

# BIPP

British Institute of  
Professional Photography



The BIPP Guide to Using Images

**How can you tell which images can be used, shared, copied, reproduced or published and which are protected by copyright?**

How do you know what uses are permitted, when, where and how?

This guide has been designed to help anyone who works with, publishes, prints or uses images to understand how to do so legally and fairly

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## Introduction

Do you publish photographs - such as on a website or blog, in a magazine or newsletter?

Do you print or reproduce photographs - such as prints or canvasses, cards or calendars?

Do you provide a printing service - such as on t-shirts, mugs or mousemats etc?

Do you use photographs - such as to illustrate or advertise, inform or educate?

If you, or the company you work for, answer yes to any of the above examples, this guide will help you to understand what you need to do to ensure you are not unwittingly infringing copyright.





## First steps

Before printing, copying, sharing, publishing or reproducing any photographic image - stop and ask two simple questions:

**Where did this image come from?**

**Who does it belong to?**

Under UK copyright law, whoever took the photograph usually then owns copyright<sup>1</sup> so only they can give permission for it to be used.

This is regardless of whether they work as a professional photographer, are a keen amateur enjoying photography as a hobby, or are a member of the public using a mobile phone.

Whoever took the image usually<sup>1</sup> owns the copyright.

## Things to consider

**What do you want the image for?**

Is it for personal enjoyment or to share with friends or family?  
Is it for study or research? Or is it to illustrate an article or report, book or magazine, website or blog? Perhaps to advertise or promote a product or service, venue or person?

**How and where will it be used?**

What size is required and how prominently will it appear? How big an audience will it reach and is it regional, national or worldwide?  
How long will it be in use? Will it appear in print or online?  
Perhaps both?

**Who will benefit from using this image?**

This will often determine whether an image is for personal, informative or commercial use.

*Remember, if you didn't take the image, someone else did - you need to ask their permission and obtain a licence before making any use of it.*

<sup>1</sup> Unless employed as a photographer, when the employer is usually the copyright holder

## Myths surrounding image use

- **It was on the Internet so it's OK** - wrong, just because an image is published on the internet does not mean it is free to use, you still need to find out whose it is and ask permission
- **There was no name/metadata so it was free to use** - wrong, particularly if the image was found on a social media site, as metadata is systematically stripped when files are 'shared' or uploaded to a number of platforms
- **It says 'royalty free' so that means it's OK** - wrong, royalty-free means free of royalties for each use or term once the initial licence fee is paid, it does not mean copyright free
- **It was on a site offering copyright-free images** - wrong, by using the image you assume the risk, so read the Terms & Conditions of use and be sure you understand them as you are responsible if the image is later found to be protected
- **My boss/client/web designer/customer said it was OK** - wrong, you cannot rely on less than written permission from the creator of the image or their authorised representative or agent
- **I didn't know/understand about copyright** - wrong, ignorance is no excuse and as more cases go before the courts it is up to you to find out before using an image that you didn't take or pay to have taken or have permission to use
- **Everyone does it** - wrong, as more photographers have become aware of their rights, more and more are pursuing infringements successfully through the courts, with increasingly high awards
- **I'm not selling the picture so its OK** - wrong, it is not OK to use an image that does not belong to you without permission or a licence, unless it comes under an Exception recognised in law
- **I gave a credit or link so its OK** - wrong, it is not OK. Creators earn no income from having a credit, which they are entitled to anyway

- **It's not doing anyone any harm** - wrong, it does a great deal, as intellectual property theft makes a huge impact on our economy and deprives creators of their income
- **It's not really stealing** - wrong, you are still taking or using something that belongs to someone else without permission
- **If I change/alter it then it's OK** - wrong, the act of altering it is regarded as flagrant, especially if removing watermarks or metadata, which in turn is illegal
- **Nobody will ever know** - wrong, as image recognition software becomes more sophisticated, unauthorised use becomes easier to track down. Services now exist to make it easier and cheaper for photographers to pursue cases of infringement through the courts
- **It's not worth bothering about** - wrong, many photographers are discovering they can earn more from pursuing infringers than they can from actually taking and selling their photographs
- **It was in the public domain** - wrong, there is confusion over this term but in the UK, works only enter the public domain when copyright expires, currently 70 years after the death of the creator
- **It was 'Fair Use'** - wrong, there is no such thing in UK law. Fair Dealing, a completely different concept, exists under some recognised Exceptions but US laws do not apply in the UK
- **There was no copyright notice so its OK** - wrong, there is no legal requirement to use a copyright notice but that doesn't mean it is not protected or that you can just use something without it
- **There was no name, I can use it legally now as an 'orphan work'** - wrong, a licence is still required and a fee payable, once the IPO are happy that a 'diligent search' has been done.

