

# Keeping your Thesis Legal

## Copyright in a Nutshell for Doctoral Students

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## Aims & Outcomes

- Increase your appreciation of the modern academic copyright environment
- Understand the practical steps related to electronic theses
- Learn more about modern scholarly communication environment



# Overview

- **Background**
  - Regulations at Leicester
  - Theses and etheses
  - Open access & scholarly communication
- **Rights**
  - Introduction to ©
  - Recognising and mitigating risks
  - Gaining rights permissions
- **Practicalities**
  - Creating PDF documents
  - Submission of your ethesis
  - Arranging moratoriums and embargoes



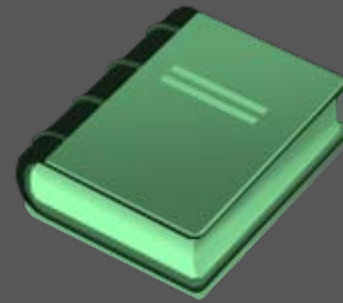
# Background





# Regulations at Leicester

- Your final, corrected thesis:
  - **One print copy required to be submitted**
    - To the Graduate School offices
    - Must include signed paperwork
  - **One digital replica required to be submitted**
    - To the institutional repository (LRA)
    - Print referenced as “definitive version”
- Graduate School & Library web pages
  - Provide more information
  - Including documentation & guidance



# Leicester eTheses Today

- An eThesis is an electronic facsimile of the print thesis
  - Close as allowed under copyright & other restrictions
  - Hosted on the institutional repository
- Theses show up in monthly top 10 LRA items
  - The Leicester Research Archive (institutional research repository)
  - Thesis readership between 20-100/Month
  - Leicester's research output is a globally desirable resource

# Benefits of Digital eTheses

- **Enhances accessibility & discoverability**
  - More easily found by scholars
  - Enhanced global readership prospects
  - Protects against plagiarism



- **Increases visibility**

- Enhances your professional visibility
- Helps establishing early career reputation
- Professional recognition for your scholastic contribution



- **Increases citation & referencing**

- More visible work is more likely to be cited
- Citations crucial for professional advancement
- Permanent, stable URL link for life





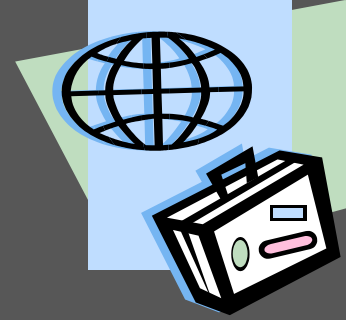
# Open Access to Research

- Open access to scholarly publications
  - Born in late 1990s in STEM subjects
  - Academic frustration over inability to access published research from own institutions
  - Went mainstream in early 2000s
- All Russell Group Universities have repositories
  - 148 institutional repositories like the LRA in UK
  - 20 institutional research mandates
  - Most also require doctoral theses deposited electronically



# Routes to Open Access

- Open access archiving (OAA) [**The Green Route**]
  - Works alongside traditional publishing
  - Authors give away their rights to publishers
  - Post-publication archiving activity
  - Papers, theses, reports etc deposited in repositories
- Open access publishing (OAP) [**The Gold Route**]
  - An alternative approach to traditional practice
  - Pay-up front model of funding
  - Authors retain their rights to their work
  - Fully OA journals or paid publisher options



# Theses Globally

- UK
  - Local institutional repositories
    - Like the *Leicester Research Archive (LRA)*
  - National Etheses repository
    - Ethos - *Electronic Theses Online Service*
- International
  - Australasia: *Australasian Digital Theses Program*
  - Europe: *DART-Europe E-theses Portal*
  - USA: *Networked Digital Library of Theses and Dissertations*
  - Sweden: *Dissertations.Se*



## Background Recap

- Leicester regulations require eThesis submission as well as print
- eTheses are much more consulted than printed versions
- Move to eTheses is part of a shift in global research communications to open access
- eTheses are now standard practice in most UK HEIs

