



Copyright for Academic Modules

Additional Workshop Materials
and Further Reading



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Legal Disclaimer

Copyright is an incredibly labyrinthine area of law. Neither of the two authors of this work are copyright lawyers, and while advice given is from a best professional understanding standpoint it should not be regarded or construed as legal advice. If you need to seek specific legal advice with respect to copyright you are advised to speak to the institutional legal representative in the first instance or consult a specialist lawyer.

1. Overview

This booklet supports the Staff Development workshop *Copyright for Academic Modules*. It contains additional information on the use of copyrighted work in an educational environment, as well as links and references for further reading. Each section of the booklet is a companion to that part of the workshop session, containing complimentary material. While the booklet can be used outside of this session, the maximum benefit will be accrued through attendance.

As this is a developing resource, we make use of comments, suggestions and questions raised during workshop sessions to enhance future versions of the workshop and this booklet. We hope you find it useful, and welcome any feedback or suggestions for improvements and additional information to include.

Do's & Don'ts & FAQs

At the end of each section there are a few tips on common mistakes and good practice to help guide you in your day to day best copyright practice. The end of the booklet also contains some of the most commonly raised questions by academics and students who contact the Copyright advisory service.

Additional Material

Some elements of the first version of this booklet were freely adapted, with explicit permission, from Alan Lee and Colleagues at London South Bank University (see *References*), to whom the authors express their very grateful thanks.

Reuse Rights

As it would be somewhat remiss not to mention these in this booklet, it should be noted that the authors of this work are keen for whatever elements may be considered to embody good practice by other Copyright and LIS practitioners to be reused. Note that this reuse is offered under a **Creative Commons 3.0 Share Alike – Non-Commercial – By Attribution UK license**.

2. Introduction to Copyright

Copyright in the UK is governed by the **Copyright, Designs and Patents Act (1988)**. It provides legal protection for an author/ creator, which allows them to control the way in which the work they have created is used. Copyright does not need to be claimed, it is implicit in the creation of any work – from a letter written to a friend through to work prepared for an academic text book.

In August 2011 the BBC got itself in a muddle when they re-used, without permission, various photo's of the London riots, which had been uploaded to Twitter (Mabbett, 2011). They originally stated that such items could be reused as they were in the public domain, but have since confirmed that they 'make every effort to contact people who've taken photos'.

Ideas & Rights

Ideas are not subject to copyright; they are covered by Patent Law. The Enterprise & Business Development Office can help explain this further.

The demands on existing copyright law are often changing and evolving over time, which is why it is good academic practice to maintain an awareness of the variances and developments as they relate to your research, teaching and learning. Many new interpretations of existing law come through the opinions delivered by the legal process of the courts, and can sometimes result in dramatic changes; especially for new or previously uncertain areas of activities (e.g. the Internet, social media etc).

Perhaps of most relevance to academic institutions, UK Copyright law limits the amount of material that you can legally copy or distribute to others. Infringement of copyright by University of Leicester staff and students is taken seriously and further action will be taken, although it is our hope that this workshop along with the additional supporting staff, will help you to avoid such a situation.

Rights & Rights Holders

The owner of copyright in a work is generally referred to as the rights holder, and unless another agreement is in effect, rights holders have sole discretion as to the transfer, sale or donation of their rights in their creation.

Rights such as these can be loosely split into **moral** rights and **economic** rights (see box outs). Unlike economic rights moral rights cannot be sold or transferred, but they can be waived by the creator if so wished.

Economic Rights

These allow the rights' holder to permit the reuse, performance or adaptation of the original work. They are the rights that can be assigned or sold by a creator to another entity (e.g. a publisher).

Moral Rights

These are the intrinsic rights of the author to be identified as the creator of the work and for them not to be subjected to any derogatory treatment.

The term *work* encompasses written material (including source codes), dramatic works, music, computer programs, web sites, databases, sound recordings, films (including animation), broadcasts and published editions of a work. Copyright of published written, dramatic and musical works lasts for 70 years after the death of an author/creator. At the moment copyright in a sound recording is 50 years but the EU would like to raise that to 70 years in all member states.

Personal Use

By law, you can generally copy **less than a substantial amount** of a published work for personal research or study, although unfortunately, it does not go on to define what can be considered substantial. UK case law informs us that substantiality must be viewed in terms of the quantity and/or quality of the excerpt in each case, e.g.:

- A half-page table of results from a research project could constitute a **minimal quantity**, but could be deemed as **substantial in terms of quality**; given that this was a key part of the original paper's research findings.
- Likewise one important line from a poem could also be deemed a **substantial extract**.

If you plan to copy more than an insubstantial amount, you could potentially rely on the concept of **fair dealing**, although this has not strictly been defined in UK law. It is generally assumed that fair dealing will allow you to copy a substantial amount of a published work, providing it is for a *fair* purpose such as your own private study, or for non-commercial research or critical review.

Bearing this in mind, the following limits are a guide to the recommended limits for allowable copying, whilst respecting copyright:

Orphan Works

Orphan works is the term used to describe works where the rights holder cannot either be ascertained, or contacted. This can happen if the publisher has gone out of business, or attempts to contact them have failed. In these instances, a judgment has to be made as to the level of risk associated with using the extract.


Table 1: Legal Copying Limits Guide

<p>Whichever is the greater of:</p> <p>Up to 5% or one chapter of a book</p> <p>Up to 5% or one article from a single issue of a journal</p> <p>Up to 5% or one paper of one set of conference proceedings</p> <p>Up to 5% of an anthology or one short story or one poem of not more than 10 pages</p> <p>up to 5% or one case of one report of judicial proceedings</p>

Downloading from the web

Material on the web is almost always copyright protected. Just because it is freely available doesn't mean it is free from copyright. Check the terms and conditions of use on the site, or a copyright statement if there is one. In the absence of any clear guidance consider applying the *fair* copying terms above.

Table 2: Downloading & Reuse

☺Permissible☺	⚠Caution⚠
Generally you can download and/or print individual items for personal use.	Do not download works in their entirety or systematically, for example an entire journal issue.
Material on the web is usually copyright protected. In the absence of any clear guidance consider applying the 'fair' copying terms above.	Music, films and sound recordings are NOT covered by <i>fair dealing</i> for research and private study, only for the purposes of criticism and review.
The University Library provides many electronic journals, books and databases. These are all supplied subject to licence agreements with individual publishers. Generally you can download and/or print ONE copy of a chapter or article for personal use.	Material on the web can be there illegally, for example pirated material. Do not download or link to this material, or use peer-to-peer file-sharing software.
The Creative Commons  symbol helps identify sites that allow legal sharing and in some cases reuse.	Do not email or transfer legally downloaded material to anyone else.
	You must adhere to the University's IT Service Regulations.

Remember that unless a work states clearly to the contrary, then assume that you can only make a personal use of the materials. However, for teaching and other educational uses there are exceptions and various licenses that permit the safe and legal reuse of rights holders' works (see *The CLA licence* for example). See also the section on *Social Networking and Media*.

Managing Risk

All reuse of items that are the property of other rights holders is about managing the degrees of copyright infringement risk. The higher the risk you expose yourself and potentially the University to, the greater the possibility that a rights holder would be able to make a legitimate legal challenge in a court of law.

Table 3: Degrees of Risk

<p>☺ No Risk ☺</p> <ul style="list-style-type: none"> Reusing material entirely created and owned by yourself or the University (e.g. rights not transferred to a publisher) Reusing material within the licenses and guidelines outlined in this booklet Reusing material for which you have sought and obtained specific written permission from the rights holder
<p>☹ Low Risk ☹</p> <ul style="list-style-type: none"> Reusing material within a lecture or examination Reusing material on Blackboard or other secure environments
<p>☹ Higher Risk ☹</p> <ul style="list-style-type: none"> Reusing material in documents which are then distributed electronically on the Web Distributing copyright material electronically via email or fax when you are unclear of its copyright status

The increasing level of risk is an analogue scale, and as such it is not possible to say with absolute certainty how great a risk you are taking. A good rule of thumb is the greater the amount of material reused from a single source or the more significant the extract then the higher the legal risk you and the institution are exposed to. In the European Courts significant extracts lasting little more than 11 words have been judged to be copyright infringements (Case C-302/10).

