

## Notes of meeting of Licensing Forum 17 September 2004

Present:

Susan Corrigan	National Archives of Scotland
Andrea Bradley	Foreign & Commonwealth Office
Mary Doody	Department of Health
Sally Falk	HORU, Cabinet Office
Marcia Jackson (Chair)	HMSO
Tony Jardine	Ordnance Survey
Anna Jeremiah (Secretary)	HMSO
Alison Kemp	DWP
Janice Knight	HM Land Registry
Jeanne O'Donovan	DVLA
Tim Padfield	National Archives
Bill Pope	Department for Transport
Rosanna Salbashian	DEFRA
Anne Wakefield	Customs & Excise
Sue Warrington	HM Treasury
Jim Wretham	HMSO

### 1. Introduction

The Chair opened the meeting by welcoming everybody and inviting them to introduce themselves and say a few words about what they hoped to get out of the forum.

Themes included:

- Networking with other practitioners;
- Sharing information about different organisations' licensing activities;
- Overview and increased understanding of copyright, licensing and charges;
- Opportunity to ask specific questions about copyright; and,
- Understanding of how Data Protection Act (DPA), Freedom of Information (Fol), Environmental Information Regulations, and copyright interact.

### 2. Terms of Reference

2.1 Anna Jeremiah introduced the draft terms of reference which had been provided to participants in advance of the meeting and invited comments. These comments have been taken into account in the following second draft of the terms of reference:

The aims of the Forum are to:

- improve copyright licensing systems, guidance and sharing of best practice;
- ensure greater consistency in copyright, licensing and information policy across government;
- increase transparency of copyright, licensing and information policy both internally and externally;
- encourage a greater awareness of information policy across government;

- promote good customer service and responsiveness to customer requirements;
- discuss and develop existing and future guidance

2.2 It was agreed that Her Majesty's Stationery Office would circulate revised terms of reference for comment  
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### 2.3 Logistics:

- The Forum will meet three to four times a year. The Chair will not be provided by one department but will rotate on a voluntary basis. Meetings will consist of brief presentations by members or guest speakers, followed by group discussion.
- HMSO will provide secretariat support and circulate a note of each meeting. HMSO will publish the notes on HMSOnline and send copies to members of the Advisory Panel on Public Sector Information (APPSI). The venue will be provided by member organisations, with HMSO providing a venue if no other is available. It is worth saying that HMLR, NA (and any others?) offered to host future meetings.
- Membership will be aimed at those people involved in licensing work at practitioner level, what ever their level of experience. The Forum will concentrate on practical issues and not be too policy-focused. Membership should be extended to all public sector organisations (Crown and non-Crown).

### 2.4 Discussion:

The question of how outputs and benefits would be measured was raised. It was thought that dissemination of information and best practice were important and that a good way to do this was to set up a website. This website would feature best practice examples, case studies, frequently asked questions, the terms of reference, minutes, examples of licences and a discussion forum. The possibility of links to other websites should be investigated. As a first step, HMSO agreed to set up a website and post the terms of reference and minutes.

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2.5 In the interests of widening membership, it was agreed that HMSO would invite local government and the NHS to the next meeting. It was also felt that Information Fair Trader Scheme (IFTS) candidates should be encouraged to attend.

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## **3. Freedom of Information (Fol), Copyright and Re-Use**

3.1 One of the members gave a presentation on the impact which Fol would have on copyright for government departments. It was emphasised by the Chair that this paper was the personal opinion of the member concerned and did not necessarily reflect the views of his department.

3.2 The following issues were discussed:

- There is some confusion over the relationship between Fol, the EU Directive on the Re-use of Public Sector Information ('EU PSI Directive'), and copyright.
- Fol is a right to 'information' rather than a right to 'documents' – it does not authorise the supply of a copy. It is wide ranging but includes information in letters received by government departments, accounts prepared by external auditors, and reports produced

by consultants, as well as information produced by public sector organisations. It would be necessary if releasing copies to point out the copyright of the material.

