

Endangered Archives Programme

General Questions about the Grant of Permission Forms

1. Why do we need to have an agreement with the British Library for this material?

The agreement gives the Endangered Archives Programme and third parties permission to preserve and use digital images created as a result of digitisation.

2. What is copyright?

The owner of an in-copyright work is not the person who owns the physical item but the person who originally created it. Copyright law, which exists in most of the countries in which the Endangered Archives Programme is active, creates a series of rights, known as “exclusive” rights, for creators.

During the period that copyright exists it is an infringement to use an in-copyright work without permission unless there is a limitation and exception to the exclusive right allowing that use. There are no exceptions in UK law however that allow us to preserve material from other archives and put the digitised copies on the web for others to use. This is why we need you to clear the permissions for us.

3. What does Public Domain mean?

Public domain means that copyright and other intellectual property rights have expired in the item. This means that in terms of intellectual property law people are free to reuse the items as they wish. (Please see question 4 below).

Even if the material to be digitised is public domain we still wish to have an agreement with you / the originating institution so both parties are clear how the material can be used by us, as well as people who find the material on the internet.

4. How do I know if the item to be digitised by the Endangered Archive Programme is in the public domain in the country from which it originates?

Countries all have varying durations of copyright. The duration of copyright also varies upon the type of work – so a book will generally have a longer duration of copyright than a sound recording. It is your responsibility to accurately establish whether the item to be digitised is in copyright or not, and tell us.

In most countries pre 1875 published material is in the public domain – though some countries have durations of copyright longer than life + 70 years. Generally civil law countries would treat pre 1875 unpublished materials also as being in the public domain, though there are many exceptions even to this rule.

We ask that you consult with people who are conversant with the copyright law of the country that you are working in. In many countries the government's Copyright Office will sit within the Ministry of Justice and they will often have a website explaining the basics of copyright law in that country.

5. How do I know what copyright exists in an item?

You will have to check with an expert if unsure but generally text and photographic works have less layers of copyright than a sound recording or a film. (Please see the separate guidance sheet for sound and film.)

A manuscript or book with only text in it will only have a literary copyright in it. If it has pictures it will have an artistic copyright in it also. A photograph or a painting for example will have usually only an artistic copyright in it. Musical notations will have a musical copyright, while the lyrics would attract a literary copyright.

It is your responsibility to accurately establish whether the item to be digitised is in copyright or not and tell us, as well as seek permission to clear the rights.

6. Why do you want to make Metadata available under a CC0 public domain dedication?

Data about the collections in the Endangered Archives Programme are central to the discovery of research. We wish to make this data free of charge and freely usable so researchers and others can discover and incorporate existing research into new research. To facilitate this we wish to make any metadata relating to Endangered Archive Material available free of charge under a [CC0 — Public Domain Dedication](#) so that anyone wishing to use data about the materials can do so without needing to get permission.

7. How will the Programme manage inappropriate treatment of materials digitised as part of the EAP programme?

In addition to intellectual property rights that may exist in an item, the British Library recognises that broader rights and interests exist in materials included in the Endangered Archives Programme. These include practices and knowledge systems of traditional communities, which may include distinctive signs and symbols, know-how, skills, and practices embodying traditional lifestyles of indigenous and local communities. These rights may, under national, customary, religious and other laws or practices, reside with local communities or traditional custodians of such materials. The Programme asks that anyone using material from the EAP programme follow the ethical usage policy and any commercial use of any part of the material is approved by the British Library, host institutions, other contributing third parties, as well as the traditional custodians.

The Programme and the respective archives take considerable care not to distort or alter the material in any way that could be deemed to be inappropriate. In the event, that any community or community representative objects or has concerns around the digitisation and making available of EAP materials, we would like to hear from you and to resolve any issues through mutual discussion.

7. Who should sign the different agreements?

The Grant of Permission Form for Public Domain items should be signed by a representative of the organisation that owns the public domain item that is to be digitised using funding from the British Library.

The other agreements that relate to copyright clearances for in-copyright works need to be signed by whoever owns the copyright in the item. Please note this usually will not be the organisation who owns the physical item being digitised but the individual who created or authored the item.

March 2015