



Summary

Navigating Copyright for Crown-Published Works: A Code of Best Practices for Libraries

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Access to government information is a foundational pillar of a working democracy. This access must not only be open, it must be perpetual. Libraries have assumed responsibility for the stewardship of both print and digital government publications, through their digitization and web harvesting programs.

For libraries to do this work, their staff must first navigate Crown copyright protections. This code of best practices provides a legal framework for these activities, alongside relevant background information. It also shares some illustrative examples that document current practices in use within the library community. Most of these case studies focus on long-standing access to government publications, based on the strength of risk assessments conducted by academic libraries.

The Copyright Act provides rights holders with the exclusive legal right to reproduce, publish, and distribute a work that is subject to copyright protection, as well as the right to grant or deny others the permission to do these things. Despite a long-standing commitment to Open Government programs, governmental rights holders rarely have processes in place to provide libraries with the type of broad, blanket copyright permissions that would support library stewardship activities.

When deciding whether to copy, preserve, and share government publications without express permission from the rights holder, library staff should:

1. establish whether the government publications it needs to digitize or web harvest remain protected by copyright at all, and, if so,
2. complete a risk assessment for the publications still protected by copyright.

This assessment evaluates the risk of harm to the rights holder, realized through the infringement of their rights under the Copyright Act. In the vast majority of typical

library dealings in this context, actionable harms are highly unlikely if best practices are followed.

In this context, best practices include:

1. providing full attribution and avoiding modification beyond any required reformatting, for all publications;
2. understanding and communicating how the statutory users' right of fair dealing presents a strong legal basis for library dealings with government information; and
3. limiting access to copied government publications only in extremely rare cases and when warranted by legal, ethical, or contractual reasons.

While this code of best practices has undergone a legal and peer review process, it is not intended to be a substitute for legal advice.