



HM Government

MINIMUM STANDARDS FOR UK COLLECTING SOCIETIES

Minimum standard: Obligations to rights holders

Membership

- Offer membership to all holders of relevant rights in the sector managed.
- Have rules or constitution that enables members (and non-members if operating an ECL scheme) to withdraw their rights on reasonable notice.
- Offer fair and balanced representation of rights holder members in the internal decision-making process of the collecting society.
- Provide copy of [rules/constitution] to members and potential members.

Representation

- Acting in the best interests of its members as a whole.
- Treat all members (and non member rights holders if operating an ECL scheme) fairly, honestly, reasonably, impartially, courteously and in accordance with the collecting society's rules and membership agreement.
- Deal with all members transparently.

Minimum standard: Obligations to licensees and potential licensees

- Treat licensees and potential licensees fairly, honestly, impartially, courteously and in accordance with its [rules] and any licence agreement.
- Ensure that dealings with licensees or potential licensees are transparent.
- Consult and negotiate fairly, reasonably and proportionately in relation to the terms and conditions of a new or significantly amended licensing scheme.
- Provide information to licensees and potential licensees about its licensing schemes, their terms and conditions and how it collects royalties.
- Ensure that all licences and licensing schemes are drafted in plain English and accompanied by suitable explanatory material.

Codes of practice

- Codes may include a section setting out what the collecting society expects of licensees including:
 - To respect the rights of creators and rights holders including their right to receive fair payment when their works are used.
 - That copyright material will only be used in accordance with the terms and conditions of a licence.
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Minimum standard: Conduct of employees, agents and representatives

- Staff training procedures for employees, agents and representatives to include conduct that complies with the obligations to members and licensees set out in these minimum standards.
- Staff to provide licensees and potential licensees with clear information, including information about cooling off periods which may apply to new licences.
- Employees and agents are aware of procedures for handling complaints and resolving disputes and are able to explain those procedures to members, licensees and the general public in plain English.

Minimum standard: Information and transparency

In its code, the collecting society should set out how it fulfils its obligations on the following requirements:

- Informing members, licensees and potential licensees, on request, about the scope of its repertoire, any existing reciprocal representation agreements, and the territorial scope of its mandate.
- Maintaining and making available to members on request, a clear distribution policy that includes the basis for calculating remuneration; the frequency of payments; and clear information about deductions and what they are for.
- Providing details of tariffs in a uniform format on website.
- Providing details of its code of practice and complaints procedure, accessible via a link on the website homepage.
- Providing an undertaking that all information provided is kept up to date, is readily accessible and written in clear language that can be easily understood by licensees, potential licensees and members.

Minimum standard: Reporting requirements

In this section of the code the collecting society should undertake to publish an annual report, which will include details about the following:

- Number of rights holders represented, whether as members or through representative agreements. Include where possible and if applicable, an estimate of numbers of rights holders represented by an ECL scheme.
 - Its distribution policy.
 - Total revenue from licences granted for its repertoire during the reporting period.
 - Total costs incurred in administering licences and licensing schemes.
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- Itemised costs incurred in administering licences and licensing schemes.
- Allocation and distribution of payments of revenues received and extent to which this is compliant with its distribution policy.
- Procedures for the appointment of directors to the collecting society and details of any appointments during the course of the reporting period.
- Details of the remuneration of each director of the collecting society during reporting period.
- A report regarding compliance with code of practice over the past year, including data on total level of complaints, and resolution methods.

Minimum standard: Complaints handling

Collecting Society to adopt and publicise procedures for dealing with complaints from members, non member rights holders (if operating an ECL scheme), licensees and potential licensees.

Complaints procedure should be based on minimum standards covered by the code of practice and must:

- Define the categories of complaints and explain how each will be dealt with.
 - Ensure information on how to make complaints is readily accessible to members, licensees and potential licensees.
 - Provide reasonable assistance to a complainant when forming and lodging a complaint.
 - Specify who will handle a complaint on behalf of the collecting society.
 - Indicate time frame for the handling of a complaint or dispute.
 - Provide that the collecting society will give a written response to each complaint made in writing
 - Provide that the collecting society will give a written decision in any complaint and give reasons for that decision.
 - Ensure that the collecting society makes adequate resources available for the purpose of responding to complaints and resolving disputes.
 - Provide that the collecting society will regularly review its complaint handling and dispute resolution procedures to ensure they comply with the minimum standards.
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Minimum standard: Ombudsman scheme

Codes to include requirement for the Collecting Society to appoint and fund an independent and impartial person to arbitrate on disputes and review their performance against their code(s). For consistency and cost reduction reasons, the Government recommends there should be a single ombudsman.

- The Ombudsman should be the final arbiter on complaints between the collecting society and its members or licensees in relation to minimum standards of their code(s) of practice.
- The scope of the Ombudsman service will not include matters that are within the jurisdiction of the Copyright Tribunal.

Minimum standard: Review of Codes of Practice

There should be provision in the code for an independent code reviewer to monitor and review the performance of collecting societies against the minimum standards. The independent review should satisfy the following provisions:

- An initial review should take place one year after implementation.
- Further reviews at least every three years thereafter.
- Powers for the independent reviewer to publicise and consult on the review of the codes and to publish the conclusions.

Minimum standard: Extended Collective Licensing

N.B. The Government is currently legislating to enable the introduction, through Regulations, of a system allowing collecting societies to apply to operate Extended Collective Licensing schemes in the UK. If these Regulations are introduced, additional minimum standards for collecting societies who wish to operate ECL schemes will be required. These standards will be developed following consultation with stakeholders.

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The Government Standard