

# Public Performance Licences

## An information guide

### Music and film activities in public libraries

Developed by

*CyMAL: Museums Archives and Libraries Wales*



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## Introduction

This information guide sets out the circumstances under which **public libraries** in the United Kingdom may need to purchase a licence or licences for music, or film related public performances. This Guide does not cover educational establishment libraries. These libraries should seek advice from JISC Legal <http://www.jisclegal.ac.uk/>.

**Public libraries recognise the role of collecting societies and acknowledge that some library based activities with musical or motion picture accompaniment will require a relevant licence.**

The information guide has been written jointly by four library stakeholder bodies from across the UK: The Museums, Libraries and Archives Council (MLA) representing England, the Scottish Library and Information Council (SLIC), CyMAL: Museums Archives and Libraries Wales, and Libraries NI. Additional opinion and information has been gratefully received from a number of expert bodies including:

- Libraries and Archives Copyright Alliance (LACA)
- International Association of Music Libraries (IAML)
- Society of Chief Librarians (SCL)
- Chartered Institute of Library and Information Professionals (CILIP)
- Pinsent Masons LLP law firm

Furthermore, there has been considerable dialogue with a selection of collecting societies responsible for issuing public performance licences. The four library stakeholder bodies are grateful to PRS for Music, Phonographic Performance Ltd (PPL), and the Motion Picture Licensing Company (MPLC) for their valuable participation in assembling this information guide and for the concessions made by these organisations for public libraries.

**Please note:** Whilst the library stakeholder bodies are appreciative of the input from the collecting societies consulted in the creation of this information guide, it has not been possible to reach a common view with all of the collecting societies concerned on some aspects of what constitutes a 'public performance' of copyright works. This has been particularly difficult on the issue of a single library user accessing music online or offline through headphones.

There is no statutory definition of 'public performance', the concept of which remains unclear and inconclusive even from relevant case law. Indeed, after considerable investigation by the library stakeholder bodies, and the expert group representatives, no case law relating to one person listening to music through headphones in a library has been identified. Further, the collecting societies have no common position with regard to the use of headphones. Therefore we are not in a position to recommend a public performance licence be purchased for this activity unless this is confirmed to be necessary in law. You may still receive invoices or requests for licences from the licensing agencies in respect of these activities and it is in your sole discretion to decide whether to purchase such licences or not.

## Activities requiring a licence

This information guide includes a non-exhaustive list of public library activities that may require a licence. Public libraries must identify those activities applicable to them, and purchase licences accordingly. 'Music' or 'film' for the purposes of this guidance refers to that protected by copyright unless stated otherwise.

*Please note that this information guide is provided for all UK public libraries and while it has been written following consultation with the expert bodies named above, it does not constitute legal advice and is not legally binding. In this regard, the bodies listed above expressly disclaim all liability for losses of any kind arising out of or in connection with this information guide.*

## **Libraries and copyright**

Public libraries already provide access to a wealth of material bound by copyright law in a variety of formats. Libraries routinely make users aware of relevant copyright regulations. This can be:

- displaying copyright notices in appropriate areas of the library (e.g. by photocopiers, scanners and computer equipment)
- having Acceptable Use Policies\* in place with regard to all activities that can be undertaken in the library (e.g. use of study rooms, computers, etc).

## **Common library activities**

Table 1 below outlines the most common music and film activities that take place in public libraries, and whether a public performance licence is required from one or more of the collecting societies. If so, usually a fee is payable, though a society may nonetheless waive its right to charge a licence fee; if so, this is noted below. Where this information guide takes the view that an activity does not constitute a 'public performance of copyright works', a 'No licence required' entry has been made.

