1. Overview of Copyright at the University of Kent

1.1. Introduction

Copyright is now an unavoidable and important aspect of university life and these pages are designed to help you navigate your way through copyright law. The guidelines and links aim to provide the fundamentals that you need to know about copyright and related rights at the University of Kent so that you can:

- Identify whether and how copyright issues affect your work,
- Make informed decisions on the best way to address copyright implications with reference to the University of Kent’s copyright policy,
- Find out who to contact for further advice.

Copyright is an area of the law which is often misunderstood, and although straightforward in principle, in practice it can become complex which can lead to individuals and organisations finding themselves on the wrong side of the law. In order to minimise the risk of infringement – which can lead to civil or criminal charges – University staff, students and partners are advised to refer to these guidelines and if in doubt contact the Copyright and Licensing Compliance Officer\(^1\) for further advice or clarification.

1.2. Quick Links

For information relating to the University’s Copyright Licensing Agency (CLA) Scanning Service which allows licensed provision of extracts from published books and journals please see here\(^2\).

For information on the use of copyright material and open educational resources (OERs) in learning technologies such as Moodle and KentPlayer, please see the E-learning website copyright pages here\(^3\).

The draft Copyright Policy document covering the use of copyright materials at the University can be found at www.kent.ac.uk/copyright.

1.3. What is copyright?

Copyright is a type of intellectual property right which covers all original, ‘creative’ outputs of the human mind once fixed in a tangible form (e.g. written down or recorded). It therefore covers books, journals, paintings, photographs, software, music, film, sound recordings, broadcasts and many other things whether published or not. Copyright also arises automatically as soon as these works are ‘fixed’ (even if they only ever exist in a digital format) so it can extend to works that many do not realise are copyright protected such as private letters, sketch drawings, emails and contributions to social media services.

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1. copyright@kent.ac.uk
2. www.kent.ac.uk/library/templeman/services/cla.html
3. www.kent.ac.uk/elearning/themes/copyright.html
Copyright lasts for a set period of time, during which it is illegal to do certain ‘restricted acts’ without the permission of the copyright holder. In the UK these acts are defined in the 1988 Copyright, Designs and Patents Act as the exclusive right to:

- copy the work
- issue copies of the work to the public
- rent or lend the work to the public
- perform, show or play the work in public
- communicate the work to the public (which covers making available on the Internet)
- make an adaptation of the work or do any of the above in relation to an adaptation

It is therefore important when working with copyright material to either ensure that the relevant permissions to do any of the above have been obtained, or to determine that copyright ‘exceptions’ apply.

1.4. What are copyright exceptions and do they apply to anything done for education, research or not for profit purposes?

Under UK law there are certain defences that can be used when copyright material is used without the copyright holder’s permission. These defences are known as ‘exceptions’ to copyright and as of 1 October 2014 these have been expanded to cover a wider range of education and research activities. These defences are generally known as ‘fair dealing’ exceptions as they enable fair but limited use of copyright works. However they cannot be applied to all possible uses within an HE environment so should only be relied upon following careful consideration. Further information is provided within the ‘Using Copyright Works’ section and specific advice can be obtained from the Copyright and Licensing Compliance Officer.

1.5. What are related rights?

‘Related rights’ are rights that arise alongside copyright and work in a similar way such, the most relevant of which are:

- Performers’ rights - the rights in a recording of a performance of any kind, including a lecture or presentation.
- Moral rights – the right to be credited as the author of a copyright work and for the work not be used in a derogatory way.
- Database rights – rights that arise in the selection and presentation of data in a database whether electronic or not.

1.6. Why is copyright important to the University of Kent?

The University has a responsibility to act lawfully and to provide staff, students, visitors and partners with relevant information regarding the law. Infringing activity taking place at the University could lead to legal action and there are financial and reputational risks associated with this (click here for more information on the University’s regulations on peer to peer infringement).

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5 copyright@kent.ac.uk
6 www.kent.ac.uk/is/regulations/it/?tab=downloading
Fundamentally it is important that the University, as an educational establishment, provides clear messages on the law and how it affects those working and studying within it.

2. Using Copyright Works

The use of copyright material is central to research and teaching, and like other institutions the University of Kent has a range of licences and arrangements that allow copyright works to be accessed within agreed limits. In addition to this there will be instances where ‘statutory exceptions’ such as ‘fair dealing’ apply which mean that the permission of the rights holder is not required to copy or use material. However you should not assume that exceptions will apply simply because your use of copyright material is educational or non-commercial.

