



Copyright essentials for researchers



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Copyright and you

- As a researcher, like it or not, you can't avoid copyright
 - You are creating new material of your own
 - You are using third party materials every day
- Both of these things mean that you have rights, responsibilities and choices to make
- [Copyright, Designs and Patents Act 1988](#) and subsequent changes to legislation
- Summary at <https://www.gov.uk/topic/intellectual-property/copyright>



Your work

- Your creations are protected by copyright from the moment you put your ideas into some tangible form
 - No need to register it or mark it
 - But could you prove you created it?
 - computer records, digital watermarks, date-stamped photos, archive of drafts?
 - See www.copyrighthub.co.uk/protect/Mark for some ideas
- It's still yours even if you share it online - though others may quote
 - Be careful not to lose control of material you will need for yourself
 - Take care with social media as providers may assert some rights to re-use

Your copyright – or is it?

- if you create it in the course of employment your employer may assert some rights
 - Edinburgh Napier University generally does not assert any rights to journal articles or published books
 - You can make a contract with a publisher
 - You can license your work and register with collecting societies
 - But if you have invented something with commercial value that could be patented or exploited the situation is different
 - You would need to work with the university's intellectual property specialists








Protecting your copyright

- You need to be clear early on whether your content can be shared or needs to be protected for future use
- Material with wider commercial possibilities may require consideration of extra protections
 - e.g. adaptation, performance or broadcasting rights etc.
- If you decide to share, you may wish to protect certain activities by the use of Creative Commons licences



Creative Commons – what are you permitting?

CC symbols

	Attribution BY <ul style="list-style-type: none">Acknowledgement of Creator must be included.		Non-Commercial NC <ul style="list-style-type: none">No commercial uses of the material permitted
	No Derivatives ND <ul style="list-style-type: none">The content may not be changed after downloading.		Share Alike SA <ul style="list-style-type: none">New instances of content built on the original element must carry the same licence.
	Free Cultural Works <ul style="list-style-type: none">Used as an indicator that you have chosen a permissive license		Not Free Cultural Works <ul style="list-style-type: none">Indicates that the license you have chosen is a more restrictive one
	No rights reserved CC0 <ul style="list-style-type: none">Care needed - be sure you really want this before you choose it		



Creative Commons – things to watch out for

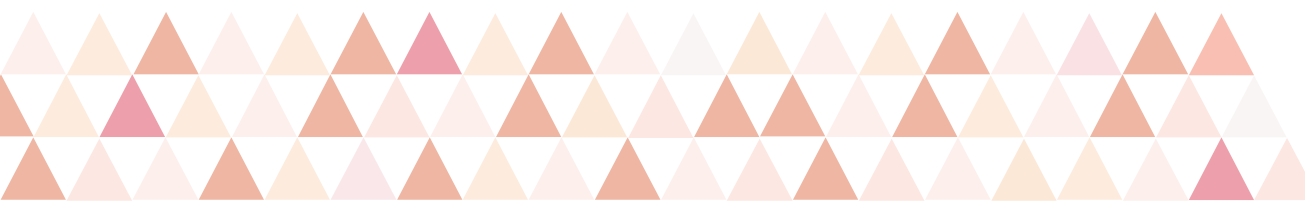
- Don't include third party content if you don't have permission – you may not be able to withdraw it again
- Don't take it on trust that images and video you have found on the web are OK because just because someone has used a CC licence
- Don't make things freely available that you might want to sell later
- Be careful what you permit if you don't want your material to be modified – and be careful not to make other people's material more open than it was before.
- Follow university guidelines

Help with sharing your materials

- Guide to Creative Commons for Humanities and Social Science Monograph Authors
 - <http://oopen-uk.jiscebooks.org/files/2011/01/CC-Guide-for-HSS-Monograph-Authors-CC-BY.pdf>
- Research data – Digital Curation Centre - <http://www.dcc.ac.uk/resources/how-guides/license-research-data>
- Open source “copyleft” licence templates for software programmers – GNU General Public Licence – www.gnu.org/licenses/gpl.html - share alike, source code must always be passed on
- Seek advice from the University Research & Innovation Office staff

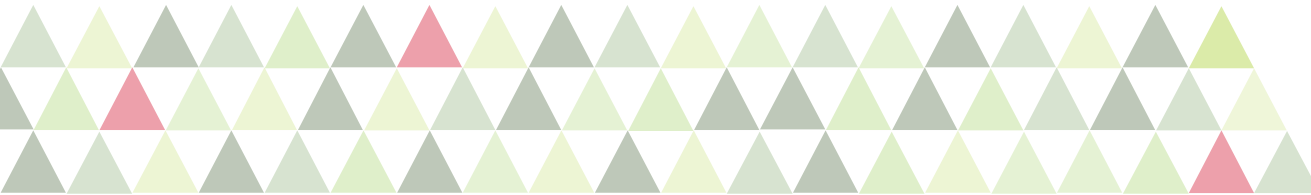
Publishing in journals – what are you giving away?