**Table 1**

<b>Activity authorised by the library</b>	<b>Further information</b>	<b>Licence position</b>
1. Music in staff rooms	This covers any music aired in library staff rooms via any medium (e.g. CD players, radios etc.)	Licence necessary – PRS and PPL
2. Public events in libraries involving music	This may be a live music performance <sup>1</sup> , or a performance of recorded music or broadcast. Any musical event that has been arranged, publicised and/or hosted by a public library, e.g. aerobics classes.	Licence necessary - PRS if music is live. If the performance is of recorded music: PRS <i>and</i> PPL
3. Background music in libraries	This may be the music section of a central library where background music is played	Licence necessary - PRS and PPL
4. 'Singalong' sessions for children	<ol style="list-style-type: none"> <li>1. Children in the library attend sessions where they sing along to a live music performer with no instrument or recorded music</li> <li>2. Children in the library attend sessions where they sing along to music out of copyright (whether live or recorded or with or without an instrument)</li> <li>3. Children in the library attend sessions where they sing along to a live music performer with an instrument or recorded music</li> <li>4. Children in the library attend sessions where they sing along to recorded music</li> </ol>	<ol style="list-style-type: none"> <li>1. Licence can sometimes be required, but PRS have waived that requirement</li> <li>2. No licence required<sup>2</sup></li> <li>3. Licence necessary - PRS<sup>3</sup></li> <li>3. Licence necessary - PRS and PPL<sup>4</sup></li> </ol>
5. Equipment is provided which allows library users to individually listen to music or to view film media through headphones	Any facility which allows the public to individually listen to music or to view film media on a one-to-one basis with headphones. Examples of such equipment might be an MP3 player, iPod, CD player, record player, tape player, a listening post, or a Blu-ray, DVD or videotape player and screen for individual use, or similar	No licence required
6. Testing or repairing music or film media	Library staff test copyright protected media reported to be not functioning correctly	No licence required
7. Screening commercially distributed films/TV content <sup>5</sup> on pre-recorded media in the library	A library screens a film to an audience of more than one person, such as a DVD	Licence necessary - MPLC single or multiple licence or Filmbank (as appropriate) <i>and</i> PRS <sup>6</sup>

**<sup>1</sup>\*Acceptable Use Policies**

Public libraries ask users to adhere to an Acceptable Use Policy (AUP) when accessing content online. This is both to inform users of potentially unlawful online activity and to make them aware of their responsibilities when accessing the internet in a public space. An example of a public library AUP (anonymised) is at the end of this guidance.

<sup>1</sup> It is also possible that libraries may need a district council entertainment licence (Temporary Event Notice) where live or recorded music is the primary focus of an event. This is currently under government review (Feb 2010) and libraries should check with their parent local authority when staging such an event.

<sup>2</sup> If a live performer uses an instrument AND the performed work is in copyright, then a PRS licence will be required. Most "classic" nursery rhymes are not in copyright and can be accompanied without the need for any licence.

<sup>3</sup> If a live performer uses an instrument AND the performed work is in copyright, then a PRS licence will be required.

<sup>4</sup> If songs (words or music) are within copyright then a PRS and PPL Licence will be needed. Some specially tailored resources such as Bookstart Rhymetime CDs do not require any licence as copyright waiver agreements have been previously agreed with one or more of the collecting societies.

<sup>5</sup> TV content refers to (for example) DVD versions of TV series/programmes

<sup>6</sup> Many films will be accompanied by a musical soundtrack. To remove doubt on the copyright status of the soundtrack, it is recommended a PRS Licence accompanies the MPLC or Filmbank Licence.

## The World Wide Web and the Internet via the 'People's Network'

The UK Government has made significant investment in the 'People's Network Project' to connect the UK's public libraries to the internet and its vast range of online information and learning resources. For the last decade successive governments in the constituent parts of the UK have re-affirmed their policy of free or very low cost access to the internet. The computers that provide access to the internet in every UK public library have become known collectively as 'the People's Network'.

Provision of easy access to the internet and the web is integral to the core traditional role of public libraries in mediating access to information resources. It is also delivered in the full spirit of the public library ethos where no judgments are made, or intrusive monitoring undertaken of the types of information individuals may want to access. This does not mean that library users are free to access any online material, as etiquette is governed by Acceptable Use Policies\*\*, to which all users must agree, and filtering which blocks illegal content.

In particular, every library based online audio experience (such as the use by visually impaired person of a speech browser) is a one-to-one transaction between the audio source and the user via headphones, so that other users are not disturbed.

