land owners where the work was carried out, or museum or government officials the project works with or local interest groups, school groups, volunteers, students, metal detector groups or indigenous community groups working or being interviewed by the project.

Some of these data may be an integral part of the archaeological project archive, for example interviews with local groups about cultural heritage.

Some may not be directly relevant for the interpretation of the data, but are valuable contextual data in a historical perspective to understand the history of a project, or why certain methods were used over others, or why a particular valley was surveyed and not another one.

While these data are important to archive, it must be handled carefully and in line with the Data Protection Act.

The Archaeology Data Service has very good guidelines on these issues.

Slide 5 A The Data Protection Act

Very briefly, within the Data Protection Act (DPA) a distinction is made between 'Personal Data' and 'Sensitive Personal Data' of living individuals.

Personal Data are data relating to living individuals which identifies them, for example by their name, age, sex, address, etc.

Sensitive Personal Data are data that may be used to incriminate a person, for example their race, ethnic origin, political opinion, religious beliefs, physical/mental health, sexual orientation, criminal proceedings or convictions.

Once a person is dead – these data are not covered by the DPA.

If your research project does collect personal data then you must treat these data with an appropriate level of security and not leave these files lying around where they are easily found by others.

Slide 5 B “Confidential Personal Data”

The Archaeology Data Service Guidelines talks about personal data which may need to be confidential.

If these types of personal data are to be included in project archives, then consent forms should be completed and signed by participants.

Further information can be found on the ADS website.

Slide 6 IPR and Research Data

Moving on to Intellectual Property Rights - or IPR as it commonly referred to.

- *If somebody says they know that they understand IPR and Copyright, don't believe them, they probably are wrong!*

This is a nice saying that is often used at the beginning of IPR workshops.

IPR is a complicated beast but that does not mean we should be afraid of it.

[Press key for sub-headings:]

- Important disclaimer – what follows is a basic introduction.

Again, these slides are intended as a very brief overview.

- These issues are important in regard to research data.

However, as said before, these issues are important with regards to research data.

- Think how they may affect your research and research data.

And it is important to think how they might affect your research.

- Consult further information –digital repository websites, publishers' copyright policies, contract of employment.

And again, consult the relevant places for particular information.

For example, if you are carrying out your PhD as part of a larger project, or carrying out consultancy research (material analysis for example), it is important to understand the terms of your contract with regards to who owns the IPR of your work and research data.

Slide 7 IPR and Research Data

Very broadly IPR are “...rights granted to creators and owners of works that are the result of human intellectual creativity” (jisclegal.ac.uk)

There are four major types of IPR: Copyright – which is the one that most concerns us here today, and the three other groups of IPR are: Designs, Patents, and Trade Marks.

[Press key]

People also have Moral Rights which can affect research data, in terms of being acknowledged for your work, and the right to object to derogatory treatment of your work.

Slide 8 Copyright Quiz – to wake people up.

[Press key for answers to each question. Embellish with personal anecdotes]

1. The ownership of copyright is the same for creators of work regardless of their academic status (e.g. students or lecturers), employed positions, or self-employed?

False: Depends on the contract of employment or agreement for commissioned works. Unless otherwise stated, students own the copyright on their work.

2. Intellectual Property Rights can be bought, sold, rented, gifted and bequeathed?

True: Just because the creator of the work has died does not mean that their work is free of copyright.

3. Copyright requires registration?

False: The act of creating a piece of work, writing something down, or recording an interview or song, the creator(s) of the work by default hold the right to copy the work in the future. These rights can be given away or signed away for example in an employment contract or sold.

4. Copyright protection lasts forever?

False: But there are different types of copyright, which will be listed in moment, which last for different lengths of time – usually a number of years after the death of the creator of the work.

5. Most web content can be re-used freely?

False: Unless the material is accompanied by license allowing reuse, for example the Creative Commons License, then the default position is that material CANNOT be copied and re-used in other work, for example in presentations. (But in reality we all do this anyway).

6. The onus of responsibility lies with the user of a work to get permission, even if the rights holder is unknown or cannot be traced?

True: It is the responsibility of the person wishing to use/re-produce another work to obtain permission.

Slide 9 Copyright and Research Data

This slide summarises some of the key Copyright aspects:

- Copyright protects the expression of an idea – and **not the idea itself**.
 - Data are not covered by copyright, **but the arrangement of data in a spreadsheet or database is**. Raw numbers or machine readings are not generally covered, but copyright may well exist in research data if it is substantial enough (e.g. an interview transcript).
 - Copyright does not need to be registered, and **it is automatically assigned when a creative work is produced**.
 - Different forms of creative work are copyrighted for different lengths of time, (which will be summarised in the next slide.)
 - Different institutions have different copyright clauses in their employment contracts. In terms of members of institutions - students are not employees so enjoy copyright in their own work. Things can become more complicated when students are employed on projects and there are external funders or partners involved in projects.
 - Different countries have different copyright laws, which is important when thinking about the outputs of international projects.
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Slide 10 Creative works in fixed material form

There are eight types of creative work, with different conditions and/or that last different lengths of time. Can we name any?

[Press key for drop transition for gradual appearance of the eight types of creative works and their respective terms of copyright. Please change transition style if this one is too crazy for you]

Further useful notes:

- Copyright covers both published literary works: books, journal articles, etc. And unpublished works for example letters and diaries, etc. Pre-1988 the copyright on unpublished works lasted forever. In 1988 this was changed to 50 years after the death of the author. Thus many older unpublished works are coming out of copyright in 2039.
- Many artistic works (photographs, illustrations, etc.) are covered by copyright for 70 years after the creator dies.
- If it is not known who made a published image then copyright lasts 70 years from when it was made/first published.
- When museums ask for payment for photographs of artefacts they hold, it is not copyright over the material that they are exerting, rather their ownership rights and the creation of the image of the artefact. Read the small print in any agreements for what you can or can not do in the future with the image.

[Press key for animation]

The four types of creative works that academics most often deal with are: literary, artistic, sound recordings, and typographic.

Slide 11 Copyright - Online Guidelines

Detailed information on Copyright can be obtained from a number of sources:

- University Guidelines.
 - JISC Legal, is a government funded advisory body for legal matters with educational resources in further and higher education and has up to date information particularly good for researchers putting together teaching material will be open-access.
 - Intellectual Property Office – for undigested government information.
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Slide 12 Freedom of Information and Research Data

The Freedom of Information Act does include access to research data. Even though it is unlikely that many of you will need to worry about it in your careers, a brief look at what it means is useful to give you the bigger picture. This slide summarises the salient points.

In terms of data that has been created by publically funded projects, then these data must be made public and open access on completion of the project. The exception to this is sensitive data to which access may be restricted.

Slide 13 Back to the Future

Rights issues with research data need to be considered at the outset of a project.

The sooner these issues are thought about the better.

At least thinking about these issues will identify the actions that need to be taken at some point in the course of a project.

- It is important to identify the ‘ownership’ of your research data – both physical and digital: is this a particular person, an institution, or professional body?
- What will happen to the data once you have finished your thesis?
- If you intend to deposit these data with a digital repository will you have authority to do this?

If your project does include a significant quantity of sensitive data and you will be archiving these data it is best to talk with the repository as soon as possible.

Slide 14 Exercise 4: Group Discussion

In groups of three or four spend a few minutes each to discuss your research data in terms of the following questions:

- What data will / could be archived?
 - Do you have authority to deposit these data?
 - What steps will you need to carry out to do this?
 - Do any ethical issues arise with your research data?
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Slide 15 Acknowledgements

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Slide 4: Screenshot courtesy of the Archaeology Data Service.

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