



Public Lending Right

A Briefing for Libraries

This briefing, accompanying IFLA's [position on Public Lending Right](#), aims to provide further information about [what Public Lending Right is and where it is applied](#), to [explain IFLA's own position](#), to [address a number of questions](#) that frequently arise, to [explore other ways in which it is possible to support authors](#), and to [set out some advocacy points](#) for use by IFLA's members.

What is Public Lending Right?

Public Lending Right (PLR) refers primarily to the idea that authors (or other rightholders) should have the exclusive right to lend (or to authorise lending of) copyrighted works. As a result, any lending of works should be subject to a form of compensation. PLR is also therefore synonymous with the payments made to authors for the lending of their works.

It is worth noting that the idea of a lending right does not have the same status as other rights (such as reproduction, distribution, translation or communication to the public), and does not appear in the Berne Convention. Nonetheless, the European Union and a number of other countries (making over 50 in total) have introduced the idea that lending is an exclusive right.

One primary argument for PLR is that lending harms sales. However, research has not demonstrated that this is the case. Of course, some will argue that any use of a work should lead to remuneration, but arguably, where there is no harm, then an exception can apply.

How and Where is it applied?

According to the PLR International website, 34 countries have operational PLR schemes ([see the list here](#)), and a further 27 have them in development ([see the list here](#) – although this assertion is often based only on the existence of a reference to exclusive lending rights in law).

There is no single definition of PLR, with each scheme varying in terms of which libraries are involved, how overall budgets and payments are calculated, who qualifies for payments, which sort of works are involved, and who runs the scheme.

Therefore, for example, of the 34 schemes which are currently operational, 32 apply to lending from public libraries. However, only five consider lending from school libraries. Five countries take academic libraries into account (of which only two also look at school libraries).

Schemes often discriminate between authors depending on their nationality, country of residence, and the language in which they publish. Only 8 countries make PLR payments to foreign authors outside of the country unconditionally, and only 3 others did so when there was a reciprocal agreement. Two countries exclude authors who are residents, but do not have citizenship.

There is variation as to who receives benefits. While all countries make payments to authors, only 24 do to illustrators, and 21 to translators. Only 9 countries make payments to publishers. There is also inconsistency in what type of works are covered. All countries cover books, but only four, for now, cover eBooks. Only 14 cover audiovisual works and only 4 cover eBooks.



Calculations of total budgets and payments also vary. While 21 countries only use loan data (often via a sample of libraries), three more use loan data and other information. Seven countries only use information about stocks of books, and another two a combination of stocks data and other measures. Two countries count library users in order to determine available funding.

Meanwhile, three countries – including Italy and Sweden – use what they refer to as PLR in whole or in part to pay out grants according to cultural policy criteria, rather than any measure of how many books are held by libraries, or how often they are borrowed.

In short, there is relatively little that unifies PLR systems other than their name.

The IFLA Position

IFLA's first Position on Public Lending Right dates back to 2005. In 2016, this Position was [updated](#) in order to include reference to eBooks. This is the current version of the IFLA Position. Both of these underlined that IFLA did not favour the principle of a 'lending right', given the threat to free access to the services of publicly accessible libraries.

In 2019, recognising that in a number of countries, PLR is a fact of life, IFLA published an [Annex](#) to the Position setting out best practices for such schemes. This does not affect IFLA's overall disagreement with the principle of PLR, but rather looks to make the best of a given situation.

In more detail, the Position makes the following key points:

- Libraries have an essential role in promoting equitable access to information and culture, and lending is central to this. PLR schemes pose a risk to this work.
- While it is important to support authors, there is no firm evidence that library lending causes harm, or obligation to introduce such schemes in international law. Indeed, libraries act as a useful distribution and discovery channel for authors.
- PLR schemes should not undermine the work of libraries by reducing available resources.
- In developing countries, PLR should be rejected outright, with resources spent on more fundamental public services. In countries with low literacy and reading rates, resources should be spent on tackling these challenges, rather than setting up PLR schemes.
- PLR schemes are best operated as cultural policies. Any system introduced should reflect the capacity of the government to support it.
- Legislation should be carefully drafted to avoid unintended consequences, and librarians closely involved in the design and operation of any PLR schemes (be it through government, a specialised agency, or a collecting society).
- PLR schemes are not necessarily suitable for eLending as eBooks are usually accessed under licences, and must be re-acquired after a certain time or number of loans. Furthermore, data about loans is often held by third parties. .

The Annex makes the following additional points, in situations where PLR cannot be avoided:

- PLR schemes should not be paid for from library budgets or lead to restrictions on lending.
- Publishers, distributors and others involved in management of rights have the primary responsibility in ensuring that authors receive a fair income.



- School, university and research libraries should not be subject to PLR schemes.
- PLR should benefit authors first of all, and primarily those in the state in question in order to promote local production.
- PLR should be calculated according to holdings, not loans, in order to minimise burdens. Formats other than books should only be counted if they do not 'expire', forcing libraries to buy new copies.
- PLR schemes should be run efficiently and transparently, with clear reporting and maximum possible payments to authors.

Controversies

Does lending really cost sales? A key claim in favour of PLR is that library lending costs sales. While this can appear intuitively true, there seems to be little evidence in reality. Not only is it not obviously true that people borrowing books would otherwise buy them, but in fact, many people base future decisions to buy on their experience of borrowing a book. Going one step further, the contribution that library lending makes to supporting literacy and a love of books provides a boost to demand in general. Research from [BookNet Canada](#) and the [Panorama Project](#) in the United States have demonstrated how libraries support books and authors.

