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Content Space

Rights Clearance Guidelines

What is protected by copyright and how long does it last?

If you want to re-use a work, or part of a work, that is protected by copyright you will normally have to ask permission from the owner of the copyright. Sometimes works protected by copyright will be accompanied by a licence that specifies what a user may, and may not, do with the work. The most widely used licences are Creative Commons licences. For details see the CC Licence Chooser via the E-Space website¹.

Copyright law is different in different countries but the majority of countries have similar rules on what is and what is not protected by copyright. This is because the rules stem from international treaties and European legislation.

In general, you do not need to seek permission to use the work(s) if:

- the work is no longer protected by copyright because the author died more than 70 years ago (in most countries the time period is 70 years after the death of the author. For some countries it is 50 years after the death of the author). When this time period has expired the work is said to be in the public domain

1. The Content Space contains information about licensing, rights labelling and associated new technical standards, guidelines on how to identify re-usable content, and legal advice and tools for the lawful re-use of digital content: <http://www.europeana-space.eu/content-space/>

- the copyright in the work belongs to you or your organisation. Some countries copyright law provide that the first owner of copyright in a work is the author. Other countries state that this is the case except where the author is an employee acting in the course of employment. In that case, the copyright will belong to the employer
- some countries have provisions for orphan works. This is where the right holder cannot be found – then it is permissible to use the work for certain purposes. However it is necessary to conduct a diligent search on a case-by-case basis (see example of due diligence checklist below) to make sure this is the case. See the E-Space tool New Rules on Orphan Works.
- There are measures in national legislation which provide that you can use a work protected by copyright for specific purposes. These include for the purposes of criticism and review of the work and for news reporting among others.

Examples of the types of works protected by copyright can be found in the box below. These works would be protected by copyright for the life-time of the author plus 70 years in Member States of the EU:

