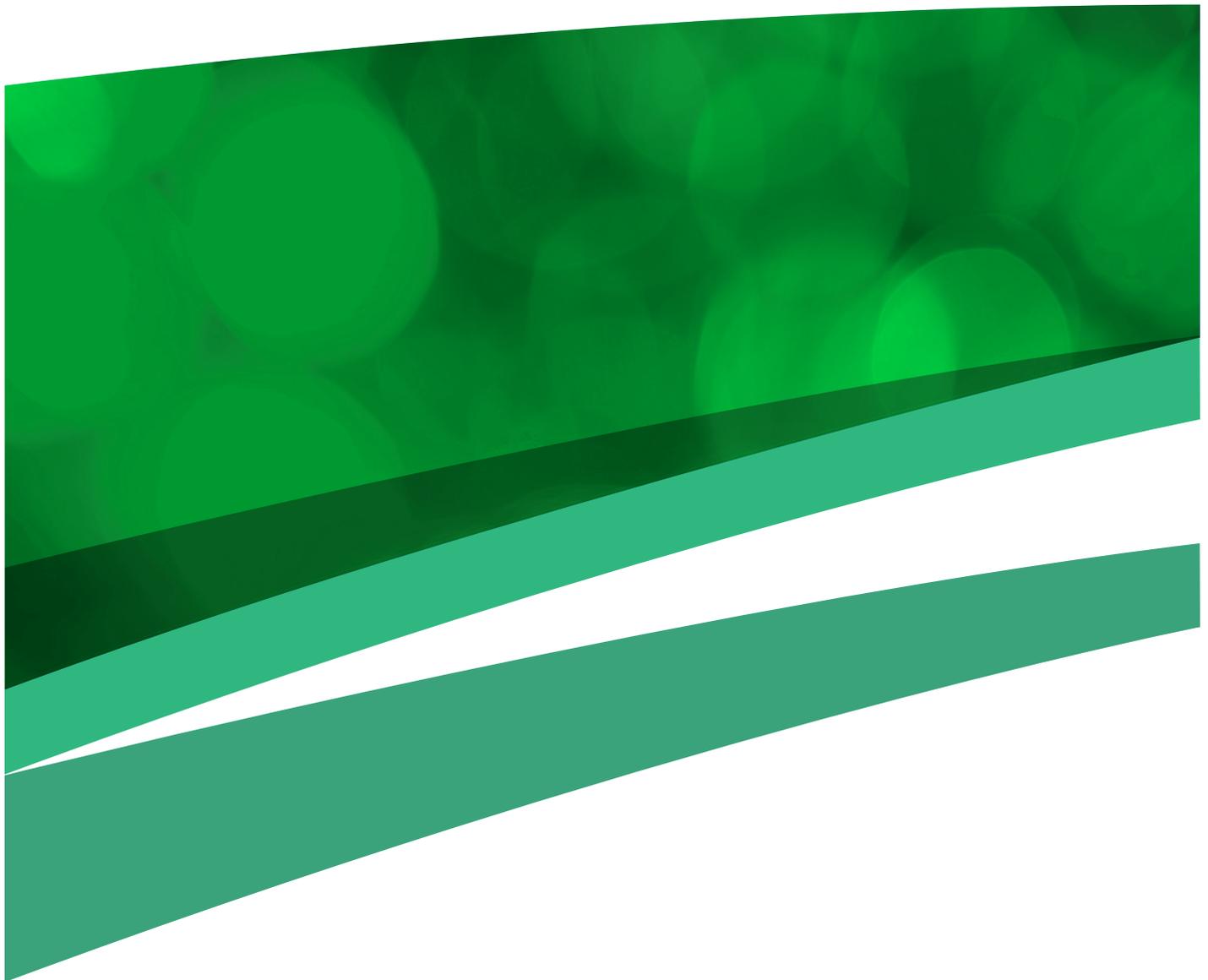




Intellectual  
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# Orphan works diligent search guidance for applicants: Literary Works



November 2015

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November 2015

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# 1. Introduction

Orphan works are copyright works where one or more of the right holders are unknown or cannot be located. If an individual wants to use a work within copyright they must, with a few exceptions, seek the permission of the relevant right holder who may include the creators and/or publishers. It is not normally possible to reproduce the work if the right holder – or perhaps one of a number of right holders – cannot be found. This situation benefits neither the right holder, who may miss opportunities for licensing, nor potential users of those works.

Under the Enterprise and Regulatory Reform Act 2013, the UK government has powers to enable licensing of orphan works in the UK for commercial and non-commercial use. The licensing scheme has been implemented through the Copyright and Rights in Performances (Licensing of Orphan Works) Regulations 2014<sup>1</sup> which states that a diligent search must comprise a reasonable search of the relevant sources to identify and locate the right holder. The relevant sources under 4 (3) of the Regulations that must be consulted for all diligent searches are:

- The orphan works register for the UK licensing scheme,
- The OHIM orphan works database and,
- The appropriate sources under Part 2 of Schedule ZA1 of the Copyright, Designs and Patents Act 1988.

This guidance is provided for under 4 (4) of the Regulations and is for potential applicants and provides an aid to conducting a diligent search. It explains what is involved in a diligent search and what to consider in advance. The guidance includes details on the relevant sources that applicants must consult and provides a non-exhaustive list of additional sources, and explains how an applicant must submit their evidence to the authorising body which is the UK Intellectual Property Office (IPO).

An applicant must perform a diligent search for the right holder prior to a licence being considered. Where there are multiple right holders, a diligent search is needed for each right holder where the right is relevant to the proposed use. The diligent search will need to be carried out to the satisfaction of the authorising body.

Although the guidance is intended primarily for those wanting to apply to use the UK's licensing scheme it may also be of help to those conducting a diligent search in relation to the EU Directive on certain permitted uses of orphan works<sup>2</sup>. (See below for further information)

The object of the diligent search will depend on the proposed use of the work. In every copyright work there are many different rights. Some of the rights in literary works include: print publication rights, digital or electronic rights, dramatisation rights, audio rights, translation rights. These rights are not necessarily all controlled by the same right holder; moreover, each of these rights may have more than one right holder. Only the right holder who controls the relevant rights can grant a licence which will cover a particular use. The aim of the diligent search is to find the right holder who controls

1 <http://www.legislation.gov.uk/ukdsi/2014/9780111117644/introduction>

2 [http://ec.europa.eu/internal\\_market/copyright/orphan\\_works/index\\_en.htm](http://ec.europa.eu/internal_market/copyright/orphan_works/index_en.htm)

the appropriate rights. A diligent search should be appropriate to the orphan work as a whole or to an orphan right within the work depending on the proposed use.

Another factor that will affect the search is whether the work has been published. The rights in unpublished works generally belong to the authors or their heirs. The rights in published literary works will often be owned by the author and sometimes controlled under licence by the publisher, in which case both are right holders. In certain cases, however, the rights may belong exclusively to the publisher. If the work is out of commerce, the rights in the text may have returned entirely to the ownership of the author. If the author is dead, his or her rights may have passed to one or more heirs.

If a book contains works by more than one author, as may be the case, for example, with collections of stories, essays or poems, then it is likely that the rights to each of the works in the book will belong to different right holders. In order to reproduce such a book a separate diligent search must be made to find the right holder who controls the relevant rights in each contribution. When books contain photographs and illustrations that have not been created by the author, then again it is likely that the rights to these images will be held separately.

As with any other copyright work, applicants will also need to gain permission from any relevant known and locatable right holder in order to avoid copyright infringement. The authorising body can only license for unknown or unlocatable right holders. Where you have located some but not all the right holders these are considered to be partial orphan works.

To avoid unnecessary delay in the process applicants will not need to obtain these permissions before making an application this can be done at the same time as applying for a licence for the orphan right/s. Where permissions have been obtained before an application is made, then details of the right holder(s) who have granted permission should be included to support the application.

The diligent search may result in finding the right holder in which case the work is not an orphan and a licence should be sought from the right holder.

A diligent search is not a new process, and it is already undertaken by cultural heritage organisations and others to locate right holders in copyright works they wish to reproduce. There is no set procedure to follow as the search will depend on the information available.

However, while there is no set minimum requirement to be followed in every case, applicants will need to show that their search was indeed diligent. Applicants are required to consider multiple sources where possible. If an initial avenue of enquiry yields no results, then others should be consulted. A process map of the application process is set out in Figure 1.

The guidance has been developed through extensive dialogue with working professionals with expertise in conducting diligent searches to locate right holders in the literary sector. An acknowledgement of those involved is at the end of this guidance and the IPO is grateful for their assistance. The IPO co-ordinated sector specific groups to look at diligent searches in literary works, film and sound recordings

and still visual art. Guidance for other sectors (film and sound and still visual art) is available on gov.uk.

The sector specific guidance reflects the different requirements for each sector when searching for right holder. However, the guidance cannot list every possible source nor will every source be relevant to every search. For example, where a work is known to be unpublished, there would be no need for an applicant to make use of sources for published works such as an ISBN (International Standard Book Number) database.

**The EU Directive on certain permitted uses of orphan works.**

In addition to the UK’s domestic licensing scheme the EU Directive on certain permitted uses of orphan works provides an exception to copyright law for cultural and heritage organisations. It applies to literary works, audiovisual works and sound recordings and embedded visual art (it excludes standalone artistic works such as photographs and illustrations) and only allows for digitisation and making available online of orphan works for non commercial purposes. To see if your organisation qualifies for this exception go to the qualifying criteria on the orphan works section of gov.uk.