# Rights





# Copyright Issues

- UK legislation differs depending thesis format
  - Copyright, Designs & Patents act 1988 (amended)
- Print thesis
  - "*for purposes of examination*" exemption
  - No permission needed to use *less than a substantial* portion of third party material
  - Required to acknowledge source
- Digital thesis
  - Considered to be "*communicated to the public*"
  - Permission required to include third party material
  - Appreciation of copyright legislation required



# (UK) Copyright - in Brief

- Copyright is automatic and does not need to be claimed
  - Rights retained until 70 years after author's death (written works)
  - The **rights holder** is the owner of the copyright
- Copyright can be assigned but never taken
  - Rights can be ascribed, transferred, gifted or sold to another party
  - They will then be the *new* rights holder
  - Moral rights are always retained by the creator
- Only the **rights holder**
  - Can permit reuse, adaption or distribution of copyrighted work
  - Unless allowed under fair dealing, criticism or review
  - Organisations may claim © under terms of employment or funding



# What is Third Party © Material?

- Third Party Copyright
  - Anything in which *someone else* may have vested rights of ownership



|   |        |
|---|--------|
|   | +2.688 |
| 0 | +5.000 |
| 1 | +1.500 |
| 0 | +1.125 |
| 0 | +1.062 |

- Fair dealing, criticism or review defence may apply



# Fair Dealing, Criticism & Review

- Under fair dealing
  - A substantial part of a third party work may be copied or quoted without permission for the purposes of criticism and review
- Criticism or review is a reason for claiming fair dealing.
  - If you use an extract of text/an illustration or figure and it is integral to your argument
  - This might count as *criticism*.
- Fair dealing not defined in law either
  - *Substantial* is not defined
  - Depends on the significance of the extract



# Fair Dealing, Criticism & Review

- However this is not clear cut!
  - Publishers used to say that a single extract of ~400 words was not unfair (Cornish, 1999)
  - Neither was a series of extracts where none of which are more than 300 words, not totalling more than 800 words
- However, Padfield (2007) suggests that
  - A court will consider what proportion of the user's work consists of quotation, and what proportion consists of comment and analysis.
  - Cornish (2009) suggests it is copying when this '*does not harm the copyright owner but nevertheless benefits either the individual or society generally.*'



# Fair Dealing, Criticism & Review

- Therefore
  - If you are using a substantial amount of a third party work in your thesis
  - And are unable to claim the criticism and review defence
  - You will need to seek permission for its inclusion
- Asking for permission is always a better risk management strategy
- If confused....come speak to us!

# Creative Commons

- A way to propagate the reuse of work
  - Permits reuse without permission request
  - Some predefined limitations & restrictions can be applied
  - Internationally recognised
- Search engines advanced options
  - Can search for work tagged for reuse
  - Some concerns over sharing permissions
- Open Educational Resources (OERs)
  - OTTER, OSTRICH & TIGER Projects at BDRA

# Recognising Risks/Levels of Risk

- No risk
  - Using own work, where you remain the rights holder
  - Reusing limited amounts with proper referencing
  - Reusing items with permission or where t&cs licenses clearly permit use
- Low risk
  - Reusing material under the fair dealing defence
  - Reusing extracts within a lecture or examination
- Increasing risk
  - Posting 3<sup>rd</sup> party material to web
  - Using large & significant extracts, images, diagrams etc without permission



## Third Party © Rules of Thumb

- Check original item to see what is allowed
  - Website T&Cs or © notices are useful guides
  - Usually contact details given as well
- Some resources may offer licensed re-use terms
  - Creative Commons license can be very helpful
- If in doubt - assume items are in copyright!
  - Permission must be explicitly sought
  - Most non-commercial rights holders tend to grant permission for eThesis
  - Fees and charges are possible from some rights holders

# Sample License Terms

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The content of the pages of this website is for your general information and use only. It is subject to change without notice.

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## 2. Copyright in the images on this site

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Business Link encourages hypertext links to this website, and creates friendly URLs to make linking easy. If you would like to link to a specific part of the website, use one of the friendly URLs already available or contact us through our feedback form to ask for a new one. We reserve the right not to meet all requests for friendly URLs.