However, unless you solely focus on using items created and 100% owned by yourself or the institution in the course of your academic career then you will always be accepting a modicum of minor risk. Don't panic! For the most part following the guidelines in this booklet will help ensure that you minimise as much copyright risk as is possible in modern academic practice.

Oppenheim's Risk Formula

Prof Charles Oppenheim has suggested that a simple formula can be envisaged which helps to calculate your total risk exposure. This can be calculated by the multiplication together of the 4 major copyright risk factors. The values of the figures are arbitrary and this is very much a conceptual framework rather than a hard and fast rule. However, it can be applied to all kinds of activities beforehand in order to establish how risky it is for you.

Table 4: Oppenheim's Risk Formula

Total risk=	How illegal the use has been	X	How likely the infringement will be discovered	X	How likely the rights holder is to sue	X	How (potentially) financially damaging the use has been
	<i>Illegality</i>		<i>Discovery</i>		<i>Litigiousness</i>		<i>Fiscal Damage</i>

For example placing a picture downloaded from a film studios web site onto an internally accessible page has a low discovery, and likely a low financial loss. However, it probably breaches the terms of the website usage and major corporations are known to sue for much less.

Contrast this with scanning the full text of a book you own and linking to the text from the front page of your department's website. Likely this would be quite illegal and would be readily discovered and could be proved to damage the sales of the publisher. Factor in that most publishers would bring an action, and you can see that the risk formula would spit out a much higher level of total risk.

While it must be acknowledged that all life means engaging with a certain modicum of risk, it is hoped that by following the best practice guidelines in this session and booklet that you can minimise your exposure to them.

Do's & Don'ts: General Copyright

DO

- Attribute your source, even where you have permission.
- Check the terms under which any material is provided to you (print or electronic)
- Consider all elements of risk you might be exposing yourself to

DON'T

- Assume that something is copyright free just because there is no © symbol
- Distribute copyright material without permission/clear guidance that this is acceptable

3. Printed Course Packs

While less popular now than scanning items for Blackboard, many departments still like to provide material in a physically duplicated format. This is usually referred to as a printed course pack, although in practice it is as likely to be individual items as a conglomeration of multiple works.

The CLA licence

The University of Leicester holds a *Copyright Licensing Agency (CLA) Higher Education Photocopying and Scanning Licence*. This allows University staff to make multiple photocopies of limited extracts from published books, journals and magazines, for distribution to University of Leicester students, including distance learners.

The licence covers most UK publications, and a number of European, US and international publishers. Details of excluded publishers can be found on the CLA website. Extracts are limited to whichever is the greater of that shown in Table 1.

Specific requirements

The licence requires the University to hold a copy of the item, which excludes personal, proof or inspection copies. This is due to CLA audit arrangements which require that the original is readily accessible to library users. If a copy of the work is not held or is not covered by the CLA licence, the Library's Copyright and Course Pack Service can either:

- Try to obtain a Copyright Fee Paid (CFP) copy of a chapter or article from the British Library (if covered by the licence but not held)
- Contact the publisher to purchase permission (if unable to source a CFP or not covered by the licence)

Common Fees

The British Library charge for CFP varies between 50p-£45, but on average you should expect to pay between £10-20 to obtain a copyright fee paid cleared item.

CFP items are articles or extracts where a fee is paid in order to 'own' the item. There may be a cost to the Department, which varies depending on the publisher. The format of the item seldom makes a difference to the level of cost.

Note that in order to place CFP requests, departments need to hold a **Course pack card**, issued by the library. The Copyright Administrator can arrange for one to be created for you.

Permissions

It can take an indeterminate amount of time to obtain responses from copyright owners, often several weeks; in practice a period of 6-9 weeks is a quite common turnaround period for permissions agents and representatives at major publishers. You must therefore take this into account when submitting requests for course packs, as well as when seeking permission to reuse materials yourself.

Seeking permission

Although the Copyright Administrator can try and obtain permissions for multiple copying for you, the service can get very busy during the run up to, and especially just before the start of, each semester. You may therefore wish to seek permission yourself directly. There are usually contact details or permission request forms on the publishers' websites of which you can make use. This can have the benefit of speeding up the request process and provides the publishers with a direct contact address should they require further information.

There are also organisations such as **RightsLink** and the **Copyright Clearance Centre (CCC)** who provide online permission request services on behalf of some publishers. However, in some circumstances you will need to go directly to specific publishers. You are required to keep **written evidence** of any and all permissions granted in this way and you must not proceed until you have received permission from the rights holder.

If you or members of your course team wish to obtain permission directly from a rights holder, the following template email may be useful:

Table 5: Requesting Reuse Permission (print)

<p>Dear Sir or Madam,</p> <p>I would like to request permission to make [INSERT NUMBER OF STUDENTS] copies of the following item from one of your publications.</p> <p>Publication title: Author: Publication year: Chapter title: Chapter author: Pages: ISBN:</p> <p>We would like to include these copies in a coursepack, for distribution to distance learning students, registered on our [INSERT NAME OF MODULE]. Please let me know if you require any further information, otherwise I look forward to hearing from you.</p>
--

Remember, you must keep a copy of all your correspondence with rights holders and that as noted above this process will take some time to resolve. This is important should you be required to demonstrate, in a court or simply to the institution, that permission has been correctly sought. It is even more important to demonstrate the efforts undertaken to seek permission in the eventuality that you are forced to make use of any orphan works.

Additional Chapters

If you are requesting permission for a second chapter, where the first one is covered by the CLA licence, you also need to include the following paragraph in your request email:

Please note: This request is in addition to our intention to copy [Chapter Title and Pages] from the same publication for the same purposes; under the terms of our CLA licence.

Textbook substitution

One of the key things to consider, for both printed course packs and scanned items, is to avoid what is termed textbook substitution. This is an issue over which publishers have some concerns, and is a major reason why the guidelines for acceptable reuse (see Table 1) are ones to always bear in mind. The CLA Licence defines that textbook substitution would have occurred if:

“...a particular combination of photocopies and/or digital copies made available under the licence had an adverse impact on a student’s decision to buy a copy of a course textbook. This would be in conflict with the principles of non-substitution set out in the licence.”

One example would be using, from the same book, chapter 4 for module 1 of a course, chapter 6 for module 2, chapter 1 for module 3, and chapter 12 for module 4. Whilst such use may be interpreted as technically allowable under the CLA guidance, it is likely to be viewed as outside the spirit of the agreement, in that it may discourage the purchase of the book from which the chapters are taken.

Another example relates to readers (usually a collection of chapters or articles drawn together and published to form one source document). Technically, you could use the original sources of these documents, which are likely to be different books and journals BUT, again, this would lessen the need for a student to purchase the reader.

The Library’s Course Pack service will advise you if there is a risk of breaching the textbook substitution rules, but it can be helpful if you exercise care in selecting items for your modules in this respect yourself.

Exceptions

There are also notable exceptions that lie outside the CLA licence. Newspapers in general, certain publishers and indeed whole countries (many in the Far East, South America and Africa) are excluded. In these cases specific permission must be sought from the rights holders, with potential cost implications attached.

CLA Reporting & audits

The CLA can and do make site visits to monitor multiple copying within departments. It is therefore extremely important that you display the CLA copyright notice (which details the licence limits and the Copyright Administrator’s details) on or next to each departmental photocopier. If you do not have a copy of this notice please contact the Copyright Administrator.

In the event of an audit the CLA Auditor can ask to see any or all records of rights and permissions for items used in print, or scanned, coursepacks. If these are not forthcoming then there may well be serious implications for the institution.

Do's & Don'ts: Printed Course Packs

DO:

- Adhere to the advised CLA licence limits
- Keep evidence of any permissions purchased/granted

DON'T:

- Use a personal copy of a book/chapter/article without checking whether the library holds a copy of the same edition
- Copy without gaining any necessary permissions

4. Blackboard

You may wish to distribute material to your students electronically using Blackboard. This is an increasingly common and popular option with students and staff at Leicester. In the academic year 2010/11 almost 3,200 scanned items were made available in this way, and were noted in numerous course surveys as an excellent way to access library based resources 24hours a day.