**UK Domestic Process outline**

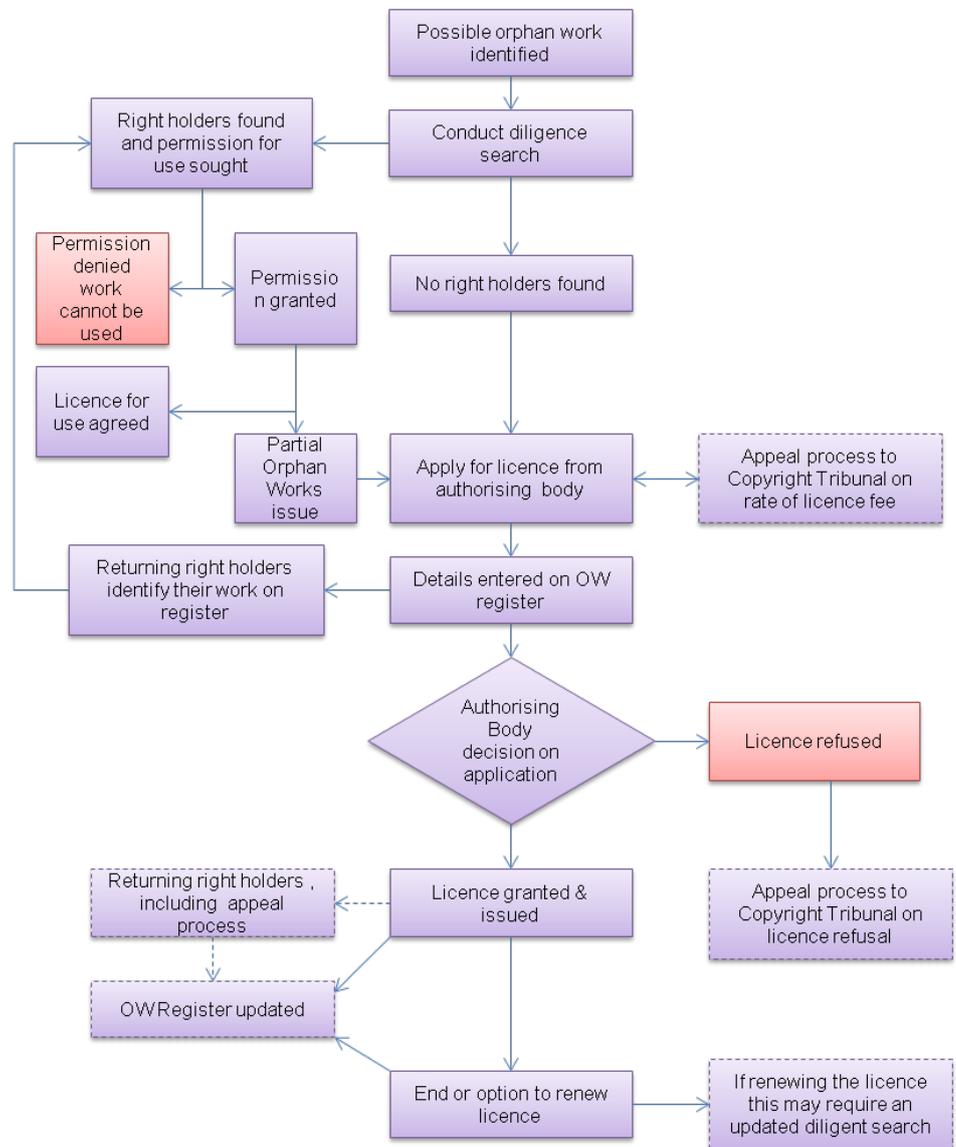


Fig.1

## 2. Things to consider before starting a diligent search

Before completing a diligent search applicants should first consider the following issues relating to the work, the rights within the work and the right holder(s):

### Why do you want to use this particular work?

The orphan works licensing scheme provides a legal process to reproduce works that cannot currently be used because the right holder is unknown or unlocatable. Conducting a diligent search takes some time and there may be costs related to it. Applicants may wish to consider why they want to use a particular work and consider if there is a substitute available for which the right holder is known and locatable.

### Do you know whether the work is within copyright?

An applicant should always first consider if it is reasonable to assume that the work is still within copyright because if the work is in the public domain (where the intellectual property rights have expired), then the work can be used freely. To determine if a work is within copyright, an applicant should consider:

- When the work was first created/published/performed
- What is the estimated age of the work?
- Is it known if the right holder is still alive? If not when did they die?

The term of protection or duration of copyright varies depending on the type of copyright work. Generally the term of copyright in the UK for an original written (literary) work lasts for the life of the creator plus 70 years from the end of the year in which he/she died (midnight on 31 December of the final year). However, there are a few exceptions to this rule some of these are listed below and illustrated in Annexes B and C.

- Computer generated works – The duration of protection lasts for 50 years from the end of the calendar year when the work was made.
- Crown Copyright –
  - Unpublished created before 1 January 1915, copyright expires on 31 December 2039
  - Unpublished created on or after 1 January 1915, copyright expires 125 years from the end of the calendar year in which it was created
  - Created and published before 1 August 1989, copyright expires 50 years from the end of the year of first publication
  - Created before 1 August 1989 but first published after that date commercially and it is less than 75 years from the end of the calendar year in which the work was created, copyright expires 50 years from the end of the calendar year of first publication

- Created before 1 August 1989 but first published after that date, where they are published non-commercially and is less than 75 years from the end of the calendar year in which the work was created, copyright expires 125 years from the end of the calendar year of creation or on 31 December 2039, whichever is later.
- Created before, but first published on or after 1 August 1989, at a date more than 75 years from the end of the calendar year in which the work was created, copyright expires 125 years from the end of the calendar year of creation or on 31 December 2039, whichever is later.
- Created on or after 1 August 1989 and published commercially less than 75 years from the end of the calendar year in which the work was created, copyright expires 50 years from the end of the calendar year of first commercial publication.
- Created on or after 1 August 1989 and published non-commercially less than 75 years from the end of the calendar year in which the work was created copyright expires 125 years from the end of the calendar year of creation
- Created on or after 1 August 1989 and published more than 75 years from the end of the calendar year in which the work was created, copyright expires 125 years from the end of the calendar year in which the work was created.
- Open Government Licence — copyright and database right material expressly made available under this licence is free to use.
- Parliamentary copyright – lasts for 50 years from the end of the calendar year in which the work was made. Where an international organisation is the first owner, copyright also lasts for 50 years from the end of the calendar year when the work was made.
- Work of unknown authorship – lasts for 70 years after the end of the calendar year in which the work was made, or, it is made available to the public during that period, 70 years after the end of the year in which the work was first made available. If the identity of the author becomes known before the expiry of this copyright, the provisions for known authors will apply (life plus 70 years)
- Unpublished works before 1989 – lasts until 31 December 2039 if the work was created but not published, performed in public or sold to the public, before 1 August 1989, and where the author is known and died before 1969, or in the case of unknown authors, where the work was created before 1969.

Where two or more people have created a single work protected by copyright and where the contribution of each creator is not distinct from that of the other(s), those people are generally joint authors and joint first owners. The term of copyright protection in such a work is calculated with reference to the date of the death of the last surviving author.

Also if the work has been published applicants need to be aware that the publisher will also have copyright in the typographical arrangement of the work which lasts for 25 years after publication.

Applicants should also note that for copyright works originating outside the UK or another country of the European Economic Area (EEA), the term of protection may be shorter if it is shorter in the country of origin. There may also be variations in the term where a work was created before 1 January 1996 where certain copyright works were revived<sup>3</sup>.

### Who are the right holders?

- The right holder is a legal entity or person entitled to permit or prohibit the use of the work.
- The name of the creator will not always be known especially in unpublished works but there may be crucial information on the work itself, for example, an acknowledgement or an attribution in the credits or other information appearing with the work. The context of the work might help in terms of pointing you towards a possible right holder. For published works, the name of the author and publisher should be within the work.
- There may be multiple rights within a work so applicants will need to try and identify the different rights and which right holder holds these i.e. the digital rights might be held by a different right holder to the print rights.
- The right holder might not always be the author, for example, if the work was produced by an employee in the course of their employment or the rights have been assigned or transferred to someone else.
- You will need to search for each relevant right holder within a work. It may help to find the relevant right holder by asking any locatable ones for the work for further information on the unlocatable right holders.
- If there is evidence that the right holder is outside the UK, searches of the equivalent sources in this guidance should still be conducted in those countries. Applicants should also refer to the section on foreign right holders.
- If it is known or becomes known during the diligent search that the author is deceased, the copyright could have been passed onto the estate or family members. If the copyright owner dies without a will (intestate) and without entitled blood relatives (kin) their property is known as *bona vacantia*. In such cases the *Bona vacantia* division of the Treasury Solicitor's Department act for the Crown to manage the disposal of assets which form part of the estates.

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<sup>3</sup> <http://www.legislation.gov.uk/ukxi/1995/3297/contents/made>

- If the work is a translation, then there may be copyright in the translation so an applicant would need to search for the name of the translator as they may be a right holder. If the applicant wishes to use the source work (and that work is in copyright), a translator, or publisher of translation, if known and locatable, may also be able to help locate right holder of the source work. Applicants will require the consent of the right holder of both translation and source (if different) where it is proposed to use a translation of a copyright work.
- Some works might be anonymous or authors may publish under more than one variant of their legal name, for example, the noted folklorist Katharine Briggs also published as Katharine M. Briggs and K. M Briggs. They may also publish under a pseudonym (fictitious name used by an author) such as J.K. Rowling publishing under the name of Robert Galbraith, and applicants will need to bear this in mind.
- Material in commercial magazines, periodicals and newspapers may have been written by staff journalists, freelance journalists or other contributors or republished from another serial publication. This is important as it will relate to who owns the copyright. Staff journalists – The following sets out who owns the copyright unless the author’s contract of employment states otherwise.
  - Works published since 1 August 1989, are normally the property of the employer.
  - Works published between 1 June 1957 and 31 July 1989, the publisher of the newspaper, magazine or other periodical owns the copyright in respect of publication in ‘any newspaper, magazine or similar periodical’. However, the author (or estate) retains the copyright in respect of any other use.
  - Works published between 1 July 1912 and 31 May 1957, the employer owns the copyright. The author retains the right to prevent the works being published in any form other than as part of a newspaper, magazine, etc.
  - Works published before 1 July 1912, the publisher owns the copyright. However, a potential user will also need the permission of the author or their estate.
  - Works published before 1 July 1884, rights will have reverted to the author’s estate.

Freelance journalists and other contributors – This belongs in the first place to the contributor.

- For works published since 1995, it is necessary to contact the author to discover if they hold the copyright or whether they assigned it.
- For works published pre-1995, the author usually granted a licence for the first publication and retained copyright.

Applicants should be aware that notices on online archives of newspapers or magazines that state that copyright belongs to the publisher sometimes means the typographical arrangement of the website belongs to the publisher and not the content.