Taking all of these factors into account, a proportionate response to the licensing of these activities is required. Table 2 highlights those common types of online audio experience in which library users engage in public libraries.

**Table 2**

Library users' activity	Further information	Licence position
1. Watching live broadcast of TV programmes via PC using headphones	User watches live TV streamed through sites such as the BBC iPlayer or similar	TV Licence necessary for live broadcasts (but see 6. below for previously broadcast material). [No PPL and PRS licences required.]
2. Access to online music or film media via a computer using speakers	The primary purpose of the online facility is to access and listen to music or film media through the computer's speakers or a display unit	Licence necessary - PRS and PPL
3. Access to online music or film media – where sound is disabled	Some computers have sound disabled. Online music or film media may be accessed but cannot be heard.	No licence required
4. Access to online music or film media through headphones therefore audible solely to the wearer	User accesses music or film media online hosted by a third party not associated with the library service	No licence required
5. Access to online music or film media on computers not associated with the library service using headphones therefore audible solely to the wearer.	User accesses online or downloaded music or film media on a computer not associated with the library service, using WiFi provided by the library or via independent internet access (e.g. using a dongle or other public WiFi hotspot)	No licence required

Library users' activity	Further information	Licence position
6. Access to online music or film media using headphones therefore audible solely to the wearer for research or private study purposes	A learner individually views or listens to audiovisual material (e.g. previously broadcast TV or radio programmes with incidental music or other online music or film media) for research or private study purposes.	No licence required as headphones being used, but see below concerning 'fair dealing' in audiovisual materials.

## **Fair Dealing Exceptions**

There is **no** 'fair dealing' copyright exception for the copying or public performance of sound recordings or film (including the use of such material in presentations, broadcasts, websites etc.) even for the purposes of research (commercial or non-commercial) or private study. Permission from the right holder has to be sought for such use. However, there are 'fair dealing' exceptions in these materials for the purposes of **criticism and review** and for **reporting current events**.

## **Other Collecting Societies**

This information guide reflects the results of discussions with three large and respected collecting societies that license public performances of copyright works. There are a small number of other collecting societies who may ask that libraries purchase public performance licences for other activities, or to cover material not already covered by the organisations included in this information guide. In each case, advice should be sought from the relevant strategic library body in the 'Further Information and Advice' section below.

## **Contact details for Licence purchase and enquiries**

### **PRS for Music**

0800 068 4828

[response@prsformusic.com](mailto:response@prsformusic.com)

### **PPL**

020 7534 1000

[info@ppluk.com](mailto:info@ppluk.com)

### **MPLC**

01323 649647

[ukinfo@mplc.com](mailto:ukinfo@mplc.com)

### **Filmbank**

020 7984 5950

[info@filmbank.co.uk](mailto:info@filmbank.co.uk)

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**Public Libraries**

There are 4,500 public libraries in the UK, each providing an invaluable learning resource for local communities. Every single library provides free access to books and information as an essential component of the UK's lifelong learning infrastructure. Additionally, via the People's Network, every library provides access to the internet to ensure that local communities are able to utilise online information channels for learning, skills, employment opportunities, and private study. Where audio facilities on computer terminals are enabled, headphones are provided for private listening to ensure other users are not disturbed.

**PRS for Music**

*PRS for Music* is the leading copyright and royalty collection society representing songwriters, composers and music publishers. A not-for-profit organisation, it ensures music creators are paid whenever their music is played in public. *PRS for Music* provides business and community groups with easy access to songs through its music licences. These licences provide royalties which create a future for music by supporting creators while they continue to write. PRS for Music is the trading name of the Performing Rights Society.

**PPL**

Phonographic Performance Limited is the music licensing company which, on behalf of 42,000 performers and 5,000 record companies in the UK, licenses recorded music. This enables TV and radio stations, online streaming services and hundreds of thousands of shops, pubs and other establishments, large and small, using music in their business to obtain a single licence which gives them legal access to millions of recordings.