Placing published materials onto Blackboard

The CLA licence, subject to the limits and specifications detailed above, allows the University of Leicester to place copies of digitised scanned items onto a University restricted, password protected site e.g. Blackboard. The material can be text only, text and image or an image disembedded from the text. Please bear in mind that the scanning licence covers fewer countries and consequently fewer publishers than the photocopying licence, so just because something has been eligible for photocopying in the past doesn't mean that it can be digitised.

- Bibliographic and course based details must be recorded and reported annually to the CLA by the Copyright Administrator.
- Details of any scanning should be conveyed using a Document Request Form and sent to the Copyright and Course Packs Administrator (see below):

Figure 1: Blank Document Request Form – Page 1

The creation of course packs in printed or scanned form is not intended to be a substitution for course textbooks or other licensed material. It is important to ensure that any requests you make do not negate the requirement for the use/purchase of a key texts.

PLEASE CONTACT THE COPYRIGHT ADMINISTRATOR BEFORE COMPLETING IF YOU ARE IN ANY DOUBT.

Please save this spreadsheet, complete both pages, and e-mail it to the Copyright Administrator: copyright@le.ac.uk. Please keep a copy for your own records.

To be completed by REQUESTER

Please enter course details below and individual item details on the following "Document Details" worksheet.

Name of department or centre	Course Code	Course Module Name & Number	Type of qualification (eg. MSc, Certificate, Diploma etc)	Number of registered students on the course module (actual or estimate)	When is this course taught? (see notes below)	Member of staff requesting scans
					Please Select ▼	

Type of student: Please Select ▼ Other use ? (please specify) →

When do the copies need to be available? (please specify date): →

Duration of course (length of time materials need to be available for) →

For library use only	
Purpose	
Please Select	
Campus students	
Distance Learning students	
Campus and distance learning students	

Notes	
When is this course taught? - the weeks stated below are calculated to include the	
Please Select:	
Semester 1	52 weeks
Semester 2	37 weeks
Semester 1 & 2	52 weeks

Figure 2: Completed Document Request Form – Page 2

USE THIS FORM TO LIST ALL THE ITEMS YOU PROPOSE TO SCAN OR COPY IN RELATION TO EACH COURSE MODULE

The creation of course packs in printed or scanned form is not intended to be a substitution for course textbooks or other licensed material. It is important to ensure that any requests you make do not negate the requirement for the use/purchase of a key texts.

To be completed by requester (columns A to O)										To be completed by Copyright Officer					
Document Number	ISBN or ISSN	Publication Title	Article title or extract title (if applicable)	Editor(s)	Author(s)	Publisher	Year of publication	Vol/issue number (for periodicals)	Page range(s) of extract	Total number of pages	Module Name/Number & Course for which copies are required	Copyright fees	VAT	Total cost	Notes
4		<i>The Penguin Book of Caribbean Short Stories</i>	Song of Roland	E. A. Markham (ed.)	Jamaica Kincaid	Penguin	1996		362-369	8	EN7031 Core Module for MA in Modern Literature		€0.00	€0.00	Not held. Book on order. CLA ok.
5		<i>Summer Lightning and Other Stories</i>	Love Orange		Olive Senior	Longman	1986		11-15	5	EN7031 Core Module for MA in Modern Literature		€0.00	€0.00	Not held. Book on order. CLA ok.
6		<i>My Grandmother's Erotic Folktales</i>	'The Tale of the Boy who was Born a Monkey'		Robert Antoni	Grove Press, US	2002		80-89	10	EN7031 Core Module for MA in Modern Literature		€0.00	€0.00	Not held. Book on order. CLA ok.
7		<i>Journal of West Indian Literature</i>	Interview with Willi Chen		Stewart Brown	University of West Indies	1992	5:1-2	106-12	7	EN7031 Core Module for MA in Modern Literature		€0.00	€0.00	Not held. CLA ok for photocopy only. CFP ordered.
8		<i>Journal of the Short Story in English</i>	Ballad for the New World or the Remembrance of a Lost World		Dominique Dubois	University Press of Angers, France	1996	26	87-93	7	EN7031 Core Module for MA in Modern Literature		€0.00	€0.00	Not held. CLA ok. CFP ordered.

Restrictions & requirements

There are a number of requirements relating to our scanning licence, and due to these restrictions **only designated people may place scanned material on a VLE**. Please contact copyright@le.ac.uk if you are interested in becoming a designated person.

For each digital copy there are specific obligations:

- Materials must only be made available to students registered on the relevant course of study, and only for the duration of the module/course.
- A Copyright Notice (coversheet) must be appended to the front of the scan (see Appendix C: Sample Copyright Coversheet).
- You should avoid textbook substitution (see below).

Designated Scanners

Nominally the designated individuals are the library Copyright Administrator and related staff. Other University staff can acquire this status through training, but must strictly adhere to regulations and reporting procedures in the creation and reuse of items within courses or modules.

Scanning permissions

If a work is not covered by the CLA licence, permission to copy should be obtained. The University's Copyright Administrator can assist with this but Departments can obtain this permission directly themselves (there are usually contact details or permission request forms on the publishers website). It is essential to keep evidence of written permissions and emailed correspondence as this may be required during any CLA audit of the University. Remember that it can take time to obtain responses from copyright owners and you need to allow sufficient time for the process.

As with print course packs, scanned items on Blackboard are not intended to be a substitution for course textbooks or other licensed material. If you wish to obtain permission directly for scanned items, we would suggest using the following template request:

Table 6: Requesting Permission Template (scanned)

Dear Sir or Madam,

I would like to request permission to make a scanned copy of the following item from one of your publications.

Publication title:
 Author:
 Publication year:
 Chapter title:
 Chapter author:
 Pages:
 ISBN:

We would like to make this scan available via our password protected virtual learning environment (Blackboard) for distribution to [INSERT NUMBER] students, registered on our [INSERT NAME OF MODULE].

Please let me know if you require any further information, otherwise I look forward to hearing from you.

Course Pack Scanning Service

The service will happily do most of the work for you including:

- Check the items on your Document Request Form and advise which can be scanned under the CLA licence.
- Request permission from rights holders for items not held by the University.
- Process and track your CFP requests
- Scan your items and make them available in the Blackboard e-reserves

However, unless you are requesting to copy a single item you **must submit a completed document request form** at least six weeks prior to the intended distribution date. Bear in mind it could take 6-9 weeks for a response to any copyright requests for items outside of the CLA License, which may mean you need to supply the requests even earlier.

The months preceding the start of each semester are **exceptionally busy** and therefore please check the copyright web pages for deadlines. If you have any concerns please check with the Copyright Administrator.

The service does not currently charge for scanning items held by the University, but there may be a cost to the department for any CFPs and publisher permissions. However, the service will inform you of any likely charge as soon as possible, and will understand should you need to rethink your need for any such items at this point.

CLA Reporting & audits

At the end of each academic year the library, as maintainers of the CLA licence, are required to make a report on any materials scanned. From time to time the CLA will make a site visit to audit our records, and those of anyone using course pack material. This is one of the reasons why you need to keep accurate records of any permissions that you obtain yourself.

Another requirement of the licence is that materials are only provided on Blackboard for the duration of any module (including and allowing for any re-sits). We carry out an annual check by asking the initial requestor if the items will continue to be required. If we do not receive a response then the items are removed from Blackboard. For any new intake of students a pack should be created.

Future Developments

The Library has purchased a new online system (called **PackTracker**) which is helping to streamline the requests and renewals process for Blackboard items. It also allows the tailoring of records to distance learning timetables (currently everything is viewed as conforming to the campus based academic timetable), and provides advance notification of any pending renewals.

Do's & Don'ts: Blackboard Scans

👍 DO:

- Remember to use the document request form for all scanning requests
- Fill out BOTH tabs on the form
- Check the deadlines on the copyright website

👎 DON'T:

- Scan materials and upload them to Blackboard without consulting the Copyright Administrator, you may be breaching the terms of the licence
- Scan materials and upload them onto an unsecured web site, you will be opening yourself to legal difficulties.