### Where did you find the work?

- The provenance (i.e. where the work was found) of a work could also provide valuable information on the right holder. If it is held in a library, museum or archive they might hold information on the work. If the provenance does not provide any useful information look for other clues within the work.

### Has the work already been found to be orphan?

- Before starting any diligent search, an applicant needs to refer to the UK orphan works register and the OHIM orphan works database to see if a previous diligent search has been completed on the work. A diligent search carried out under the EU Directive can be relied upon for the purpose of an application under the UK licensing scheme if the search was for the relevant right holder and relevant rights within the work (i.e. digitising works and making them available online).

### Has the work been published broadcast or performed?

- If the work has been made available to the public on the internet, made accessible to the public to view or published/broadcast/performed at any time, then publishers and collecting societies are likely to hold relevant information. For unpublished works, applicants would need to consider the information available within the work and where it was found.

After considering the above an applicant should have more of an understanding on where to start a diligent search. It is important that applicants consult with multiple sources to validate information on an author.

## 3. Conducting a diligent search

**Applicants conducting a diligent search need to submit a completed checklist for each right holder** as evidence that this has been completed to support an application, see Annex A. This must include a narrative of how the search was conducted including the sources checked. Failure to submit this form or not including sufficient information will result in the authorising body requesting further information and will delay your application.

There is no set way to conduct a diligent search as this will depend on the information available on the work. Below is a list of actions that applicants will usually need to take.

### Actions to take

- Applicants **must** complete and submit the diligent search checklist with each application
- Applicants for an orphan works licence will need to maintain a record of the diligent search. If an applicant is successful in their application, this evidence should be retained by the licensee for a minimum of eight years. Other supporting evidence such as correspondence (letters, e-mail, telephone, etc) should also be retained.
- If possible, in the first instance, an applicant should always contact the creator of the work. If the creator is not the right holder they might know who holds the rights.
- Where the creator cannot be found applicants should attempt to consult multiple sources to validate information.
- When consulting the most appropriate sources to search for a particular work, an applicant might uncover further information on the right holder. This new information could be used in other sources that were previously ruled out so an applicant should consider revisiting the suggested sources to see if these are now appropriate.

### Other issues to consider

- When the person or company believed to be the right holder has been located but fails to respond to efforts to obtain permission to use the work, the right or work cannot be declared orphan. It is the right holder's choice not to respond to an applicant.
- The authorising body is not the appropriate body to decide disputed cases of ownership regarding orphan works. When this is the case then this would need to be resolved between the relevant parties through mediation or the courts.
- Applicants need to be aware that there may be some costs associated with searching some of the suggested sources.

## Making contact with possible leads and authors

*Contacting the estate of an author* – After referring to the relevant sources, if an applicant discovers a current or even the last known address of the potential right holder, a letter should be sent seeking permission. It is important to note that if someone was contacted, they are under no obligation to respond or provide you with information. If there is strong evidence to suggest that they are the right holder for the work, and they decide not to respond this does not mean that the work is orphan.

*Contacting literary agents* – If an author or literary estate is represented by a literary agent, it is appropriate to begin by making inquiries about the rights with the literary agent. The agent will communicate with the author, or the executor or manager of the estate.

*Contacting publishers* – Once an applicant has identified an author or estate but does not have any contact details, they should contact the publisher to seek further information. It is suggested that a covering letter is sent to the publisher enclosing a letter to forward to the author or estate seeking permission to use the work.

*When making contact with possible right holder* – If they do not control the rights that you are seeking ask for any information they have that may help you in your search.

If you succeed in making contact with a right holder, but you know or believe that there are other right holders whom you have not yet traced, always ask them if they have any information that might help you trace the others.

## 4. Sources for published books:

This section provides information on the relevant sources for a diligent search for published books and also additional sources that applicants will need to consider.

### Relevant Sources

**Orphan work registers** – If the work is on the UK orphan works' register a diligent search would already have been completed and may still be valid. Applicants should also check the orphan works' database maintained by the Office for Harmonisation in the Internal Market (OHIM) for orphan works identified under the EU Directive. An EU Directive diligent search can be relied upon for the purpose of an application under the UK licensing scheme, if the search was for the relevant right holders and relevant rights within the work (i.e. digitise the work and make it available online).

**Check legal deposits, library catalogues and authority files maintained by libraries and other institutions** – It is a legal requirement that a person or group submit copies of their publications to a repository, which in the UK is the British Library. The requirement is mostly limited to books and periodicals. There are also five other libraries that can request a copy of the document (The Bodleian Library, University of Oxford, Cambridge University, National Library of Scotland and the National Library of Wales). If the applicant knows that the work is published, then the libraries could hold further information on the right holder.

**Check the publishers' and authors' associations** – For published works the publisher might hold information on the right holder or might even hold the rights themselves. For literary works information on a right holder might be found with

- Society of Authors,
- The Writers' Guild of Great Britain,
- The Association of Authors' Agents,
- The Publishers' Association.

If an applicant does not have the contact details of the author and has identified their publisher they will need to contact them to ask if they hold the relevant rights and request to reproduce the work or ask if they can forward the request to the author.

The websites of the Society of Authors and the Writers' Guild of Great Britain have a search facility for some of their members. If an author is not on the website it is suggested to contact the Society of Authors directly so they can check their membership list. Also see a list of online author directories and similar sites at the end of this section.

## Useful links:

Society of Authors - [www.societyofauthors.org](http://www.societyofauthors.org)

The Writers' Guild of Great Britain - [www.writersguild.org.uk/find-a-write](http://www.writersguild.org.uk/find-a-write)

The Association of Authors' Agents - [www.agentsassoc.co.uk](http://www.agentsassoc.co.uk)

The Publishers' Association - [www.publishers.org.uk](http://www.publishers.org.uk)

**Check existing databases and registries – The WATCH (Writers, Artists and their Copyright Holders)** is a database of copyright contacts for writers, artists, and prominent figures in other creative fields. This might provide contact details for the author, author's agent or literary executor. The WATCH database will not always contain pseudonyms or variant forms of names.

The ISBN (International Standard Book Number) applies to books published after 1967. It identifies the title to which a work is assigned and provides details of the publisher.

## Useful links:

WATCH - [www.norman.hrc.utexas.edu/watch/index.cfm](http://www.norman.hrc.utexas.edu/watch/index.cfm)

ISBN - [www.isbn.nielsenbook.co.uk](http://www.isbn.nielsenbook.co.uk)

**Check the databases of all the relevant collecting societies** – (as an author might only be registered with one)

- Authors' Licensing and Collecting Society,
- Publishers Licensing Society,
- Copyright Licensing Agency.

These may hold information regarding the relevant right holder. In particular they could have information on the reproduction rights within a work. If an applicant knows who the author is but are having difficulty locating them they should contact the Authors' Licensing and Collecting Society (ALCS). If applicants know the publisher then they should contact Publishers' Licensing Society. The Copyright Licensing Agency (CLA) is a collecting society to perform collective licensing on behalf of ALCS and PLS.

The Public Lending Right (PLR) register allows authors to register their works to receive payment for the loans of their books by public libraries. The UK PLR office is part of the British Library. To note that PLR will not have records for the estate of an author who died before 1982.

## Useful links:

Authors' Licensing and Collecting Society - [www.alcs.co.uk](http://www.alcs.co.uk)

Publishers Licensing Society - [www.pls.org.uk](http://www.pls.org.uk)

Copyright Licensing Agency - [www.cla.co.uk](http://www.cla.co.uk)

The Public Lending Right register - [www.plr.uk.com](http://www.plr.uk.com)

**Check sources that integrate multiple databases and registries** – There are sources that will hold information from multiple sources. These include VIAF (Virtual International Authority Files) which combines multiple name authority files into a single Online Computer Library Center. An authority file is a process that organizes library catalogue and bibliographic information by using a single, distinct name for each topic. The service matches and links widely-used authority files and makes that information available on the Web.

## Useful links:

Virtual International Authority Files – [www.viaf.org](http://www.viaf.org)

### Additional Sources

An applicant will also need to consider which of the following suggested sources are most appropriate when conducting a diligent search as not all of these will be relevant to all types of work. It is important to note that this is not an exhaustive list and if applicants are aware of other sources that are likely to contain information on a right holder then they need to consult them.

**Credits and other information appearing within the work** - This might provide clues to the name or location of the right holder. Published books should contain information on the author and publisher on the title page. If the work is a translation, the name of the translator should be within the work. There will usually be information on the date of publication which will assist in establishing the date of first publication as well as details of subsequent issues and revisions.

The publisher's business address is usually found on the reverse of the title page. A useful source for up to date contact details of UK book publishers is "The Writers' & Artists Yearbook" (Bloomsbury), or an internet search could find the contact details.

Applicants will need to be aware that the name and address might have changed or the publisher might have gone out of business. If this is the case, refer to the Firms out of Business (FOB) database which may tell you if the business was bought by anyone else. Companies House will also hold information on companies trading or no longer trading.

The book may contain information on the author including biographical details, academic affiliations and place of residence. If the book was first published overseas, there may be information about the original publisher and date of publication.

For multi-author works such as a collection of stories, poems, essays or extracts, there will probably be an acknowledgments or permissions section which will give details of the right holders of each of the copyright works in the book.

Authors sometimes use pseudonyms when publishing works and an applicant will need to bear this in mind. There are several reference books which identify pseudonymous authors:

- T. J. Carty, ed., *Dictionary of literary pseudonyms in the English language*, 2nd edn, Mansell, London, 2000
- Adrian Room, ed., *Dictionary of pseudonyms : 13,000 assumed names and their origins*, 5th edn, McFarland & Co., Jefferson, N.C. and London, [2010]
- Jennifer Mossman, ed., *Pseudonyms and nicknames dictionary : a guide to 80,000 aliases, appellations, assumed names*, 3rd edn., 2 vols, Gale Research Co., Detroit, Michigan, c1987

See also

- [www.authorandbookinfo.com](http://www.authorandbookinfo.com)
- [www.trussel.com/books/pseudo.htm](http://www.trussel.com/books/pseudo.htm)
- [www.tomfolio.com/AuthorPSE/AutPseudos.asp](http://www.tomfolio.com/AuthorPSE/AutPseudos.asp)

Useful links:

Firms out of Business - [www.norman.hrc.utexas.edu/watch/fob.cfm](http://www.norman.hrc.utexas.edu/watch/fob.cfm)  
 Companies House - [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

**The provenance of a work (i.e. where the work was found)** – This could provide valuable information on any right holder. Orphan works can be found anywhere and applicants should consider where the work is held or where it was found. For example if the work is held by a museum/library/website, then information or records on the right holder and any permissions might be known by these organisations, although this is not always the case, especially if the works were donated by a person who was not the right holders.

