Copyright for Academic Modules

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Additional workshop materials & further reading

Revision 3.2 Jul 2018
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Legal Disclaimer
Copyright is a complex area of law. None of the 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 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 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 4.0 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.

It is however a good idea to assert copyright in any work you create by following the format below:

© Your Name, DATE

The moral rights of Your Name to be recognised as the author of this work have been asserted.
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 the workshop and this booklet, along with the additional support of the Copyright Service 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, with a few exceptions, moral rights cannot be sold or transferred, but they can be waived by the creator if so wished.

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**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. Generally retained, rather than assigned.

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**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).

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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.

**Personal Use**

By law, you can generally copy **less than a substantial amount** of a published work, 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**.
- In the European Courts significant extracts lasting little more than 11 words have been judged to be copyright infringements (Case C-302/10).

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. Fair dealing is a defence for copying a substantial amount of a published work.

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**Table 1: Fair Dealing**

<table>
<thead>
<tr>
<th>Fair dealing with a work can be for purposes such as for:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Your own private study</td>
<td>Quotation</td>
</tr>
<tr>
<td>Your own research</td>
<td>Caricature, parody or pastiche</td>
</tr>
<tr>
<td>Criticism or review</td>
<td>Illustration for Instruction</td>
</tr>
</tbody>
</table>

---

This work is licensed under a Creative Commons Attribution-NonCommercial-ShareAlike 4.0 International License. http://www.le.ac.uk/copyright
When relying on a fair dealing provision, remember that the copying itself must be fair. You should therefore bear in mind the following:

- the length and importance of the extract
- the amount used in relation to your accompanying discussion
- the extent to which the use is commercial rather than academic

UK copyright does however specify that to qualify for the exceptions:

- the work must have been made available to the public
- the extent of the extract you are copying is no more than is required by the specific purpose for which it is used, and
- the extract is accompanied by a sufficient acknowledgement (unless this would be impossible for reasons of practicality or otherwise)

**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 only print off what you need for your own personal use and remember to adhere to the University’s IT Service Regulations.

<table>
<thead>
<tr>
<th>😊Permissible😊</th>
<th>☹Caution☹</th>
</tr>
</thead>
<tbody>
<tr>
<td>Generally you can download and/or print individual items for personal use.</td>
<td>Do not download works in their entirety or systematically, for example an entire journal issue.</td>
</tr>
<tr>
<td>The University Library provides many electronic journals, books and databases. These are all supplied subject to licence agreements with individual publishers and the amount you can download/print differs. eBooks usually state the amount that can be copied, for eJournals one or two articles are usually fine. For databases check the terms and conditions.</td>
<td>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.</td>
</tr>
<tr>
<td>The Creative Commons symbol helps identify sites that allow legal sharing and in some cases reuse.</td>
<td>Harvard Business Publishing have a very clear statement on each article as to what you can do with their work, please ensure you read and adhere to this.</td>
</tr>
<tr>
<td>Do not email or transfer legally downloaded material to anyone else.</td>
<td></td>
</tr>
</tbody>
</table>

Remember that unless a work states clearly to the contrary, then assume that you can only make personal use of the materials. However, for teaching and other educational uses there are defences (see Fair Dealing above) and various licenses that permit the safe and legal reuse of rights holders’ works (see The CLA licence for example).

However, unless you solely focus on using items created and 100% owned or licensed 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.

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1 Adapted from JISC, Copyright Law Overview (12 June 2014)
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)

 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/Class Handouts
While less popular now than scanning items for Readinglists@Leicester, some departments still like to provide material in print form either as a printed course pack of multiple works or class handouts of individual readings.