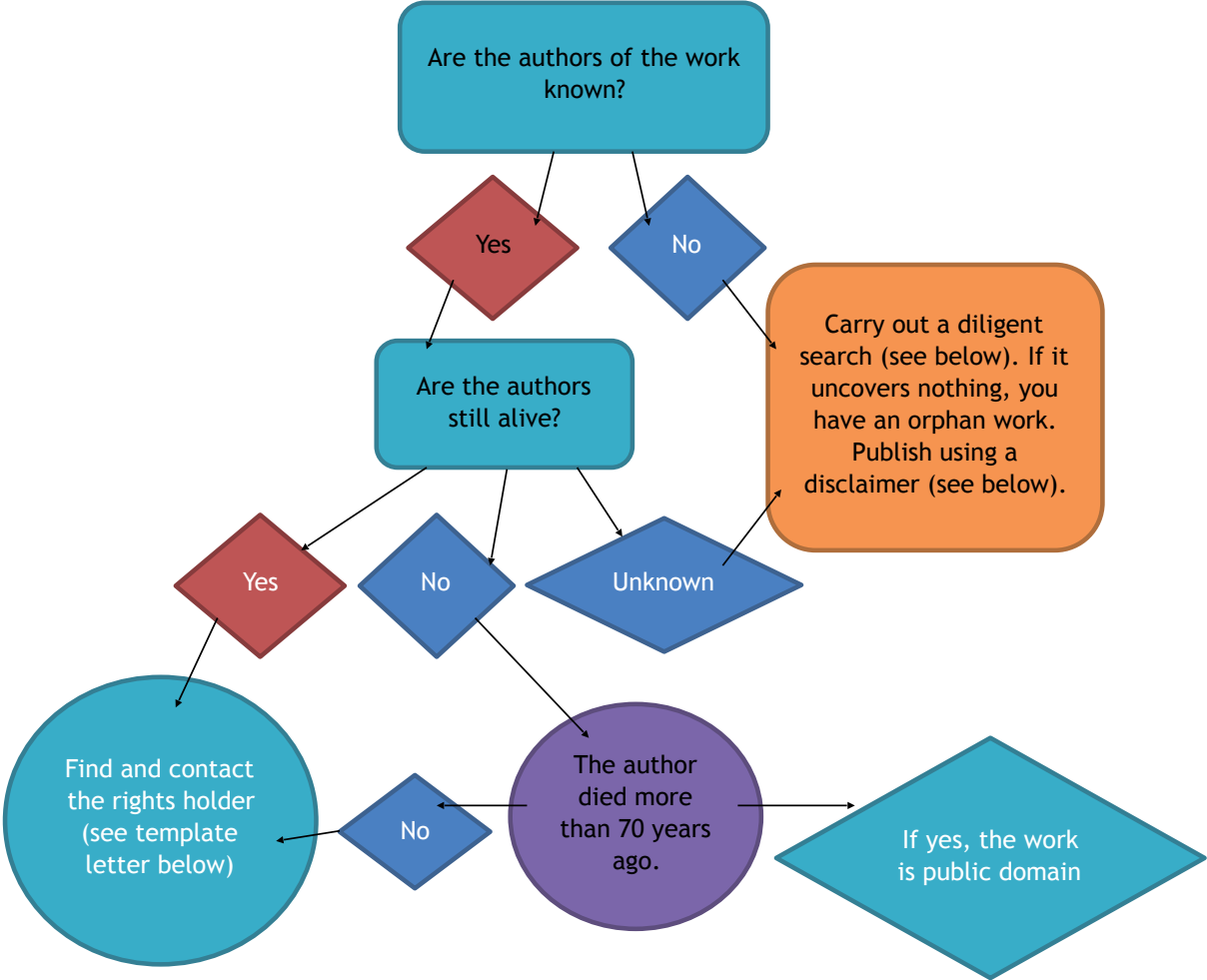
- Literary Works including books, journals, emails, blogs, letters, newspaper clippings, song lyrics, numbers, databases and calligraphy
- Musical Works (recorded original musical work) including classical and popular music and advertisement jingles
- Dramatic Works (something that can be performed) written original dramatic scripts and scores such as those used for ballet, mime, concerts and plays
- Films (creators, directors, authors of screenplay and dialogue and composers of film music) including recordings on any medium from which a moving image may be produced such as film stills and film clips
- Artistic Works including paintings, drawings, engravings, sculptures, photographs, greeting cards, postcards, diagrams, maps, works of architecture, hand-crafted works, one-off couture fashion, stained glass, hand painted tiles, medals

In the Member States of the EU if the work falls into the following category it will be protected by copyright for 50 years from the end of the year in which it was made, or 50 years from the date it was first made publicly available:

- Sound Recordings (a recording of any sounds from which those sounds can be used) including oral history, sound effects, recorded lectures, recordings of literary, dramatic or musical works

In some Member States of the EU, if the work falls into the following category it will be protected by copyright for 50 years from the end of the year of the making of the broadcast:

- Broadcasts including the electronic transmission of visual images, sounds and other information e.g. streaming from the V&A website, TV



A quick guide to whether the work you wish to use is likely to be protected by copyright.

How do I seek permission to use a work?

If the work is protected by copyright and you know who the owner of the copyright in the work is, then the template below can be used to write to request permission to use the work. A record should be kept of all correspondence including phone calls, letters and emails. If no reply is received after a reasonable period another follow-up letter can be sent. If the owner responds to give permission you may use the work in the ways agreed with them. If you do not know who the rights holder is in the first instance then you must carry out a diligent search (see the example of the due diligence checklist below) to try to identify and trace the rights holder.

If after contacting the person who you think is the rights holder and sending a follow-up message there is still no response, you may have an orphan work. This is a work that is still in copyright but for which the rights -holder is unknown or cannot be traced. Where you wish to use an orphan work, you should carry out a risk assessment to determine what could happen were the rights holder to re-appear and discover your use of the work without their permission (see our risk management guidelines). You could add a disclaimer when you use the work such as:

We have made every effort to contact the copyright owners of this work but have been unable to do so. If you are the copyright owner then please contact us at [here add email of address of contact]

Do note that adding this disclaimer will not absolve you from liability for copyright infringement. It will however show that you have made stringent efforts to find the copyright owner(s). See also the E-Space tools on Orphan works and Risk Management.

