

**Royal Pavilion & Museums
IPR & Reproduction Policy 2018**

Agreed: January 2019

To be reviewed: January 2022

Introduction

This document describes how Royal Pavilion & Museums (RPM) manages the intellectual property rights (IPR) it creates and uses in the course of its business. It outlines how RPM manages third party rights in the collections and assets in its care, and how it allows others to re-use the IP that it creates.

Although this policy covers a range of IP, it is primarily focused on copyright and related moral rights, and database rights. It is guided by current laws and professional ethics including:

- Copyright, Design and Patents Act 1988 (as amended)
- Berne Convention for the Protection of Literary and Artistic Works 1886
- Museums Association, Code of Ethics, London: Museums Association, 2008, revised 2015
- SPECTRUM 5.0 The UK Museum Collections Management Standard, London: Collections Trust, 2017
- 'Is your oral history legal and ethical?' guidance, Oral History Society, 2012

The policy also relates to other RPM policies and procedures including:

- RPM Access Policy Statement 2018
- RPM Collection Development Policy 2018
- RPM Collections Documentation and Information Policy 2018
- RPM Volunteer Policy 2017
- RPM Digital Policy 2018
- RPM Digital Preservation Policy 2018
- RPM Collections Management and Documentation Procedure Manual 2018

Rights Ownership in the Collections¹

RPM holds a variety of collections, and the copyright status of these is variable. Some objects, such as our archaeology collections, are too old to be protected by copyright; others are not usually eligible for copyright protection as the objects were not created by humans.

Where collections are still protected by copyright or other IPR, this usually belongs to an external individual or organisation. In most cases this will be the creator or their estate. As with many heritage organisations, RPM holds a large number of 'orphan works': objects which are legally protected by copyright, but where the owner cannot be identified or traced.

¹ The terms 'collections' and 'objects' in this policy refer to both physical material and intangible items such as oral histories and born-digital objects.

Where copyright was transferred to the museum at the time of acquisition, this will usually belong to Brighton & Hove City Council.

As RPM's collections are too numerous and complex to conduct a full IPR audit, rights ownership is usually established and recorded at the point of acquisition, retrospective documentation, digitisation, or recorded use of the object. The decision is usually made by the relevant curator, supported by advice from the Digital Manager where necessary.

RPM recognises that items lent to it are frequently protected by copyright, and will follow the advice of the lender in ascertaining ownership.

Rights Ownership in Collection Surrogates and other Information

The copyright status of photographs and other media that capture or reproduce our collections (usually known as 'surrogates') frequently differs from that of the original object.

Providing copyright in the original object does not belong to a third party, the copyright of surrogates RPM creates of 3D objects in its collections usually belongs to Brighton & Hove City Council as a result of its contractual agreements with the staff member, volunteer or freelancer who produced it.

In exceptional circumstances, RPM may permit researchers and other users of its collections to create surrogates and retain copyright, but explicit permission must be granted for this, and will usually only be granted on the condition that the surrogate is placed under an open licence and a copy is provided to RPM free of charge.

RPM does not require the transfer of copyright in photographs and other reproductions made by members of the public of collections that are on display in our galleries or loaned for display elsewhere.

RPM follows current guidance from the Intellectual Property Office (IPO) and recognises that it cannot claim copyright in faithful 2D reproductions of 2D objects which are no longer protected by copyright. It considers these surrogates to be in the public domain.²

Where surrogates of copyright protected objects are created under 'fair dealing' or the specific exceptions that apply to museums, libraries and archives, RPM recognises that copyright remains with the original rights holder for the same term as the original object.³

² *Copyright Notice: Digital Images, Photography and the Internet*, Intellectual Property Office, November 2015, p 3 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/481194/c-notice-201401.pdf

³ *Exception to Copyright: Libraries, Archives and Museums*, Intellectual Property Office, October 2014 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/375956/Libraries_Archives_and_Museums.pdf

Where possible, RPM claims IPR on behalf of Brighton & Hove City Council in all other information and assets it creates, including image, text, software and data.

Rights Use

RPM will protect and exploit its IPR for the purpose of delivering its mission. While its primary purpose is for education, RPM may also use its IPR for commercial purposes, such as marketing and the creation of new retail products.

Where possible, RPM publishes surrogates and catalogue data about its collections under open licences or as public domain assets (see Access section for more details). While these are often made available free of charge, RPM may charge licence fees for some types of use, or for the service of supplying these assets, irrespective of rights.

RPM also uses external agencies, such as Bridgeman Art Library, to commercially exploit its IPR or to manage services such as print on demand. All such agreements are non-exclusive.

IPR owned by lenders and other external bodies is always managed according to the terms of the contract or other written agreement. RPM will ensure that its use of IPR belonging to other bodies is correctly credited at the point of publication, use or supply.