The CLA licence
The University of Leicester holds a Copyright Licensing Agency (CLA) Higher Education 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 US and international publishers. Details of excluded UK and US publishers, and included overseas countries, can be found on the CLA website. Extracts are limited to the following:

<table>
<thead>
<tr>
<th>Table 3: CLA Copying Limits – per course of study</th>
</tr>
</thead>
<tbody>
<tr>
<td>Whichever is the greater of:</td>
</tr>
<tr>
<td>Up to 10% or one chapter of a book</td>
</tr>
<tr>
<td>Up to 10% or one article from a single issue of</td>
</tr>
<tr>
<td>a journal or magazine</td>
</tr>
<tr>
<td>Up to 10% or one paper from a set of conference</td>
</tr>
<tr>
<td>proceedings</td>
</tr>
<tr>
<td>Up to 10% of an anthology or one short story,</td>
</tr>
<tr>
<td>poem or play of not more than 10 pages</td>
</tr>
<tr>
<td>up to 10% or one whole report of a single case</td>
</tr>
<tr>
<td>from a volume of judicial proceedings</td>
</tr>
</tbody>
</table>

Specific requirements
The licence requires the University to hold a copy of the item, which excludes personal, proof or inspection copies. During an audit the CLA will ask to see a copy of an original source publication that 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 Service can 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).

CFP items are articles or extracts where a fee is paid in order to secure the reuse rights. 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.
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 seeking permission to reuse materials.

Seeking permission
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.

There are usually contact details or permission request forms on the publishers’ websites of which you can make use - try searching under Contact Us or for Rights and Permissions. 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.

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 4: Requesting Reuse Permission (print)

Dear Sir or Madam,

I would like to request permission to make [INSERT NUMBER OF STUDENTS] copies of the following item from one of your publications.

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

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.

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.

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.
Additional Chapters
If you are requesting permission for a second chapter 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*

Exceptions
Newspapers in general lie outside the CLA license, as do 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 Specialist’s details) on or next to each departmental photocopier. If you do not have a copy of this notice please contact the Copyright Service.

In the event of an audit the CLA 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 outside the licence without gaining any necessary permissions

4. Readinglists@Leicester
You may wish to distribute material to your students electronically. Material licensed by the CLA can only be distributed via an online reading list through readinglists@Leicester

Making published materials available via a reading list
The CLA licence, subject to the limits and specifications detailed above, allows the University of Leicester to make available copies of digitised items. 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 less countries than the photocopying licence, so just because something has been eligible for photocopying doesn’t mean that it can be digitised.

- Bibliographic details of each request, and specific module based details must be recorded and reported annually to the CLA by the Copyright Service
- Digitisations can only be made available via a University restricted, password protected site, and for this the University uses readinglists@Leicester
- Requests must be submitted via the Request Digitisation link through readinglists@Leicester

Restrictions & requirements
There are a number of requirements relating to our scanning licence, and due to these restrictions all requests must be submitted via an online reading list through readinglists@Leicester and processed by the Library’s Copyright Service.
For each digital copy there are specific obligations on top of the limits and requirements to use latest library held editions:

- 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
- You should avoid textbook substitution (see below)

**Scanning permissions**

If a work is not covered by the CLA licence, permission to copy should be obtained. The University’s Copyright Service 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 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 5: Requesting Permission Template (scanning)

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 online reading list system 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.

**Copyright scanning service**

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

- Checking your digitisation requests and advise which can be scanned under the CLA licence.
- Process and track your CFP requests
- Scan your items and make them available via the reading list

However, unless you are requesting to copy a single item you **must submit your digitisation requests** at least six weeks prior to the required 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 specific deadlines. If you have any concerns please check with the Copyright Service.

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**

Once a year the library, as maintainers of the CLA license, are required to submit a report to the CLA on all materials scanned. From time to time the CLA will make a site visit to audit our records, and those of relevant departments. 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 electronically for the duration of any module (including and allowing for any re-sits). The Copyright Service automatically carry out an annual check (digitisation rollover) during the summer vacation period.

**Do’s & Don’ts: Reading List Scans**

- **DO:**
  - Remember to use the Request Digitisation button on your online reading list
  - Check the deadlines on the copyright website

- **DON’T:**
  - Scan materials and upload them to Blackboard
  - Scan materials and upload them onto an unsecured web site, you will be opening yourself to legal difficulties

**Textbook substitution**

One of the key things to avoid for both printed course packs and scanned items, is what is termed textbook substitution. This is an issue over which publishers have some concerns, and is a major reason why the CLA limits (see Table 3) should be adhered to. The CLA License 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 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 Copyright 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.
5. Other Resources

Whilst the CLA licence covers photocopying and digitising from printed sources, 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 and books 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, notably Harvard Business Publishing, specifically prohibit this. We would therefore recommend that you consult the Copyright Service 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. Links to resources directly from a readinglist to the document are always recommended; see the guidance for ‘Staff who teach’ on the library web pages for further information on how to do this. Please do not place PDFs taken from digital resources directly onto Blackboard, as many publishers specifically prohibit in their licence.