Sample template letter to a copyright owner requesting permission to use a work

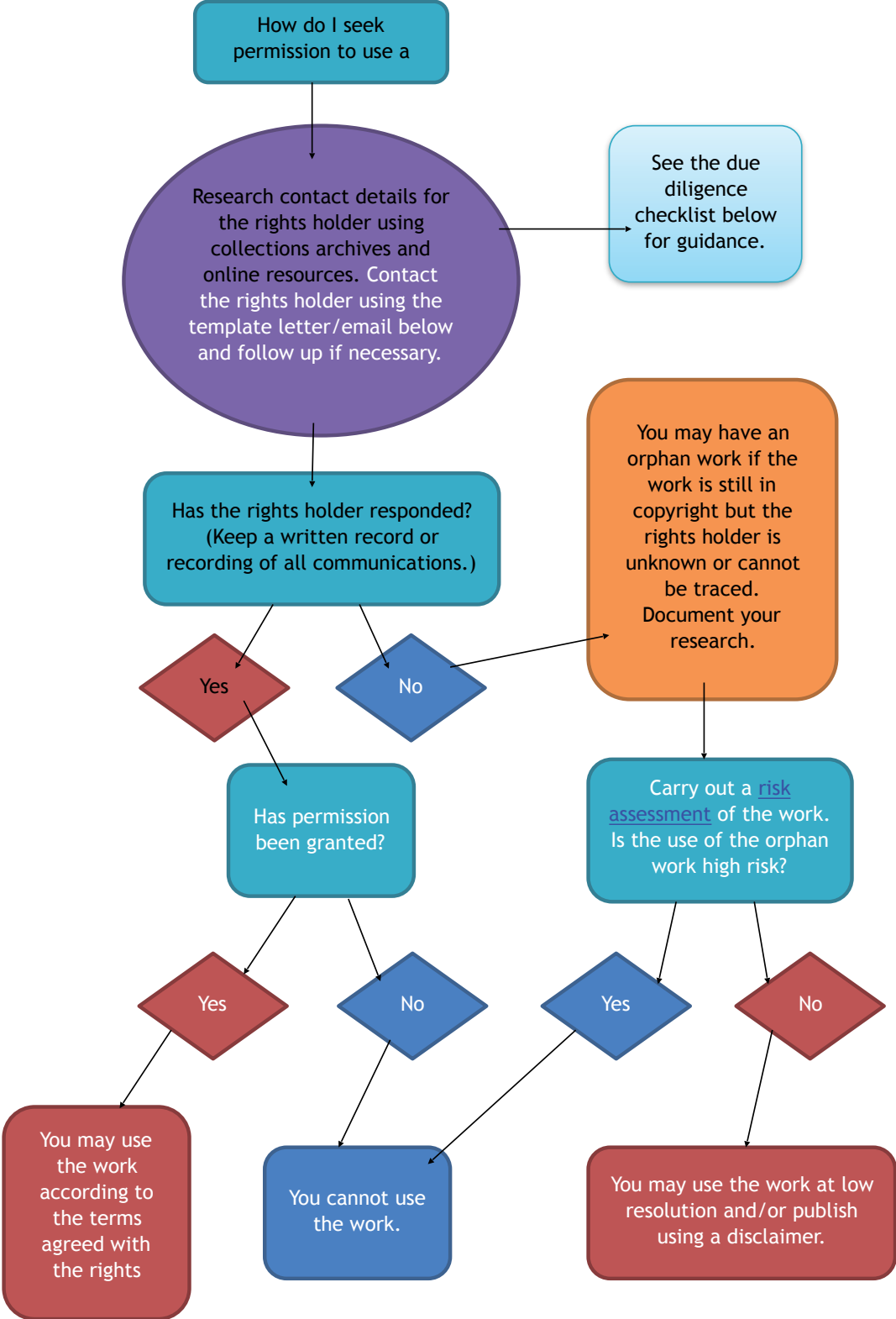
Dear [add name and title],

We understand that you are the copyright owner or represent the copyright owner of the following work: [insert full description of the work(s)]

We would like to use the work(s) for the following purposes [here state purposes]

We would be grateful for any permissions you would be able to grant us.

