

Copyright – particular problems

Orphan works

The fact that you cannot identify or locate the copyright owner does not provide you with a legal defence to a claim of infringement.

We recommend that your organisation adopts an internal policy as to the circumstances in which it will use an orphan work where a clearance is needed. The policy should include the steps your organisation will take to mitigate the risks in using orphaned material.



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Non-responsive copyright owners

If you need permission, the fact that a copyright owner does not respond does not mean that you can go ahead and use the material. You may decide to make a commercial decision to go ahead with your intended use, but in doing this you run the risk of being held liable for copyright infringement if the copyright owner brings an action against you.



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Expensive or onerous licences

Copyright owners are generally free to set whatever licence terms and conditions they want. It then becomes a matter of trying to negotiate terms you are comfortable with. If the licence for the material you want to use is set by a collecting society, you may be able to challenge the licence conditions by applying to the Copyright Tribunal.



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'Free' licences

Many copyright owners offer "free" licences to use their material, particularly where they make that material available on the internet. The most well-known example of such licences are the licences offered under Creative Commons.

Note, however, that many of these are still subject to conditions and to limits. Always read the terms and conditions carefully and ensure use will be within the scope of the licence. If you need a broader licence, contact the copyright owner.



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