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<http://www.businesslink.gov.uk/bdotg/action/staticpage?page=Copyright>



# Seeking Permissions

1. Identify the rights holder
2. Formally request permission to include item
  - Be specific about what you want to do with their items
3. Keep records of all correspondence
  - May need to demonstrate proof of permission
4. Repeat request after 6 weeks if you haven't heard anything
  - Good practise is to ask two or three times
  - Try phone, email and post
5. Leave plenty of time to get all permissions



# Sample Permissions Request

Dear [NAME],

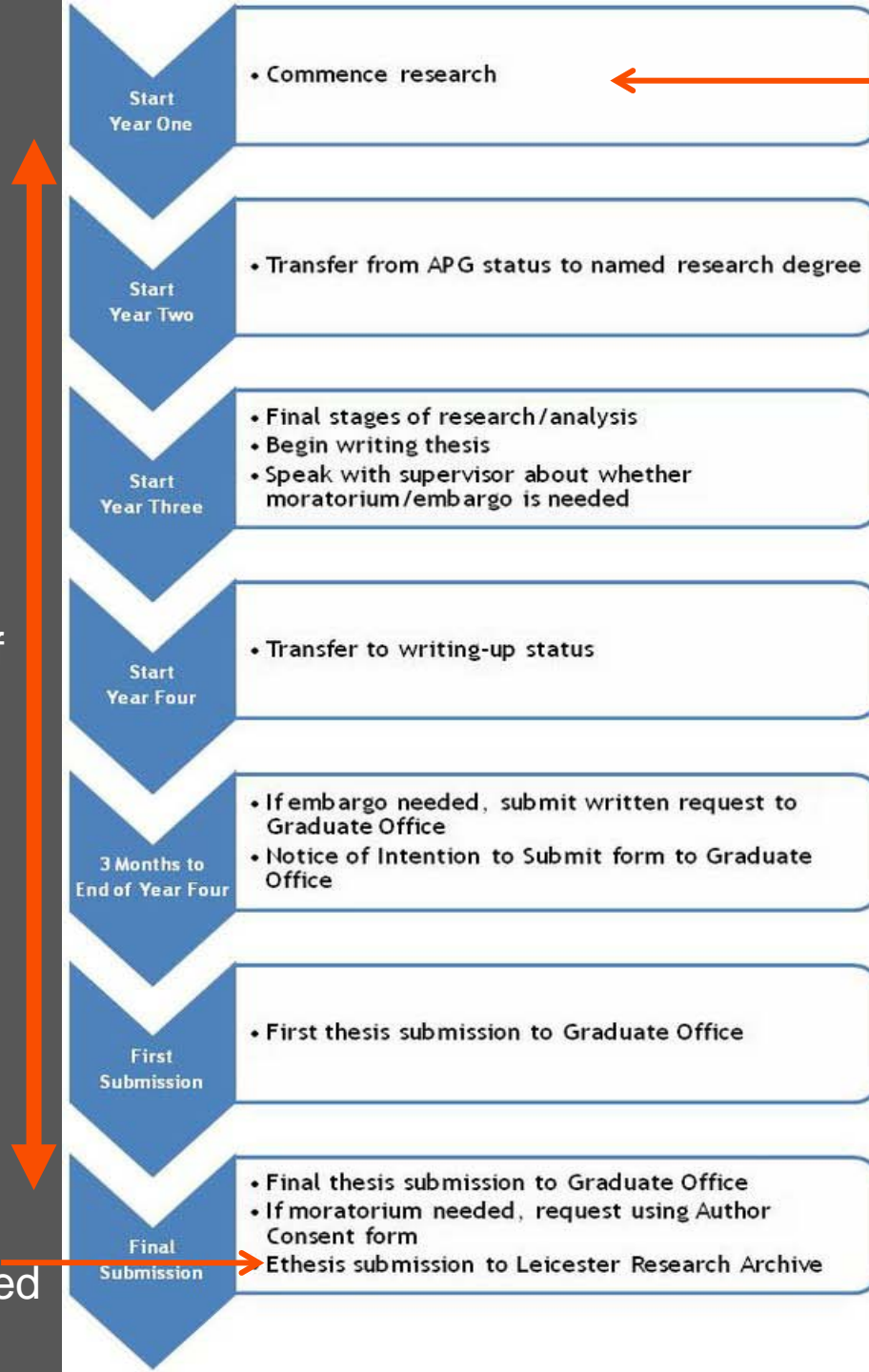
I am currently in the process of finalising my PhD thesis on ....., which I am shortly due to submit to the University of Leicester.