If the work is in a private collection, the archivist might hold records relating to the right holder.

Applicants will need to consider what they know about where the work came from originally and where it was found. This can help to narrow down the search for the right holder or provide vital information on where to search.

**General internet searching** – A general web search is a useful tool especially at the beginning of a search but also when new information is discovered. The author might have a website or web page or there might be other information that will provide a lead.

Applicants need to take care when using search engines and the terms that are used as they can produce different results. For example, it is not sufficient to just search the right holder name, search terms such as “wife”, “son”, or “daughter” may be helpful in generating family contact details of the identified author. It is advised that multiple pages of results from a search engine are viewed. Using the following search terms with the authors name can prove useful.

- Agent
- Literary agent
- Estate
- Literary estate
- Society
- Papers
- Biography
- Interview
- The title of the book

The following websites could prove useful:

- Google
- Bing
- Wikipedia
- People search sites such as [www.192.com](http://www.192.com) or [www.usidentify.com](http://www.usidentify.com)

**Records of Literary Agents** – Many authors who are commercially published are represented by a literary agent. Agents also represent literary estates. If an author/estate is represented by an agent, the author should normally be contacted via the agent. In some cases agents represent pseudonymous authors whose identities are not publicly known.

The Association of Authors’ Agents may be able to help trace the agent for an author or a literary estate. A check should first be made on the WATCH database, and searches made on the web.

Useful links:

The Association of Authors’ Agents - [www.agentsassoc.co.uk](http://www.agentsassoc.co.uk)

**Check identifiers** - The International Standard Text Code (ISTC) is a numbering system for the unique identification of text-based works. ISTC numbers can be attached to individual items of content included in printed books, e-books, audio books, newspapers, journals etc, as well as to book-length works.

Useful links:

The International Standard Text Code - [www.istc-international.org](http://www.istc-international.org)

**Databases and registries** – Applicants will need to consider checking and existing databases and registries. Copac is the consolidated online catalogue of UK academic and specialist libraries. It brings together the catalogue records of many major libraries and makes them easily searchable. The level of information on works varies but a search can often answer the following questions:

- The date of the author’s death, if applicable
- The author’s real name, if he or she has published under a pseudonym
- The author’s full forenames, if he or she has published under initials
- The maiden name of a married woman author (if she has previously published under that name)
- The date of first book publication of a book-length work
- Details of subsequent book publications, including the most recent publication

In the case of multi-author books, such as collections of essays, it is unlikely that the names of contributors will be linked to the general author index, even if they are listed in any of the records for the book. Each one will have to be entered for a manual search. It is likely that in most cases the contributors will also have published book-length works, the records for which may well contain useful information.

The Author and Book Info database is a private project with information on authors, which can help to establish whether copyrights have expired by cataloguing authors’ dates of death.

A list of online author directories and other useful sites is given at the end of this section.

In relation to poetry the “Poetry Library” holds contact information on poetry publishers, magazines, websites, and writers’ groups which it will make available on request. This is also a forum-based way to search for lost quotations.

The International Standard Name Identifier (ISNI) database searches multiple databases to identify contributors to creative works and those active in their distribution, including researchers, inventors, writers, artists, visual creators, performers, producers and publishers.

The Books in Print (BIP) database combines bibliographic information designed specifically to find books that are in commerce via traditional publishing channels. A subscriber login is needed.

Useful links:

COPAC - [www.copac.ac.uk](http://www.copac.ac.uk)

The Author and Book Info database - [www.authorandbookinfo.com](http://www.authorandbookinfo.com)

Poetry Library - [www.poetrylibrary.org.uk/queries](http://www.poetrylibrary.org.uk/queries)

The International Standard Name Identifier - [www.isni.org](http://www.isni.org)

The Books in Print database - [www.booksinprint.com](http://www.booksinprint.com)

**Copyright Hub** – This is a creative industries led project and seeks to be a central source of information about rights ownership with connections to a wide range of websites, digital copyright exchanges and databases in the UK and around the world and will facilitate licensing for consumers and businesses to purchase.

Useful links:

Copyright Hub - [www.copyrighthub.co.uk](http://www.copyrighthub.co.uk)

**Databases of academic and scientific articles** – If the work is an academic or scientific study then websites such as CrossRef and PubMed may help in finding other works by the same author.

Useful links:

CrossRef - [www.crossref.org](http://www.crossref.org)

PubMed - [www.ncbi.nlm.nih.gov/pubmed](http://www.ncbi.nlm.nih.gov/pubmed)

**Online databases and catalogues** – Information on published works could be available for works that are for sale on online databases and catalogues such as Amazon, Google Books and Apple iPad bookstore. This will include information on the author and dates of publication. However, it is worth noting that sometimes publication dates are not accurate so it is suggested that multiple sources are used to verify the information. Amazon and the Apple iBooks store are particularly useful for digital publications and works published or reissued by the author.

Other catalogues include IPR license an online platform to acquire subsidiary book rights and permissions that holds records of millions of titles of published works.

Useful links:

Amazon - [www.amazon.co.uk](http://www.amazon.co.uk)

Google Books - [www.books.google.com](http://www.books.google.com)

iBooks - [www.apple.com/uk/ibooks](http://www.apple.com/uk/ibooks)

IPR license - [www.iprlicense.com](http://www.iprlicense.com)

### Trace heirs to an estate

**If an author is known or believed to be dead, the following sources can help to trace the heirs to the literary estate, as well as the date of death if this is not known.**

**Digitised newspaper archives** – These may contain a death notice and or obituary. A growing number of websites provide access to digitised newspapers.

The “Times” and the “Guardian” have online archives. Subscription access only, but short-term subscriptions are available. The “London Gazette”, freely accessible online, carries some probate notices with the deceased’s full address and date of death.

Some libraries have newspaper collections. Regional newspaper collections are held in:

- British Library Newspapers - the main British copyright collection,
- The National Library of Wales,
- National Library of Scotland,
- Belfast Central Library,
- National Library of Ireland.

Search the ARCHON Directory to find other libraries and local archives that hold newspaper collections.

Useful links:

ARCHON Directory - [www.nationalarchives.gov.uk/archon/default.htm](http://www.nationalarchives.gov.uk/archon/default.htm)

The Gazette - [www.thegazette.co.uk/wills-and-probate](http://www.thegazette.co.uk/wills-and-probate), [www.thegazette.co.uk](http://www.thegazette.co.uk)

Online Newspaper archives - [www.en.wikipedia.org/wiki/Wikipedia:List\\_of\\_online\\_newspaper\\_archives](http://www.en.wikipedia.org/wiki/Wikipedia:List_of_online_newspaper_archives)

**Genealogy sites** — that contain records of births, marriages and deaths can help in finding people’s history and tracing family members who could hold the copyright for the work.

Useful links:

National Archives - [www.nationalarchives.gov.uk/records/looking-for-person](http://www.nationalarchives.gov.uk/records/looking-for-person)

Ancestry - [www.ancestry.co.uk](http://www.ancestry.co.uk)

**Searching for wills** - The Postal Searches and Copies Department of the Probate Service will search for a will and could provide copies. There is a fee for this service. Applicants will need the correct full name of the deceased person and the year from which the search is to begin; normally the year of death. It is often possible to discover the exact date from death notices, etc. GOV.uk now provides an online service to find a will or probate for people who died before 1858. There is also a fee for this service.

The National Probate Calendar, which indexes wills and administrations for each year since 1858, contains details of the deceased person’s last address, full name, date and place of death and the date and place of grant of probate or administration.

The years up until 1966 can now be viewed online on the website [ancestry.co.uk](http://ancestry.co.uk). This is a ‘premium’ source, so a subscription is required.

The full Calendar is available to view in London at court 38 in the Royal Courts of Justice between 9am and 1pm and 2pm and 4pm. However, the indexes for the last 50 years may be viewed at the District Probate Registries.

A search on the National Archives' online catalogue "Discovery" and related databases can assist for wills between 1384 and 12 January 1858.

Useful links:

Ministry of Justice (Wills, probate and inheritance) -  
[www.gov.uk/wills-probate-inheritance/searching-for-probate-records](http://www.gov.uk/wills-probate-inheritance/searching-for-probate-records)  
 Find a will or probate - [www.gov.uk/search-will-probate](http://www.gov.uk/search-will-probate)  
 Form PA1S - [hmctsformfinder.justice.gov.uk/courtfinder/forms/pa001s-eng.pdf](http://hmctsformfinder.justice.gov.uk/courtfinder/forms/pa001s-eng.pdf)  
 Court and Tribunal Finder -  
[courttribunalfinder.service.gov.uk/areas-of-law/probate](http://courttribunalfinder.service.gov.uk/areas-of-law/probate)  
 England & Wales, National Probate Calendar 1858-1966 -  
[search.ancestry.co.uk/search/db.aspx?dbid=1904](http://search.ancestry.co.uk/search/db.aspx?dbid=1904)  
 Ancestor-search.info: [www.ancestor-search.info/NAT-Probate.htm](http://www.ancestor-search.info/NAT-Probate.htm)  
 National Archives (Wills 1384–1858) -  
[www.nationalarchives.gov.uk/records/wills.htm](http://www.nationalarchives.gov.uk/records/wills.htm)

**Search archives** – The National Archives is the official archive and publisher for the UK government, and for England and Wales. It has a collection of over 11 million historical government and public records. A search on the "Access to Archives" database can find out whether the author's papers have been deposited in a UK archive. An applicant should contact the archivists to find out if they know whom to contact about the copyright. Other databases that may be useful are AIM25 (for archives within Greater London) and Archives Hub.