- You are normally asked to assign your copyright in return for royalties
- You normally agree not to submit your article to any other journal – “exclusive license”
- You will not be permitted to reproduce the publisher’s final version on any public websites
- It may not be legal to fulfil requests via academic profiles (e.g. ResearchGate) with the published version
- Make sure you can comply with REF or funding body requirements for Open Access
- Use SHERPA/ROMEIO to check publisher policies - <http://www.sherpa.ac.uk/romeo>



Publishing in journals – rights you may retain

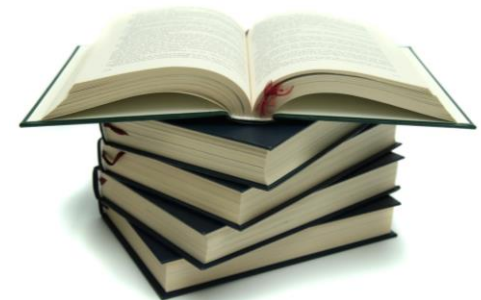
- Right to be identified as author – you never lose this
- Right to patents
- Right to make “postprints” available via personal or university websites – not final printed version, and may be embargoed
- Right to share copies of published version with colleagues, distribute printed copies to students
- Right to include article in thesis, with acknowledgement
- Right to expand into book-length for publication
- Check your Agreement to Publish to make sure
- Consider using SPARC Author Addendum - <http://sparcopen.org/>





Publishing books – what are your rights?

- You are normally asked to assign your copyright in return for royalties
- Publishers will normally try to retain as many rights as possible, e.g. all forms, all media, all languages, all territories, translations, adaptations, extracts
- They may demand the right to sublicense, e.g. film and broadcast rights if your work is suitable for a general market
- If any of these things are important to you, it may be worth attempting to negotiate



Economic rights

- Reproduction
- Distribution
- Rental and lending
- Public performance
- Communication to the public
- Adaptation



Licenses

- Depending on your material and your publisher, there may be other options, such as to license only specific aspects or uses of your work
- You may be able to specify time limits
- You may be able to have rights transferred back to you if your work goes out of print
- Licenses can be exclusive to one rights-holder, or non-exclusive and licensed to multiple parties
- Read more about licensing at <http://copyrightuser.org/licensing-and-exploiting/>

Collecting Societies

- Your publisher may tell you to sign up with a Collecting Society to receive royalties
- They can possibly help you in other ways
- works can attract additional revenue in other ways such as copying fees, public lending fees, or performance fees
 - Society of Authors – automatic membership of Authors' Licensing and Collecting Society
 - PPL – recorded music played in public
 - PRS for Music – performance fees and recordings
 - DACS – image licensing

Moral rights

- Even if you transfer economic rights to your work to other parties, you still retain your moral rights
- You have the right to be identified as the author of the work – “paternity”
- You can object if anyone uses your work in an inappropriate way without your permission – “integrity”
 - However, this right does not apply until it is asserted, so you may wish to include a statement to this effect.
- False attribution
- Privacy
- You can waive these rights, but not transfer them



Third party materials

- As a user of third party materials, you have responsibilities
- You can copy certain amounts of materials under the fair dealing provisions for your own private research or study
- But soon as you want to publish your research, everything changes: this includes your thesis if it is available online.
- If you plan to quote longer extracts from print or online sources, or use photographs, video, music you need to be sure you have the right to do so and you may have to pay for it
- It is not safe to assume that because it says nothing about copyright it's OK to use it.
- **It's never too early to start thinking about this!**
- **Fair dealing is a legal defence not a legal right.**



Quoting and citing

- It will generally be OK to quote from other published works, as long as the use is proportionate and fair, even for commercial publication
- You must acknowledge your sources in the normal way
- But what does “proportionate and fair” mean?
 - there’s the problem – there are no fixed rules
- Quotation must be no more than required
- Quotation must be “fair dealing”
 - This means you are unlikely to have problems with quoting small amounts of academic articles, e.g. 50 words
 - It’s less obvious what might be fair with poems, song lyrics, music, photographs, films etc.
 - Your publisher may insist on permissions for such things

Fair dealing

- Concept used in a number of issues relating to copyright
- Research & private study
 - Rule of thumb 5% of book or one chapter or one journal article – but not defined in law
- Other purposes
 - Amounts can vary – depends on judgement as to what is “substantial” and “reasonable” and whether it would affect publisher sales. Quality as well as quantity. Can be remarkably small!
- Source must be acknowledged unless practicalities impossible
- Not the same as US “fair use”

How long does copyright last?