Educational Recording Agency (ERA)

The University holds an ERA+ licence, which permits - for non-commercial educational purposes - the recording of and access to, broadcast output of the Educational Recording Agency’s (ERA) Members. This can be done through one of two routes:

- **Box of Broadcasts (BoB),** which can be accessed directly via the Library’s homepage through the TV and Radio Recordings link. BoB enables all staff and students in subscribing institutions to choose and record any broadcast programme from 60+ TV and radio channels. The recorded programmes are then kept and all content is shared across subscribing institutions.
- **IT Services -** If you are not able to obtain the material you require via BoB, we would recommend you contact Teaching Room Support regarding their off-air recording service:
  - Phone 0116 252 2919
  - Email bookav@le.ac.uk

As all hard copies of broadcasts must be labelled with the date of broadcast, title, and broadcast channel, the off-air recording service are the only providers of such ERA compliant materials.

Materials can be edited into clips, providing that they do not substantially change the nature of the programme.

Note that use of ERA+ recorded material within Blackboard is currently restricted to UK access only, the licence does not permit viewing from students based overseas.

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. The Copyright webpages contain guidance for locating copyright cleared images.

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 license of any content located on the Internet in this manner before reuse.

Commonly you’ll be required to include a license 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 an NLA media access Education Establishment licence which covers copying from UK national newspapers, up to 5 regional titles and 2 foreign titles for educational purposes.

- 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.
- You can photocopy and scan from print, and copy and paste from digital for all titles covered.
- Copies can be given to University of Leicester students, either via print coursepacks, the VLE, or email.

**Digimap Collections**

The University Library subscribes to some of the Digimap Collections. Their Resource Centre has a number of FAQs and details of each licence agreement, which detail what you can do with the data and information they provide. You should consult these in the first instance but if your question is not covered, please contact the Copyright Service.

**Government Publications**

HMSO manages and licences the use and re-use of all information produced by Government departments, which is subject to Crown copyright, and the licensing of Parliamentary copyright material.

In general, Crown copyright expires 50 years after the date of publication but the copyright in certain categories of material has been waived by the Crown in order to encourage its widespread use for reference and dissemination. This is known as the Open Government Licence (OGL).

For the most up-to-date information please see the National Archives website.
Do’s & Don’ts: Other Resources

DO:
 Check with the Copyright Service 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

6. Teaching and Copyright
Aside from providing students with course packs or digitised 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 Licence. For publications covered by the CLA licence, within the limits specified in Table 3, you can make and provide one copy per student.

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 department 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 third party material, without permission, for the purposes of “giving or receiving instruction” which includes setting examination questions, communicating the questions to pupils and answering the questions, providing the use is fair (see the Fair Dealing information box for an explanation of what can be deemed to be fair).

However, be careful of further non examination use of such material as, for example, sending a sample copy of marketing artwork, originally submitted for an exam, to a potential employer would not be covered by this provision. 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.
PowerPoint lectures and conference presentations
If you are incorporating other people’s work into your presentation, this is likely to be ok under the copyright provision ‘Illustration for Instruction’, providing the use is fair (see above) and you are the person doing the copying.

You can of course include the following material without any significant risk:
- An insubstantial amount of published material
- A substantial amount of any work included:
  - with the rights holder’s explicit permission
  - if the material is out of copyright
  - if the material is available under an open licence

Lecture Capture
Extracts from copyright works can be used in recorded lectures under one of a number of educational exceptions or licences, but it is the responsibility of each staff member, or visiting lecturer, not to infringe the intellectual property rights of third parties.

The following material should be fine to include:
- material available under an open licence such as Creative Commons
- material that is out of copyright (usually 70 years after the death of the creator)
- material that has been scanned under the CLA Licence and reported to the Copyright Service in the library
- material from an electronic source, providing the associated terms of use permit it
- material where permission has been granted in writing for such reuse
- material to which the University of Leicester owns the copyright

Further information on the relevant legal exceptions, plus examples of materials likely to require permission, can be found on our Copyright and Lecture Capture web pages.