During my research, I came across the following article/image ..... and would like to request your permission to include it in an electronic copy of my thesis.

The University of Leicester requires their students to submit an electronic copy to their institutional repository, Leicester Research Archive (<https://lra.le.ac.uk/>), which is a digital archive of research outputs from the University. By submitting my thesis to the LRA it will be available in full, to anyone, free of charge ("open access").

I believe that the inclusion of ..... is integral to my thesis and would therefore be extremely grateful if you could grant permission for me to use this ..... in the manner detailed above. Naturally I would fully reference your work and include any acknowledgement you deem appropriate.

Please let me know if you require any further information, otherwise thank you in advance for your kind consideration.



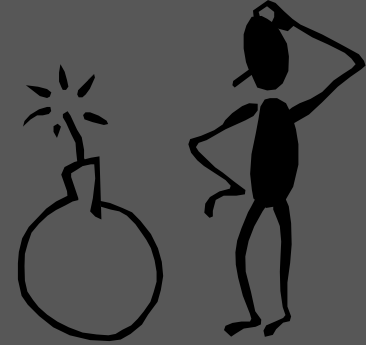
Start requesting permissions

The less time you give yourself

The greater the....

**PANIC!**

Permissions all agreed & recorded



# Managing Risk

- What if rights holders don't respond - at all?
  - What if the item is an *Orphan Work*
1. Submit an edited eThesis
    - Remove any items without explicit permissions
    - This is the only **no risk** strategy
  2. Submit eThesis **with items included**
    - Must have a documented record of contact attempts
    - Need to keep records for some years
    - This is a **higher risk** strategy
- LRA Takedown Policy for legal challenges



# Sensitive Contents



- Does your thesis contain sensitive information?
  - Conditions of funding may restrict what can be shared
  - Commercial, ethical, national security or otherwise confidential content or data
  - Does this clash with the university requirements?
- No! There are options available to you
  - Print thesis is required to be include all materials
  - In this case eTheses will not be an exact replica
  - Remove offending elements and submit as edited
  - Restrict access for a period of time

# Thesis Publication



- Check what 3rd party materials rights were granted
  - Permission to include an item in a thesis does NOT cover including it in different publication
  - Some t&cs and CC licenses explicitly allow scholarly use but not commercial publication
- LRA captures statistics on usage
  - Geographic locale and volume of accesses
  - Aids in proving publication worth for publisher
- eThesis availability is sharing not publication



## Rights Recap

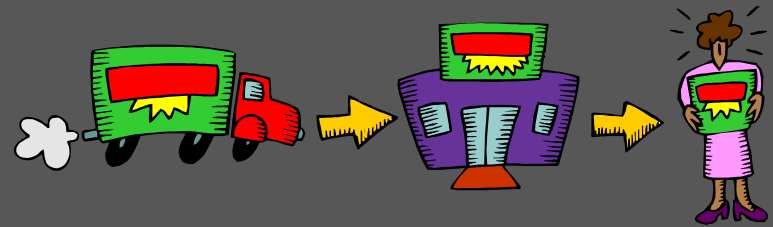
- Always attribute your sources
- Never assume you have reuse rights
- If in any doubt ask permission
- Seeking permission will take time
- Aim to always manage and minimise your exposure to © risk