Useful links:

Access to Archives - [www.nationalarchives.gov.uk/a2a/](http://www.nationalarchives.gov.uk/a2a/)  
 AIM25 - [www.aim25.ac.uk](http://www.aim25.ac.uk)  
 Archives Hub - [archiveshub.ac.uk](http://archiveshub.ac.uk)

**Treasury Solicitors Department (Bona Vacantia Division)** – An applicant would search here in respect of bona vacantia which is the name given to ownerless property, which by law passes to the Crown. The Treasury Solicitors act for the Crown to administer the disposal of assets of people who die intestate (without a will) and without known kin (entitled blood relatives) and collect the assets of dissolved companies and other various ownerless goods in England and Wales.

Useful links:

Treasury Solicitors - [www.gov.uk/government/organisations/bona-vacantia](http://www.gov.uk/government/organisations/bona-vacantia)

**Biographical Directories** – These hold information on authors. Websites such as “Who’s Who” and the “Oxford Dictionary of National Biography” can be a useful source. Subscriber logins are needed to access them.

Useful links:

Who’s who - [www.ukwhoswho.com](http://www.ukwhoswho.com)

Oxford Dictionary of National Biography - [www.oxforddnb.com](http://www.oxforddnb.com)

## Useful websites

The following is a list of online author directories and other useful sites.

### Author Directories

- Society of Authors <http://www.societyofauthors.org/quick-search/> – directory of members
- Writers’ Guild of Great Britain <http://www.writersguild.org.uk/find-a-writer> – directory of members
- Alliance of Independent Authors [allianceindependentauthors.org](http://allianceindependentauthors.org) – member directory; self-published authors
- Apples and Snakes [www.applesandsnakes.org](http://www.applesandsnakes.org) – performance poetry organisation; searchable directory of poets.
- Authors Aloud UK [www.authorsalouduk.co.uk](http://www.authorsalouduk.co.uk) – a company that specialises in arranging for authors to visit schools, libraries and other venues in the UK or abroad; author directories arranged by category: [www.authorsalouduk.co.uk/the-authors](http://www.authorsalouduk.co.uk/the-authors)
- Biographers’ Club [www.biographersclub.co.uk/](http://www.biographersclub.co.uk/) – website has a list of members.
- Contact an Author [www.contactanauthor.co.uk](http://www.contactanauthor.co.uk) – aid to finding authors.
- Crime Writers’ Association [www.thecwa.co.uk](http://www.thecwa.co.uk)
- Historical Writers’ Association [www.thehwa.co.uk](http://www.thehwa.co.uk); directory of members with links to their individual websites: [www.thehwa.co.uk/content/members](http://www.thehwa.co.uk/content/members)
- Guild of Food Writers [www.gfw.co.uk](http://www.gfw.co.uk) – member directory: [www.gfw.co.uk/directory-of-members.cfm](http://www.gfw.co.uk/directory-of-members.cfm)
- National Centre for Language and Literacy [www.ncll.org.uk](http://www.ncll.org.uk) – author search: [www.ncll.org.uk/25\\_LFA](http://www.ncll.org.uk/25_LFA)

- NAWE Professional Directory [www.nawe.co.uk/professional-directory.html](http://www.nawe.co.uk/professional-directory.html) – membership directory for National Association of Writers in Education (NAWE)
- Reading Zone [www.readingzone.com/home.php](http://www.readingzone.com/home.php) – a site dedicated to children’s books and authors. Author profiles: [www.readingzone.com/index.php?zone=cz&page=author\\_zone\\_profile](http://www.readingzone.com/index.php?zone=cz&page=author_zone_profile)
- Scattered Authors’ Society [scatteredauthors.org](http://scatteredauthors.org) – authors writing for children and teenagers; member directory: [scatteredauthors.org/page2.htm](http://scatteredauthors.org/page2.htm)
- Association of British Science Writers [www.absw.org.uk](http://www.absw.org.uk); member directory: [www.absw.org.uk/view-users-list.html](http://www.absw.org.uk/view-users-list.html)
- Scottish Book Trust [www.scottishbooktrust.com](http://www.scottishbooktrust.com) – the agency for the promotion of reading, writing and literature in Scotland. Author search: [www.scottishbooktrust.com/author-search](http://www.scottishbooktrust.com/author-search)
- Society of Children’s Book Writers and Illustrators [scbwi.org](http://scbwi.org); international; member directory
- Start the Story Author Directory: [www.authors.startthestory.co.uk/author-database](http://www.authors.startthestory.co.uk/author-database) – a directory aimed at getting writers into schools.
- Travel Writers UK [www.travelwriters.co.uk](http://www.travelwriters.co.uk) – member directory: [www.travelwriters.co.uk/authors.htm](http://www.travelwriters.co.uk/authors.htm)
- UK Children’s Books [www.ukchildrensbooks.co.uk](http://www.ukchildrensbooks.co.uk) – directory

### Other useful sites

- Booktrust [www.booktrust.org.uk](http://www.booktrust.org.uk) maintains extensive files of information about authors, including some information relating to copyrights.
- British Guild of Travel Writers [www.bgtw.org](http://www.bgtw.org) – authors of travel books, journalists writing on travel-related topics, editors of guidebooks, broadcasters, etc.
- Garden Media Guild [www.gardenmediaguild.co.uk](http://www.gardenmediaguild.co.uk) – garden writers, journalists, authors, etc.
- Romantic Novelists’ Association [www.rna-uk.org/](http://www.rna-uk.org/)

## 5. Sources for newspapers, magazines, journals and periodicals

Newspapers, magazines, journals and periodicals will most likely contain multiple contributors. An applicant will need to identify the correct right holder for the contribution that is required. Section 2 of this guidance provides an overview on who owns copyright in relation to staff journalists and freelance journalists. As some of these sources are the same as those in section 4 applicants will need to refer to that section for further details.

This section provides information on the relevant sources for a diligent search for newspapers, magazines, journals and periodicals. It also provides additional sources that applicants will need to consider.

### Relevant Sources

**Check orphan work registers** - If the work is on the UK orphan works' register a diligent search would already have been completed. Applicants should also check the orphan works' database maintained by the Office for Harmonisation in the Internal Market (OHIM) for orphan works identified under the EU Directive.

**Check the International Standard Serial Number (ISSN)** - This is a unique eight-digit number used to identify a periodical publication. Many but not all serials (including newspapers and magazines) have an ISSN. The ISSN Register is not freely available on the web but is available by subscription. There are several routes to the identification and verification of ISSN codes for the general public.

- the print version of a periodical typically will include the ISSN code as part of the publication information
- most periodical websites contain ISSN code information
- derivative lists of publications will often contain ISSN codes; these can be found through on-line searches with the ISSN code itself or periodical title
- **WorldCat** permits searching their catalogue by ISSN by entering "issn:"+ISSN code in the query field. An applicant can also go directly to an ISSN's record by appending it to <http://www.worldcat.org/ISSN/>, e.g. [www.worldcat.org/ISSN/1021-9749](http://www.worldcat.org/ISSN/1021-9749). This does not query the ISSN Register itself but rather shows whether any Worldcat library holds an item with the given ISSN.

Useful links:

International Standard Serial Number - [www.issn.org](http://www.issn.org)

World Cat - [www.worldcat.org](http://www.worldcat.org)

**Check legal deposits, library indexes, catalogues and authority files maintained by libraries and other institutions.**

**Check the publishers' and authors' associations** – Contributors to magazines, newspapers and journals might also be published authors. If this is the case, applicants should follow the process set out in section 4 to find an author of a book including contacting publishers.

Sometimes contributions to magazines and newspapers contain information that may help to trace the author. Journalist associations could hold some relevant information.

- The National Union of Journalists,
- Chartered Institute of Journalists,
- British Association of Journalists.

The following organisations may be able to help with identifying and contacting the owners of magazines, periodicals and newspapers:

- Newspaper Society,
- Society of Editors (regional newspapers),
- The Professional Publishers' Association (PPA: for magazines),
- Association of Learned and Professional Society Publishers (ALPSP).

There are also several associations of journalists working in particular fields, for example:

- Association of British Science Writers,
- Garden Media Guild,
- Guild of Food Writers,
- Travel Writers UK,
- British Guild of Travel Writers.

## Useful links:

Society of Authors - [www.societyofauthors.org](http://www.societyofauthors.org)  
 The Writers' Guild of Great Britain - [www.writersguild.org.uk/find-a-writer](http://www.writersguild.org.uk/find-a-writer)  
 The Association of Authors' Agents - [www.agentsassoc.co.uk](http://www.agentsassoc.co.uk)  
 The Publishers' Association - [www.publishers.org.uk](http://www.publishers.org.uk)  
 The National Union of Journalists - [www.nuj.org.uk](http://www.nuj.org.uk)  
 Chartered Institute of Journalists - [www.cioj.co.uk](http://www.cioj.co.uk)  
 British Association of Journalists - [www.bajunion.org.uk](http://www.bajunion.org.uk)  
 Newspaper Society - [www.newspapersoc.org.uk](http://www.newspapersoc.org.uk)  
 Society of Editors - [www.societyofeditors.co.uk](http://www.societyofeditors.co.uk)  
 The Professional Publishers' Association - [www.ppa.co.uk](http://www.ppa.co.uk)  
 Association of Learned and Professional Society Publishers - [www.alpsp.org](http://www.alpsp.org)  
 Association of British Science Writers - [www.absw.org.uk](http://www.absw.org.uk)  
 Garden Media Guild - [www.gardenmediaguild.co.uk](http://www.gardenmediaguild.co.uk)  
 Guild of Food Writers - [www.gfw.co.uk](http://www.gfw.co.uk)  
 Travel Writers UK - [www.travelwriters.co.uk](http://www.travelwriters.co.uk)  
 British Guild of Travel Writers - [www.bgtw.org](http://www.bgtw.org)

Check the databases of all the relevant collecting societies – (as an author might only be registered with one)

- Authors' Licensing and Collecting Society,
- Publishers' Licensing Society,
- Copyright Licensing Agency,
- Newspaper Licensing Agency.

These may hold information regarding the relevant right holder. In particular they could have information on the reproduction rights within a work.

The Public Lending Right register allows authors to register their works to receive payment for the loans of their works by public libraries. The UK PLR office is part of the British Library. To note that PLR will not have records for the estate of an author who died before 1982.

