



department for  
**culture, media  
and sport**

# Transfer of the Public Lending Right functions from the existing public body

A consultation

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

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# About this consultation

This consultation paper seeks your views on policy proposals to abolish the current public body known as the Registrar of Public Lending Right (“the Registrar”) and to transfer its functions to another organisation.

This consultation paper explains why the government considers this change is necessary and seeks opinions from stakeholders across the UK about the effects of such a change as well as their views on the options outlined here.

This proposal is motivated by the increasing demand for the Registrar to deliver efficiency savings and the limitations of its doing so given its small size (the Non-Departmental Public Body (NDPB) is supported by nine full-time equivalent staff and the Registrar in an office in Stockton-on-Tees). The proposal also contributes to the Government’s commitment to reduce the number of public bodies.

It is the view of Government that there is no longer any justification for the Registrar to exist as a separate legal entity.

Depending on the results of this consultation secondary legislation will be introduced at an appropriate moment to deliver the necessary changes to the Public Lending Right Act 1979.

An Impact Assessment is available to view on the PLR consultation page of the DCMS website.

## Responding to this consultation

We would encourage individual authors, translators, illustrators, librarians, producers and narrators to raise their concerns through a relevant representative group (e.g. The Society of Authors), rather than responding individually, though comments from individuals who are not members of trade or professional bodies are welcome.

A full list of consultees is attached at Annex A.

Responses to, and enquiries about, this consultation should be addressed to:

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London  
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email: [plr\\_consultation@culture.gsi.gov.uk](mailto:plr_consultation@culture.gsi.gov.uk)

The consultation starts on 8 May 2012 and will close on 30 July 2012.

As this issue is largely of specialist interest, this will be a purely written exercise. Responses can be submitted in hard copy or by email.

DCMS will publish a summary of the responses and a statement outlining intended next steps within eight weeks of the closing date.

This consultation will be carried out in accordance with the Code of Practice on Consultation and the seven consultation criteria listed at Annex B.

# Background

## What is PLR

1. The Public Lending Right (PLR) is the right of authors to receive compensatory payment for the loans of their printed books from public libraries in the UK. The Public Lending Right Act 1979 (the "1979 Act") established this right, and the rules of operation (the PLR Scheme) were set out in secondary legislation in 1982 (under the Public Lending Right Scheme 1982 (Commencement) Order 1982). The PLR is grant-in-aid funded by DCMS. The PLR Scheme is managed by the Registrar. Authors resident in the UK and other European Economic Area (EEA) states are eligible to apply for registration in respect of eligible works. PLR entitlement for registered authors continues for 70 years after death.
2. Payments are made annually to eligible authors who register their books with the Registrar. The amounts paid are calculated on the basis of loans data collected from a sample of public libraries in the UK which is 'grossed' up by the PLR computer to provide a national estimate for the loans of each book. More than 23,000 writers, illustrators, photographers, translators and editors who have contributed to books lent out by public libraries receive PLR payments each year. Where two or more contributors to a book qualify for registration they must agree shares in the book based on their respective contributions. Translators and editors qualify for fixed shares (30% and 20% respectively). In 2012, £6.5 million was distributed, equating to a rate per loan of 6.05 pence. A maximum payment per author of £6,600 applies.

## Getting to this stage

3. Given the scale of cuts in expenditure necessary to tackle the financial deficit the decision was taken in October 2010 to reduce the resource grant-in-aid budget for PLR by 15% in real terms over the spending period (from April 2011 to April 2015). In the current circumstances this represents a fair Spending Review settlement for PLR and shows a real commitment to the importance and value of this scheme. However, with the Registrar currently believed to be operating at maximum efficiency the settlement does necessitate some radical thinking in order for the PLR scheme to operate within its new budget while minimising the effect of the funding cut on authors.
4. The Registrar has successfully kept operating costs below the cap set by Ministers in the first year of the Spending Review period and officials are working with the Registrar to reduce administrative spend in order to minimise further reductions in the rate per loan paid to authors. However, we believe that transferring the PLR functions into a larger body presents further opportunities for efficiencies that would otherwise not be achievable and consequently offers the most realistic means of protecting the rate per loan.

