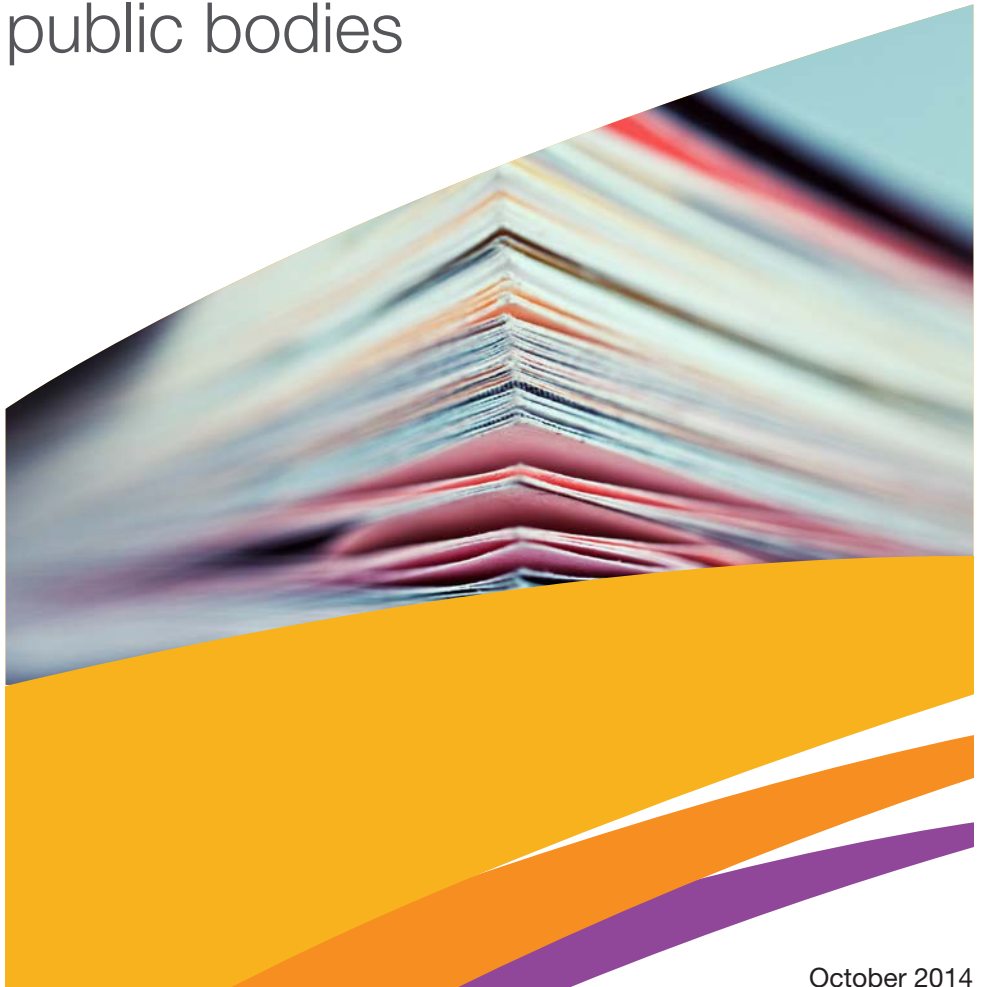




Intellectual
Property
Office

Exceptions to copyright: Copyright material held by public bodies



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Copyright protects literary, dramatic, musical and artistic works as well as films, sound recordings, book layouts, and broadcasts. If you want to copy or use a copyright work then you usually have to get permission from the copyright owner, but there are a few exceptions where you can copy or use part or all of a copyright work without permission. Where a work contains a performance, the performer will also have rights over how the work is used. The exceptions to copyright also apply to these related rights.

The law on these exceptions has changed in a number of small but important ways, to make our copyright system better suited to the digital age. These changes affect how you can use content like books, music, films and photographs.

The majority of uses of copyright materials continue to require permission from copyright owners, so you should be careful when considering whether you can rely on an exception, and if in doubt you should seek legal advice. Copyright infringement is against the law. Deliberate infringement on a commercial scale may lead to a criminal prosecution, so you should take care when using copyright materials. Further guidance on copyright is available on the GOV.UK website.