**Just because something is available and accessible does not mean you can just use it**

# Things you need to know

## Permissions

In most cases, permission will be required from the photographer or studio that produced the image or from the rights' holder(s) before any reproduction can take place. Why?

The image may have been exclusively licensed to a 3rd party, may contain sensitive information or may just not be available for publication. Images of people may require a model release that may not be available for certain uses. The issuance of licences is also how many photographers earn their living.

Permission, where given, will be in the form of a licence which should be in writing. If more than one rights' holder exists then permission is required from each one<sup>1</sup>.

## Accreditation

Although a photo credit is not a UK legal requirement, licences usually stipulate whether or not a credit is required and in what form. Why?

Creators of original works have the right to be acknowledged, from which they gain recognition and obtain future work. They also have the right not to be identified, if they wish<sup>2</sup>. These rights are known as Moral Rights and apply to all creative works.

## Treatment

Moral rights also protect photographs from derogatory treatment. This can include manipulation, changing colours, cloning and even cropping to remove some of the content. Images should not be changed unless the licence stipulates otherwise.

Particular care should be taken during print reproduction to ensure colour consistency and that the highest resolution files, in the appropriate colour profile, are used to ensure the image appears as intended.<sup>3</sup>

1 More than one rights holder may exist in collaborative works, published work or where for example, an image is of something which is in itself the subject of someone else's Intellectual Property

2 For example, a creator may not wish to be publicly associated with a certain type of work

3 Printing requires higher definition and a different colour format to images intended for electronic use



## How do I know who it belongs to?

Photographers use various methods to ensure their images can be identified. Some use visible watermarks, many embed metadata with their contact details, usage terms etc, viewable using image editing software. Others may use invisible digital marks that will clearly identify the creator, whilst others may rely on proper accreditation when images are published. Prints, or images supplied on disks, usually carry the contact details for the photographer or studio.

Routinely however, photographs are published or used without any accreditation and despite the practice being unlawful, embedded metadata is systematically stripped out when images are uploaded to social media platforms, photography competitions or some web content management systems. Visible watermarks are also deliberately removed or cloned out in misguided attempts to hide ownership.

Due to the widespread practice of taking and using images without permission for purposes other than which they were initially licensed, it is not always obvious who owns the rights to a photograph found online.

Those images with no clear means of identification are sometimes referred to as 'orphans'. To use an 'orphan work' you must first conduct and provide evidence of, a 'diligent search' and then file an application with the Intellectual Property Office (IPO) for which there is a fee. If approved, a licence fee is then payable for the specific use and term granted. Visit [www.ipo.gov.uk](http://www.ipo.gov.uk) for more details.

## How much does it cost?

The cost of licensing an image varies according to a number of factors such as personal, informative or commercial use, how long for, in what territory and whether it is to be used in print or digitally or both.

Provide as many details as possible when asking for a quote, most importantly the purpose and intended use. If you subsequently wish to use the image for something else or another purpose or to promote another product, you will need to request and pay for an additional licence.

Licences for advertising, promotion or PR purposes will cost more than those for illustration or editorial use, so always be clear as to all intended uses.

Additional use can always be requested at a later date and Extended Use licences can also be requested.

## Responsibility

The responsibility for obtaining permission and if necessary, paying a licence fee in order to use, reproduce or publish an image rests with you or the company you work for. You cannot pass that responsibility on to another party.

The BIPP actively encourages its members to report any cases of infringement involving their own or other members' images.