## Useful links:

Authors' Licensing and Collecting Society - [www.alcs.co.uk](http://www.alcs.co.uk)  
 Publishers Licensing Society - [www.pls.org.uk](http://www.pls.org.uk)  
 Copyright Licensing Agency - [www.cla.co.uk](http://www.cla.co.uk), [www.cla.co.uk/licences/titlesearch](http://www.cla.co.uk/licences/titlesearch)  
 The Public Lending Right register - [www.plr.uk.com](http://www.plr.uk.com)  
 Newspaper Licensing Agency - [www.nlamediaaccess.com](http://www.nlamediaaccess.com)

## Additional Sources

Applicants will also need to consider which of the following suggested sources are most appropriate when conducting a diligent search as not all of these will be relevant to all types of work. It is important to note that this is not an exhaustive list and if applicants are aware of other sources that will contain information on a right holder then they need to consult them.

**Credits and other information appearing within the work** – This might provide clues to the name or location of the right holder. The work might contain the name of the author, publisher or if a translation, the name of the translator.

**The provenance of a work (i.e. where the work was found)** – This could provide valuable information on any right holder. Orphan works can be found anywhere and applicants should consider where the work is held or where it was found.

**General internet searching** – A general web search is useful tool and especially at the beginning of a search but also when new information is discovered.

**Check WATCH (Writers, Artists and their Copyright Holders)** – This is a database of copyright contacts for writers, artists, and prominent figures in other creative fields.

**Records of Literary Agents** – Contributors to magazines, newspapers and journals may be represented by a literary agent. The Association of Authors' Agents may be able to help trace the agent for an author or a literary estate. A check should first be made on the WATCH database, and searches made on the web.

Useful links:

The Association of Authors' Agents - [www.agentsassoc.co.uk](http://www.agentsassoc.co.uk)

**Check databases and registries** - Applicants may want to consult with other databases that list books in print to try and locate right holder. See section 4 for further details.

**Databases of academic and scientific articles** – If the work is an academic or scientific study then websites such as CrossRef and PubMed may help in find other works by the same author.

Useful links:

Crossref - [www.crossref.org](http://www.crossref.org)

PubMed - [www.ncbi.nlm.nih.gov/pubmed/](http://www.ncbi.nlm.nih.gov/pubmed/)

**If an author is known or believed to be dead, applicants should consult with the sources in section 4 that can help to trace the heirs to the literary estate, as well as the date of death if this is not known.**

## 6. Sources for stage plays, radio plays and audio books

For stage, radio plays and audio books there will be right holder for the written work such as the script but also within the performance if this has been recorded in a fixation such as a video tape or CD. Applicants will also need to be aware that for stage plays there may be other underlying rights such as designers of sets, costumes and other visual aspects. This section provides advice in finding the right holder for the written work. **Applicants will initially need to consult with the relevant sources for published books.**

To locate the right holder for the performance applicants will need to refer to the guidance on sound recordings and film for advice.

### Stage Plays

Once a play is no longer being produced, most rights are likely to be with the writer, in which case they and their agent should be contacted. Applicants will need to note that the rights in a production (for example, in the design elements) are held by the producer. Applicants should consider the following main elements.

#### **Credits and other information appearing within the work**

#### **Credits and other information appearing in any programmes from productions of the play**

#### **The provenance of a work (i.e. where the work was found)**

#### **General internet searching**

**Agents** - Agents representing dramatists and script writers have a separate trade association the Personal Managers' Association (PMA).

Useful links:

Personal Managers' Association - [www.thepma.com](http://www.thepma.com)

**Check the publishers' and authors' associations** - The Writers' Guild of Great Britain has a large number of script writers and dramatists among its members. Some dramatists are also members of the Society of Authors.

**Publishers** - If a play is published some rights may be with the publisher. A few suggested publishers for dramatists are

- Samuel French,
- Nick Hern Books,
- Oberon Books.

Useful links:

Samuel French - [www.samuelfrench-london.co.uk](http://www.samuelfrench-london.co.uk)

Samuel French - [www.nickhernbooks.co.uk](http://www.nickhernbooks.co.uk)

Oberon Books - [www.oberonbooks.com](http://www.oberonbooks.com)

### Check WATCH (Writers, Artists and their Copyright Holders)

Applicants should consider any other sources listed in this guidance that would be relevant for the work.

**If an author is known or believed to be dead, applicants should consult with the sources in section 4 that can help to trace the heirs to the literary estate, as well as the date of death if this is not known.**

### Radio plays

Many radio plays are produced and broadcast by the BBC. However, some plays are produced independently. The producer, writer and the writer's agent will be useful sources of information. If it is known which regional BBC office produced a given radio play, they can be contacted via the BBC website. Alternatively, contact them via post at Radio Rights Department, Broadcasting House, London W1A 1AA.

Applicants will initially need to consult with the relevant sources for published books and should then consider the following sources.

#### Credits and other information appearing within the work

#### The provenance of a work (i.e. where the work was found)

#### General internet searching

**The Radio Independents Group** – is a trade body that represents the interests of the independent radio producers of the UK.

Useful links:

The Radio Independents Group - [www.radioindies.org](http://www.radioindies.org)

Applicants should consult the most appropriate suggested sources for authors set out in this guidance.

**If an author is known or believed to be dead, applicants should consult with the sources in section 4 that can help to trace the heirs to the literary estate, as well as the date of death if this is not known.**

## Audio Books

Applicants will initially need to consult with the relevant sources for published books and then consider the following sources of information.

**Credits and other information appearing within the work** (or its packaging)

**The provenance of a work** (i.e. where the work was found)

### General internet searching

Applicants should then attempt to contact the following people to locate the relevant rightholders.

- The author and/or agent of the book — they may know whether these rights are still with the producer or have reverted.
- The adaptor of the book for audio — They may have rights in any adaptation or abridgement.
- The producer, who has rights in the production.
- The actor/reader in the work. Generally, the actor/reader assigns the rights in their performance to the producer, but this should be verified with the actor/reader and their agent.

Other useful information:

**Publishers** – The Publishers Association has an Audio Publishers Group.

**Identifiers** – The work should contain an ISBN number this will be different from any print or digital edition. This will provide details of the publisher.

**If an author of any of these works is known or believed to be dead, applicants should consult with the sources in section 4 that can help to trace the heirs to the literary estate, as well as the date of death if this is not known.**

## 7. Sources for unpublished works.

In the case of unpublished works it is likely that little is known of the author. If the work is by a known published author, or by a well known figure, then applicants will need to refer the sources in section 4, 5 and 6 depending on the type of work.

For unpublished works where little is known of the author applicants will need to consider the information available to them within the work to judge which of the relevant and additional sources would be most appropriate. If it is known that the author has died the best chance of finding the right holder could be to trace any living relatives. See section 4 for information about using genealogical sources on the web.

Where the author is deceased it might be necessary to consult the author's will to find out who has inherited their copyright. In cases where the author has made a will and there is no specific bequest of copyrights owned by the author or of documents, recordings or other objects containing unpublished works in which the author owned the copyright, the rights will have passed to the residuary legatee.

Applicants will need to consider if the sources suggested in this guidance are relevant for the unpublished work and refer to previous sections for more detail. Applicants should also consider the following sources.

### Check orphan work registers

**Signatures and other information appearing within the work** — This might provide clues to the name or location of the right holder. Unpublished letters and diaries might include dates and the name of the author or information on people an applicant might be able to link to the author. The subject matter of the work could also provide clues to the author.

**The provenance of a work (i.e. where the work was found)** — This is especially important for unpublished works as it could provide valuable information on any right holder. Orphan works can be found anywhere and applicants should consider where the work is held or where it was found. For example if the work is held by a museum/library/website, then information or records on the right holder and any permissions might be known by these organisations, although this is not always the case, especially if the works were donated by a person who was not the right holder.

If the work is in a private collection, the archivist might hold records relating to the right holder.

Applicants will need to consider what they know about where the work came from originally and where it was found. This can help to narrow down the search for the right holder or provide vital information on where to search.

**General internet searching** — A general web search is a useful tool especially at the beginning of a search but also when new information is discovered.

Applicants need to take care when using search engines and the terms that are used as they can produce different results. For example, it is not sufficient to just search the right holder name, search terms such as “wife”, “son”, or “daughter” may be helpful in generating family contact details of the identified author. It is advised that multiple pages of results from a search engine are viewed.

The following websites could prove useful:

- Google
- Bing
- Wikipedia
- People search sites such as [www.192.com](http://www.192.com) or [www.usidentify.com](http://www.usidentify.com)

**Search archives** — A search on the National Archive’s “Access to Archives” database can find out whether the author’s papers have been deposited in a UK archive. An applicant should contact the archivists to find out if they know whom to contact about the copyright. Other databases that may be useful are AIM25 (for archives within Greater London) and Archives Hub.

Useful links:

Access to Archives - [www.nationalarchives.gov.uk/a2a/](http://www.nationalarchives.gov.uk/a2a/)

AIM25 - [www.aim25.ac.uk](http://www.aim25.ac.uk)

Archives Hub - [archiveshub.ac.uk](http://archiveshub.ac.uk)

**If an author is known or believed to be dead, applicants should consult with the sources in section 4 that can help to trace the heirs to the literary estate, as well as the date of death if this is not known.**

## 8. Appropriate sources for literary works under the EU Directive

The Copyright and Rights in Performances (Certain Permitted Uses of Orphan Works) Regulations 2014 implemented the EU Directive into UK Law. The Regulations set out the minimum appropriate sources that need to be consulted, for those organisations that qualify for its use, when completing a diligent search.

The appropriate sources for literary works are listed below. Under 5 (4) of the Regulations the IPO can issue guidance on sources to consult. It is suggested that those who wish to use works under the Directive also consider the other sources listed in this guidance and determine if they are relevant to complete a diligent search for the work.

