

Introduction



LEGAL ALERT

Copyright and other rights laws vary between different countries. You must be aware of this and take it into account when using your collections.

In the UK the legislative framework is built on the *Copyright Designs and Patents Act 1988*, recent amendments, previous copyright Acts (eg the 1956 and 1911 Copyright Acts), case law, and the UK as a signatory of various international treaties and conventions.

Many objects in your organisation's collections have legal rights associated with them which affect how they can be used. These rights are separate from the right of ownership which the organisation obtains when acquiring objects. **Copyright** is the best known of these rights and is one of a set of rights which are called **Intellectual Property Rights** (IPRs).

Copyright in the UK has been around since the reign of Queen Anne when "*An Act for the Encouragement of Learning, by vesting the Copies of Printed Books in the Authors or purchasers of such Copies, during the Times therein mentioned*" became law in 1710.

Since 1710 other countries have developed their own copyright laws. They have also signed up to international treaties and conventions. One of these is the *Berne Convention*, which provides reciprocal agreements over copyright and basic frameworks for protection. Countries in Europe have adopted their own laws based on a suite of changes outlined in a number of European directives. These include provisions for visually impaired users and reinforcement of the rights of creators.

The impact of new technology and new ways for the creation, use and sharing of digital content means that copyright law is likely to undergo many more changes. Therefore it is important you have a proper understanding of the current legal environment and regularly review this in order to keep up with developments.



TOP TIP

You need only manage copyright issues for those objects and other things in your collections that are one of eight types of 'work' protected by copyright (see the 'What is protected by copyright' section). However there may be other rights associated with objects that need to be managed as well.

Why does copyright matter?

Everybody working with and using your collections has a legal obligation to respect the rights of others. This applies equally to paid members of staff, volunteers, students, contractors, researchers and members of the public.

Your organisation's obligations to respect copyright are similar to your role as the guardian of the physical collection. This puts the measures you take to store, preserve, manage and provide access to your collections at the same level as those you take to secure the necessary permissions to use and promote them. Ethically it is important to recognise that the intellectual effort made to create original works needs to be rewarded.

There are likely to be objects and other materials in your collections where the copyright belongs to someone else. You will also be the owner of the copyright of other objects and materials eg photographs, descriptive texts, catalogues and websites. Therefore you should have the same standards of care for the rights of others.

Rights management is a part of Collections Management practice and standards. Museums have a standard for Collection Management called *SPECTRUM: the UK Collections Management Standard*, which has a separate 'procedure' for it. Libraries and archives may find it useful as a reference when they acquire objects. It makes it clear that rights are important to take into account in the other procedures that your organisation carries out.