5. Other Resources

Whilst the CLA licence covers photocopying and digitising from printed resources, you may wish to include other types of resources within your teaching materials, such as e-books, e-journal articles, film/programme recordings. These are covered by different licences, with their own specific requirements.

Note: many personality questionnaires are subject to strict re-use licensing. You must check with the publishers before re-using any such content.

Digital Library Resources

Electronic journals, books and full-text materials are provided by the Library under licence from the publisher. Whilst many publishers permit the downloading and inclusion of limited extracts of such materials in printed course packs, some publishers specifically prohibit this. We would therefore recommend that you consult the Copyright Administrator before using such materials in this manner.

Likewise do not assume that because materials are available online they can automatically be incorporated into an on-line course pack. In most cases links to resources directly from a VLE to the document are always recommended; see the guidance for academic staff on the library web pages for further information on how to do this. Linking is different to placing PDFs of items directly onto Blackboard, which is something many publishers specifically prohibit in their licence.

Educational Recording Agency (ERA)

This licence permits staff at educational establishments to record, for non-commercial educational purposes, broadcast output of Educational Recording Agency's (ERA) Members. Materials can be edited into clips, providing that they do not substantially change the nature of the programme.

All copies of broadcasts must be labelled with the date of broadcast, title, and broadcast channel. AVS Media, via IT Services, can make and provide ERA compliant materials.

Note that use of ERA recorded material within Blackboard is currently restricted to on-campus only, the licence does not permit access off site (ie. in student halls or overseas). The use of Open University programmes does not come under the ERA licence, is subject to different restrictions, and does bear a cost. See the AVS Web pages or contact them for further advice and assistance.

You might also wish to consult the slides from Chris Willmott's "Making the Most of Broadcast Media for Teaching" Staff Development workshop.

Reusing Web images

It is possible to search the web for images made available under Creative Commons, or similar, sharing and reuse licences. Many search engines (e.g. Google advanced search) allow for the searching of resources tagged with reuse rights, and **Flickr** is one of the most mainstream examples of a **photosharing website** which allows people to add CC licensing to the images they upload.

However, do bear in mind that while the uploader of the image may denote a reuse status for an image, they may not actually own the rights in the first place to be able to waive any restrictions on their reuse. Check whether there is a consistency in the types of images they upload, and how they look. Images which are too clean and professional looking may well have been produced by others. Note also that search engines are not infallible and you are advised to double check the displayed licence of any content located on the Internet in this manner before reuse.

Commonly you'll be required to include a licence phrase along with the image, often along the lines of:

[Photo title as given] licensed for re-use by [Owner's Name/Flickr ID] under a [Type of] Creative Commons licence

for example:

Fireworks in the night sky, licensed for re-use by Terri Rothwell under a Creative Commons BY-NC-SA licence.

In addition it is advisable to include a link to the image, as you would attribute any third party item.

NLA – Newspaper Licensing Authority

The University has a comprehensive *NLA print licence* which covers making up to 250 copies (for students) and 4 copies (for staff) of an article from most UK national titles and some regional titles.

- All copies should clearly display the following notice on the front: "NLA licensed copy. No further copies may be made except under licence."
- Photographs and graphics contained within articles can also be copied.
- Copies must not be transferred to others who are not registered on the course of study for which the copies were made.

The University is **not** covered by this licence for online newspaper articles as we do not own a *NLA digital licence*. This means that unless permission has been sought you cannot simply print off multiple copies of an online newspaper article and distribute it to your students.

Photosharing sites

Flickr and other photosharing sites are places where people can upload their own photos for viewing by anyone with an internet connection. Many take advantage of the reuse licence agreements of these sites, to permit reuse by third parties under certain restrictions.

Digimap, Geology Digimap and Historic Digimap

The University subscribes to *Digimap*, *Geology Digimap* and *Historic Digimap*.

- **Digimap**
 - Delivers Ordnance Survey Map Data which allows users to view, print and download maps of any location in Great Britain.
- **Geology Digimap**
 - Provides material from the British Geological Survey.
- **Historic Digimap**
 - Provides access to digital scans of historic Ordnance Survey map data.
 - It includes all available County Series maps published between 1843 and 1939 and National Grid maps published from 1945 and before the introduction of the Ordnance Survey's digital Land-Line product in the 1990s.

Ordnance Survey

It should be noted that maps created and owned by the Ordnance Survey go out of copyright 50 years after their creation.

Each resource has a different licence agreement and a set of FAQs about the licence agreements. You should consult these in the first instance but if your question is not covered, please contact the Copyright Administrator.

Governmental Publications

Her Majesty's Stationery Office (HMSO) is the holder of **Crown Copyright** and has been the official printer and publisher of all Acts of Parliament since 1889. Together with the *Office of Public Sector Information* and two other government bodies, they 'promote the re-use of public sector information, regulate the information-trading activities of organisations that create and collect public sector information, and manage Crown and Parliamentary copyright' under the guise of The National Archives.

The copyright in certain categories of material has been waived by the Crown in order to encourage its widespread use for reference and dissemination. For further information, see *The Open Government Licence*, which has replaced the old Click-Use licence, and is very clear in explaining the permitted use and reuse of their work.

Do's & Don'ts: Other Resources

👉 DO:

- Check with the Copyright Administrator before downloading and printing off multiple copies of an article/chapter from an e-journal/e-book
- Ensure that any visual or audio recording is done in accordance with the ERA licence

👎 DON'T:

- Place PDF's of items directly on to Blackboard or a website
- Distribute newspaper articles downloaded from the web

6. Teaching and Copyright

Aside from providing students with course packs or Blackboard readings, you may wish to use and distribute copyrighted material in other ways.

Class handouts

As highlighted above, photocopying and/or making digital copies of published materials for registered University of Leicester students is covered by the Copyright Licensing Agency (CLA) Higher Education Photocopying and Scanning Licence. For publications covered by the CLA licence, within the limits specified in *Table 1*, you can make and provide one copy per student. This applies if you are using a photocopier, scanner or any other device.

For electronic books and journals you should direct students to these resources rather than supplying copies in printed form, as this may break the licence terms and conditions.

If you wish to use your own published work, this will depend on the agreement you have signed with your publisher. Commonly journals require you to ascribe all reuse rights to them, and as such it is not always the case that you can freely make copies for use in your teaching. Check the publisher's advice for authors, contact their rights and permissions officer or examine the specific Copyright Transfer Agreement you signed for further information.

You might also like to make use of the **SPARC Author's Addendum** when signing copyright forms in future, which helps you retain certain reuse rights. See the section on Original research & open access for more details.

Exam papers

Copyright law permits the inclusion of any third party material "for the purposes of setting the questions or providing the answers" (p. 52 Cornish) in relation to an examination, without permission, as long as there is sufficient acknowledgement. The only exception to this relates to printed music.

However, be careful of further *non examination* use of such material:

- If you are distributing old exam papers in a classroom as examples of the types of questions students might face, or
- Sending a sample copy of marketing artwork, originally submitted for an exam, to a potential employer

These uses would not be covered by the examination exception. You should therefore remove any substantial extracts of copyright material or gain permission for its inclusion.

Visually impaired or disabled students

You can make enlarged or reduced size copies of a complete book, magazine or journal article for use by the visually impaired, as long as the material is not already commercially available in the required format and the original copy has been bought by the University. Please contact the **AccessAbility Centre** for further help. Note: you will have had to provide evidence to your department as well detailing your impairments and the support requirements you have.

PowerPoint and conference presentations

If you are incorporating other people's work into your presentation, you must fully reference every item. For the purposes of University teaching, you can include the following in a PowerPoint presentation without any significant risk:

- An insubstantial amount of published material
- Substantial extracts for the purposes of criticism or review
- A scanned image or chapter/article, as long as it meets the CLA scanning guidelines above
- A substantial amount of any work included with the rights holder's explicit permission, or the material is out of copyright.

The CLA licence permits use of disembedded images from their books, but a copyright notice providing full bibliographic details must still be appended to the slides. Usually this is done at the end (a blank notice for completion is available on the copyright web pages) and the following statement included next to each image 'Reproduced under the terms of the CLA licence'.