# Introduction

## Public Bodies Reform

5. On 14 October 2010 the Government announced a number of proposals for reform of public bodies. The proposals followed a cross-Government review that aimed to increase accountability for actions carried out on behalf of the state and reduce the number and cost of public bodies.
6. On 28 October 2010 the Government introduced a Bill into the House of Lords that would provide the legislative framework for enacting many of the public bodies reform proposals. The Bill received Royal Assent on 14 December and is now an Act of Parliament allowing Ministers, by order, to abolish, merge or transfer the functions of the public bodies listed in the appropriate schedules of the Public Bodies Act. Such an order will be required to move the PLR functions to another body.
7. The Government is minded to use the powers in the Public Bodies Act to implement the proposals outlined in this consultation. The Public Bodies Act, as approved by Parliament, requires that Ministers consult on their proposals before laying a draft order. On that basis, the Minister invites comments on these proposals as measures that might be carried forward by an order under the Public Bodies Act, subject to the outcome of this consultation. All responses, including those which propose an alternative to the Government's preferred option, will be given due consideration.

## The current situation

8. PLR plays a small but important role in the creative economy by providing a dependable revenue stream not only for writers but also for other agreed categories of author, including translators, editors and illustrators. PLR is an intellectual property right protected in law which must continue to be paid. Unlike other rights holder payments which may be a share of income distributed as royalties or copyright licence fees, the source for PLR remuneration is government funding distributed as grant in aid. This funding process effectively restricts the options available for transferring the PLR functions as will be explained below.
9. The Department applied the three Cabinet Office tests to determine whether it is right that the PLR functions should continue and if they should be delivered by a public body. The tests are:
  - Does it perform a technical function?
  - Do its activities require political impartiality?
  - Does it need to act independently to establish facts?
10. Following consideration of these tests Ministers decided that the PLR functions should be maintained as they are required by law, and options for its alternative home were explored. The Department proposes that by transferring the administration of the PLR scheme into another public body it would be possible to make administrative savings and to preserve the same independence and impartiality currently awarded to the PLR Registrar.

## **Scope of the consultation**

11. As part of the wider drive to simplify the public bodies landscape we have considered whether the PLR functions could be delivered differently rather than through the existing NDPB.



# The proposed changes to current policy

12. In 2011/12 the amount of grant-in-aid paid to the Registrar to administer the PLR Scheme was capped at £756k. The Registrar has met this target and made some further savings but as a body of this size, the Registrar would experience difficulties in delivering efficiencies from its small administrative budget on a scale that could protect the rate per loan from the overall reduction in grant-in-aid funding.

13. To support the government's policies to:

- have fewer public bodies to improve accountability; and
- review value for money and efficiency

the Government proposes to transfer the statutory function of administering the PLR scheme from the Registrar to another existing public body, effectively abolishing the Registrar as a separate NDPB.

## Options

14. In considering the future delivery of the PLR functions in the context of the wider Government reform of public bodies, a number of options have been explored. These are:

- **Option 1 – Transferring the PLR statutory functions to the Authors' Licensing & Collecting Society**  
For this to work ALCS would need to become an NDPB because they would be using public money to deliver a public (statutory) function. This would not achieve the policy objective of fewer public bodies and is unlikely to be considered desirable by ALCS.
- **Option 2 - Transferring PLR statutory functions to Arts Council England (ACE)**  
ACE is a Charter body, functioning mainly in England. It is also a charity. For ACE to administer the PLR it is likely that its Charter would need to be amended with the consent of both ACE and the Privy Council in order to widen its territorial scope and significantly alter its charitable objectives.
- **Option 3: Administering the PLR in-house in DCMS**  
DCMS does not have the resources to manage the procurement issues associated with a contract for services and management of contracts. Neither is it resourced to deliver the core statutory functions of registering authors and books, collecting book loans data and calculating and distributing the payments to authors that could not be contracted out.
- **Option 4: Continue with the administration of PLR in its current form**  
This would neither contribute to the government's goal of reducing the number and cost of public bodies nor enable PLR to maximise the proportion of grant-in-aid directed to programme delivery (the author fund).
- **Option 5 - Transferring PLR statutory functions to British Library (BL)**

This would achieve a reduction in the number of public bodies, and provide greater opportunity for efficiency savings while maintaining the effectiveness of the administration of the scheme. The British Library's charitable objects would not need to be amended in order to absorb the PLR functions.

## **Benefits & costs**

15. The proposal to transfer the statutory functions of distributing the PLR fund to authors from the current NDPB to another existing body, effectively abolishing the Registrar of PLR as a separate organisation, supports the government's drive to simplify the public bodies landscape. It also maximises support for authors by seeking to minimise the costs of administering PLR so that the maximum proportion of available grant-in-aid is allocated to author payments.
16. To underline our commitment to maximising the authors' fund within the current spending settlement we would, as a condition of the transfer, impose a cap on administrative spend of £756k per year in each year from 2011/12 until 2014/15. In addition, we can confirm that the PLR fund would not be used to pay for any costs associated with the transfer of functions.
17. No operational decisions have been made yet as to the future of the Stockton-on-Tees office or the staff employed there. This is a decision for the body that takes over the PLR functions and will depend on how it chooses to fulfil those functions. DCMS officials will work with the Registrar and the body to ensure a smooth operational transition and to maximise efficiencies before and after the transfer of functions.