You can legally use copyright material in the following instances:

- If copyright has expired
- If you, or your organisation own the rights
- If you have permission from the rights holder
- If you are relying on a legal defence (copyright exception)

2.1. Expiry of copyright

Copyright expires after a set period of time or ‘duration’, after which there are no restrictions on the use of the copyright work. When copyright expires the work is said to pass into the ‘public domain’. There are many different durations of copyright depending on the type of work but the most relevant are:

- Published literary, artistic, musical or dramatic works – 70 years following the death of the author
- Typographical copyright – 25 years from publication
- Unpublished literary, artistic, musical or dramatic works – either 70 years following the death of the author or until 31 December 2039 (whichever is later)
- Crown copyright (UK Government) – usually 50 years after creation or publication
- Sound recordings - 70 years from date of creation or release
- Film - 70 years from death of the last surviving key contributors (writer, director or producer)

2.2. Institutionally owned copyright material

Employers own the rights in material created by their employees under UK law unless an employment contract states otherwise. At the University of Kent, copyright in ‘scholarly works’ is retained by academic staff which is consistent with the policies of many other Universities. More detail on this can be found in the University of Kent Policy Statement on Intellectual Property7.

2.3. Licences and permissions

Licences from rights holders allow others to use copyright works under conditions imposed by the licence. Some key types of licences under which the University can use copyright material are:

- Blanket licences such as **CLA**\(^8\), **ERA**\(^9\), **PRS for Music**\(^10\) and **NLA Media Access**\(^11\)
- Individual website, software or library resource terms and conditions
- Specific permission acquired from creator/rights holder
- The **Open Government Licence**\(^12\)
- **Creative Commons Licences**\(^13\)

Please see the following table for more information on licensing bodies that provide blanket licences to Higher Education institutions:

<table>
<thead>
<tr>
<th>Body</th>
<th>Class of work</th>
<th>What is allowed</th>
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<tbody>
<tr>
<td><strong>CLA (Copyright Licensing Agency)</strong></td>
<td>Books, magazines</td>
<td>Limited copying and use in a Virtual Learning Environment (VLE) such as Moodle</td>
</tr>
<tr>
<td><strong>ERA (Educational Recording Agency)</strong></td>
<td>UK TV broadcasts</td>
<td>Recording and storage – allows use of <strong>Box of Broadcasts (BoB)</strong>(^14) service</td>
</tr>
<tr>
<td><strong>NLA Media Access (Newspaper Licensing Agency)</strong></td>
<td>Newspapers, magazines</td>
<td>Press clippings</td>
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<tr>
<td><strong>DACS (Design and Artists Copyright Society)</strong>(^15)</td>
<td>Artistic images (including photos)</td>
<td>Reproduction of artistic works</td>
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<tr>
<td><strong>PRS for Music/PPL</strong></td>
<td>Musical works / musical sound recordings</td>
<td>Public performance, audio products, online services</td>
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<tr>
<td><strong>Filmbank</strong>(^16)</td>
<td>Feature films</td>
<td>Showing film/TV in non-educational context (see section on Films, Sound Recordings and Off Air Broadcasts)</td>
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Information Services at Kent operate a CLA Scanning Service, providing licensed digital scans of course material in Moodle\(^17\):
http://www.kent.ac.uk/library/templeman/services/cla.html

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\(^8\) [www.cla.co.uk](http://www.cla.co.uk)  
\(^9\) [www.era.org.uk](http://www.era.org.uk)  
\(^10\) [www.prsformusic.com](http://www.prsformusic.com)  
\(^11\) [www.nlamediaaccess.com](http://www.nlamediaaccess.com)  
\(^12\) [www.nationalarchives.gov.uk/doc/open-government-licence/version/2](http://www.nationalarchives.gov.uk/doc/open-government-licence/version/2)  
\(^13\) [http://creativecommons.org](http://creativecommons.org)  
\(^14\) [http://bobnational.net](http://bobnational.net)  
\(^15\) [www.dacs.org.uk](http://www.dacs.org.uk)  
\(^16\) [www.filmbank.co.uk](http://www.filmbank.co.uk)  
\(^17\) [http://www.kent.ac.uk/library/templeman/services/cla.html](http://www.kent.ac.uk/library/templeman/services/cla.html)
If you want to reproduce or reuse any part of a website, software package or electronic resource you should refer to the terms of use to understand whether your planned activity is permitted. These terms of use form part of a legal contract between you, (potentially representing the University) and the provider of the service. If you ignore these terms you could be in breach of contract as well as infringing copyright, although it is possible that copyright fair dealing exceptions might apply (see below).