Who should read this guidance?

Public Bodies; keepers of statutory registers; members of the public seeking certain information; anyone involved in communicating with any public body and administrators, such as local government offices.

What's changed?

Some material held by public bodies will have been submitted by third parties, such as by members of the public, businesses or researchers. For example this could be material submitted to a public body, such as a local authority, as part of a duty to capture information required for a public register.

Where a public body holds third party material – that is, material in which someone other than the public body owns the copyright – the general position has been that an individual could either view that material in person, or a public body could copy and distribute it on an individual basis. The law did not generally allow such material to be published online without permission from the rights holders.

Public bodies and keepers of statutory registers are now allowed to proactively share copyright material online without seeking permission, as long as it is not commercially available. The same applies to material that is already available for public inspection through some statutory mechanism, such as local planning applications.

This change does not permit public bodies to publish material that is commercially available to buy or license (such as academic articles). In these circumstances any public body would still need to seek the permission of the rights holder.

Another change in this area applies to certain copyright works that have been communicated to the Crown with the permission of the copyright owner and in the course of public business. This exception applies only to literary, dramatic, musical or artistic works that have not previously been published.

The change to the law will make it easier for the public to access information, saving both time and expense for public bodies and individuals.

FAQ

I am an Official/Officer of a public body who deals with freedom of information requests. What do the changes to the copyright exception allow me to do over and above what was already permitted?

Requests for information, as opposed to copyright works in particular forms, e.g. written documents, continue to be governed by the Freedom of Information Act. The changes to copyright allows public bodies to include on their websites certain third party copyright material in which someone other than the public body owns the copyright, eg businesses and members of the public. It also enables sharing of that material through email, as well as the existing mechanism of issuing paper copies.

As a public body official, do the changes permit me to publish commercially available material online?

No. This law is limited to ensure that commercially available material is not published online.

Does the change to the law mean all third party material needs to be published online?

The change to the law grants permission to public bodies to publish material online, but only where that material is on a statutory register, where it is already open to public inspection or where it has been communicated to the Crown for a purpose which reasonably justifies further dissemination. It does not create any requirement for any particular material to be published online. It will be a mechanism to help avoid having to respond to repeat requests for similar material. Public bodies are already encouraged to publish material on their websites, so are likely to have the infrastructure for doing this.

Is a local authority now able to scan architectural plans online for the public to access?

The change means that a local authority would be permitted both to copy and to put on its website third party material, such as architectural plans or maps without infringing copyright, but this should not interfere with the interests of copyright owners. That is, the authority would only be able to put material on its website if the material is not commercially available to the public (by or with the authority of the copyright owner).

I own the copyright in the material. Do these changes mean that the material that public bodies make available online can be copied further by the public?

Any material that is published online by a public body may continue to be protected by copyright, which may prevent further use by the public. However, there may be exceptions to copyright that might permit its further use. For instance, where use of the material is for the purpose of quotation and only where the use is fair and reasonable (see Guidance for creators and copyright owners).

Further Information

Guidance on changes to the copyright exceptions is available at <https://www.gov.uk/government/publications/changes-to-copyright-law> Guides include:

- Overview
- Education and Teaching
- Research
- Libraries, archives and museums
- Accessible formats for disabled people
- Creators and copyright owners
- Guidance for consumers

Find out why the Government has changed the copyright exceptions here:

Modernising Copyright, a modern, robust and flexible framework: <http://www.ipo.gov.uk/response-2011-copyright-final.pdf>

IP information: Learn more about Intellectual Property by visiting the IPO web pages: www.ipo.gov.uk

Licensing: More information can be found at: <http://www.ipo.gov.uk/types/copy/c-other/c-licence.htm>

IP Healthcheck: The IPO's free IP Healthcheck can help you to find out more about the different IP rights and how they affect you and your business: www.ipo.gov.uk/iphealthcheck

Note: This guidance sets out the general principles of the changes to copyright law, it is not legal advice. It is recommended that you obtain legal advice in circumstances where you have specific questions relating to the law.



Intellectual Property Office Online

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