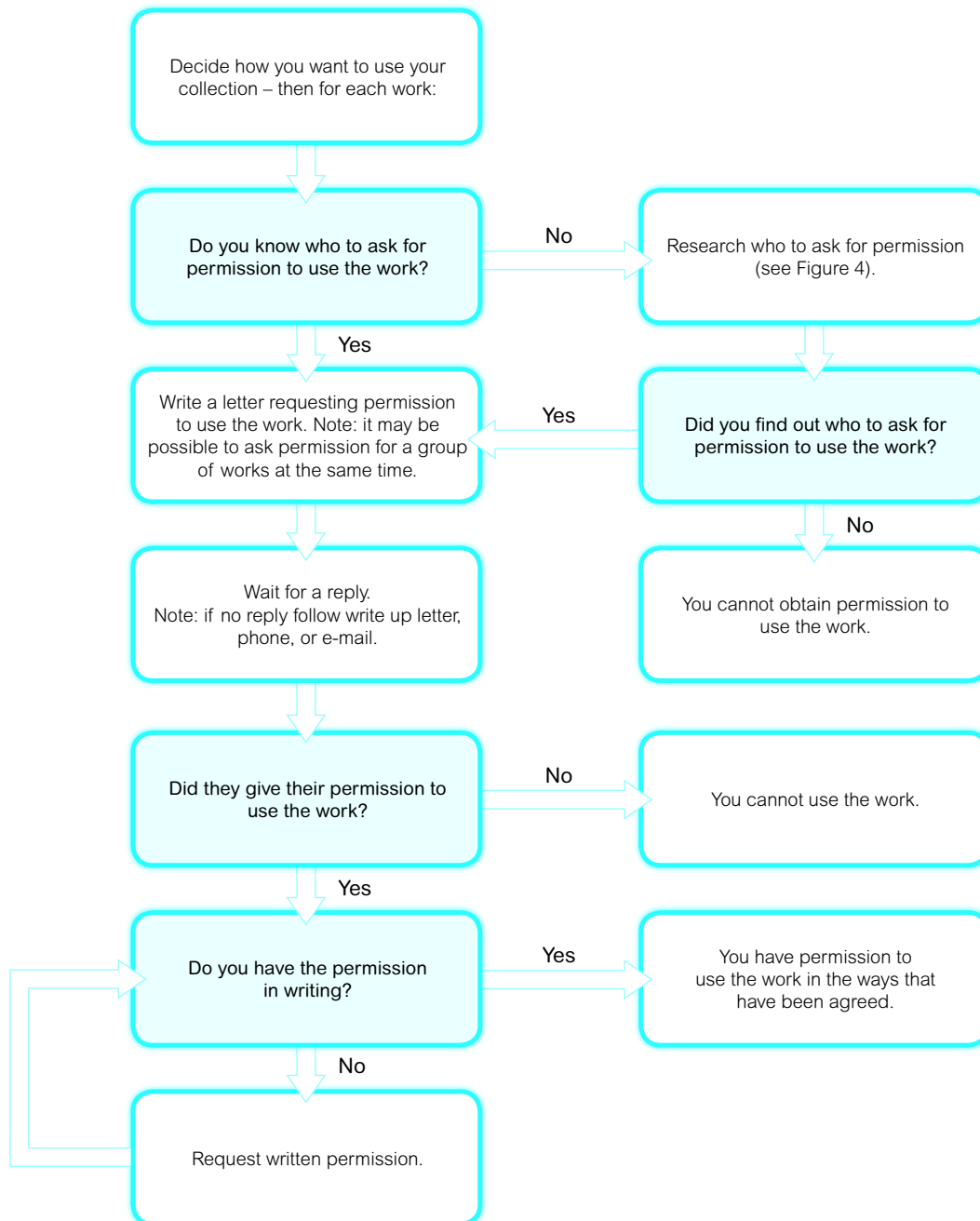
BEWARE

Remember it is likely that your organisation will also create works as a result of you caring for your collections and presenting them to your users. Copyright and other rights for these needs to be managed too.

- Understand what rights are and how they are a part of your collections' management;
- Know their responsibilities towards rights clearance and rights management;
- Realise the benefits and opportunities leading from the identification and exploitation of rights which are generated.

Figure 5

Overview of the process of getting the permissions to use a work



Protecting rights

Why do you need to protect rights?

Protecting rights belonging to third parties is important because of the potential legal and reputational risks to your organisation if they are infringed. Protecting your rights will maximise your opportunities for the commercial exploitation that those rights allow. It will also ensure reputational risks to your organisation associated with use of your rights are kept to a minimum.

How to protect rights

The following practices can help you to protect rights:

- Communicate to staff, visitors, volunteers and others who interact with your collections the importance of respecting your rights, and those belonging to the third parties;
- Post clear notices around the photocopiers, scanners and computers about what can and cannot be copied, and how much can be copied;
- Post clear notices regarding public photography of displayed objects and content;
- Make it clear to visitors to your collections online what they can and cannot do with images – make it easy for them to do the right thing. Useful tools include: credit lines and web statements; and online licences such as Creative Commons.
- Staff or volunteers must be aware of the rights associated with the material they are proposing to use;
- Develop a copyright or IPR policy which clearly outlines roles and responsibilities of staff and other people with a connection to your organisation, supported by clear procedures;
- Include basic rights awareness as part of the induction of new staff;
- Develop and implement the steps to be taken in response to an infringement by:
 - Your organisation of other's rights;
 - Others of your organisation's rights;
 - Users of those third parties rights that you have been licensed to use.



BEWARE

Creative Commons (<http://creativecommons.org>) or similar open licences are irrevocable and can **only** be applied if you are the actual rights holder or have permission from the rights holder to grant the uses outlined within the licence agreement.

Protecting digital content

Protecting digital content from illegal or inappropriate reuse and re-purposing is a crucial part of your organisation's online activity. This will help ensure that you can securely deliver digital content, protect third party rights, and create income generating opportunities.

How much protection is needed varies according to, for example:

- The type of content displayed (ie image, audio, visual or text);
- What the content is used for;
- Budgetary allowances for investment in protecting online content;
- The commercial value and/or academic/cultural value of the digital content;
- Who owns the rights in the content;
- Conditions in licence agreements;
- Whether the users are known or 'random'.

Techniques used to protect digital content are:

Credit lines

These provide the acknowledgement of the ownership of rights in digital content. They can also be linked directly to a webpage which can further emphasise the ownership of rights. The use of the copyright symbol (©) is not a requirement of copyright protection. However according to international conventions, if it is used, it should be followed by the name of the rights holder and the year of publication. For example: © Collections Trust, 2009.



TOP TIP

You can use licences to define the range of protection measures that you require for your digital content.