- For published books:
  - a. legal deposit, library catalogues and authority files maintained by libraries and other institutions;
  - b. the publishers' and authors' associations in the respective country;
  - c. existing databases and registries, WATCH (Writers, Artists and their Copyright Holders), the ISBN (International Standard Book Number) and databases listing books in print;
  - d. the databases of the relevant collecting societies, in particular reproduction rights organisations;
  - e. sources that integrate multiple databases and registries, including VIAF (Virtual International Authority Files) and ARROW (Accessible Registries of Rights Information and Orphan Works);
- For newspapers, magazines, journals and periodicals:
  - a. the ISSN (International Standard Serial Number) for periodical publications;
  - b. indexes and catalogues from library holdings and collections;
  - c. legal deposit;
  - d. the publishers' associations and the authors' and journalists' associations in the respective country;
  - e. the databases of relevant collecting societies including reproduction rights organisations;
- For unpublished works:
  - a. Those sources listed above which are appropriate to the relevant work

## 9. Diligent searches for right holders outside the UK

Where there is evidence to suggest that the right holder may be outside the UK an applicant will need to conduct a diligent search in sources relevant to that country. In these cases, the requirements for a diligent search for the right holder will be just the same within the UK in terms of the need to be able to demonstrate diligence.

Some of the sources listed in the guidance are international in their scope such as ISBN or ISSN databases. However, to complete a diligent search effectively an applicant will need to consult the corresponding sources listed in this guidance in that country such as collecting societies and authors associations.

National authors' associations, collecting societies and related organisations can provide useful information on how best to proceed with a search in their country. National organisations can often be traced via international organisations to which they belong or are affiliated.

There are many authors who do not belong to any kind of authors' society. In some countries very few authors belong to organisations. In these cases applicants should use internet searches, and people-tracing resources as suggested in this guidance.

Below are some suggested international organisations that could hold relevant information.

### Authors

- International Authors Forum (IAF) – Their website contains a list of their members which are all national authors' associations and similar organisations.  
[www.internationalauthors.org/About-Us/Members.aspx](http://www.internationalauthors.org/About-Us/Members.aspx)

### Screenwriters and Playwrights

- International Affiliation of Writers Guilds – Is an international federation representing guilds of professional screenwriters and playwrights.  
[www.iawg.org/iawg/Home.html](http://www.iawg.org/iawg/Home.html)

### Journalists

- International Federation of Journalists (IFJ) – Their website lists contact details of journalists' trade unions across the world.  
<http://www.ifj.org/members/>
- European Federation of Journalists (EFJ) – This is a regional organisation of the IFJ  
[www.europe.ifj.org/en/pages/efj-members-2](http://www.europe.ifj.org/en/pages/efj-members-2)

## Trade Unions

Some organisations of writers and journalists are affiliated to the Trade Union Movement.

- International Trade Union Confederation (ITUC) - Their website has contact details of their members which are national bodies such as the UK's Trades Union Congress (TUC). The websites of the national federations typically carry lists of member unions.

[www.ituc-csi.org/?page=abook](http://www.ituc-csi.org/?page=abook)

## Collective management organisations

- International Federation of Reproduction Rights Organisations (IFFRO) - An international network of collective management organisations and creators' and publishers' associations in the text and image spheres. Their website has details of members including contact details

[www.ifrro.org/rro](http://www.ifrro.org/rro)

- International Confederation of Societies of Authors and Composers (CISAC) - Their website has details of members including contact details

[www.cisac.org/CisacPortal/menu.do?method=change&menu=tools&item=item1](http://www.cisac.org/CisacPortal/menu.do?method=change&menu=tools&item=item1)

- GESAC (European Grouping of Societies of Authors and Composers) - Their website has details of members including links

[www.authorsocieties.eu/about-us/gesac-s-members-in-europe](http://www.authorsocieties.eu/about-us/gesac-s-members-in-europe)

## Publishers

- International Publishers Association (IPA) - Their website has details of members including contact details.

[www.internationalpublishers.org/about-ipa/ipa-membership-introduction/ipa-members](http://www.internationalpublishers.org/about-ipa/ipa-membership-introduction/ipa-members)

- Federation of European Publishers (FEP) - Their website has details of members including contact details.

[www.fep-fee.eu/-Members](http://www.fep-fee.eu/-Members)

## Newspapers and magazines

- World Association of Newspapers and News Publishers / WAN-IFRA - Their website has details of members including links.

[www.wan-ifra.org/national-associations](http://www.wan-ifra.org/national-associations)

- European Magazine Media Association (EMMA) – An organisation representing publishers of magazines. Their website has details of members including contact details.

[www.magazinemedi.eu/emma-members/international-associations/](http://www.magazinemedi.eu/emma-members/international-associations/)

## National Intellectual Property Offices

- World Intellectual Property Organisation (WIPO) directory:

[www.wipo.int/directory/en/urls.jsp](http://www.wipo.int/directory/en/urls.jsp)

## 10. Glossary

### 1. Copyright

The copyright in an original work is an exclusive right to carry out certain acts. It is divisible: each of these acts involves a separate right. For literary works these include the right to copy the work; the right to issue copies to the public; the right to broadcast it; the right to make it available over the internet (or an intranet); and the right to translate it, adapt it for film or stage, or create an audio version, or a pictorial version (such as a comic book or graphic novel). These rights, and others not listed, may be separately licensed to users, or assigned (transferred) to new owners.

### 2. Literary Work

A literary work is an original work which is not a dramatic or musical work. Examples are novels; non-fiction works; stories; essays; articles; poems; song lyrics; original compilations, such as anthologies; also computer programs and databases. The script of a play or a libretto are not literary works within the terms of the Copyright Act but dramatic works.

### 3. Author

The original copyright owner is normally the author, except where a work is created in the course of employment, when it is the employer. The Copyright Designs and Patents Act 1988 states that where an author's name appears on either published copies of a work or the original manuscripts, that person should be presumed to be the author unless this is proved not to be the case. Unless proved otherwise, it should also be presumed that the work was not created in the course of employment.

### 4. Literary Estate

When the author dies, the rights that he or she possesses are passed on. If there is a will, it may specify the appointment of a literary executor to manage these rights (the literary estate). If there is no specific disposition of the copyrights in the will, they pass to the residuary legatee or legatees. If the author has not left a will, the rights pass to his or her heirs in accordance with the laws of inheritance. If there is no literary executor and the rights are divided between more than one person, it is possible that they may be administered by one or more of the heirs or legatees acting by agreement on behalf of them all.

### 5. Literary Agent

An author or literary estate may be represented in business dealings by a literary agent.

## 6. Assignee

The author, or the estate, may assign (transfer) the entire copyright, or a specific right or rights, to an assignee, such as a publisher. This can only be done in writing, signed by or on behalf of the copyright owner. Nowadays it is possible to make an assignment that is permanent and irrevocable, but this has not always been the case; see below, '8. Reversion of Rights'. It is also possible to assign rights for a limited time only.

## 7. Licensing

The author, or the administrator of a literary estate, or an assignee may license or permit a company or individual to make specific uses of the work. A licence may be exclusive or non-exclusive.

An exclusive licence is issued to only one licensee at a time. The rights licensed and the terms on which they are licensed are set out in a contract. Licences do not necessarily fit a standard pattern: there can be considerable variation as to the specific rights licensed and the terms on which they are licensed. A commercial book publishing contract issued on an exclusive basis will typically include provisions for the licensee to sub-license certain rights in the work to other users.

Other common types of licence do not convey any right to control other uses of the work. These include licences for 'first serial rights', which permit the licensee to publish the material for the first time in a periodical or magazine. Licences for translation rights are very common; these rights are often licensed for a set period of five or seven years. Audio rights are also usually handled through licensing.

A work can be licensed on a non-exclusive basis to more than one licensee. Again, such a licence does not convey to the licensee any right to control who else may use the work. Non-exclusive licences have been commonly used in the case of works such as poems and short stories published in multi-authored edited collections, and for excerpts used in readers and course-books. They are usually subject to specific limitations, including termination clauses.

Sometimes permission to use a work on a non-exclusive basis is granted informally, without anything passing in writing.

## 8. Reversion of Rights

When rights are licensed on an exclusive basis, it is usual for the contract to specify conditions under which the rights will revert to the author: for example, if a book goes out of print and the publisher has not reprinted within a set time. Sometimes the reversion is automatic, but sometimes it requires the author to make an approach to the publisher to activate the process.

Additional rules apply in the case of works whose rights were licensed or assigned by the author between 16 December 1911 and 31 May 1957 inclusive. 'Reversionary interests' in those rights passed to the author's estate. Any rights that had been assigned in that period, and any that had been licensed and are, or were, still under

licence, automatically revert, or reverted, to the author's estate twenty-five years after his or her death. These include any rights licensed by the author's assignee.

It follows that in the case of works published during that period whose author died before 1 July 1957, the rights will automatically have reverted to the estate. They may, however, have since been relicensed or reassigned by the heirs to the estate.

In the case of works published during that period whose authors died more recently, the situation is less straightforward. After 31 May 1957, it became possible for the author to assign the reversionary interests, so these will not necessarily have passed to the estate.

These rules do not apply in the case of collective works as defined in the 1911 Copyright Act (magazines, encyclopaedias, etc.), nor to works created during the course of employment.

## 9. Right Holder

Right holders are persons, businesses or in some cases institutions that have an interest in one or more of the rights in a work, whether as an author, an author's heir or legatee, an assignee, an employer, or a publisher or other holder of an exclusive licence.

