

# Annual Report of The Educational Recording Agency Limited (company number 02423219) for the year ended 31 March 2014

The "Minimum Standards for UK Collecting Societies" published by HM Government in October 2012 provide that each collecting society (within its Code of Practice) should undertake to publish an annual report which should 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 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

Itemised costs incurred in administering licences and licensing schemes

Allocation and distribution of payments of revenues 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

A report regarding compliance with the code of practice over the past year, including data on the total level of complaints and resolution methods

In addition The Copyright (Regulation of Relevant Licensing Bodies) Regulations 2014 (S.I. 898) were brought into force on 6 April 2014.

These Regulations reiterated that published Codes of Practice should provide for publication of an annual report which includes the above details and details of the remuneration of each director, or, where appropriate, managers or similar officers of the relevant licensing body during the reporting period.

For the purposes of the year ended 31 March 2014, this ERA Annual Report shall refer to and apply to: -

1. The Members of ERA listed on the ERA website at <http://www.era.org.uk/about-us/members>

Information about the Members of ERA, how representative bodies may apply for membership of ERA and the terms of membership agreements which all ERA members are required to observe are set out in the ERA Code of Practice published at [www.era.org.uk](http://www.era.org.uk). All ERA Members are provided with a copy of the ERA Code of Practice and the attention of all ERA licensees is drawn to the ERA Code of Practice and its terms through news updates and other information published on the ERA website.

ERA currently has 20 Members who represent the rights set out and described against their names within ERA Licence documents. ERA Licences do not include any ECL scheme.

2. The Financial Statements for The Educational Recording Agency Limited (company registration number 02423219) for the year ended 31 March 2014, including the Directors' Report forming part of the Financial Statements.

The Financial Statements and the Directors' Report for the year ended 31 March 2014 include: -

The distribution policy of ERA

The total revenue from licences granted for the year ended 31 March 2014

The total costs incurred by ERA in administering licences

Detailed Profit and Loss Account on administration expenditure of ERA including a breakdown of personnel costs

Details of the directors who served on the Board of ERA during the year ended 31 March 2014. Procedures for the appointment of Directors are set out in the ERA Articles of Association and the ERA Membership Agreement and copies of these documents published and made accessible on the ERA website at [www.era.org.uk](http://www.era.org.uk)

A statement that directors' aggregate remuneration in respect of qualifying services applied only to the payment of £2,272 made by ERA for insurance to cover its Directors and Officers against liabilities in relation to their duties to the company.

3. The Code of Practice of The Educational Recording Agency Limited, first published in November 2012 and first reviewed in November 2013.

Following implementation of The Copyright (Regulation of Licensing Body) Regulations 2014 from 6 April 2014, the addition of Open University Worldwide Limited as an ERA Member, and the implementation of The Copyright and Rights in Performances (Research, Education, Libraries and Archives) Regulations 2014 from 1 June 2014, ERA Members approved the updated version of ERA's Code of Practice in June 2014.

Both the current ERA Code of Practice and the previous version of the Code of Practice (in place until the year ended 31 March 2014) are published and accessible on the ERA website at [www.era.org.uk](http://www.era.org.uk).

**Report regarding compliance with ERA Code of Practice for the Year ended 31 March 2014, including data on the total level of complaints and resolution methods.**

The first review of ERA's Code of Practice was undertaken by Walter Merricks CBE from November 2013.

Recognition of ERA compliance was confirmed in a report on the Review published on 2 June 2014 at :-

<http://www.independentcodereview.org.uk/news/independent-code-review-published/>

In that Review, it was confirmed on page 34 of the report: -

*"Having analysed ERA's compliance with the Principles and Minimum Standards only one issue appeared to call for a response. The Standards require that CMOs should offer membership to all holders of relevant rights in the sector managed. The ERA Articles of Association and the Membership agreement however do not provide for the admission of new members other than with the unanimous agreement of the existing members".*

The report noted that ERA had responded as follows:

*"ERA is aware that the provisions of Article 6 will need to be updated to reflect the way in which the UK implements the provisions of the CRM Directive.*

*(This will include express provision for reasons being provided for any refusal to admit to membership).*

*However, in the case of ERA, the membership criteria do need to be considered against the context of the copyright exceptions which apply under s 35 and paragraph 6 CDPA (in the absence of a licensing scheme or indeed to allow for the operation of licensing schemes in addition to that operated by ERA).*

*As you know, the current wording of s 35 (up to 1 June) provides that any s 35 licensing schemes have to be certified by the Secretary of State under s 143 CDPA.*

*This certification process has in practice taken some six months after all the ERA Members have agreed to admit a new representative body to membership of ERA.*

*The reason why all members currently have to agree to the admission of the new member is the way in which the total distribution "pot" has to be split in a new way to accommodate payments to a new member.*

*This is not the same as a society where a copyright owner owns rights and then mandates certain rights to a CMO in return for securing payments linked to direct use of the works without directly affecting the entitlement of other members of the CMO.*

*When a new member joins ERA the distribution share of one or more of the existing ERA members will go down in percentage terms to allow for a recognised share to be allocated to the new ERA member.*

*The ERA Directors have ongoing discussions to apply a protocol to the process for dealing with requests for ERA membership. These include steps to avoid any undue delays and a process for referral up from the Secretariat to the full ERA Board when questions about ERA membership eligibility arise".*

As a result of ERA's response, the Reviewer noted that the process which ERA has proposed to be followed seemed appropriate for compliance purposes.

In Appendix 1 the report of the Independent Reviewer noted that; -

*"Since the introduction of its Code in November 2012 ERA has not received any formal complaints under its complaints procedure".*

The Code of Practice includes details of the complaints procedure to be adhered to should a complaint be made.

**The Educational Recording Agency Limited**

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**September 2014**