If you are willing to grant permissions, please confirm how you wish to be credited:



A quick guide for those seeking permission to use a work

Rights Clearance Guidelines

We are working to a deadline of [insert date] and would therefore appreciate a response at your earliest convenience. [Note: the best form of proof to have would be a signed letter/contract. If this is likely to be possible, then you could use the following paragraph]

Please confirm any permission granted by countersigning both copies of this letter and returning to the following address: [insert your name and address]

Thank you in advance for considering our request.

Yours sincerely,

Signed by [name of project partner]

Date

Signed by [name of rights holder]

Date

[If however getting written permission is unlikely to be feasible, then simply asking the copyright owner to respond to your email would be sufficient]

Due Diligence Checklist, for tracing copyright owners of digital works

The UK Intellectual Property Office (IPO) has published very useful guidance on the searches that should be carried out when seeking copyright owners. The types of organisations will depend on the work. For instance, for published books this is the guidance issued by the IPO:

Published books

Source	Checked (y/n)	Date	Notes
Orphan works' registers			
Legal deposits, library catalogues and authority files			
Society of Authors			
Writers' Guild of Great Britain			
Association of Authors Agents			
Publishers Association			
WATCH (Writers, Artists and their Copyright Holders)			

Source	Checked (y/n)	Date	Notes
ISBN (International Standard Book Number)			
Authors Licensing and Collecting Society			
Publishers Licensing Society			
Copyright Licensing Agency			
Public Lending Right register			
Virtual International Authority Files (VIAF)			
Credits and other information appearing on the work			
FOB (Firms Out of Business) database			
Companies House			
The provenance of a work (i.e. where the work was found)			
General internet searching			
Records of literary agents			
International Standard Text Code (ISTC)			
Copac			
Author and book info database			
Poetry Library			
International Standard Name Identifier (ISNI)			
Database			
Books in Print database			
Copyright Hub			

Rights Clearance Guidelines

Source	Checked (y/n)	Date	Notes
Academic and scientific databases			
Online databases and catalogues			
Digitised newspaper archives			
Genealogy websites			
Wills – searching for family members or connections of the author			
Archives			
Treasury solicitors			
Biographical directories			
Author directories online			
Other sources identified			

The IPO has checklists for a variety of other works including newspapers, magazines, journals and periodicals; stage plays; radio plays; audio books; film and sound and still visual art. While UK focussed, these provide an excellent starting point for thinking about the types of investigations that should be carried out.

The guidance booklets can be found at <https://www.gov.uk/government/publications/orphan-works-diligent-search-guidance-for-applicants>

A Public Domain Calculator can be found at <http://outofcopyright.eu/> and provides some information on how to determine the duration of copyright for works.

Contacting Collecting Societies

A collecting society (also known as a licensing agency or copyright collecting society) is an organisation created by law or private agreement. Collecting societies are responsible for representing and managing the legal rights of copyright owners where the owners choose to have their rights managed by a society. Each country has different collecting societies who manage different rights. Often the society will issue 'blanket' licences. That is, licences which specify what you can and can't do with a

particular work, and how much you have to pay for it. This type of a licence saves the need for separate negotiations with individual users.

For copyright owners who are represented by a collecting society, you are advised to consider the following:

1. Identify all copyright owners who are represented by a collecting society.
2. Identify all the different types of use you require permission for.
3. Find out if the collecting society has a licence that covers the work that you want to use and the uses that you want to make of it.
4. Allocate a sum of money to the project for securing permission from collecting societies as costs are likely to apply.

The UK Copyright Hub <http://www.copyrighthub.co.uk/get-permission> is a useful portal for finding information on where to go to find a licence from a collecting society in the UK and what the licence can be used for.

For more information on the collective management of copyright and related rights, see <http://www.wipo.int/copyright/en/management/>.