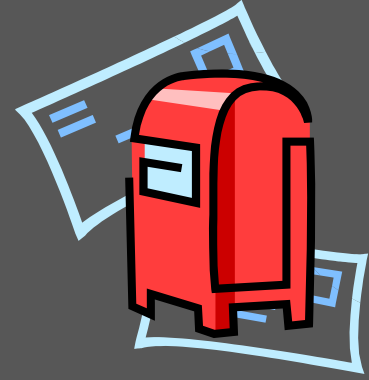
# Practicalities



# What will Happen to my eThesis?

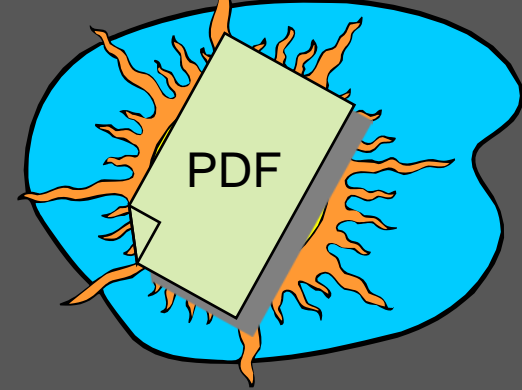
- It will go into
  - The Leicester Research Archive & EThOS
- Scholars will find it via
  - Specialist search tools (e.g. *OpenDOAR search*)
  - Index to Theses Online
  - Google (and other search engines)
  - Visitors to the LRA/EThOS or direct links
- Older theses also being added to both EThOS & the LRA





# eThesis Submission Routes

- Single PDF of main thesis required
  - Data sets/appendices can be included as additional files
- In person to DWL Offices
  - On flash-drive, CD/DVD etc
- Via file sending services or FTP
  - E.g. *DropSend* & *FileMail.com* (up to 2Gb)
  - Safe and secure
- Via email
  - Only for very small files (<5Mb in size)



# PDF Creation

- Word 2007
  - Save as PDF option
  - PDF/A compliant for preference
  - Other Word Processors offer similar options
- PDF Creation software
  - Can create from separate file
  - Adobe Pro recommended, but freeware available
- Multiple documents to one PDF
  - Combine in Adobe Pro
  - See Careers advice on working with long documents



# Delaying Online Availability

- Temporary Moratorium
  - Up to three year delay after date of PhD award
  - Delay allows for publication from thesis
  - Not added to LRA/ETHOS until expiry date
- Embargo
  - Three year rolling reviewed restriction
  - Only granted for ethical, commercial or security reasons
  - Apply to Senate via the Graduate School 3 months BEFORE submission
  - Requires supervisor co-signature & support
- Alternative -> edited version on LRA

# Choosing a Moratorium/Embargo

## None

Listed on OPAC & LRA

Immediate benefits

Maximum visibility

Job hunting advantage

Print consulted in  
Library

Print can be loaned to  
other libraries

## 1-3 year Moratorium

Listed on OPAC

Print consulted in Library

Reduced career impact

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*After end of period*

Listed on LRA

Enhanced visibility and  
benefits

Job hunting advantage

Print can be loaned to  
other libraries

## Embargo

Not listed on OPAC or  
LRA

Print cannot be  
consulted or loaned

No career impact

No open access benefits

Effective professional  
invisibility



## How do I do this?

- Discuss with supervisor during your PhD
- At final submission you can:
  - Request a moratorium
  - Note an embargo if one has been approved
  - Embargo has to be granted by Senate before submission
- Must provide the LRA team with an electronic (PDF) copy of your thesis in all cases

## UNIVERSITY AUTHOR CONSENT FORM FOR A RESEARCH THESIS

Author's Name: .....

Title of Thesis: .....

Degree: .....

Department: .....

*I confirm that I have read and understood the University's regulations and procedures concerning the submission of a thesis (as summarised below) and have submitted the following items in order to fulfil my requirements for graduation from the University of Leicester:*

Please tick when complete:

- 1 x Hard bound copy
- 1 x Loose copy of your title page and abstract
- 1 x Electronic copy (sent to [sthesis@le.ac.uk](mailto:sthesis@le.ac.uk) or handed in at the David Wilson Library before or on submission of the final hard copy)

**University Reference Copy**

In respect of the hard-bound reference copy of my thesis which is held in the University Library, I consent to Library users being able to consult the thesis in the Library building only.

I understand that requests made by any individual or organisation to the University Library to borrow my thesis will be referred to the electronic copy made available in the Leicester Research Archive (LRA) or Electronic Thesis Online Service (ETHOS).

I understand that the library will add the following notice to the final bound version of my thesis:

@ [author name] [date of completion]

This thesis is copyright material and no quotation from it may be published without proper acknowledgement.