2.4. Copyright Exceptions and Fair Dealing

Copyright ‘exceptions’ provide a legal defence for people using copyright works without the rights holder’s permission. There are a number of exceptions which could apply to HE activities and as of 1 October 2014 these have been expanded to reflect technological changes in the education and research environment. However despite the new exceptions generally benefitting students, researchers and educational institutions, they should still be relied upon with caution as they will only apply in limited circumstances and are subject to a test of ‘fairness’.

Here is a link to a University of Kent presentation on the changes to UK copyright exceptions from 1 June 2014\(^{18}\).

The concept of ‘fair dealing’ is an important one for education and research in the UK, but is often confused with ‘fair use’ which is actually a doctrine from US law. Both fair dealing and fair use effectively serve the same function – to allow ‘fair’ use of copyright works for societally beneficial purposes – but the UK system is more specific and restrictive.

The key fair dealing exceptions for education and research are summarised below, with references to the relevant clauses in the Copyright, Designs and Patents Act 1988. Please note that this is not an exhaustive list of exceptions and conditions will apply to each of these.

For the fair dealing defences to apply you will need to do the following:

- Provide acknowledgement of the rights holder with the copies, unless it is impractical to do so.
- Ensure the use of the work does not compete with the normal exploitation of it by the rights holder.
- Ensure that the use of the work is not excessive (e.g. copying the whole work when only an extract is required).
- Ensure that the use of the work is not for commercial purposes.

<table>
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<tr>
<th>Description of exception</th>
<th>CDPA Clause</th>
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<tr>
<td>Making single, limited, personal copies of copyright works for non-commercial research &amp; private study purposes.</td>
<td>S29</td>
</tr>
<tr>
<td>Copying copyright material for the purposes of text and data mining(^{19}).</td>
<td>S29A</td>
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<tr>
<td>Reproducing copyright works for the purposes of quotation, parody or criticism and review.</td>
<td>S30</td>
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Users with disabilities are allowed to make accessible copies of copyright works, or to have accessible versions made for them, as long as this is for personal use and an accessible copy is not already commercially available. Prior to 1 June 2014 this exception only related to users with visual impairments but has now been widened to cover anyone whose disabilities prevent equal access to copyright material. Here is the Intellectual Property Office’s guidance on accessible formats for disabled people.

For more detail on the above exceptions and how they may apply to any activity you may be involved in please read the following sections on use of copyright content, or contact the Copyright and Licensing Compliance Officer.

2.5. Creative Commons and Open Licensing

The purpose of ‘open licensing’ is to allow people to reuse copyright material without having to contact the rights holder for permission. Whilst such licences are binding legal contracts, they are designed to be easy to understand and applied by non-legal people.

The most widely used of all open licences are the Creative Commons (CC) licences and rather than being ‘all rights reserved’ (which is the default position of a copyright work) they are described as ‘some rights reserved’. They are ‘modular’ in design, allowing for people to apply varying levels of restriction, from the most permissive (CC0 – in which there are no conditions) to the most restrictive (CC BY ND NC – users must attribute the source, cannot make derivative works and must not make the work available on commercial terms).

CC licences are used in a range of contexts from creative/artistic works to Open Access publications and major scientific datasets. Some examples include:

- GlaxoSmithKline [http://wiki.creativecommons.org/Case_Studies/GlaxoSmithKline](http://wiki.creativecommons.org/Case_Studies/GlaxoSmithKline)
• Wikipedia http://en.wikipedia.org/wiki/Main_Page
• Al Jazeera http://creativecommons.org/tag/al-jazeera
• Europeana www.europeana.eu/

The licences can be used free of charge and can also be digitally coded into content and webpages so that search engines can filter out only Creative Commons licensed material. The University of Kent’s e-learning site has a page linking to CC image sites which search specifically for material which can be used without needing to obtain further permission.

The UK Government has also released a Creative Commons compatible licence called the Open Government Licence (OGL), which allows reuse of Crown copyright material and public sector information. The licence has some additional restrictions regarding personal data and use of public sector organisation logos/insignia, but is largely equivalent to the Creative Commons Attribution (CC BY) licence.