Aside from collection surrogates and catalogue data, RPM will generally reserve all rights in the IPR it creates. However, some items may be released under open licences or through bespoke agreements on a case by case basis.

Management & Systems

A large number of RPM staff and volunteers are involved in the creation and management of IPR. Internal training is periodically delivered in this, and advice is frequently given on specific rights issues.

Two ICT systems are used to help manage IPR:

1. RPM's collection management system, Mimsy XG, is used to record information about the copyright status of objects in its collections. In addition to information about the ownership of copyright, and its expiry date, RPM uses a hazard field to alert users to items that are clearly protected by copyright.
2. RPM's digital asset management system, Digital Media Bank, records information about the rights of digital assets, including collection surrogates, images from lenders, business records and publications. This records details about the rights holder, credit line and licence type, and also embeds this information into the file metadata at the point of download using the IPTC schema.

Access

RPM staff and volunteers can access copyrighted assets through the collection and digital asset management systems mentioned above, alongside its shared drive. All these systems require a log-in to view or download such assets, and access is only granted to staff once they have been trained in the use of these systems and understand the consequences of misuse of such material.

Surrogates of copyright protected objects in RPM's collection may only be made available to the public through supervised onsite sessions, or with the use of dedicated terminals in its museums or at the Keep. These terminals will be configured for offline use only, and users will not be permitted to download or remove copies of the works.

Where there is no significant risk in infringing the copyright of a third party, public access to RPM's collection data and surrogates is through its online catalogue and Digital Media Bank. The catalogue data and images up to 1200 pixels on the longest size are published as open data, and made available through an open API. This feeds the collection search facility on RPM's website at brightonmuseums.org.uk and partner sites such as the Keep catalogue.

Surrogates in media other than still images, such as copies of oral histories, will be made available through streaming, rendering, and downloadable platforms as appropriate for the available technology and RPM's ability to permit re-use of these assets.

Where RPM owns the IPR in the surrogate, the image and accompanying catalogue data are made available for re-use under a Creative Commons Attribution-Share Alike licence (CC BY-SA). Where the surrogate is not protected by copyright or any other form of IPR, it will be declared public domain. This open licensing framework is a key component of its data sharing arrangements with the Keep and other partners, and the commitments RPM makes to funders who insist on open outputs from the work they support.

Collection data, surrogates and other assets may also be made available under other agreements to aggregators and distributors, such as Art UK. In some cases, subsets of RPM's collection data may be released under a rights waiver as Creative Commons Zero / Public Domain (CC0).

Credit Lines

All use of RPM's IPR should be credited to the 'Royal Pavilion & Museums, Brighton & Hove'. Where assets are released as public domain, RPM also requests that the same credit line is applied so that researchers and other users can identify the source of the material.

For online use, a link back to the Digital Media Bank or online source of the asset may be requested.

RPM will always ensure that credit lines are clarified with lenders and other organisations as part of the agreement of use. It will ensure that these credit lines accompany use of these works in the form most appropriate for the medium and type of use.

Safeguarding Rights

Unless covered by an open licence or other agreement, written permission should be sought for the use of RPM's IPR. In most cases this will be confirmed in writing by email, but in some cases a formal licence agreement may be required.

RPM will endeavour to only use the IPR of others where it believes it has permission to do so, or is covered by fair dealing exceptions. It will ensure that all such use is properly credited, as agreed with the rights holder.

In the case of orphan works RPM will take a managed risk approach in its use, assessing the likelihood and severity of complaint against the public benefit in using the work. Third parties wishing to use orphan works in RPM's collections will be required to obtain permission from the UK government's Orphan Works Licensing Scheme before the asset can be supplied.⁴

Third parties wishing to reproduce objects in RPM's collections where the copyright holder is known, will be advised to obtain permission before any assets can be supplied. RPM will not clear rights on behalf of third parties, and all costs must be borne by the third party.

Infringements & Take Down

If RPM becomes aware that its IPR is being used without permission, or beyond the reasonably understood terms of the agreement or open licence under which it was issued, it will request that the relevant asset be taken down in the first instance. If the use is one that RPM would usually charge for, it will request payment of the standard fee. In some cases, RPM may also take legal action.

Staff and volunteers are encouraged to seek advice if unclear about using others' IPR, and to inform the Digital Manager of any infringements made by RPM. In the

⁴ <https://www.gov.uk/guidance/copyright-orphan-works>

case of an infringement that is likely to cause complaint, the asset will be taken down, or the action reversed.

Rights holders who believe RPM is infringing their IPR or moral rights are invited to contact RPM setting out a) the basis of their claim to ownership; b) the precise nature of their complaint; c) a suggested course of action to remedy the situation. RPM will enter into such discussions in good faith, but will only take down assets or discuss remedial action once it is clear that there is a robust legal basis to the complaint.

