

THIRD PARTY COPYRIGHT POLICY

1. OVERVIEW AND PURPOSE

- 1.1 The University of Sussex is committed to promoting an environment that values creativity as well as ensuring compliance with legal requirements in the use of third-party owned content.
- 1.2 The purpose of this policy is to ensure that staff and students are aware of their responsibilities with regard to copyright law and relevant copyright licences and what should be considered when using third party owned copyright material.
- 1.3 This policy also seeks to define how risk relating to the use of third-party copyright material will be managed at the University.

2. SCOPE

- 2.1 This policy applies to all persons using third party owned copyright material within work or projects undertaken in the course of employment at, or engagement by, the University, and/or in the course of their studies at the University, for example:
 - As part of the development and delivery of teaching materials for both campus and online distance learning courses;
 - Whilst carrying out research;
 - As part of all activities related to study; or
 - Promotional activities.
- 2.2 The policy covers all copyright material in any form used for the purposes outlined above, including text, images (including photographs), databases, drawings, graphic designs, sound recordings, films and broadcasts.
- 2.3 This policy does not define the ownership of intellectual property created within the University. This is covered in the University’s Policy on Exploitation and Commercialisation of Intellectual Property (see *Related internal policies, procedures, guidance*).
- 2.4 This policy does not cover software or the use of the University Network by members of staff and students when dealing with copyrighted materials. This is covered by the University’s Regulations for the Use of Computers and Computer Networks (see *Related internal policies, procedures, guidance*).

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3. RESPONSIBILITIES

3.1 All Staff and Students

- 3.1.1 All staff and students using third party owned copyright material within work or projects must familiarise themselves with this policy and adhere to the Copyright, Designs and Patents Act 1988 (as amended) (CDPA) and the conditions of the University's various licences.
- 3.1.2 All staff and students using third party owned copyright material within work or projects must abide by the guidance notices provided at all multi-function devices (MFDs) and scanners on campus and any other related guidance issued by the University.
- 3.1.3 All staff and students using third party owned copyright material are responsible for reviewing the Library's copyright guidance and seeking further clarification where required from either the Library or the Office of the General Counsel.
- 3.1.4 All staff and students are responsible for checking terms of use before using any online material or content, particularly images, and for checking if material is made available under a Creative Commons license (to ensure that the intended use is covered and to provide the prescribed acknowledgment).
- 3.1.5 All staff and students requiring guidance on making multiple copies or scanning of third party owned copyright material should contact the CLA License Coordinator (the Librarian/Content Delivery Manager).

3.2 The Librarian / Content Delivery Manager

- 3.2.1 The Librarian is responsible for administration of the Collective Licensing Agency (CLA) copyright licenses as well as negotiation and administration of the Library's Online Resources licences.
- 3.2.2 The Librarian is responsible for providing support and guidance on the use of third-party copyright material in compliance with the CDPA and the University's licenses.
- 3.2.3 The Librarian is responsible for negotiation with online resource providers and publishers in relation to licence agreements, including access by 'Additional Authorised Users' where the University has a partnership with another university or institution, either in the UK or abroad.

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3.3 The Office of the General Counsel (OGC)

- 3.3.1 OGC is responsible for assisting the Librarian with complex copyright queries arising from the use of copyright materials in teaching and research.
- 3.3.2 OGC is responsible for negotiating individual licences for third party-owned copyright material where use is imperative but it is not covered by one of the University's blanket licences or a Creative Commons licence.
- 3.3.3 OGC is responsible for resolving copyright infringement disputes with third parties.

3.4 Heads of School / Unit (HOS/HOD)

- 3.4.1 The HOS/HOD is responsible for reviewing the relevant regulatory obligations and legislative requirements outlined in this policy.
- 3.4.2 The HOS/HOD is responsible for having oversight of copyright issues arising within the School, Department, or Unit and acting as a point of escalation to OGC or the Librarian/Content Delivery Manager.

4. POLICY

4.1. Copyright

- 4.1.1 Copyright gives legal protection to the creators of certain types of work so that they can control the way their work may be exploited.
- 4.1.2 Copyright law in the UK is governed by the CDPA.
- 4.1.3 Under the CDPA, copyright exists in the following works:
 - Literary works, which includes tables, street directories and letters, and computer programmes, as well as literature as it is more commonly understood;
 - Dramatic works such as plays and film scripts;
 - Musical works;
 - Artistic works, including graphic works, sculptures, maps, photographs, architecture and works of artistic craftsmanship;

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- Sound and music recordings;
- Films;
- Broadcasts; and
- Published editions, i.e. the typographical layout of a literary, dramatic or musical work.

4.1.4 No formalities need to be observed in the UK for a work to receive copyright protection; protection automatically applies to all works recorded in any form provided that they meet certain requirements, which vary depending on the nature of the works.

4.2 Copyright Ownership and Duration

4.2.1 The general rule is that the first owner of copyright will be the author. Exceptions to this rule include works made by a person in the course of their employment which will normally be owned by their employer.

4.2.2 Copyright lasts for a set period, usually the life of the author plus 70 years from the end of the calendar year of their death.