Do’s & Don’ts: Teaching & Learning

<table>
<thead>
<tr>
<th>DO:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Reuse items licenses through Creative Commons</td>
<td></td>
</tr>
<tr>
<td>Reuse items under the fair dealing privilege</td>
<td></td>
</tr>
</tbody>
</table>

| DON’T: |  |
| Reuse videos or images which infringe other copyrights or licenses |

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 the fair dealing provisions for criticism and review and quotation; 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.

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 should deposit your research output to make it freely available to all. Putting your research output into the 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 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 waive these rights, gifting their authors with the rights. This is usually covered in terms and condition of employment signed when an individual joins an organisation.

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.

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 be reused under a Creative Commons license.

<table>
<thead>
<tr>
<th>Attribution (by)</th>
<th>Share Alike (sa)</th>
<th>Non-Commercial (nc)</th>
<th>No Derivative Works (nd)</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
<td>You allow others to distribute derivative works only under a license identical to the license that governs your work.</td>
<td>You let others copy, distribute, display, and perform your work — and derivative works based upon it — but for non-commercial purposes only.</td>
<td>You let others copy, distribute, display, and perform only verbatim copies of your work, not derivative works based upon it.</td>
</tr>
</tbody>
</table>

Table 6: Creative Commons License Types

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 license 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.

**Web 2 and copyright**

Cloud-based services and sites encourage not just the hosting of content, but interaction with a broader and often global community, usually producing a collaborative output. Examples include social networking sites like Facebook and Twitter 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 providing the use is fair 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:

- **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 some seem to indicate that material shared in a social network has an implicit rights-gifting aspect to it.

- **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.
As with all areas there are steps that can be taken to minimise exposure to risk:

Table 7: Minimising Web 2 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. The University’s Research and Enterprise Division 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, license 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

- A verbal permission will not stand up in a court of law, so that if a colleague tells you that you may reuse their copyrighted work ensure that you get 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 may have a committed a more serious breach of copyright law.

- This simple removal action goes a long way towards compling with the law and mitigating 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 Academic Liaison 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 the inclusion cannot be deemed to be fair (see Fair Dealing above). 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.

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.

9. Further Help
If you would like to discuss any of the issues raised in today’s session, then please do get in touch.

Tania Rowlett & Rob Melocha
Copyright Specialists, University Library
- Email: copyright@le.ac.uk
- Tel: +44(0)116 229 7399 (extn: 7399)
- Fax: +44(0)116 252 2075

Other Contacts

LRA Administration Team
- University Library
- Email: lra@le.ac.uk
- Tel. +44(0)116 252 2310 (extn: 2310)

AccessAbility Centre
- University Library
- Email: accessable@le.ac.uk
- Tel: +44(0)116 252 5002 (extn: 5002)

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

Research and Enterprise Division
- Tel: +44(0) 116 252 2437 (extn: 2437)

Research support enquiries:
- Email: redresearch@le.ac.uk

Enterprise enquiries:
- Email: redenterprise@le.ac.uk
10. References

Further Reading

- AVS Copy, Transfer & Record: http://www2.le.ac.uk/offices/itservices/resources/cs/avs/copy
- Baskerville v Daily Mail and Baskerville v Independent on Sunday:
- 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/
- JISC, Information Service: help@jisc.ac.uk or call 0300 300 2212
- JISC, Copyright Law Overview (12 June 2014) http://www.jisclegal.ac.uk/ManageContent/ViewDetail/ID/3588/Copyright-Law-Overview-12-June-2014.aspx
- Leicester Research Archive (LRA): http://lra.le.ac.uk/
- Library copyright pages: http://www.le.ac.uk/copyright
- Linking to library digital resources: http://www.le.ac.uk/library/academic/linkingfrombb.html

Videos

- 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/
- Creative Commons licenses: http://creativecommons.org/about/licenses/
- ERA Licensing Scheme: http://www.era.org.uk/
- Office of Public Sector Information (OPSI): http://www.opsi.gov.uk/
• 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](http://www.arl.org/sparc/author/addendum.shtml)

Appendix A: FAQ

I’ve been told that reusing between 400-800 words as a quote is an acceptable guideline, but any more might be risk. Is this true?