Reuse of images not covered by the CLA licence or made available under an open reuse licence within a lecture is a relatively *low risk* potential copyright infringement, but uploading these slides to a digital environment, either password secured like Blackboard or an openly accessible one like SlideShare are a higher risk exercise.

If you are presenting at a conference remember to only use an insubstantial amount of others work (unless for the purposes of criticism and review) and images made available under an open reuse licence. Alternatively you should specifically seek and obtain permission to reuse images in this way first.

Creative Commons (cc)

Creative Commons is an organisation that provides licences which allow people to make their work freely and openly accessible to others, under a clear and concise combination of terms. Such work is said to *reused under a Creative Commons licence*.

Table 7: Creative Commons License Types

Attribution (by)	Share Alike (sa)	Non-Commercial (nc)	No Derivative Works (nd)
You let others copy, distribute, display, and perform your copyrighted work — and derivative works based upon it — but only if they give credit the way you request.	You allow others to distribute derivative works only under a license identical to the license that governs your work.	You let others copy, distribute, display, and perform your work — and derivative works based upon it — but for non-commercial purposes only.	You let others copy, distribute, display, and perform only verbatim copies of your work, not derivative works based upon it.

From *CreativeCommons.org*, reused under a (cc)-by 3.0 license

You can choose whether or not to allow people to make use of your work for commercial purposes, and whether they can adapt your work to create derivatives. In turn, you can re-use and/or include Creative Commons work in your teaching materials, depending on the licence specified.

Note that where works have been licensed for non-commercial purposes only, if you wish to use material under this licence in a journal article or book, these are strictly speaking commercial enterprises and you would be strongly advised to seek permission from the rights holder before proceeding.

Bear in mind that once a resource is made available under an open licence, you cannot retract it. You can remove the item and release it under a more restrictive licence, but anyone who downloaded the item whilst it was under the more open licence can continue to use it under that more open licence.

Digital Economy Act

The Digital Economies Act 2010 came into force during the wash-up period just before the dissolution of the UK Parliament in 2010 prior to the general election. The act includes numerous provisions relating to the UKs communications infrastructure. However the impact on Higher Education is unclear as it currently only applies to the UKs seven largest ISPs (internet service providers), of which two have launched a legal challenge, arguing the Act is incompatible with some EU law. Whilst they were granted a judicial review of the DEA this was subsequently rejected by the high court, although they have been given leave to appeal.

It is notable though, that Ofcom has issued a Code of Practice for implementation, and the government have pressed ahead and set out secondary legislation relating to the distribution of costs of tackling copyright infringement (75:25 publishers v ISPs).

It will be sometime before we are clear on what the impact on the institution is. However, the Code may be extended in scope and encompass HEIs. The net result of this may mean in the future that there will be more stringent watching of copyright infringement in the e-domain; especially in regard to infractions of the rules. Watch the copyright web pages for future developments

Hargreaves Report

In May 2011, the Intellectual Property Office published the Hargreaves Report, a Government initiated review of the UKs intellectual property framework. Whilst making a number of recommendations, the most notable and useful for Higher Education Institutions are the following (taken from *Digital Opportunity: A Review of Intellectual Property and Growth: Executive Summary*) :

- Collective licensing for orphan works, and a clearance procedure for use of individual works.
- The establishment of a cross sectoral Digital Copyright Exchange, working to an agreed code of practice.
- Delivering copyright exceptions at a national level to realise all the opportunities within the EU framework, including format shifting, parody and non-commercial research.

Do's & Don'ts: Teaching & Learning

👍 DO:

- Reuse items licences through Creative Commons
- Reuse items under the fair dealing privilege

👎 DON'T:

- Reuse videos or images which infringe other copyrights or licences

7. Research and broader issues

With research publications you will likely often want to incorporate other people's work into it. It is acceptable to incorporate a limited amount of third party text into published research under fair use for criticism and review; as long as you cite the material used so you cannot be accused of plagiarism.

Original research & open access

When you publish your research, by signing a publisher's licence agreement, usual practice assigns copyright to the publisher. However, there are alternatives, as you can ask the publisher to agree to use:

- The Scholarly Publishing and Academic resources Coalition (**SPARC**) Author Addendum. This is a legal instrument that modifies the publisher's agreement and allows you to keep key rights to your articles.
- The JISC/SURF model agreement *Licence to Publish*, which aims to provide a balance of rights and interests between publishers and authors. SURF have also produced a short web video on this subject.

You can publish in an open access (OA) journal, or in a hybrid journal, one that contains open access articles. The **Directory of Open Access Journals** (DOAJ) can help you find a suitable OA or hybrid journal to publish in. The **Leicester Research Archive** (LRA) is another place where you may wish to deposit your research output to make it freely available to all. Putting your research output into LRA does not stop you using it elsewhere; you retain control over your work and can publish it or use it in teaching.

Your work may have been published in a journal, or may be awaiting publication, and you may therefore have assigned some rights to a third party. This need not preclude its inclusion in the LRA. Some publishers will allow authors to archive their work in repositories such as this one. The Library is aware of such concerns, and will investigate thoroughly before archiving anything. If the publisher will not allow us to put the work into the LRA, or if putting it in will jeopardise your publishing it, then we will not archive it. If you are worried that archiving a particular piece of work will stop you from publishing that work in the future, please ask us to investigate for you.

Work for Hire

While an author normally owns the rights in their work, where work is created within the scope of employment, the employer is usually the copyright holder. For example this booklet has been created by the authors within the course of their normal work, and the rights are therefore entirely owned by the organisation. However, many organisations, in particular, educational establishments, waive these rights, gifting their authors with the rights.

This is usually covered in the terms and condition of employment signed when an individual joins an organisation. What the academics do with these rights from thereon out is their own decision; e.g. transferring ownership to a publisher as part of the copyright transfer agreement.

Where work has been carried out by an individual on a contractual basis, known as work for hire, the owner of the rights should be clearly laid out in the contractual agreement, signed before work has commenced.

Web 2 and Social Networking

The *Semantic Web*, *Social Networking* or *Web 2* are the names often given to those cloud-based services and sites that encourage not just the hosting of content, but interaction with a broader and often global community, usually producing a collaborative output. In essence simply by using items in an open and interactive environment immediately takes you to a higher state of risk (see *Oppenheim's Formula* above), which necessitates a higher level of caution in minimising any other risk elements.

Social Media: Friend or Foe?

A staff development course taking a closer look at the legal minefield of using social media will be running for the first time this November (2011), by the same team who brought you this session. It will examine the sharing and reuse of items in a dynamic and open web environment in a much greater depth.

Examples include social networking sites like *Facebook*, *Twitter* & *FriendFeed*, through to scholastic sites such as *SlideShare*, and even encompassing media sharing sites like *YouTube*, *Vimeo* and *Flickr*. However, as many of these operate in areas which did not exist when current copyright laws were developed, little case law exists to allow the formation of specific guidance, on using and reusing such content, which can make using such materials an elevated risk.

The usual rules about copying an insubstantial amount or a substantial amount for the purposes of criticism, review or private study apply, but it becomes more difficult when you wish to use excerpts which require permission as many may have multiple contributors, and potentially each person could have a right of veto to the reuse. Examples might include a twitter feed from an organisation or a Wiki.

Likewise a blog written by an individual as part of their daily work may be copyright of their employer and YouTube material may include excerpts of films and music produced by others. In theory if taken to the nth degree tweeting excerpts from a live presentation could infringe the speaker's copyright, if they haven't given permission!

However, some case law is now beginning to emerge relating to the use of some Web 2 applications:

- *NLRB v AMR (2011)* – an employee was allegedly fired for posting a negative comment about their employer on Facebook
- *Morel (2011)* – photographs posted by a photographer on Twitter were reused by news and photo agencies without permission/acknowledgement, which led to a judgment that “the provision that Twitter encourages and permits broad re-use of content, does not clearly confer a right on other users to re-use copyrighted postings” Judge William H. Pauley III

However

- *Baskerville v Daily Mail and Baskerville v Independent on Sunday (2011)* – the papers reproduction of Baskervilles tweets was not an invasion of privacy. The Press Complaints Commission concluded that as the Twitter stream was publicly accessible (not locked), and Baskerville could reasonably expect her tweets to be retweeted, they could not be deemed to be private.