## 11. Useful Contacts

The Society of Authors  
84 Drayton Gardens  
London SW10 9SB  
Tel: +44 (0)20 7373 6642  
[www.societyofauthors.org](http://www.societyofauthors.org)

ALCS (The Authors' Licensing and Collecting Society Limited)  
The Writers' House  
13 Haydon Street  
London EC3N 1DB  
Tel: +44 (0) 20 7264 5700  
Fax: +44 (0) 20 7264 5755  
[www.alcs.co.uk](http://www.alcs.co.uk)  
[alcs@alcs.co.uk](mailto:alcs@alcs.co.uk)

PLR (Public Lending Right)  
Richard House  
Sorbonne Close  
Stockton-on-Tees  
TS17 6DA  
Tel: +44 (0)1642 604699  
Fax: +44 (0)1642 615641  
[www.plr.uk.com](http://www.plr.uk.com)

The Writers' Guild of Great Britain  
1st Flr, 134 Tooley Street  
London SE1 2TU  
Tel: +44 (0) 20 7833 0777  
Fax: +44 (0) 20 7833 4777  
<http://www.writersguild.org.uk/>

The British Library  
96 Euston Road  
London  
NW1 2DB  
Tel: +44 (0)1937 546060  
[www.bl.uk](http://www.bl.uk)

The Copyright Licensing Agency Ltd,  
Saffron House,  
6-10 Kirby Street,  
London EC1N 8TS UK  
Tel: 020 7400 3100  
Fax: 020 7400 3101  
[www.cla.co.uk](http://www.cla.co.uk)

Publishers Licensing Society  
55-56 Russell Square  
London WC1B 4HP  
Tel: +44 (0)20 7079 5930  
[www.pls.org.uk](http://www.pls.org.uk)

The Postal Searches and Copies Department,  
Leeds District Probate Registry,  
York House,  
York Place,  
Leeds LS1 2BA

Probate Department,  
Principal Registry of the Family Division,  
First Avenue House,  
42-49 High Holborn,  
London, WC1V 6NP  
Tel: +44 (0)845 3020900  
[www.courtribunalfinder.service.gov.uk/courts/london-probate-department](http://www.courtribunalfinder.service.gov.uk/courts/london-probate-department)

To search probate calendars you will need to visit:  
Court 38,  
Royal Courts of Justice,  
Strand, London, WC2A 2LL

Companies House  
Crown Way  
Cardiff CF14 3UZ  
Tel: 0303 1234 500  
[www.companieshouse.gov.uk/index.shtml](http://www.companieshouse.gov.uk/index.shtml)

The National Archives  
Kew,  
Richmond,  
Surrey, TW9 4DU  
Tel: +44 (0) 20 8876 3444  
[www.nationalarchives.gov.uk/](http://www.nationalarchives.gov.uk/)

Treasury Solicitor's Department  
 Bona Vacantia Division (BVD)  
 PO Box 70165  
 London  
 WC1A 9HG  
 Tel: 020 7210 4700  
[www.gov.uk/government/organisations/bona-vacantia](http://www.gov.uk/government/organisations/bona-vacantia)

British Association of Journalists  
 British Association of Journalists,  
 89 Fleet Street,  
 London EC4Y 1DH  
 Tel: 020 7353 3003  
 Fax 020 7353 2310  
[www.bajunion.org.uk](http://www.bajunion.org.uk)

National Union of Journalists  
 Headland House  
 308-312 Gray's Inn Road  
 London WC1X 8DP  
 Tel: 020 7843 3700  
 Fax: 020 7837 8143  
[www.nuj.org.uk/home/](http://www.nuj.org.uk/home/)

Newspaper Licensing Agency  
 Wellington Gate  
 Church Road  
 Tunbridge Wells  
 TN1 1NL  
 Tel: 01892 525 273  
 Fax: 01892 525 275  
[www.nlamediaaccess.com](http://www.nlamediaaccess.com)

Newspaper Society  
 292 Vauxhall Bridge Road,  
 London SW1V 1AE  
 Tel: 020 7963 7480  
[www.newspapersoc.org.uk](http://www.newspapersoc.org.uk)

Society of Editors (regional newspapers)  
 University Centre,  
 Granta Place,  
 Mill Lane,  
 Cambridge, CB2 1RU  
 Tel: 01223 304080  
[www.societyofeditors.co.uk](http://www.societyofeditors.co.uk)

The Professional Publishers Association  
 (PPA: for magazines)  
 Second Floor,  
 35-38 New Bridge Street,  
 London EC4V 6BW  
 Tel: +44 20 7404 4166  
 Fax +44 20 7404 4167  
[www.ppa.co.uk](http://www.ppa.co.uk)

Association of Learned and Professional  
 Society Publishers (ALPSP)  
 51 Middletons Road,  
 Yaxley,  
 Peterborough,  
 Cambridgeshire, PE7 3NU UK.  
 Tel: +44 (0)1733 247 178  
[www.alpsp.org](http://www.alpsp.org)

## 12. Acknowledgments

The guidance has been developed through extensive dialogue with a sector specific group of working professionals with expertise in conducting diligent searches to locate right holders in the literary sector. The IPO would like to thank the following organisations who contributed to this guidance:

- Archives and Records Association
- Association of Authors' Agents
- Authors' Licensing and Collecting Society
- Copyright Licensing Agency
- Creators' Rights Alliance
- The National Archives
- Universities UK

## 13. Diligent search example

A library holds in its collection a small archive of unpublished works from a forensic pathologist who died in 1947. The collection includes details of nearly 7000 pathological investigations performed by the forensic pathologist.

In order to identify who held the copyright to this material the following steps were taken by the library;

1. Checked the WATCH database – No record was found.
2. Used Dictionary of National Biography, Who's Who and Google, to find out more about authors family in order to trace one of his descendants. It was discovered that he was married in 1908 and had 4 children. Since the author married in 1908 it was assumed that his children would probably be deceased so it would most likely be grandchildren as the descendants.
3. The Library followed up on a couple of old addresses – no reply received
4. Looked in the National Register of Archives to find where other material by the author was held. It was discovered that there was one other collection in an archive. The library contacted the archive and asked if they held any copyright details or were in touch with members of the family. They didn't but pointed the library to a museum that also held material.
5. The library phoned the museum that held the material. They checked their records but did not have any useful contacts.
6. Contacted the professional body, the Royal College of Pathologists to see if they had any copyright contacts. They did not have any information.
7. Contacted publishers who had recently produced books about the author. There was no reply from the publishers.
8. Looked at the acknowledgements in books about the author and tried to locate people who were thanked. Checked internal mailing lists / library database for those named in the acknowledgements but no information found.

The search lasted for 12 days before the library decided to stop and declare these orphan works.

# Annex A

## Diligent search checklist

The diligent search checklist for each sector is a table form of this guidance and has been published alongside it as a Word document which can be completed electronically.

[www.gov.uk/government/publications/orphan-works-diligent-search-guidance-for-applicants](http://www.gov.uk/government/publications/orphan-works-diligent-search-guidance-for-applicants)

The checklist requires applicants to set out a narrative of the search and lists sources set out in this guidance. If you choose to apply for an orphan works licence this must be completed and uploaded.

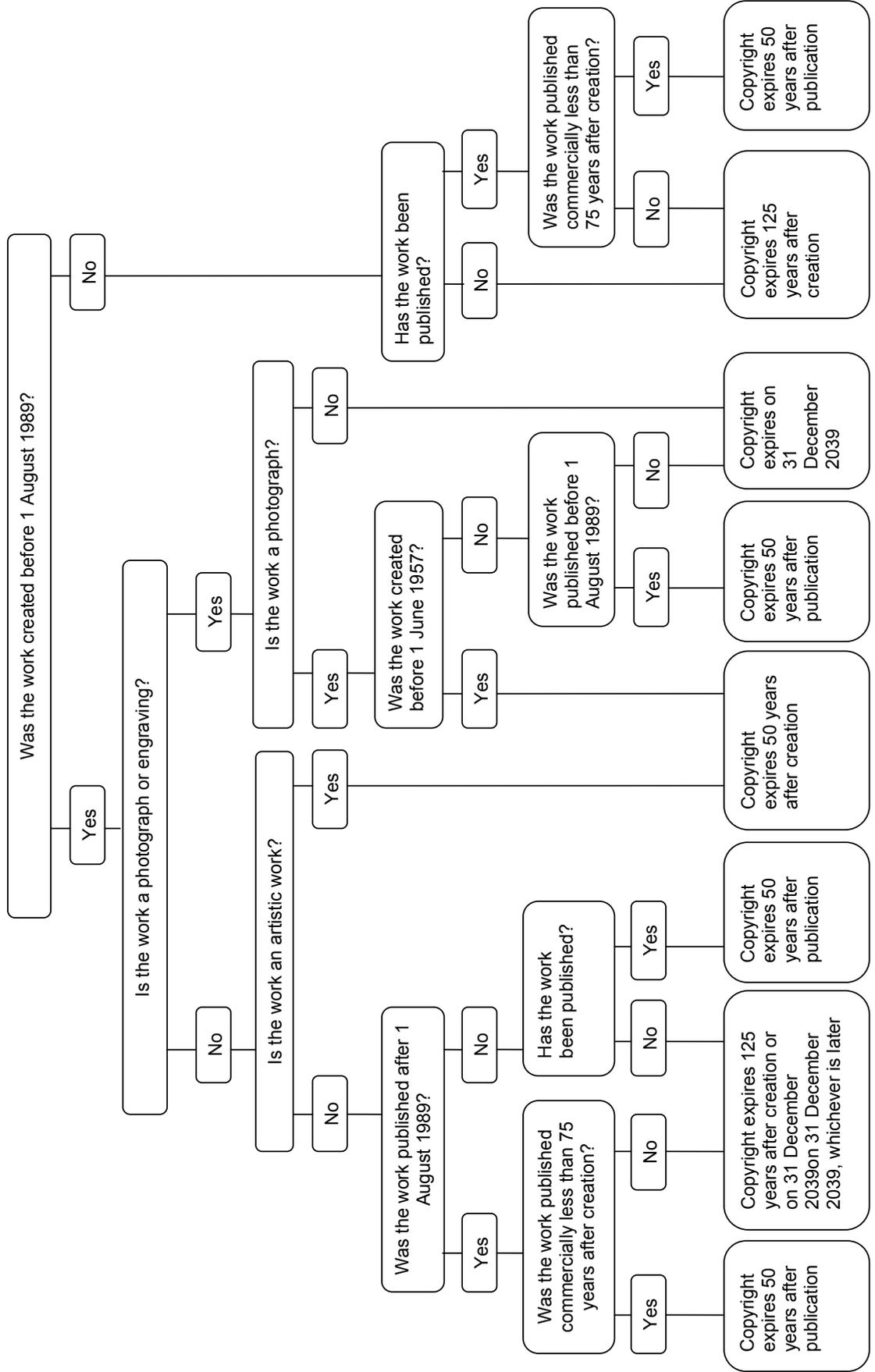
The authorising body needs this information to make a decision on the application. If this form is not submitted your application cannot be assessed and you will be asked to complete it.



# Annex C:

## Duration of Crown Copyright: literary, dramatic, musical and artistic works

Tim Padfield (2007) *Copyright for Archivists and Records Managers*, 3<sup>rd</sup> ed. London: Facet.





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