4.3 Infringing Acts

4.3.1 Doing any of the following in relation to the whole or a substantial part of a copyright work, or authorising another to do so, is an act of infringement:

- Copying a work;
- Distributing copies of a work, whether free of charge or for sale;
- Renting or lending copies of a work;
- Performing, showing or playing a work in public;
- Making an adaptation of a work; and
- Communicating the work to the public.

4.4 Permitted Acts Relating to Education

4.4.1 There are some permitted acts that will not infringe copyright under the CDPA. Permitted acts of particular relevance to teaching, learning and research are:

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- Non-commercial research and private study;
- Copies for text and data analysis for non-commercial research;
- Criticism and review;
- News reporting (though this does not include photographs);
- Quotation;
- Illustration for instruction; and
- Performing, playing or showing work in an educational establishment for educational purposes.

4.4.2 Additionally, the following are considered permitted acts only if a license is not available to the University to carry out such acts:

- Recording by educational establishments of broadcasts; and
- Copying and use of extracts of works by educational establishments.

4.4.3 As a licence is available to the University, such acts should adhere to the Copyright Licensing Agency HE Scanning Licence and the Education Recording Agency Licence; further information can be found on the University's Library's webpages.

4.4.4 Generally, to be considered a permitted act:

- The work must have been made available to the public;
- With the exception of criticism, review, and news reporting, the work must only be used for a 'non-commercial' purpose;
- Sufficient acknowledgement is given to the copyright owner; and
- The use of the work is 'fair dealing.'

4.4.5 Further guidance relating to what constitutes 'non-commercial' and 'commercial' use, as well as 'fair dealing' can be found in the policy guidance at *Appendix A*.

4.5 The University's Licences

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- 4.5.1 The University holds several licences from rights holders that allow others to use copyright works under the conditions imposed by the licence.
- 4.5.2 All Library Online Resources are subject to the terms and conditions of use as set out in the licence at the point of downloading any content; licence information is also available from the Library catalogue for individual journal titles.
- 4.5.3 The Copyright Licensing Agency (CLA) HE Scanning Licence allows for limited copying from print and digital publications owned by the library (books and journals) for use in teaching – generally one chapter or up to 10% of a work, whichever is the greater.
- 4.5.4 The Library operates a central scanning service for copying under the CLA licence for course provision as all scanned content must be recorded and reported to the CLA.
- 4.5.5 The Newspaper Licensing Agency (NLA) Media Access Licence allows for the circulation of press cuttings from the UK national and regional newspapers as well as UK news websites.
- 4.5.6 The Educational Recording Agency (ERA) Licence allows for the recording and storage of UK television broadcasts and for the use Box of Broadcasts (BoB).
- 4.5.7 The Motion Picture Licensing Company (MPLC) Licence allows for the showing of films in non-educational context.

4.6 Creative Commons Licenses

- 4.6.1 Creative Commons (CC) is a non-profit organization that enables the sharing and use of creativity through free legal tools.
- 4.6.2 CC licences let the creator or rights owner change the copyright terms of their work from ‘all rights reserved’ to ‘some rights reserved.’
- 4.6.3 Use of third party material where use is covered by a CC license will differ and so guidance should be consulted accordingly (see *Appendix A*).

4.7 Breach of Policy and Risk Management

- 4.7.1 Infringement is usually a civil offence with damages awarded by the court on a case-by-case basis and the impact of a copyright infringement can be costly.
- 4.7.2 Individual officers of an organisation can be held responsible and so individual employees could be held liable for infringement in certain circumstances.

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- 4.7.3 A case of non-compliance may be damaging to the reputation of the University and may also result in a loss of access to a service or online content in the case of the Library's online resources
- 4.7.4 Although the CDPA exceptions allow for certain limited use of third-party copyright material, the 'fair dealing' requirement can be difficult to navigate and at times it may be necessary to take a risk-based approach to the use of copyright material.
- 4.7.5 The risk of a copyright infringement can be minimised by adherence to this policy, review of the associated guidance, and seeking advice from colleagues in the Library and OGC.

5. LEGISLATION AND GOOD PRACTICE

- 5.1 The Copyright, Designs and Patents Act 1988 can be found at the following link: <http://www.legislation.gov.uk/ukpga/1988/48/contents>
- 5.2 More information about the CLA can be found at the following link: <https://www.cla.co.uk/>
- 5.3 More information about the NLA can be found at the following link: <https://www.nlamediaaccess.com/>
- 5.4 More information about the ERA can be found at the following link: <https://era.org.uk/>
- 5.5 More information about the MPLC can be found at the following link: <https://www.themplc.co.uk/>
- 5.6 Information relating to Creative Commons licenses can be found here: <https://creativecommons.org/licenses/>

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Review / Contacts / References	
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Related internal policies, procedures, guidance:	Library Copyright Guide University Copyright Guidance Intellectual Property Rights (including Policy on Exploitation and Commercialisation of Intellectual Property) IT Regulations (Use of Computers and Computer Networks) Policy on the Recording of Teaching Activities and Other Uses of Panopto
Policy owner:	Division of the General Counsel, Governance and Compliance
Lead contact / author:	Content Delivery Manager/Information Manager

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