Some seem to indicate that material shared in a social network has an implicit rights-gifting aspect to it. As with all areas there are steps that can be taken to minimise exposure to risk:

Table 8: Minimising Web 2.0 Risk

- Only link to legal content
- Do not share content to which you do not own the rights or you do have permission to share
- Be careful not to share anything in which there may be third party rights (e.g. images, charts etc)
- Remember that comments on a blog or social network are owned by the commenter not the blog or site owner
- Check the terms and conditions of any media-sharing site before you upload, they may make claims on your content or IPR under their terms of use

IPR & Original Research

It is also worth considering how you manage your own personal rights. Intellectual property (IP) can take many forms including copyright, patents, design rights and trademarks. IP is a product of one's intellectual endeavour, is a protectable asset, can have commercial value and contribute to the economic or social impact of the University's research base.

If you are interested in commercially developing your IP, it is critical to first protect it before making any disclosures. Enterprise and Business Development can help with this, so please contact them for more information

Copyright Risk Management

There are some steps that you can take personally to not only better manage your own risk and exposure to legal threats, but also to help other people more clearly use and reuse materials in which you have retained rights.

Mitigating

Wherever you reuse content, think back over this booklet and workshop and consider if there are any steps to limit, reduce or otherwise mitigate the risks.

- Check you are reusing items within their terms and conditions, licence or with explicit permission.
- Ensure that you attribute everything you use as a matter of course
- Avoid orphan works wherever possible to limit risk.

Recording

Keep records of all correspondence, especially where it relates to granting permission, or attempts to gain permission/trace rights holders. This is termed performing or displaying *due diligence*.

- A verbal permission will not stand up in a court of law. Thus if a colleague tells you that you may reuse their copyrighted work, ensure that you get them to confirm this in writing.
- An email, complete with date, is perfectly adequate for this purpose, as much as a formal letter or hand written, dated and signed note.

Takedowns

Upon challenge from a rights holder, if you refuse to remove something from a website you have committed a more serious breach of copyright law.

- This simple removal action goes a long way towards complying with the law and mitigation of further legal risk or liability.
- Blackboard and the LRA are covered by robust take down policies which state in the event of a legal challenge that material in question will be removed from the live site without question*.
- If you use external sites, or even locally hosted university pages, ensure all users with administration rights understand the importance of unquestioning removal of publically available content upon legal challenge*.

*Subsequently the rights status will be investigated, records of permission checked, and the item may potentially be restored if the challenge is found to be in error.

Reuse

Where you retain or own the rights, and wish to share work further (for example an educational resource or lecture notes) make sure you are explicit in the reuse rights permitted

- Make use of Creative Commons licensing as an internationally recognised and readily understood standard.

Do's & Don'ts: Research & Other issues

👍 DO:

- Assess the risk of reusing any material without permission
- Check the licence under which the material is made available

👎 DON'T:

- Be afraid to re-use web 2 materials, just bear in mind the guidelines provided

8. Student Copyright Guidance

As well as adhering to the general principals of copyright outlined at the start of this booklet students should be made aware of the following guidelines.

Course materials

Copies provided by a lecturer or in a course pack should not be further copied or distributed (in print or electronically) as this would break the University's copyright licences.

Essays and course work

Copied material can be included in assessed work for the eyes of the assessor, but it must be fully referenced, or students would run the risk of being accused of plagiarism as well as infringing copyright. Help with referencing and attribution is available in the Library's guidance on citing references or via the College's Information Librarian. Departmental handbooks should also contain style and plagiarism avoidance guidance.

Diagrams, illustrations, photographs, sound recordings and film extracts can be included in assessed work, with full acknowledgement. Short excerpts of printed music can be included in assessed work provided it is not for performance purposes.

Whilst assessed work which includes copied material can be given to an assessor, it cannot be used in other ways, for example in future publication, in exhibitions or given to a potential employer, unless permission has been sought and granted by the rights holder.

Dissertations and theses

There may be copyright restrictions to using large extracts of third-party material in a thesis, if it is not used for the purposes of criticism or review. In particular, students need to be careful about the inclusion of images and diagrams, even those which they have adapted or modified in some way. As with all professional work referencing should be included throughout. It is a University requirement to provide the Library with printed and electronic copies of theses, but the rights within the work are retained by original author.

There are crucial differences in copyright between a print and an electronic thesis (eThesis) of which doctoral students and their supervisors should be keenly aware. See the **Keeping your Thesis Legal** workshop materials or contact the LRA Team for more information.

Student copyright

Essays, emails, exam scripts, dissertations and other original material created in the form of projects or assignments all constitute copyright material. In these cases students are the rights holders for the original work. However, it is a University course requirement for the purpose of marking and assessment to supply these to assessors and upload text based material to TurnItIn plagiarism software. Additionally there may be other requirements requiring the deposit of copies of material to a departmental collection or the University Library.

Students' Rights

As students retain the copyright in their original work, this means if you want to publish, distribute or otherwise make it available to others you need to seek their formal permission. As a recent court case demonstrated the institution cannot claim ownership.

9. Further Help

If you would like to discuss any of the issues raised in today's session, then please do get in touch. The Library's Copyright and Coursepacks Service exists to provide and guide academics and students to suitable sources of further information, and can investigate unusual cases relating to copyright.

Tania Rowlett

- Copyright Administrator.
- DS&R Section, David Wilson Library
- Email: copyright@le.ac.uk
- Tel: +44(0)116 229 7399 (extn: 7399)
- Fax: +44(0)116 252 2075

Gareth J Johnson,

- Document Supply & Leicester Research Archive Manager.
- DS&R Section, David Wilson Library
- Email: gjj6@le.ac.uk
- Tel. +44(0)116 252 2039 (extn: 2039)

Other Contacts

LRA Administration Team

- DS&R Section, David Wilson Library
- Email: lra@le.ac.uk
- Tel. +44(0)116 252 2039 (extn: 2039)

Enterprise and Business Development Office

- Fielding Johnson Building
- Email: businessdevelopment@le.ac.uk
- Tel: +44(0) 116 252 2437 (extn: 2437)

Audio Visual Services

- Email: era@le.ac.uk
- Tel: +44(0)116 252 2919 (extn: 2919)

AccessAbility Centre

- David Wilson Library
- Email: accessible@le.ac.uk
- Tel: +44(0)116 252 5002 (extn: 5002)

10. References

Further Reading

- AVS Copy, Transfer & Record: <http://www2.le.ac.uk/offices/itservices/resources/cs/avs/copy>
- Bailey, C.W. (2008) Author's rights, tout de suite: <http://www.digital-scholarship.org/ts/authorrights.pdf>
- [Baskerville v Daily Mail](#) and [Baskerville v Independent on Sunday](#): <http://blog.rpc.co.uk/privacy-law/no-privacy-in-tweets#page=1>
- Collet, J (2011). PCC rules on first complaint about republication of Tweets by mainstream media, Press Complaints Commission, Online at: <http://www.pcc.org.uk/news/index.html?article=NjkzNg==> (accessed 3/3/2011)
- Copyright Advice at the University of Leicester: <http://www.le.ac.uk/copyright>
- Copyright (London South Bank University Pages) <http://www.lsbu.ac.uk/library/html/staffcopyright.shtml>
- Copyright Forms: <http://www2.le.ac.uk/library/for/staffwhoteach/copyright/useful-forms>
- Copyright Licensing Agency (CLA): <http://www.cla.co.uk/>
- Cornish, Graham P. (2009, 5th ed.) Copyright: Interpreting the law for libraries, archives and information services, Facet Publishing
- Design and Artists Copyright Society: <http://www.dacs.org.uk/>
- Directory of Open Access Journals: <http://www.doaj.org/>
- HEFCE: Intellectual property rights in e-learning programmes: http://www.hefce.ac.uk/pubs/hefce/2006/06_20/
- Intellectual Property Office (2011) A review of intellectual property and growth (Hargreaves Review) <http://www.ipo.gov.uk/ipreview.htm>
- JISC Legal, Information Service: <http://www.jisclegal.ac.uk/>
- Johnson, G. & Rowlett, T. (2011) Keeping your Thesis Legal: <http://www2.le.ac.uk/library/find/lra/theses#training>
- Leicester Research Archive (LRA home page): <http://lra.le.ac.uk/>
- Leicester Research Archive (LRA Library pages): <http://www.le.ac.uk/lra>
- Library copyright pages & workshop slides: <http://www.le.ac.uk/copyright>
- Linking to library digital resources: <http://www.le.ac.uk/library/academic/linkingfrombb.html> .
- Mabbett, A. (2011) The BBC's fundamental misunderstanding of copyright: <http://pigsonthewing.org.uk/bbc-fundamental-misunderstanding-copyright/>
- Module Homepage <http://www2.le.ac.uk/offices/staff-development/courses/spr/sdcrsch-spr135>
- Morel (2011): <http://www.manatt.com/news-areas.aspx?id=13070#Article2>
- NLRB v AMR (2011): <http://www.bakerdaniels.com/newsandevents/articlesalerts/detail.aspx?id=49C9BBB64ECB4ED58A363E1E334BA5F9#page=1>
- Norman, S. (2004) Practical Copyright for Information Professionals, Facet Publishing.
- Willmott, C. (2010). Making the most of broadcast media for teaching (workshop slides), <http://tinyurl.com/broadcastmedia>