**MPLC**

The Motion Picture Licensing Company is an independent copyright licensing agency that provides the MPLC Umbrella Licence® to ensure copyright compliance for the non-theatrical public performance of motion pictures. To determine whether a film is covered by an MPLC licence, please contact the MPLC directly.

**Filmbank**

Filmbank is a joint venture company owned by Warner Bros. Entertainment and Sony Pictures Releasing, and represents many of the leading Hollywood and independent film studios in the area of film usage outside the cinema and home. To determine whether a film is covered by a Filmbank licence, please contact Filmbank directly.



### **Further Information and Advice**

Please contact the strategic library body for your area should you need specific advice about the advice in this Guide or other policy matters arising from it, and to provide feedback.

### **The Museums, Libraries and Archives Council**

Grosvenor House  
14 Bennetts Hill  
Birmingham B2 5RS  
0121 345 7300  
[info@mla.gov.uk](mailto:info@mla.gov.uk)

### **CyMAL: Museums Archives and Libraries Wales**

Welsh Assembly Government  
Rhodfa Padarn  
Llanbadarn Fawr  
Aberystwyth, Ceredigion  
SY23 3UR  
0300 062 2119  
[cymal@wales.gsi.gov.uk](mailto:cymal@wales.gsi.gov.uk)

### **Libraries NI**

Office Suite 1  
Lisburn Square House  
8 Haslem's Lane  
Lisburn  
BT28 1TS  
028 9260 6750  
[enquiries@librariesni.org.uk](mailto:enquiries@librariesni.org.uk)

### **Scottish Library and Information Council**

1st Floor Building C, Brandon Gate,  
Leechlee Road, Hamilton.  
ML3 6AU  
01698 458888  
[slic@slainte.org.uk](mailto:slic@slainte.org.uk)

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## Example Acceptable Use Policy

### People's Network Acceptable Use Policy

This is our current policy for the use of the computers, which you must agree to before you use the People's Network.

The internet provides access to lots of information that is valuable or enlightening, but you may also find material that is inaccurate, offensive or illegal under UK law. XXXX Library and Information Service provides a level of filtering for adult users, but you must also take responsibility for your own activities.

Content is filtered for children, but this is not always effective in blocking unsuitable material. No person under 16 will be allowed to use the internet in a public library without either adult supervision or a signed parental consent form (available from the counter).

We may monitor your use of the computer, including websites visited, in order to plan better services and to ensure you keep to this policy. We will not use personal information for any other purpose, or divulge it to other people or organisations, in accordance with the Data Protection Act 1998.

XXXX Council cannot be held responsible for the privacy or security of your activities, and urges caution when undertaking financial transactions online.

**You must read and accept the following terms and conditions before you can use this computer.**

**Please keep to them – if you don't you may not be allowed access in the future.**

I agree that:-

- I am fully responsible for all activities and communications that take place during my computer session.
- I will not tamper with computer hardware or attempt to install or download software (including viruses) on to library computer hard drives.
- I will not seek to gain unauthorised access to computer systems or information ("hacking").
- I will not engage in any illegal activities including gambling (for which public libraries are not licensed).
- I will not use the computer with the intention of profit making, including advertising, commercial email ("spamming"), and chain letters.
- I will not use the computer for the purpose of libel, slander or harassment, or for sending material likely to cause offence or inconvenience.
- I will respect the privacy and sensibilities of other library users, and I will not cause noise, or display text or graphics that may be reasonably viewed as obscene or offensive.
- I will not violate any third party intellectual property rights including copyright or software licence agreements.
- I will save documents and information only to diskettes, CDs or USB memory sticks (personal data stored elsewhere will be deleted when the computer is restarted). *Any discs or USBs left in computers will be kept by staff for 6 months. After this all data will be wiped and the disc or USB discarded.*
- I will use the computer only within the time that has been allocated to me.
- I will pay for any printing costs incurred.
- I will not use the computers for viewing live TV broadcasts (as public libraries are not licensed for this).

The example above includes a reference to respecting copyright agreements and an undertaking by the user not to engage in illegal activities.