Many infringements are inadvertent - don't be caught out!

## Further information

To learn more about Orphan Works, Copyright Exceptions and Fair Dealings definitions, please visit the BIPP website.

Please be aware that the information provided in this guide is no substitute for legal advice and is relevant to the UK only. Other countries, even within the EU, may have different copyright and/or IP regulations.

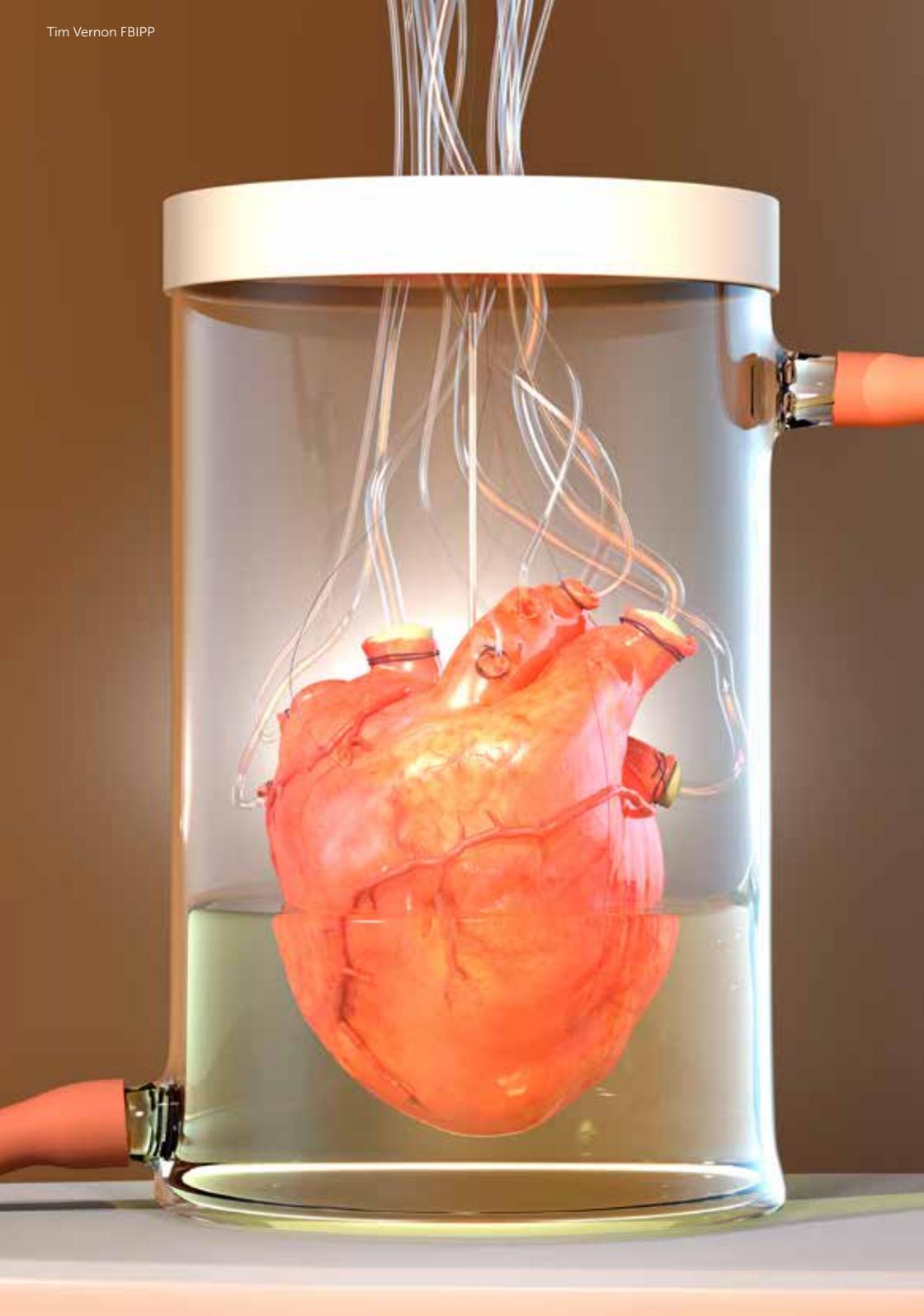
Laws can change without notice. Always check first and if in doubt, seek the advice of an IP specialist.