Is it a drain on library funding? It is welcome that PLR International suggests that money for schemes should not come from library budgets, although of course it is not possible to stop a government from doing this. Even if there is no immediate reduction in library budgets, money spent on PLR may well end up freezing or decreasing library spending in future. This harms libraries ability to buy more books and support readers.

Is it a good idea in developing countries? Ensuring sufficient support to authors in developing countries is one of the many challenges governments face there. Arguably, in this case, the need for efficiency and effectiveness in payments is therefore particularly great. Similarly, the merits of schemes such as PLR need to be evaluated in comparison to wider development challenges, such as promoting literacy and reading in general, and other development goals. In this case, IFLA argues, it is far better to focus efforts on building a literate society, and use more targeted support for authors, rather than bringing in PLR.

Is it really a copyright issue? It seems clear from the way in which most countries have applied PLR that it does not follow the rules that apply to other copyright uses (i.e. national and foreign authors are treated differently), and so it is best considered a cultural policy. As set out above, the evidence that lending costs sales is weak, and indeed there is no lending right in the Berne Convention.

Is it efficiently managed? As with any use of public money, it is important to ensure high standards of financial management, and best use of available tools. Yet PLR schemes are often relatively small so there is a tendency for administration and overheads accounting for a high share of costs. Those running schemes need to be properly scrutinised too, and work constructively and cooperatively with libraries. There are, unfortunately, examples of poor practice from organisations charged with operating PLR schemes which underline the risks.



The Best Way of Supporting Writers?

If PLR is seen as a tool of cultural policy, all governments then need to ask whether it represents the most cost-effective way of achieving their goals. Usually, these will focus on helping new and diverse local talent emerge.

If this is the case, it does not make sense to allocate money according to loans, as this will lead to a greater share tending to go to more established authors rather than new ones.

If, instead, the money is allocated on other criteria, the most obvious question is whether collecting societies which are not held accountable in the same way as ministries, and which need to cover their own costs, are a good way of running such a policy. Would it not make more sense for a ministry or cultural agency to distribute funding? Could the money be used differently?

Such cultural policies already support writers in the following ways:

- Providing grants – these provide a very targeted way of helping promising individual authors
- Supporting residencies – as above, with a stronger focus also on promoting culture in different areas
- Providing specific welfare and pensions schemes for authors – often running at a deficit, such schemes do give authors greater certainty
- Supporting book fairs and other promotional opportunities – these offer a platform for authors to find new audiences. Libraries make a similar contribution

More broadly, governments could support the book chain generally by:

- Offering a lower rate of sales tax on books (and sometimes eBooks) – this allows publishers to earn more and/or reduce the sales price of books
- Supporting libraries as venues for promoting literacy and discovering books – it benefits the whole book chain to have a new generation of readers as future book buyers
- Supporting libraries as a key part of the book chain infrastructure (legal deposit, national bibliographies, running ISBN offices)

Other ways in which governments can look to promote the interests of authors include:

- Enforcing more transparency around how much publishers earn from authors' works – recently included in the EU's Copyright Directive, this focuses on ensuring that authors are aware if their books are doing well. It gives them the information needed to re-negotiate if needed (see below).
- Giving authors greater possibilities to renegotiate disadvantageous contracts – a version of this has recently entered EU law, and looks to create possibilities for authors to ask for a larger share of royalties if their book does well (a best-seller clause).
- Allowing authors to reclaim their rights if they are not being used by publishers – 'reversion rights' look to ensure that authors have new possibilities to promote their works if a first publisher does not want to promote it. This also benefits other publishers, who can pick up works which might otherwise remain locked away.



- Looking into any deficiencies in the ecosystem surrounding collecting societies with a focus on governance, transparency, accountability and the efficient transaction of rights for the benefit of creators and users.

Key Advocacy Points

IF YOU DO NOT YET HAVE A PUBLIC LENDING RIGHT SCHEME

- 1) There is no sound justification for PLR on the grounds of compensating harm to authors and others in terms of lost sales.
- 2) There are more efficient ways of supporting authors, such as direct grants, reduced sales taxes, and giving them greater possibilities to renegotiate contracts or reclaim their rights.
- 3) In developing countries in particular, governments should focus efforts rather on promoting literacy and developing library collections.

IF A PUBLIC LENDING RIGHT SCHEME IS INEVITABLE FOR YOU

- 1) Any form of PLR which is based on counting stock or loans imposes an administrative burden on libraries, reducing their ability to do other things. These should be avoided.
- 2) Any library which is not open to the general public, such as school and university libraries, should be excluded.
- 3) PLR is best operated – by government – as a branch of cultural policy aimed at achieving broader policy goals, and subject to the same rules and conditions as other public spending.
- 4) The operation of PLR schemes needs to be closely monitored in order to ensure efficient use of public money, and maximum pay-out to authors.
- 5) Under no circumstances should PLR be funded from library budgets, or lead to a reduction of any other budget dedicated to culture. It should be additional to existing funding, and not lead to any decrease or stagnation in other cultural (or library) spending in future.

Produced by the IFLA Advisory Committee on Copyright and other Legal Matters