Videos

- JISC/SURF Authors Know your rights video:
http://www.surfmedia.nl/app/video/138141/play?format_id=201597&authorrights.wmv&mode=object
- What is copyright? (video): <http://tinyurl.com/28dlkqr>
- Understanding academic copyright (video) <http://tinyurl.com/24awkf>

Licenses & Legal

- British Copyright Council: <http://www.britishcopyright.org/>
- Case C-302/10 *International A/S v Danske Dagblades Forening* [2009] ECR I-6569
- CLA License: Excluded UK Publishers:
http://www.cla.co.uk/licences/excluded_works/excluded_categories_works/
- CLA License: Excluded US Publishers: http://www.cla.co.uk/licences/excluded_works/international/usa/
- CLA License: Textbook substitution: http://www.cla.co.uk/independent_he/Ind_textsub
- Copyright, Designs and Patents Act (1988)
http://www.opsi.gov.uk/acts/acts1988/Ukpga_19880048_en_1.htm
- Creative Commons licenses: <http://creativecommons.org/about/licenses/>
- DigiMap Licenses: <http://edina.ac.uk/digimap/access/>
- Eduserv – Copyright Toolkit (in conjunction with Copy-Right Consultants Limited) :
<http://copyrighttoolkit.com/>
- ERA Licensing Scheme: <http://www.era.org.uk/>
- JISCdigitalmedia ; <http://www.jiscdigitalmedia.ac.uk/stillimages/advice/finding-images-on-flickr/>
- JISClegal: <http://www.jisclegal.ac.uk/>
- JISC/SURF Authors Know your rights video:
http://www.surfmedia.nl/app/video/138141/play?format_id=201597&authorrights.wmv&mode=object
- JISC/SURF License to Publish: <http://copyrighttoolbox.surf.nl/copyrighttoolbox/authors/> Newspaper
Licensing Agency: http://www.nla.co.uk/Open_University_Reuse/
<http://www.ouw.co.uk/store/catalog/Record-TV,953.aspx>
- Ordnance Survey Data Sub-licence Agreement: <http://edina.ac.uk/digimap/ostterms.html>
- Open Government Licence: <http://www.nationalarchives.gov.uk/doc/open-government-licence/open-government-licence.htm>
- Office of Public Sector Information (OPSI): <http://www.opsi.gov.uk/>
- Risk Management calculator: <http://www.web2rights.com/OERIPRSupport/risk-management-calculator/>
- SPARC Author Addendum: Using the author addendum to secure your rights as the author of a journal article. <http://www.arl.org/sparc/author/addendum.shtml>
- Strategic Content Alliance IPR Toolkit:
<http://www.jisc.ac.uk/publications/programmerelated/2009/scaiprtoolkit.aspx>
- UK Legislation.gov: <http://www.legislation.gov.uk/>
- Web2Rights project ; <http://www.web2rights.org.uk/>

TR/GJJ Nov 2011

Appendix A: FAQ

Copyright Law

Where can I find detailed information of UK Copyright Law?

The Copyright Designs and Patents Act (1988), with subsequent amendments, can be found on the Governments legislation website:

<http://www.legislation.gov.uk/ukpga/1988/48/contents>

What types of work does copyright cover?

Literary, dramatic, musical and artistic works, along with broadcasts, films, sound recordings. Source codes and data bases are also subject to copyright.

What rights does copyright bestow?

Copyright grants authors both moral and economic rights.

- Moral rights (the right to be identified as the author, the right not to have your work subjected to derogatory treatment, and the right not be incorrectly attributed as the author of a work) can only be held by the creator of a work, unless they are waived.
- Economic rights (these rights govern the re-use, performance and adaptation of a work) can be transferred or sold.

How long does copyright subsist in a work?

The duration of copyright in a work is dependent on the type of work, whether the creator is known, and whether the item is published or unpublished. For published literary, dramatic, musical or artistic works, if the creator is known, copyright expires 70 years from the end of the year in which they died. If the creator is not known copyright expires 70 years from either the creation of the work, or from when the item was first made publicly available. Contact copyright@le.ac.uk for advice on other types of works.

Do I need to add a © symbol to my work to ensure it is copyrighted?

No. The use of the © symbol is not mandatory in many countries, the UK included. Copyright subsists in something as soon as it is laid down in a tangible form.

Is a work which doesn't contain the © symbol freely reusable?

No. You always need to check the terms and conditions of use/copyright information for any item before you re-use it. Only if it is explicitly stated that a work is freely re-usable should you copy/modify a work in its entirety.

What if I have quoted a line from an article, and referenced it correctly – can I use that without permission?

Yes, this would usually be ok, unless it is a key line from a song, or the 'whodunnit' from a murder mystery book. If it is a more substantial section, such as a number of paragraphs, then it is less clear. If you are including the extracts for the purposes of criticism and review, then you may be ok to go ahead, as this is a Fair Dealing privilege (see below).

If you cannot reasonably argue that the inclusion of a third party work is for the purposes of criticism and review, it would be advisable to seek permission from the rights holder (usually the author in the first instance).

What is fair dealing? What is fair use?

Fair use is a term encompassed by US law and has no relevance in the UK.

Fair dealing is an ill defined area of UK law, but it is generally taken to mean you can copy from a third party work, without infringement, for the purposes of:

- Non-commercial research – for literary, dramatic, musical or artistic works only
- Private Study - for literary, dramatic, musical or artistic works only
- Criticism and Review – for all types of works
- Reporting of current events – for all types of works bar photographs

Distributing published works***I would like to create a printed course pack for my distance learning students, what can I legally photocopy?***

The making of multiple photocopies of a work is governed by the Copyright Licensing Agency Higher Education Copying and Scanning Licence, which covers published books, magazines and journals. We are limited to 5%/1 chapter/ 1 journal article, whichever is the greater, and the library has to hold a copy of the relevant edition. Not all book/journals/magazines are covered, but the Copyright Service can check this for you. Please complete both tabs of the [Document Request Form](#) and e-mail it to copyright@le.ac.uk

I would like to make PDF copies of various materials available to my students, is this permissible?

Yes. Under the Copyright Licensing Agency Higher Education Copying and Scanning Licence the library can scan and make available on Blackboard up to 5%/1 chapter/ 1 journal article (whichever is the greater) of a published work, providing we hold the relevant edition. The licence does not cover all books/journals/magazines and scanning can only be done by designated people, due to licensing restrictions. The Copyright service can check and scan items for you. Please complete both tabs of the [Document Request Form](#) and e-mail it to copyright@le.ac.uk

How long does it take for my list of documents to be checked/made available?

