

Guidance - Freedom of Information Publication Schemes

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(Revised 15 March 2008)

The purpose of this guidance is to draw a distinction between the supply of information held by public authorities under Freedom of Information legislation and the re-use of that information, explaining those circumstances where formal licensing is required.

Background

1. Under the Freedom of Information Act 2000 (FOI) each public authority has a duty to adopt and maintain a Publication Scheme. Publication Schemes provide details of information which each public authority publishes or intends to publish.

Copyright and Licensing

2. Information listed in Publication Schemes, which can be disclosed under FOI, will be subject to copyright protection. The supply of documents under FOI does not give the person who receives the information an automatic right to re-use the documents without obtaining the consent of the copyright holder. Permission to re-use copyright information is generally granted in the form of a licence.

Chapter III of The Copyright, Designs and Patents Act 1988 (CDPA 88) describes circumstances when copyright material can be reproduced without infringing copyright. These are generally referred to as the fair dealing provisions. The Copyright and Related Rights Regulations 2003 (SI 2003 No. 2498) amended certain provisions of the Copyright, Designs and Patents Act 1988. One of the most significant changes was to specify that the fair dealing provisions for research only applies where the copying is for a non-commercial purpose. This guidance reflects these changes. Under fair dealing, copyright material can be reproduced for the purposes of:

- Research for non-commercial purposes and private study; and
- For criticism, review and news reporting.

Chapter III of the CDPA 88 also sets out the special arrangements that apply to copying copyright material for educational use and to copying by libraries and archives. Further information on fair dealing and other exceptions to the general copyright procedures can be found on The Patent Office website at: www.intellectual-property.gov.uk/std/faq/copyright/ex_fair_dealing.htm It is always advisable to check that any copying of copyright material is allowed. If in doubt, contact: HMSO Licensing.

Crown Copyright

4. Copyright works made by central government qualify for Crown copyright protection under section 163 of the CDPA 88. The Controller of Her Majesty's Stationery Office has responsibility for the administration and licensing of Crown copyright. Various categories of Crown copyright material can be reproduced without a formal licence. OPSI Online provides details of categories of Crown copyright material where this applies, including examples of information where the copyright has been asserted but waived. This includes government press notices, legislation, ministerial speeches, consultation documents, documents featured on official websites (except where expressly indicated otherwise), headline statistics and unpublished public records. More details of these categories can be found at: www.opsi.gov.uk/ /advice/crown-copyright/copyright-guidance/index.htm

5. At Annex A, you will find sample wording that can be used and adapted to explain:

- who owns copyright in the information; and
- contact details on how to obtain a licence.

While FOI deals with all public authorities, it is important to remember that Her Majesty's Stationery Office's responsibility extends only to those public authorities that produce information that is protected by Crown copyright. We call these organisations Crown bodies. The advice contained in this Guidance Note is primarily aimed at these organisations. However, non-Crown bodies may, if they wish, adapt the wording for their own use and we have included an example of how this could be done at [Annex A](#).

6. The Publication Scheme should feature an appropriate copyright notice such as those provided at Annex A. More detailed guidance on copyright notices for Crown bodies can be found on OPSI Online at: www.opsi.gov.uk/advice/crown-copyright/copyright-guidance/copyright-and-publishing.htm. Non-Crown bodies may wish to adapt the notices to meet their own specific needs.

Third Party Copyrights

7. Not all information listed in Publication Schemes will necessarily be owned by the public authority which produced the Scheme. It will, therefore, help users if any such material is identified together with details of who owns the copyright, where known.

Other Forms of Intellectual Property Rights (IPR)

8. Most information falling within the scope of FOI is likely to be covered by copyright. It is conceivable, however, that some of the information supplied under the terms of the Act could involve other forms of intellectual property, e.g. patents and trademarks. The

re-use of these forms of IPR would also require the permission of the rightsholder. Information on IPR generally can be found on the [Patent Office website](#)

CAROL TULLO
Controller Her Majesty's Stationery Office
Queen's Printer

ANNEX A

Publication Schemes: Copyright and Licensing Notices

Where licensing of Crown copyright is handled by Her Majesty's Stationery Office:

The [insert Name of Department] is a Crown body and the information we produce is subject to Crown copyright, which is administered by Her Majesty's Stationery Office. The material listed in this Publication Scheme is Crown copyright unless stated otherwise. The copyright in some of the material which may be found in this Publication Scheme has been waived, meaning you can reproduce this material freely. Categories of material for which copyright has been waived include: government press notices, legislation and explanatory notes on the legislation, ministerial speeches, consultation documents, documents featured on official websites (except where expressly indicated otherwise), headline statistics and unpublished public records. More details of these and other categories can be found at: www.opsi.gov.uk/advice/crown-copyright/copyright-guidance/index.htm

For other types of material however, the supply of documents under Freedom of Information does not give the person or organisation who receives them an automatic right to re-use the documents in a way that would infringe copyright, for example, by making multiple copies, publishing and issuing copies to the public.

Brief extracts of any of the material included in this Publication Scheme may be reproduced under the fair dealing provisions of the Copyright, Designs and Patents Act 1988 (sections 29 and 30) for the purposes of research for non-commercial purposes, private study, criticism, review and news reporting.

Details of the arrangements for reusing Crown copyright material can be found on the [OPSI website](#) or by contacting Her Majesty's Stationery Office at:

Office of Public Sector Information

Information Policy Team
Kew
Richmond

Surrey
TW9 4DU

e-mail: licensing@opsi.gov.uk

Authorisation to re-use copyright material not owned by the Crown should be sought from the copyright holders concerned. If in doubt, users should contact Her Majesty's Stationery Office in the first instance.

Where licensing of non-Crown copyright is handled by a public authority:

The copyright in the material listed in this Publication Scheme is owned by [Name of Public Body] unless otherwise stated. The supply of documents under Freedom of Information does not give the person or organisation who receives them an automatic right to re-use the documents in a way that would infringe copyright, for example, by making multiple copies, publishing and issuing copies to the public.

Brief extracts of the material may be reproduced under the fair dealing provisions of the Copyright, Designs and Patents Act 1988 (sections 29 and 30) for the purposes of research for non-commercial purposes, private study, criticism, review and news reporting.

Details of the arrangements for reusing the material owned by [Name of Public Body] can be found on our website at: [xxxxxx] or by contacting us at:

[xxxxx

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Authorisation to re-use copyright material not owned by [Name of Public Body] should be sought from the copyright holders concerned. If in doubt, users should contact us in the first instance.