



INTELLECTUAL PROPERTY RIGHTS POLICY AND STRATEGY

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Notes

1. Policy agreed 2001-IPR Branch OSNI initiated 1 April 2002.
2. Reviewed 28 April 2003.
3. Reviewed 24 August 2004.
4. Reviewed 27 July 2005.
6. Reviewed 7 June 2006.
7. Policy wording minor amendments 10 July 2006.
8. Reviewed 1 March 2007.
9. Reviewed for LPS 29 February 2008.
10. Reviewed following IFTS accreditation November 2008.
11. Reviewed December 2009.

LAND & PROPERTY SERVICES **(LPS)**

INTELLECTUAL PROPERTY RIGHTS **POLICY AND STRATEGY**

1. Intellectual Property Definitions

1.1 Intellectual Property Rights (IPR) allow people and organisations to demonstrate ownership of their creativity and originality in the same way that physical property can be owned.

IPR are defined using:

- copyright;
- patents;
- registered and unregistered trademarks for brand identity;
- database right;
- designs.

The 1988 Copyright, Designs and Patents Act (“The Act”), as amended from time to time, covers rights under these definitions. For database right the Copyright and Rights in Databases Regulations 1997 also applies.

1.2 All material (Intellectual Property) produced by civil servants, in the course of their duties, is protected by Crown copyright. The Crown’s Intellectual Property (IP) is maintained and administered by LPS under a delegation of authority (DOA) from the Controller of Her Majesty’s Stationery Office (HMSO).

For LPS the IP includes:

- large and small-scale mapping publications (small-scale being smaller than 1:10,000 scale);
- survey control;
- mapping databases at various scales (digital and paper);
- aerial and oblique aerial photography and orthophotography;
- land registration information;
- valuation data;
- rating information;
- trademarks and brand names;

- computer programs/software created by LPS staff and consultants/contractors whose work was assigned to LPS; and
- unpublished IP.

IPR subsist in all LPS material and the above list should not be seen as exhaustive. When LPS sells or licenses material the IPR are administered by LPS and retained by the Crown.

2. Land & Property Services

The formation of LPS as an agency combining the Rate Collection Agency (RCA), the Valuation and Lands Agency (VLA), Land Registers of Northern Ireland (LRNI) and Ordnance Survey of Northern Ireland[®] (OSNI[®]) was announced early in 2006 and LPS was inaugurated with the amalgamation of RCA and VLA to initially form LPS on 1 April 2007 with LRNI and OSNI joining on 1 April 2008. It was agreed that Delegation of Authority (DOA), from the Controller of Her Majesty's Stationery Office (HMSO) for the management of the Crown copyright IP, was to the Chief Executive of LPS from 1 April 2008 and covered all Crown IP to be licensed by LPS.

As the Chief Executive of LPS has DOA, the organisation must also continue to be accredited to the Information Fair Trader Scheme (IFTS) managed by the Office of Public Sector Information (OPSI). Accreditation was first achieved in December 2008 following interviews with staff from all areas of LPS at all grades and included the Chief Executive. Also included in the process was the examination of all documentation relating to the licensing of Crown Copyright IP from LPS, including information available on the LPS website.

Explanatory Note: - HMSO and OPSI remain as two distinctive entities but have both been subsumed within the National Archives Agency.

3. Context and Background

- 3.1 Land and property information underpins the effective management and administration of society and the economy. This information includes land registration, valuation for property, rating, both domestic and non-domestic and mapping.
 - 3.1.1 The management of the LPS IPR is an important element in supporting a reasonable return for the investment in Northern Ireland's mapping database and for the maintenance of both the land registration and valuation processes.
 - 3.1.2 It is important to both sustain current revenues and to develop new revenue streams. Both require efficient exercise of IPR in ensuring properly licensed use and re-use of our information, especially when external (to government) licensees such as Value Added Resellers (VARs) are involved and increasingly as the LPS "e-business" grows in market penetration and importance.

- 3.2 This IPR policy will reflect:
- 3.2.1 the copyright legislation and directives, competition law, pricing and licensing guidelines, the reforms in respect of the knowledge economy, OPSI guidelines including IFTS and our Delegation of Authority from HMSO;
 - 3.2.2 our vision statement in terms of “Transforming land and property services and information for the public good” along with the mission statement of “LPS supports the regeneration and economic development of Northern Ireland by providing an integrated set of land and property related services for its citizens and government” will be the main drivers of this policy and strategy;
 - 3.2.3 our obligations to customers, licensed partners and stakeholders in terms of understanding their requirements and that of the market, including building and developing good customer relations. Being open, treating all customers equally (in like circumstances) and fairly, supporting our existing licensed users and developing a quality brand image that customers and potential customers can trust. Having a customer complaints procedure in place will ensure a systematic, efficient and thorough investigation of any legitimate complaints. We will also ensure that our processes enable customers to deal with us easily, effectively and efficiently.
- 3.3 IPR have an important influence within the European Union (EU). IPR can support the creation and development of new technologies and industries; encourage the growth of commerce and are essential to economic well-being. To achieve advances in these areas depends not only on ingenuity, but also on the investment necessary to develop new ideas, set up new enterprises and to market them effectively. IPR apply equally to those involved in the public and private sectors.
- Most countries have IP laws. The broad principles of IP are recognised almost everywhere, although the provisions may vary considerably from country to country. Since the creation of the Single Market in Europe, community wide IPR protection has become of primary importance. IPR Branch of LPS will continue to ensure that the protection of our IP is at the centre of all EU initiatives in the land and property information community.