3. Use of copyright content in specific digital contexts

As has been previously mentioned it is the use of copyright material in digital form, and the ease with which it can be copied, shared and manipulated, that has created so many challenges. One of the difficulties is that new technologies are constantly being developed, which the current legal systems are often not equipped to deal with. However here are some examples of commonly encountered issues and how to handle them:

3.1. The embedding of copyright material in electronic presentations is restricted as it requires copying of the material. It could also involve a ‘performance’ of the work when the presentation is publicly presented, and if recorded or made available on the open web it will involve a ‘communication to the public’.

The showing, playing or performing of a copyright work for the purposes of instruction is allowed under a well-established exception (S34), but the audience must be limited to teachers, pupils and those directly connected with the activities of the establishment. The new exception for illustration for instruction is also likely to cover reproduction of textual extracts, figures from publications and extracts of audio-visual material in a teaching scenario, but again the usage must be ‘fair’ (see 2.4 ‘Copyright Exceptions and Fair Dealing’). It might also be possible to apply the criticism and review exception if the use of the copyright material is for genuine critical analysis. However in cases where it is unclear if the proposed use of copyright material is covered by an exception, and the copyright holder has not given permission, you may need to make a decision based on an assessment of risk. Some useful questions to ask when assessing risk are:

- Is the presentation only going to be used as part of a teaching event, made available only to students enrolled on a specific course of study?
- Will the presentation be uploaded to a VLE and who will have access?
- Is the presentation going to be recorded and who will have access to it once it is made available?
- Is the presentation likely to be made available on the open web?

3.2. Copyright material can be posted on Moodle under certain conditions:

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26 www.kent.ac.uk/elearning/themes/copyright-cc.html
27 www.nationalarchives.gov.uk/doc/open-government-licence/version/2
28 http://creativecommons.org/licenses/by/2.0
29 https://moodle.kent.ac.uk/moodle
• You own the copyright in the material being posted
• Copyright in the material has expired (see 2.1 ‘Expiry of Copyright’)
• Permission has been received directly from rights holder
• The material was copied under CLA licence\(^\text{30}\) terms
• Fair dealing or educational instruction exceptions apply

You should exercise caution when determining whether exceptions apply. For example adding a number of images to a PowerPoint presentation may be considered fair for the purposes of showing them in a lecture, but if posting the presentation on Moodle increases the number of people who might access the images this could stop it from being regarded as fair.

3.3. If you are looking to record lectures or presentations and upload them to [KentPlayer](http://he.cla.co.uk/)\(^\text{31}\) you will be required to agree to some usage conditions, stating that you have cleared rights in all third party material or are relying on relevant statutory exceptions. You may need to apply a risk based approach where it is not possible to clear all the rights (e.g. use of [orphan works](http://en.wikipedia.org/wiki/Orphan_works)\(^\text{32}\) for which it is not possible to clear rights) but be aware that the more widely available the content is, the higher the risk.

For further guidance on use of copyright material in Moodle or KentPlayer please see the [E-learning pages](http://en.wikipedia.org/wiki/Data_mining)\(^\text{34}\).

3.4. As of 1 June 2014 there is a new exception (S29A) which allows researchers to undertake [text and data mining](http://en.wikipedia.org/wiki/Data_mining)\(^\text{34}\) analysis on copyright material for non-commercial purposes. For the exception to apply you must have lawful access to the content you wish to mine (e.g. free to access online, or via licence subscription) but as long as the research is not being done for direct commercial purposes you will not need to seek permission from the rights holder. Acknowledgement of the copyright holder(s) is only required where practicable.

4. Using Different Types of Copyright Work

Different types of copyright material often have their own licensing frameworks and accepted usage customs. The following summaries cover some important classes of copyright work and how to approach their use.

4.1. Images and Maps

Photographs, illustrations, maps and other graphical representations such as graphs and charts all qualify for copyright protection as artistic works. However in practice it is usually not helpful to reproduce only portions of an image for educational purposes and this is difficult to determine whether exceptions apply. The copyright ‘extent limits’ of one chapter/article/5% of a work which come from the CLA licence and are often applied to literary works to determine how much copying is ‘fair’ cannot be applied to standalone artistic works in the same way. However if you are copying textual material for your own private study or non-commercial research then the law allows you to copy embedded images that are illustrative to the text. The CLA licence also allows such copying for teaching purposes.

