

Section 2. Creating and Using GIS Datasets#

2.7 Copyright issues - an example from the Ordnance Survey#

The following notes were based upon OS information current at the time of writing and are intended as a guide. The most recent OS documents should always be consulted for the definitive conditions.

All derived data that you may use in your GIS will be copyright by someone whether this is you, your organisation, or someone else entirely. It's very important to keep careful track of who owns the copyright on each piece of information you incorporate into your GIS data set as this will affect how you can publish your data and who else can use it. An example of the complexities of copyright comes from the Ordnance Survey of Great Britain.

2.7.1 Requesting Permission

The Ordnance Survey (OS) requests that users of their information ask permission before any procedure requiring copyright clearance is undertaken. As OS data is copyright by the Crown, especially rigorous regulations are applicable which makes it particularly important to understand their copyright requirements **before** undertaking a GIS analysis.

The Copyright, Designs and Patents Act 1988 (HMSO 1988) defines Crown copyright and states that it would be infringed if any person or organisation reproduced a copy of Crown copyright information without first having permission. Copyright is infringed when:

- the copying is by hand or by mechanical means
- the copying is direct or through a fresh drawing in whole or in part, or from a map or document based on Ordnance Survey material.

One exception to this need for permission is a 'fair dealing' clause, which generally means that you do not need permission to make up to four A4 size copies of a map that you own for private study, research, criticism or review. The OS define 'educational purposes' in terms of paper map extracts for the purposes of teaching map reading and interpretation, etc., and for related assessment of a student's progress. Research usage is limited to 'university research projects only'. This generally excludes research supported by 'external' sponsors including higher education funding councils.

Another exception is the use of OS material in connection with any proceedings on parliamentary, judicial, Royal Commission, or statutory inquiry matters. In these cases OS material may be used without permission but cannot be used in a publication (Ordnance Survey 1996).

2.7.2 Citation

Whether or not you need advance permission to use OS material, you **must** cite the fact that you are using their information.

With OS material that is out of copyright, you must **include** the statement 'Reproduced from the (year of publication) Ordnance Survey map' (Ordnance Survey 1996).

2.7.3 Are all OS maps copyright?

Strictly speaking, **all** legitimate use of OS material will carry with it an appropriate citation together with the phrase 'Crown Copyright Reserved'. The OS encourages you to seek confirmation from them directly whether or not material which does not bear this inscription is subject to their copyright.

2.7.4 Publishing

The OS define 'publishing' as 'selling or giving away any publication which contains our material. By publication, we mean sheet maps, books, journals, brochures, leaflets, catalogues, and so on' (Ordnance Survey 1996).

Generally royalties are not charged on publications of academic research that are not intended to make a profit, but you will need to get OS permission before publishing and you will need to acknowledge OS copyright in the publication. There are various scales of royalty charges for publishers of things other than academic research and discounts are offered for registered charities, etc. The scale of royalties depend in part upon both the proportion of OS material in the product and the OS perceived 'usefulness' of the final product. OS Copyright Leaflet 4, dated April 1996, defines all these provisions.

Generally the OS do not allow any of their material to be published on the World Wide Web (Ordnance Survey 1996).

2.7.5 The National Grid

Believe it or not, the UK national grid is even covered by Crown Copyright on Ordnance Survey maps. Generally you can copy the national grid without having to pay a charge, but you must print the following acknowledgement:

"The grid on this map is the National Grid taken from the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationery Office." (Ordnance Survey 1996).

It's not the national grid, *per se*, that is copyright. The national grid is a standard Transverse Mercator map projection, using the Airey Spheroid and a false origin to the south west of the Isles of Scilly. Since it is a mathematical transformation, determined by people long since dead, it is not of itself copyrightable.

However, the OS **usage** of the national grid -- displaying grid co-ordinates with two letter codes for the 100km squares -- **is** Crown Copyright. The OS claim 'ownership' of any national grid reference (NGR) which is given in the 'NY 123 456' form. It is our understanding that the OS have been successful in obtaining injunctions against commercial use of this form where no royalties were paid to the OS.

This means that the example reference, NY 123 456, given above **is** OS Copyright whilst its numeric form, 312300 445600, isn't.

2.7.6 Use of OS Data (paper maps and digital data)

The general case is that everything conveyed within an OS product is Crown Copyright. Clearly, the OS cannot claim copyright of the name of a settlement, for example, but they can claim ownership of anything relating to their survey effort that delineates the extent of that settlement. Also, equally clearly, any errors in their data are OS Copyright. This may seem strange, but error matching is one of the mechanisms that the OS uses to determine whether or not someone has violated their copyright.

2.7.7 Ground control points and OS maps

Taking ground control points from OS maps is a restricted right under Copyright Law. Restricted rights are not covered under the standard licence granted by Ordnance Survey, and instead are only granted on a case by case basis. A charge is almost always made.

Using OS data (maps, digital data) to specify position of other data (maps, images, etc.) gives the OS an intellectual property right in the resultant data, map, etc. Indeed, the OS claim that they **own** the positional content of the new data. It is thus an offence to pass this information on to a third party without the explicit, and prior, permission of the OS. The OS will seek a royalty for any information

which they consider to be a commercial product, or to have commercial potential. 'You risk breaking Crown Copyright if you try to capture your own data which has been fixed from Ordnance Survey material.' (Ordnance Survey 1996).

Of course, if the data are surveyed in from a GPS point, for example, and the co-ordinates are specified in full numeric form (e.g. 312300 445600 from the above example) the OS are not involved. The numeric form is far more useful in relation to digital data anyway, so this is a good habit to get into! Differential GPS, with a potential precision from less than a cm up to a metre or two is readily available now. It can be hired cheaply, is already in wide use, and thus may already be accessible to you. It's a good idea to keep accurate field records about GPS use in order to prove your exemption from OS claims.

2.7.8 Digitising OS Maps

The OS do not generally grant permission to digitise any OS copyright material for which there is an existing digital equivalent. Now that the whole OS production system is digital, that means that you will need to argue a very specific case to get permission. Wanting to digitise a map at a scale of 1:25000 when an OS digital map is available at 1:1250, will probably not gain you permission. When the OS do grant digitising permission there is generally a data capture royalty to be paid.

2.7.9 The Worst Case Scenario

Copyright law is a serious matter, and it is best to seek the proper permissions in advance. According to the OS:

"If you reproduce our maps or use our digital data without our permission, this is known legally as an infringement of the Copyright, Designs and Patents Act 1988. If you do this you are stealing the results of our work and we will take legal action. We will decide if you must pay damages and if you must destroy the copies. Our minimum damages will be the same as the royalty fees which apply at the time we discover the infringement, plus 25%." (Ordnance Survey 1996).

2.7.10 Other Issues in Using Data Derived from the OS

Whilst the OS claim their data to be complete they do not claim 100% positional accuracy. Indeed, there is a residual error which relates to the early County Series to National Grid transition which the OS currently estimate needs an investment of over 40m pounds to resolve. Their present approach to this problem is to ask customers to notify them of corrections so that they get a piece-meal update ... for free! City centres are least affected by these errors.

The biggest issue is that of OS claiming intellectual property rights in 'knowing where you are'. This means that much existing data, whilst free from liability as long as it remains solely with its collector, may become liable to copyright royalties the moment it passes to another person. It also implies that the use of GPS technology for 'fixing' position for **all** future field data collection work should be seriously costed - by this means the collected data would become free of OS claims.

2.7.11 Would you like more Information?

Additional useful information can be found on the OS Web pages. For copyright see the http://www.ordsvy.gov.uk/about_us/copyrite/index.html and the pages that follow.