- HMSO guidance on publishing and copyright assumes that an authority has the right to publish information, which it does not always have. There is a gap in the guidance.
- FoI applies largely to unpublished material.
- The FoI Act does not mention copyright which is an oversight. Copying of information under FoI, or even producing a summary, could potentially be a breach of copyright although the courts are not likely to entertain such claims.
- Members felt that anybody supplying information to a public sector body after the FoI Act comes into force will have to anticipate that it may be requested under FoI.
- There was concern that providing third party information under FoI might constitute a breach of copyright for which a public sector organisation might be liable. The option of organisations using disclaimers or warnings regarding the further re-use of third party information after supply were discussed.
- There was also concern that organisations might be required to provide data about the ownership of third party copyright, potentially leading to a breach of the Data Protection Act
- It was emphasised that the EU PSI Directive will not apply to all information covered by FoI, for example it will not apply to archives, libraries, universities, or artistic institutions such as operas.
- Jim Wretham provided some background to the EU PSI Directive.
- Marcia Jackson explained briefly about the Information Fair Trader Scheme (IFTS). This scheme verifies public bodies' commitment to openness, fairness and transparency and will alert public sector bodies to meet their obligations under the Directive.
- The possibility that FoI requests might be free of charge up to a certain limit was discussed. It was felt that this might conflict with the EU PSI Directive and the EIRs, although it was emphasised that if an organisation usually sells information this will not come under FoI.
- It was suggested that many public organisations might like the option to use a version of the Click-Use licence for their licensing needs. A standard licence will be available on HMSOnline.

3.3 It was generally agreed that there was some uncertainty over the impact FoI would have on copyright and that for the moment, departments could only wait and see what guidance the DCA produced. Most members thought that the discussion had been helpful in identifying the potential problems.

#### **4. Acknowledgments and Notices**

*Introduced by Jim Wretham, HMSO*

4.1 The EU Directive on PSI has highlighted the need to be transparent and open about licensing and reuse of public sector information. Based on discussions with the wider public sector, there is scope for improving transparency, particularly in terms of copyright notices. It was particularly important to acknowledge third party copyright.

4.2 There are three key elements which any organisation should consider including on published information:

- 1 Copyright notices explaining where to go for more information. This should also acknowledge third party copyright.
- 2 Publication information such as an ISBN, environmental statement, website URL.
- 3 Permitted re-use if re-users are not required to apply for a licence.

4.3 The following issues were also discussed:

- The benefits of including detailed copyright notices explaining permitted re-use. It was felt that this would cut down on administrative costs for organisations. It would also encourage re-use and create less work for re-users. This provided an alternative to those cases where a formal licence was regarded as necessary.
- It was felt that more guidance was needed as to whether information was 'core' or 'value-added', both for departments and for re-users.
- The failure by departments to acquire copyright by assignment was discussed. It was felt that there is some conflicting guidance as to whether copyright should be assigned, particularly with regard to the Baker Report.

## **5. Other Issues**

5.1 There was some discussion of the presentation of information on HMSOnline. It was agreed that HMSO should host the Forum site on HMSOnline. One member also highlighted the need to make guidance on HMSOnline rather easier to download as a printed copy.

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5.2 One member highlighted the lack of a link to take users to the Click-Use site. It was agreed that HMSO would follow-up this point by discussing with the member council

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### **i. Future Meetings and Action Points**

There was enthusiasm for the forum and it was felt that further meetings would be beneficial. Ideas for topics were discussed and it was agreed that the next meeting would focus on:

- data sharing with other government departments; and,
- Communication strategies and governance - methods of raising awareness of copyright with colleagues.

Tony Jardine of OS agreed to introduce the second topic, whilst Jim Wretham will approach DCA to see if they would like to introduce the first.

Janice Knight of the Land Registry volunteered to host the next meeting in January and this was gratefully accepted. HMSO would confirm details nearer the time.