\(^{30}\) [http://he.cla.co.uk/](http://he.cla.co.uk/)

\(^{31}\) [www.kent.ac.uk/elearning/lecture_recording/staff.html](http://www.kent.ac.uk/elearning/lecture_recording/staff.html)


\(^{33}\) [www.kent.ac.uk/elearning/themes/copyright.html](http://www.kent.ac.uk/elearning/themes/copyright.html)

It may be possible to reproduce whole images for the purposes of a teaching event under the illustration for instruction exception (S32) but this will be dependent on whether the reproduction is ‘fair’. This test of fairness will depend on the content being used, who the content is made available to and for how long, as well as the resolution of the image.

Use of photographs and illustrative works found on the World Wide Web is an often misunderstood area, driven by the fact that it is so easy to find images and unlicensed use is so commonplace. However this is a highly sensitive issue, particularly within the photographic community. Many creators are extremely protective of their copyright and use tools that enable them to trace where their images are being made available online without permission. Unless you are clear that an exception applies, it is important that you have permission to use any images before you make them available, particularly on the open web. There are a number of sources where you can find freely licensed images listed on the University Kent’s e-learning site

Ordnance Survey allow people to make copies of an A4 size from their maps for fair dealing purposes and the University subscribes to the Digimap resource which allows users to view, annotate and prints maps from a variety of geospatial data providers.

If you are looking to reproduce illustrations in published books or journals you should consider that these may not be the creation of the author and may have been reproduced from elsewhere. Contacting the publisher is usually the best place to start if you are looking to get permission although you should be aware that they may not be able to grant permission for further use.

4.2. Theses and other Unpublished Materials

Unpublished material is protected by copyright at the moment it is ‘fixed’ in a tangible form, and there are often sensitivities relating to the dissemination of it. In Higher Education researchers may want to control how their unpublished research is communicated for commercial, ethical or other reasons. Unpublished manuscripts, letters and private papers may also contain sensitive material that the creator or their estate may not want to be made publicly available.

You should also be aware that the fair dealing exceptions for quotation, parody and criticism and review (S30) do not extend to the use of unpublished material, and that the duration of the work (how long it remains in copyright) can be longer than published works in the UK. Therefore care should be taken when looking to use them.

There are, however, provisions that allow libraries to make older unpublished works available to their users with a view to publication. Please contact the Copyright and Licensing Compliance Officer for advice on this issue.

As per the advice in the ‘Copyright exceptions and fair dealing’ section above, you can include third party copyright material in your own thesis or dissertation under the illustration for instruction exception (S32) as long as it is for the purposes of assessment. However this exception is subject to the fairness test and does not apply to wider publication, or making it freely available online. Alternatively it may be possible to rely on the exception for quotation or criticism and review (S30).

35 www.kent.ac.uk/elearning/freeimagesearch.html
37 http://edina.ac.uk/digimap/index.shtml
38 copyright@kent.ac.uk
4.3. Films, Sound Recordings and Off Air Broadcasts

Audio and audio-visual material is likely to contain a number of different intellectual property rights regardless of whether it is made available via TV or radio broadcast, cinema release, DVD or online delivery methods. These include copyright in the film recording (the moving images themselves), the soundtrack/sound recording, copyright in the words or music being performed or the rights in the performances. This means you may need more than one licence/set of permissions depending on what your intended use is.

The University holds an Educational Recording Agency (ERA) licence which allows recordings to be made of free to air broadcasts for the purposes of instruction. The licence has restrictions on how the recordings should be labelled and what can be done with them. The ERA licence also licences the University to offer the online Box of Broadcasts service, which provides access to recordings of off-air broadcasts for research purposes.

The law allows for audio and audio-visual recordings to be performed for the purposes or instruction (i.e. teaching) without permission (S34), but if the work is played to those not directly giving or receiving instruction as part of an accredited course it is likely to be viewed as a public performance which will require licensing. Public performance of musical sound recordings is licensed in the UK by Phonographic Performance Ltd (PPL) and the music itself is licensed by PRS for Music. There is no single body responsible for licensing the public performance of television, film and other audio-visual material although commercial feature films are often represented by Filmbank. It will be necessary to contact individual production companies or film studios to clear the use of some content.