## **Preferred option**

18. The government believes it is no longer necessary for the Registrar to continue as a standalone public body. Its independence and accountability could as easily be maintained by transferring its functions into another public body operating at arm's length from its funding department with no negative impact on payments made to authors. The proposal would also allow the sponsor team resources in the Department to be allocated to other Government priorities, providing better value for money for the taxpayer.
19. The preferred option is consequently to transfer the PLR function to the British Library - a large DCMS public body with close links to authors and publishers. Due diligence has identified no significant barriers to the transfer. The Department's view at this stage is that transfer to the British Library contributes most to the government's aim of consolidating arm's length bodies and reducing costs whilst preserving the proper administration of PLR. The Department has therefore launched this consultation exercise to seek the views of interested persons on the preferred option and all of the other options above.

## **Requirements for secondary legislation**

20. In order to achieve the transfer of functions, the Registrar of Public Lending Right is listed in the Public Bodies Act as a body to be abolished. No changes will be made until the consultation is completed and responses analysed. After the consultation has been analysed and if it is concluded that the reform should be made, an Order will be laid and, once approved by Parliament, the transfer of functions will take effect.

# Consultation Questions

- Q1:** While acknowledging the effective administration of PLR by the Registrar, the government is now proposing to transfer the statutory function of administering the PLR scheme from the Registrar to another existing public body, effectively abolishing the Registrar as a separate public body. Please provide your views on whether you think the PLR functions should be transferred to another body.
- Q2:** Following the transfer of functions the government is proposing that a cap on administrative spend will be imposed on the body that takes over the PLR function and has confirmed that the PLR author fund will not be used to pay for the transfer. Do you have any concerns about the impact a transfer of functions from the Registrar will have on PLR rights holders? If so please provide details.
- Q3:** Though the government appreciates that it would be appropriate to transfer the PLR function to another copyright payment body, ALCS for example, statutory functions and distribution of associated government funding must be administered by a public body. Consequently the government's preferred option is to transfer the PLR function to the British Library. Do you anticipate any problems or conflicts of interest in transferring the PLR function to the British Library?

# Annex A: List of Consultees

This list indicates those organisations that may wish to respond to the consultation. However, this is a public consultation and we welcome all responses. We would encourage individual authors, translators, illustrators, librarians, producers and narrators to raise their concerns through a relevant representative group (e.g. The Society of Authors), rather than responding individually, though comments from individuals who are not members of trade or professional bodies are welcome.

All Party Parliamentary Group for Writers  
All Party Parliamentary Group for Libraries  
Arts Council England (ACE)  
Association of Authors' Agents  
Authors' Licensing and Collecting Society (ALCS)  
Authors' and Performers' Lending Agency (APLA)  
British Association of Picture Libraries & Agencies (BAPLA)  
British Copyright Council (BCC)  
British Entertainment Cinematograph & Theatre Union (BECTU)  
British Equity Collecting Society (BECS)  
British Library  
Chartered Institute for Library and Information Professionals (CILIP)  
Department for Business, Innovation and Skills (BIS)  
Design and Artists' Copyright Society (DACCS)  
Intellectual Property Office (IPO)  
Literature Wales  
Local Government Association  
Member of Parliament for Stockton North (Alex Cunningham MP)  
Member of Parliament for Stockton South (James Wharton MP)  
Northern Ireland Executive  
Public and Commercial Services Union (PCS)  
Publishers' Association  
Registrar of Public Lending Right  
Royal Society of Literature (RSL)  
Scottish Executive  
Scottish Library & Information Council (SLIC)  
Society of Authors  
Society of Chief Librarians (SCL)  
Welsh Books Council  
Welsh Government  
Writers' Guild of Great Britain

# Annex B: Seven Consultation Criteria

- 1. When to consult**  
Formal consultation should take place at a stage when there is scope to influence the policy outcome.
- 2. Duration of consultation exercises**  
Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
- 3. Clarity of scope and impact**  
Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
- 4. Accessibility of consultation exercises**  
Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
- 5. The burden of consultation**  
Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
- 6. Responsiveness of consultation exercises**  
Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
- 7. Capacity to consult**  
Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

## Confidentiality & Data Protection

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.



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