**Deposit in Leicester Research Archive****COVERED WORK**

In accordance with current University regulations, the thesis is deposited in the LRA. Research referred to below as "Thesis" is covered by this agreement and when I deposit my Thesis in the future, whether personally or through an assistant or other agent, I agree to the following:

**NON-EXCLUSIVE RIGHTS**

Rights granted to the Leicester Research Archive through this agreement are entirely non-exclusive. I am free to publish the Thesis in its present version or future versions elsewhere and I agree that LRA administrators may, without changing content, translate the Thesis to any medium or format for the purpose of future preservation and accessibility.

**DEPOSIT IN LEICESTER RESEARCH ARCHIVE AND ETHOS**

I understand that work deposited in the Leicester Research Archive will be accessible via the World Wide Web. I understand that once the Thesis is deposited, a citation will always remain visible. Removal of the item is usually only possible for legal reasons.

I understand that as a consequence of depositing the Thesis in the Leicester Research Archive an electronic copy will be included in ETHOS. In doing so I understand that work deposited in ETHOS repository will be accessible via the Internet. ETHOS, or its agents, may without changing content, translate the Thesis to any medium or format for the purpose of future preservation and accessibility.

**FURTHER INFORMATION ON MORATORIUMS / EMBARGOS**

Your thesis will normally be included in the LRA and ETHOS unless you impose a:

- **Moratorium** (maximum of 3 years from the date of award). During this period, although your thesis will be available for consultation within the David Wilson Library, photocopying will not be permitted, it will not be available for loan to any individual or organisation, and it will not be made available via the LRA or ETHOS.
- Or
- **Embargo** (maximum of 3 years from the date of award). During the embargo period, your thesis will be withheld from inclusion in the LRA and ETHOS and no consultation, loan or copying of it will be possible. Permission to impose an embargo can only be granted by the Graduate Dean before you submit your thesis, and is usually applicable only in exceptional circumstances, e.g. when your thesis contains sensitive material.

**Please note:** Once the moratorium/embargo period has expired, your work will be included in the LRA and ETHOS and made available for photocopying (up to 5% (by reference to page count) or one complete chapter (whichever is the greater)). If you require an extension to the embargo period please apply to the Graduate Dean before the current embargo has expired.

**I AGREE AS FOLLOWS:**

- That I have exercised reasonable care to ensure that the Thesis is original, and does not to the best of my knowledge break any UK law or infringe any third party's copyright or other Intellectual Property Right

- The administrators of the Leicester Research Archive do not hold any obligation to take legal action on behalf of the Depositor, or other rights holders, in the event of breach of intellectual property rights, or any other right, in the material deposited

- I have consulted with my supervisor, any co-supervisors and any commercial sponsors regarding the requirement for a moratorium or embargo (please see notes above) and we agree as follows:

- a. No moratorium/embargo is required
- b. A moratorium is required for the period of \_\_\_\_\_ years (max 3 yrs)
- c. An embargo is required and I attach the appropriate permission from the Graduate Dean for a period of \_\_\_\_\_ years (max 3 yrs)

**Please note:** If you do not specify one of the above we will assume that you do not require any moratorium or embargo and will proceed in adding your thesis to the LRA and make it available for consultation.

Signature.....

Name (Block capitals).....

Email.....

Phone..... Date.....



## Support and Advice

- Graduate School for thesis submission documents, forms
- Library provides advice on archiving, copyright policies etc
- IT Services can provide advice on creating PDFs
- Your supervisor can advise on moratorium periods, embargos and publication



## Practicalities Recap

- Your eThesis will be mounted on the LRA & EThOS sites
- Must be submitted as a single PDF file
- Mechanisms for retarding the live availability of your eThesis exist
- While you are responsible for most of the process advice & support are widely available



# Key Points

- Your eThesis will be read by many more people than your printed version
- eTheses offer many benefits to your professional career
- You are required by university regulations to deposit an eThesis
- You must have permission to include other people's work (3<sup>rd</sup> Party ©)
- Make use of the advice and support



# Questions & Discussion



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2008/9  
**THE AWARDS**  
UNIVERSITY OF THE YEAR

2009/10  
**THE AWARDS**  
OUTSTANDING SUPPORT  
FOR STUDENTS