4.4. Printed Publications

The use of printed publications is still an integral part of the Higher Education environment. Copying of extracts from books, journals and other publications is largely covered by the University’s Copyright Licensing Agency (CLA) licence although the new exception for multiple copying for teaching purposes (S36) may apply to those publications not licensed by the CLA. The CLA licence allows multiple copying of limited extracts for teaching and study provided that the University owns a legitimate original copy. Generally speaking this is defined as whichever is the greater of one article/chapter or 5% of the publication, but more details can be found here. If you want to copy any more than these amount limitations, or the content you are looking to use is excluded from the CLA licence you will either need to get permission from the publisher/relevant rights holder or determine that an exception to copyright applies. The exception for multiple copying for teaching purposes allows copying within an educational institution of up to 5% of a work over the course of a year. Information Services are currently reviewing this exception so that it can be aligned with the CLA Scanning Service. In the meantime University of Kent staff are advised not to rely on this exception for uploading content to Moodle. Please contact copyright@kent.ac.uk if you have any questions on this issue.

39 www.era.org.uk
40 www.era.org.uk/faqs.html
41 www.kent.ac.uk/itservices/avs/?tab=record-tv-and-radio
42 www.ppluk.com
43 www.prsformusic.com
44 www.filmbank.co.uk
45 http://he.cla.co.uk
46 www.kent.ac.uk/library/templeman/services/cla.html
47 www.kent.ac.uk/library/templeman/services/cla.html
There are provisions in UK law which allow libraries to provide each other with copies of copyright material and to provide copies to users of the library. These laws enable the University to operate its Document Delivery Service by sourcing content from other libraries such as the British Library.

4.5. E-books and E-journals

The licences under which library electronic resources are available have specific terms and conditions which stipulate whether you are allowed to do things like print, download, share or re-use electronic material. The majority of the copyright exceptions, that came into effect from 1 June 2014, such as copying for non-commercial research and private study (S29), can no longer be overridden by the terms of individual resources. However in situations where the exceptions do not apply (such as commercial use) you will need to refer to the terms and conditions of each resource you would like to use or re-use.

4.6. Software

As with E-resource licences, software licences also stipulate specific uses which prohibit, among other things, which machines it can be installed on, which users are authorised to access the software and often which locations it can be used in.

It is a common misconception that because a piece of software is made freely available (freeware), there will be no restrictions on its use. Whilst there are many freely available software applications which have permissive terms of use (for example open source software), there are many which restrict certain types of use. If you are looking to use software for non-private/personal purposes, e.g. teaching, research or other University business – you should look at the software’s terms or use, or End User Licensing Agreement (EULA) to check that this is permitted. It may be that the software provider charges for the use of their software in an academic or institutional context. If you have questions about the legal status of institutionally licensed software please contact the Software Licensing team in Information Services.

4.7. Computer Generated Works

Computer generated works are defined as those which will have been created by a computer program without direct involvement of human beings. Copyright in such works is usually owned by the organisation/individual was responsible for devising or hosting the technology. Copyright in computer generated works lasts for 50 years from the date of creation.

4.8. Music

Copyright in music lasts for 70 years from the date of death of the composer, or the last surviving collaborator for a co-written work. Copyright protects the reproduction of the printed music manuscript/notation (whether in analogue or digital form) as well as the music as it is recorded or performed.

Fair dealing exceptions are difficult to apply to music as the definition of what is a ‘substantial’ level of copying can rarely be linked solely to the length of the musical section being used. As of 1 June 2014 copying of sheet music is now legal for the purposes of instruction (S32). However the copying must be fair so is unlikely to extend to making copies

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48 www.kent.ac.uk/library/templeman/services/documentdelivery
49 software@kent.ac.uk
of whole works for music examinations if they are already made commercially available for that purpose.

Whilst the exception allowing performance of copyright works for educational purposes (S34) will usually cover performance of music at closed teaching events, permission to publicly perform or reproduce music is usually covered in the UK by PRS for Music who have a range of licensing schemes. However it may be necessary to contact the music publisher(s) or composer(s) directly if your intended usage is not covered by an available licence, or the rights holder is not a PRS for Music member. You should also be aware that the rights in sound recordings are distinct from the rights in musical works so you may need to seek multiple permissions if you are using recorded music.

4.9. Websites

Websites usually contain many (if not all) types of copyright work and have terms of use which determine what users may do with the content on there. However most websites include material owned by a wide range of rights holders so you must be aware of this if you are looking to re-use material (i.e. the website owner may not be able to grant the permission you need). The British Library’s copyright terms of use provide an example of the range of conditions which may apply to content.