Norman (2004 p. 50) states that these are “the generally accepted limits for quotations under fair dealing”, but such limits are not legally defined and it depends on the type of source document (it is unlikely this would be ok for poems), the importance of the extract (a reports conclusions may not be covered) as well as the intended re-use (inclusion for an examination/the purposes of criticism and review would be viewed better than inclusion for commercial gain).

What is Flickr and how can I use it?

Flickr is a photosharing site that allows people to upload their own photos for others to view. A lot of material on the site is labelled for re-use under a Creative Commons licence, which makes it a prime resource for reusing in lecture slides. However, some material on the site may infringe other people’s copyright, so care must be taken in the selection.

I’ve sent you a completed document request form, what happens next?

Receipt of your form should be acknowledged within two working days. The Copyright Service will then check the items for licence compliance, place any notes relating to each document in the relevant section of the form, and return it to you, highlighting any problems or queries. You can then go ahead and copy those items indicated by the Copyright Service. No documents or permissions will be purchased without consulting you.

How can I use a clip from a TV show legally?

Under the terms of the ERA+ licence, you can show a licensed recording of a broadcast on campus, for educational purposes. Broadcasts can also be transmitted/viewed off campus but must not be accessible outside the UK. It may be possible to make broadcasts available via Blackboard, IT Services can advise you further.

You can show YouTube material within class, providing it is not infringing material. Links to non-infringing content can also be placed on Blackboard.

Where can I find images to reuse?

Inclusions of images from the web, providing they are uploaded and accessed legally, could be used under the Illustration for Instruction provision, depending on the proposed end use (e.g. teaching powerpoint, thesis, examination) and that the use is fair.

Images legitimately licensed under a Creative Commons license or used with explicit permission, are also fine to use.

See our Copyright and Images page for specific image sources.

In the event of a proven rights infringement who gets sued – me or the university?

While nothing is certain (see Legal Disclaimer) it could be anticipated that it would be most likely a challenge to the institution which would be handled by the University’s legal counsel. Potentially the institution may wish to take steps to investigate the matter internally as well, which could result in some measure of disciplinary action. This is just one of the reasons the workshop stresses the importance of compliance! However, by adapting the best practice approach to copyright and risk management in this booklet it is hoped that this situation would not arise for you!
## Appendix B: Glossary

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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<tbody>
<tr>
<td>CFP (Copyright Fee Paid)</td>
<td>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.</td>
</tr>
<tr>
<td>CTA (Copyright Transfer Agreement)</td>
<td>Agreement signed, normally with a publisher, before publication of an article that transfers ownership rights of a written work to a publisher.</td>
</tr>
<tr>
<td>Economic rights</td>
<td>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.</td>
</tr>
<tr>
<td>HMSO/TSO</td>
<td>Her Majesty’s Stationary Office/The Stationary Office, the UK governmental works official publishing agency.</td>
</tr>
<tr>
<td>Infringement</td>
<td>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.</td>
</tr>
<tr>
<td>Moral rights</td>
<td>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.</td>
</tr>
<tr>
<td>Orphan works</td>
<td>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.</td>
</tr>
<tr>
<td>Rights holder</td>
<td>The individual or corporate entity that owns the exclusive rights to grant permission to reuse any portion of a work.</td>
</tr>
<tr>
<td>Rights Link/CCC</td>
<td>Agents for seeking and granting reuse permissions to reuse materials educationally.</td>
</tr>
<tr>
<td>T&amp;Cs</td>
<td>Shorthand for terms and conditions, the licenses requirements of reusing any materials.</td>
</tr>
<tr>
<td>Textbook substitution</td>
<td>The CLA state in their guidelines that ‘the making of photocopies and Digital Copies is not intended to substitute for the purchase of an original published edition or the commissioning of an original artistic work’. Specifically they are concerned with copying of ‘a series of chapters from core student textbooks’.</td>
</tr>
<tr>
<td></td>
<td>The replacement of textbook purchasing by the provision of digital or physical course packs. Defined as preferably avoidable under the CLA license.</td>
</tr>
<tr>
<td>Third party copyright</td>
<td>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.</td>
</tr>
<tr>
<td>Work for hire</td>
<td>Material produced under aegis of your day to day employment where contractual law may play a part as well as copyright law.</td>
</tr>
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</table>