4. The Principle of this IPR Policy

- 4.1 The key and underlying principle of this IPR policy is to encourage the appropriately licensed use of our information, while at the same time reducing misuse, whether inadvertent or deliberate. In the past customers and potential users have often perceived IPR as confusing, negative and overly restrictive. We will not use our IPR Policy as a blunt instrument, i.e. *‘You cannot copy or use our IP’*; rather we will remain proactive, i.e. *‘You can copy or use our IP under licence’* and we will continue to make the process of obtaining a licence and information on our IPR easier.

4.2 The following influences will drive this IPR policy:

- our obligations to customers, licensed partners, stakeholders, the taxpayer and the Crown;
- the future development of our business;
- the importance of LPS information to society and the economy;
- our desire to encourage the growth of the geographical information industry;
- our mission, vision and strategy map;
- the requirement placed on us by HMSO/OPSI to manage our information;
- potential for misuse of our information;
- the knowledge economy reforms;
- our obligations regarding EU directives, in particular INSPIRE, while continuing to ensure IP protection;
- the substantial investment to create and maintain our databases;
- our support for similar land and property IPR initiatives / policies;
- legal actions and precedents; and
- IFTS. Accreditation and maintenance of accreditation will assist in steering good management of the IPR Policy and Strategy.

5. The Policy

5.1 **Copyright**

Copyright allows the creators of literary, dramatic, musical and artistic works (which includes maps) to manage the use of their IP. The copyright owner is able to license its use and when necessary to take action to prevent unauthorised and inappropriate use of the IP.

For a work to enjoy copyright it must be original and be the result of skill and “sweat of the brow”. Copyright rights are automatic – they exist as soon as a record of the IP has been created.

All works produced by Civil Servants in the course of their duties are subject to Crown copyright protection. Works can also come into Crown ownership by means of copyright being assigned to the Crown, often in the context of a commissioning arrangement.

5.2 Database Right

Database right is very similar to copyright but it is an IPR on its own.

It therefore follows that both database right and copyright protect the LPS databases. The database right protects the investment needed to obtain, verify, update, construct and present the contents of the database. Investment includes financial, human and technical resources. Copyright protects the intellectual creation in the originality of the selection and arrangement of the contents. The database right applies to both our paper and our digital databases.

LPS will continue to:

- acknowledge Crown copyright on all IP created;
- acknowledge the copyright of others as appropriate;
- attain by agreement Crown copyright in any commissioned works;
- deposit copies of all publications and databases (more usually in digital form but if requested hard copy) with the British Library and the other Deposit libraries.
- make licences more easily accessible for customers;
- provide licence terms appropriate to customer needs which will be equally, openly and fairly applied to all users;
- publish a digital IP guidelines leaflet;
- publish all licensing terms electronically (on the LPS web site <http://www.lpsni.gov.uk/>) and in hard copy format;
- record evidence of originality and investment in the creation and publication of all products, including individual editions; and
- record evidence of the investment in the creation and updating of our databases.

5.3 Trademarks

A trademark is any sign which can distinguish the goods and services of one trader from those of another. A sign may include words, logos, pictures or a combination of these.

The LPS logo (front cover) is registered as a trademark and the Ordnance Survey of Northern Ireland (OSNI) trademarks will be maintained as product names (also known as brand names). All trademarks are registered in the name of the Department of Finance and Personnel as the legal entity. Domain names are our 'short-hand' names used on the Internet, which can also be

registered as trademarks.

A trademark is therefore a ‘badge’ of trade origin. Registration has given us the exclusive right to use and manage the trademarks within the UK and the wider EU.

In terms of trademarks LPS will:

- indicate all of our unregistered trademarks with the symbol [™];
- register our brand names as trademarks in the UK and the EU as appropriate and indicate registration with the symbol [®];
- manage and protect our trademarks under our IPR policy;
- use our trademarks as a marketing tool, so that customers recognise the product source and can be assured of its quality; and
- license the use of our trademarks in suitable business arrangements. We retain the option to charge for their use. The norm will however be to use them as a promotional tool.