- You will be bound by the laws of the country of your publisher
- More information on our website, but in the UK most things go out of copyright 70 years from the end of year of death of the creator
- Even if the original author is now public domain, the typography of new editions is protected for 25 years
- Even if an artist is long dead, an art gallery may own copyright in a photograph of a painting



What might require permission?

- Newspaper articles
- Books, poems, song lyrics
- Journal & magazine articles – even your own!
- Video – lots of separate copyrights in film, music, screenplay, performance
- Maps
- Paintings and photographs
- Tables (you can use data, not layout)
- Software, Webpages

Assess the risks

Are you damaging someone's economic interests, e.g. commercial use?
How likely are they to object? How much work is likely to be involved?

- **Low risk**
 - Everyday photographs, recordings of members of the public, amateur films. Low-resolution images / short duration?
- **Medium risk**
 - amateur artworks, letters & diaries in archives, semi-professional photographs, orphan works
- **High risk**
 - Professional artworks, films, photographs, broadcasts

Tracing copyright owners - print

- For books and journal articles start with the publisher
 - Publishers Association may be able to help or Collecting Societies
 - If more than one person holds rights you need to clear them all
- Photographs – if in a book, try the publisher, otherwise the photographer (not the owner of the photograph)
- If the photograph is of a person you need their permission also
- Any alterations would require permission from the author
- Artwork – artist if living, or estate if not. Also the owner if an individual or a museum.



Tracing copyright owners - digital

- Films / multimedia / sound recordings – begin with the producer
- Internet – check for notices on webpages, Creative Commons licences. If it doubt, don't copy.
- Music – composer or try the appropriate collecting societies for contacts.
- Recordings and performances are licensed by different collecting societies
- Multimedia works have multiple copyrights – the publisher may be able to manage this, but if not you may have to contact all the rights holders

Orphan works – author unknown

- Recent legislation has created a process for dealing with these, in the hope of unlocking unused materials in archives
- “Diligent search” must be made for the author of the work
 - This means keeping details records of emails, letters, phone calls
 - It really does mean diligent! No reply ≠ permission
- You can use the IPO service for clearing orphan works, but there is a charge, and it covers UK only
 - This would be necessary if commercial use is planned
 - Copyright exceptions for education offer broad permissions for non-commercial use, but you still have to do diligent search
- Help available with this on the IPO website

Requesting permissions

- Your publisher will be able to give guidance as to requirements
 - e.g. World English language rights
 - Publication formats / expected date and price / print run
 - think of all rights you might need
- Make use of template letters – your publisher may provide, or you can adapt template examples
 - See JISC/SCA IPR Toolkit: Section 2: Practical tools
<http://sca.jiscinvolve.org/wp/portfolio-items/ipr-toolkit-2/>
- You may need to budget for copyright fees

Thesis submission

- Your thesis will be submitted as an e-thesis for inclusion in the University Repository
- This constitutes “publication” as it can be accessed by externals
- You may need to obtain permissions for third party works for your thesis just as if you were publishing in a book
- You can use “illustration for education” exceptions for assessment purposes, but photos, maps, tables are still problematic
- If it is impossible to obtain permissions, you may be able to create a redacted version of your thesis for online delivery, with problem items removed.
- Keeping your Thesis Legal – Leicester University
 - <http://www2.le.ac.uk/library/downloads/copyright/Keeping%20Your%20Thesis%20Legal>

Possible get-out clause – review and criticism

- There is one exception to copyright that you could make use of to your advantage
- You are permitted to copy material for the purpose of review and criticism
- No specific limits, but it would have to be a demonstrably appropriate selection and not just used as an illustration – see CopyrightUser.org for some scenarios
- It has to fall within “Fair dealing” – this can be an astonishingly small amount if it is deemed significant
- Use with care!

Further sources of information

- JISC Guides - <https://www.jisc.ac.uk/guides>
- SCA / JISC Intellectual Property Rights (IPR) and Licensing
 - <http://sca.jiscinvolve.org/wp/allpublications/ipr-publications/>
- CopyrightUser – created by academics
 - <http://copyrightuser.org/>
- CopyrightHub – industry body
 - <http://www.copyrighthub.co.uk/>

Further sources of information

- Channel 4 producers' handbook – Copyright and fair dealing
 - <http://www.channel4.com/producers-handbook/media-law/copyright-and-fair-dealing>
- IPO Guide to Copyright
 - <https://www.gov.uk/topic/intellectual-property/copyright>
- Our copyright guidance LibGuide - <http://libguides.napier.ac.uk/copyright>



The CopyCats are working on new pages for researchers – coming soon

And finally, ask in the library! We'll do our best to help.