For further information visit the IPO website at <https://www.gov.uk/government/organisations/intellectualproperty-office>

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## Resolving issues

In reading this guide you may have realised that you have, unwittingly, infringed copyright. The important thing is how to remedy the situation quickly and to the satisfaction of everyone involved. The following points are the steps we recommend you take when working to resolve an issue concerning copyright infringement or using images without permission.

- Contact the photographer – most issues can usually be resolved at this stage by being honest and by offering to put things right
- Explain what you want to use the image for – give full details of all the uses you need and the photographer will provide a quote for either commercial or personal use
- Whilst we would not normally encourage issuing retrospective licences if you require continuing use, a licence can normally be granted to take into account past use
- If you fail to reach an amicable agreement, the photographer may pursue the case through IPEC, the Intellectual Property Enterprise Court, which offers a low cost alternative to the High Court for IP claims
- The BIPP actively encourages its members to seek settlement for infringement through IPEC if other options are unsuccessful
- You can contact your local Trading Standards office or Citizens Advice Bureau who will advise you on the best way forward but seeking legal advice from an IP specialist is always recommended

The most important consideration is always to strive for a solution which is fair to both parties as quickly and as amicably as possible.

## What is the BIPP?

The BIPP is the leading qualifying and governing photographic body based in the UK. We are a not for profit organisation that delivers education, qualifications and professional development to working photographers.

## Rights & Wrongs

You own a business and engage a designer for your website and/or marketing materials, for which they provide the images. Do you:

- a** ignore where they came from, its nothing to do with you/its their responsibility
- b** ask for written evidence showing permissions obtained/licence issued and any fees paid

You are a web designer and a client provides all the text and images for their website. Do you:

- a** go ahead and use them, after all, they supplied them so it must be OK
- b** check that they own the rights or have necessary permission or licences in place

You offer a service printing photographs onto mugs, t-shirts etc or copies/enlargements. Customers provide photographs, asking for reprints. Do you:

- a** provide as required - it's not up to you to find out whose photograph it is
- b** ask for written authorisation that they own copyright or have the necessary permissions

You publish a newsletter, zine or blog and want to use a picture you've found to illustrate. Do you:

- a** use it, after all you don't sell the publication and it's only a small image
- b** seek permission to publish for editorial/information/educational purposes and give a credit

You own or run a venue and come across an image taken at your venue that you want to use in a brochure/leaflet, on your website or in social media. Do you:

- a** just use it, after all it was taken at your venue so technically it must be OK
- b** find out who took it, ask for permission, pay the license fee and credit the photographer

You or a friend/family member just got married and you've some lovely pictures from your wedding photographer that you want to share. Do you:

- a** post them on Facebook/Twitter etc and share them to all your friends and followers
- b** contact the photographer and seek permission first

You come across a great image on the internet and want to use it on your own site or blog. Do you:

- a** download and use it, after all it's on the internet
- b** find out who it belongs to, purchase a license for use and provide a credit

You run an ISP or hosting business and receive a complaint that one of the sites you host is infringing copyright by using images for which they do not own the rights. Do you:

- a** ignore it, after all its not your responsibility
- b** investigate and co-operate with authorities to block or close the site if required

You come across a site carrying high profile advertising, using or providing photographs that you believe infringe yours or someone else's copyright. Do you:

- a** ignore it, after all there's nothing you can do/its not your problem
- b** report it to the IP Crime Unit (IPCU) or the Intellectual property Office (IPO) or to DMCA

**Get it wrong and the price you pay may be higher than you think**

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## Find Out More

Go to [www.bipp.com/bookaphotographer](http://www.bipp.com/bookaphotographer)

Call us on 01296 642020

Email us at [info@bipp.com](mailto:info@bipp.com)

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Please contact us if you'd like further information on commissioning a BIPP qualified photographer for your requirements

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