5.4 **IPR Agreements**

We will collaborate with comparable agencies/organisations throughout Europe to develop agreements as appropriate. This will help us all to manage our IPR more effectively to the benefit of all of our customers.

5.5 **LPS Agreements**

All agreements with other government departments, non-departmental public bodies and private sector organisations will be covered by written and signed agreements to ensure our IPR are managed appropriately. In particular we will apply IFTS principles to all of our agreements.

5.6 **Licensing and Publishing of LPS IP**

To enable us to manage the IP all customers who reproduce or use the IP are required to be licensed.

LPS publishes its terms and conditions for licensing.

LPS publicises its terms for the publishing of its IP. This includes guidance on the obligatory addition of acknowledgement of Crown Copyright and the addition of watermarking for both Internet and hard copy publishing where LPS deems this appropriate. Royalties will be based on published criteria with each application assessed against these rates and provisions.

Copying may take place without formal licensing (or charging) being required, in line with the Fair Dealing Clauses of the Copyright legislation.

This allows for copying for the purposes of research or private study, criticism or review and is described in detail in Sections 29 and 30 of the “Act”.

5.7 **LPS Management of IPR**

While we actively encourage the licensed reproduction and use of the IP, we also investigate any instances where we become aware of any unlicensed use. We will discuss the options with the user with a view to achieving a mutually agreed settlement. Legal action will be considered when an appropriate settlement cannot be reached and the seriousness of the breach warrants it. These deliberations will ultimately involve HMSO and the Treasury Solicitors’ Office before any action is initiated (see 6.6).

6. **The Strategy**

The Strategy will be as follows:

6.1 **Behaviour / Image**

LPS as a customer focused organisation will:

- be perceived by customers as an organisation which encourages the use of its IP under licence and as easy to do business with;
- remove any unreasonable obstacles to the customers’ licensed use of our IP; and
- simplify our licensing terms and procedures, as far as practicable, while not putting the IP at unnecessary risk.

6.2 **Education and Communication**

LPS will continue to proactively:

- promote our IPR policy;
- promote our trademarks and the brand quality of our products;
- manage our databases to the benefit of customers;
- require customers to acknowledge the source IP;
- highlight the user ‘value’ of a copyright licence;
- encourage all licensees to make the best use of their copyright licences; and
- seek customer feedback regularly in tandem with other Customer Surveys.

6.3 **Licensed Partners, VARs, other land and property organisations etc**

- We will ensure our IPR are adequately managed in all agreements with other organisations and individual customers.
- Our agreements with comparable organisations will help us to work together on matters of common interest where mutual benefit and protection of our IP can be anticipated.
- All contracts with Value Added Resellers (VARs) and other significant customers will be the subject of written contracts based on a generic format. They shall include schedules which clearly and unambiguously define the terms of the contract such as IP, IPR, Royalties & other payments, licensed use and duration. Any use outside of these terms, unless covered in a “Variation” or separate contract, will be considered a breach and the customer approached with a view to remedy of the breach.
- Where the agreement is with another Government body, we will enter into a Memorandum of Understanding (MOU). The wording of the MOU will reflect the fact that both parties are Crown bodies and therefore cognisant of the need to protect Crown IP.
- Where multiple licensed use and purchases have been the case with customers they will, where possible, be collated under one annual agreement for ease of administration and understanding of both parties.

6.4 **Unlicensed Use of our IP**

LPS will:

- investigate known ‘independent’ mapping creators;
- identify publications (including atlases, guidebooks, magazines, newspapers etc) incorporating unlicensed information;
- identify unlicensed agents who have submitted planning applications;
- carry out random checks of digital customers who do not renew their annual licence;
- carry out random checks of licensees who do not renew their annual copyright licences;
- monitor the use of LPS data on the Internet with a view to promoting the licensed use of the data;
- monitor the implementation of all customer agreements; and
- monitor the use of our trademarks;

6.5 **Establishing solutions where unlicensed use has occurred**

LPS will:

- aim to establish and develop a mutually beneficial relationship with the customer;
- explain the infringement;
- discuss option(s) to establish a solution which will ideally be acceptable to both parties but must stop the infringement;
- promote the continued use of the IP; and
- aim to agree appropriate future licensing arrangements.

6.6 **Legal Remedies**

In such circumstances LPS will adopt the following approach:

- obtain legal advice based on knowledge of the case;
- consult HMSO before initiating any proceedings;
- consult and inform our parent Department;
- consult the Treasury Solicitors' Office (as the final arbiter in such matters);
- issue a solicitor's letter to the infringing individual or organisation;
- instigate face to face discussions with legal support present; and ultimately
- instigate legal action when appropriate.

LPS will at all times seek to resolve issues surrounding the use of the IP by reaching agreement with customers and users. Should we be unable to reach any such agreement LPS will initiate the legal remedies as set out at 6.6 above in order to protect the Crown Copyright in our IP.

IPR Branch
Land & Property Services