The Copyright service aims to respond to all queries within 2 working days, although at busy times it may take slightly longer. We may ask for further information at this stage if we are unable to track down an item. If items for photocopying comply with the licence and are cleared by the Service you can go ahead with the copying. For PDFs via Blackboard, we publish deadlines for receipt of document requests for each semester on our web pages: www.le.ac.uk/copyright

However, if documents are not held by the library or require permission it will take longer for you to be given the go ahead to photocopy/for items to be scanned. We therefore recommend for printed course packs that you submit requests a minimum of six weeks prior to the distribution date, and that for scanned documents, you adhere to the deadlines given on our web pages.

I would like to link from Blackboard to an electronic article/book to which the University has a subscription, how do I do this?

Specific guidance on linking to electronic journal articles can be found on the Library's web pages: [Linking to library resources from Blackboard](#). For further information and guidance please contact your [Information Librarian](#).

I would like to place a copy of one of my published articles on our departmental website, can I do this?

The University of Leicester has a mandate which requires staff to submit copies of their research to the Leicester Research Archive (LRA). We would therefore recommend that you e-mail details of the publication to LRA@le.ac.uk as the LRA team can check the copyright situation with the publisher, ensure the correct version is archived, as well as establish whether use on a departmental website is permitted.

I would like to link to one of my published articles from our departmental website, is this possible?

In most cases you can link to an article contained in an electronic journal. However, unless these journals are open access, they will probably only be available via a subscription, such as those purchased by the Library for University of Leicester staff and students. Therefore, anyone external to the University wishing to access such articles would need to have the appropriate authentication information.

Seeking Permissions***How long does it take to obtain permission for a work?***

Publishers usually have a turnaround time of between 6-8 weeks for responding to permission requests. You should therefore allow plenty of time when seeking permissions. You may be able to purchase permission directly via Rightslink (using the purchase permission options next to most online journal articles) or via the Copyright Clearance Center (CCC) based in the USA: <http://www.copyright.com/>

What format should permissions be in?

To ensure you do not encounter any issues in the future, we recommend you get permission in written form, either by letter, e-mail or fax. Verbal permission is unlikely to be sufficient.

If I redraw a map from an original, do I need permission of the copyright holder of the original to include my map?

Yes. In addition, if your map is substantially different from the original and has involved a degree of skill and judgement in its creation then it may qualify for copyright protection in its own right.

If I can't find the copyright holder, can I leave the 3rd party material in?

The use of orphan works, as such materials are known, comes down to a judgement of risk. If the material is old, and you can prove you have undertaken due diligence¹ to locate the copyright holder, it is probably ok to use but always say where you found it. If you found it on the web, take care before using – it ought to be possible to trace a copyright holder by checking their terms and conditions of use.

What if the publisher has ceased to exist?

If it really has vanished, then there is nothing you can do to ask permission. Just keep records of where and how you looked for the company (due diligence²). However, it is possible that the publication rights may have been sold onto another publisher. If a firm has gone out of business, generally copyright would revert back to the author.

¹ Due diligence requires you to try a number of ways to track down the copyright owner. You could use the WATCH website (<http://tyler.hrc.utexas.edu/>) to trace an owner or heir, Firms Out of Business (<http://tyler.hrc.utexas.edu/fob.cfm>), as well as placing a notice in national newspapers/magazines or using local archives.

Can we take no reply to our request as a “yes” – or make statement to that effect in the letter (that is, “if I do not hear from you within one month, I will assume you are granting permission”)?

Again, this is a judgment of risk, but our advice is not to include any work for which you do not have permission to use.

If I make a map from an aerial photo, do I need permission of the copyright holder of the photo to include my map?

Yes. In addition, if your map is substantially different from the original and has involved a degree of skill and judgement in its creation then it may qualify for copyright protection in its own right.

Newspaper or online journal articles, films and radio broadcasts

I would like to provide my students with a copy of a newspaper article, is this possible?

The University holds a Newspaper Licensing Agency (<http://www.nla.co.uk/>) licence which allows us to make up to 250 photocopies of a newspaper article. We cannot, at present, make a PDF of an article available online without permission, and in our experience, this can be time consuming and costly.

I would like to provide my students with a printed copy of a journal to which we only hold electronic access, can I do this?

Yes, this may be possible in some circumstances, but some licences specifically prohibit this. Please check with copyright@le.ac.uk before copying.

Can I place a PDF of a journal article onto Blackboard?

No, we do not recommend this as it can interfere with usage statistics and some journals may appear underused. Instead, we recommend that you link to documents. Please see the copyright web pages for detailed instructions: www.le.ac.uk/copyright or contact copyright@le.ac.uk

I would like to use a copy of a tv programme, film or radio broadcast in my teaching, how can I get hold of a copy?

These types of material are covered by our Educational Recording Agency licence (<http://www.era.org.uk/>), which is administered by IT Services/AVS Media <http://www2.le.ac.uk/offices/itservices/resources/cs/avs/copy>. They can check whether the item you require is covered by the licence, and obtain a licensed copy for you where possible. At present it is not usually possible to make an ERA licensed item available on Blackboard.

Creative Commons

Could the author of a work attach a Creative Commons licence to the entire work?

Students retain copyright in their work, and can therefore place whatever licence they wish to on their work. The University does not usually claim the copyright in any research produced by University staff. Under UK copyright law, the rights to work created in the course of a person’s employment (ie. teaching materials) will be likely retained by the employer. Please remember though, that you would need to ensure that you have permission from any third party rights holders to make their material available in this manner.

Can images from sites containing Creative Commons (or similar) licensed material, such as Flickr, be used in teaching materials, a thesis or project work?

This would depend on the specific licence conditions attached to the image. Further information on Creative Commons and the open licences they offer can be found here: www.creativecommons.org You should also bear in mind that some people may make content available for which they do not have permission, therefore if their image is unlike any of their other postings it may not actually be theirs.

Please contact copyright@le.ac.uk if your query is not answered above, or if you require further information.

Appendix B: Glossary

CFP (Copyright Fee Paid)	Used to describe where a version of a text has been obtained from a publisher or other supplier for legal reuse by the payment of a copyright charge.
CTA (Copyright Transfer Agreement)	Agreement signed, normally with a publisher, before publication of an article that transfers ownership rights of a written work to a publisher.
Due diligence	Carrying out checks using a range of approaches to attempt to establish and contact a rightsholder.
Economic rights	Transferable rights that allow for the commercial exploitation of a work. Owned initially by the creator but often transferred, sold or otherwise assigned to another entity, such as a publisher
e-reserves	The part of Blackboard where scanned course pack materials for modules are uploaded and downloaded from.
HMSO/TSO	Her Majesty's Stationary Office/The Stationary Office, the UK governmental works official publishing agency.
Infringement	In the context of this booklet, the breaking of license terms or laws relating to the use and reuse of materials in which there is a copyright issue.
Moral rights	The rights of the creator of a work to be identified as the original author, as well as not to have the work portrayed/reused in a derogatory fashion.
Oppenheim's risk formula	A simple way of illustrating the multiple elements that go into calculating the total risk exposure of any activity. Devised by Prof Charles Oppenheim.
Orphan works	Materials for which the rights holder cannot be identified or traced for permission. Usable with a modicum of increased risk, and a substantiated audit trail of permission seeking attempts.
Rights holder	The individual or corporate entity that owns the exclusive rights to grant permission to reuse any portion of a work.
Rights Link/CCC	Agents for seeking and granting reuse permissions to reuse materials educationally
T&cs	Shorthand for terms and conditions, the licenses requirements of reusing any materials
Textbook substitution	The replacement of textbook purchasing by the provision of digital or physical course packs. Defined as preferably avoidable under the CLA license.
Third party copyright	Reused material by an author which is not created nor owned by them, rather it is owned by someone else from whom permission or a license to reuse is usually required to use it.
Work for hire	Material produced under aegis of your day to day employment where contractual law may play a part as well as copyright law.

Appendix C: Sample Copyright Coversheet

Morris, Ian

Chapter 6: Famous last words: the inscribed tombstone

Morris, Ian. (1992) "Chapter 6: Famous last words: the inscribed tombstone" from Morris, Ian, *Death Ritual and Social Structure in Classical Antiquity* pp.156-173, Cambridge: Cambridge University Press ©

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