Posting content on a website is effectively publication and use of third party content can easily be traced by rights holders. Ignorance is no defence for those caught unlawfully using copyright material without permission as the responsibility for clearing copyright always rests with the party who is publishing the content. Rights holders may well contact infringers asking for immediate payment or suffer legal action. If you are responsible for posting online content on behalf of the University you should take great care over copyright permissions or applicable exceptions.

4.10. Shared Content on Social Media

Social media services are now widely used for personal, professional and educational purposes and the lines differentiating these different uses are often blurred. It is important to be aware that use of copyright material on social media sites usually requires permission and the risk associated with infringing copyright is dramatically increased when it is done on behalf of an organisation or institution.

There are some other aspects of social media which make it challenging from a copyright perspective. These include:

- **It is collaborative** – each person’s individual contribution to a site is their own copyright, so getting permission to use a collaborative work is likely to be very difficult.
- **It is international** – it is difficult to determine which jurisdiction would apply when content can be accessed from any country in the world and the person posting content and the rights holders may well all reside in different countries.
- **It is ubiquitous** – social media is now so widely used that the sometimes risky practice of sharing experiences and content has become ingrained in the way we communicate with each other.
- **It is little understood** – at least from the copyright perspective, there are many misconceptions about how copyright protection works, and what qualifies as acceptable use.

50 www.prsvformusic.com
51 www.bl.uk/aboutus/terms/copyright/index.html
It is essential for anyone looking to use social media in a professional context to be aware of what the terms and conditions of the service state and what rights you may be giving the operators of the service. Most of the major social network services have transparent terms of use and don’t assert ownership of individual users’ work. However they almost always claim a broad range of re-use permissions from those uploading and put the responsibility for third party rights clearance on to the person uploading content. JISC Legal have created some very useful guidance on using Facebook in HE and FE and advice on using Pinterest and similar image sharing websites.

5. Creating Copyright Works

Nearly all University students, staff and visitors will be creating copyright material as part of their work and it is important to consider which types of intellectual property may be being created, who owns the rights and how this affects its future use. The University’s policy statement on Intellectual Property Rights can be found here and further questions regarding ownership of IPR should be directed to Kent Innovation and Enterprise.

5.1. Open Licensing and Open Access

As previously mentioned in the section on Creative Commons and Open Licensing, digital methods of communication have fundamentally changed the nature of creation, publication and consumption of information and creative works. One important element of this change is a move from the restrictive ‘all rights reserved’ model, where creators and rights holders expect users to ask permission to use their work, to a ‘some rights reserved’ model where creators encode clear reuse permissions into their works to encourage sharing and reuse.

If you are producing research or any other material which will have an audience it is important to consider the intellectual property rights included and the conditions under which these will be made available. Many academics and institutions have embraced the Open Access movement as a way of communicating research as widely as possible and making the best use of public funds. However there will be a number of factors which you will need to bear in mind when deciding what licensing conditions should be applied to research outputs such as:

- The different types of intellectual property that are included
- Mandates from funding bodies which may stipulate reuse conditions
- The use and reproduction of third party material
- The requirements of collaborators and their institutions
- The conditions of publishing agreements and embargo periods

More detail on the University of Kent’s Open Access policy and the Kent Academic Repository (KAR) can be found here. In addition the JISC funded Web2Rights project provides a number of toolkits to help determine how any project or activity should approach the issues of intellectual property licensing.

52 www.jisclegal.ac.uk/ManageContent/ViewDetail/ID/2114/Facing-up-to-Facebook-A-Guide-for-FE-and-HE-02-October-2013.aspx
53 www.jisclegal.ac.uk/ManageContent/ViewDetail/ID/2705/Pinterest-Image-Sharing-Websites-and-the-Law-5-December-2012.aspx
55 enterprise@kent.ac.uk
56 www.kent.ac.uk/researchservices/docs/open-access-policy-april-2013.pdf
57 http://kar.kent.ac.uk/
58 www.kent.ac.uk/library/research/open-access/
59 www.web2rights.org.uk/
6. External Links


www.ipo.gov.uk/types/hargreaves/hargreaves-copyright/hargreaves-copyright-techreview.htm - Summary of the changes made to UK copyright law following the Hargreaves review of intellectual property

www.gov.uk/government/publications/changes-to-copyright-law - guidance on the changes to copyright law from the IPO.


http://he.cla.co.uk - The Copyright Licensing Agency (CLA) Higher Education website.

http://creativecommons.org – Creative Commons open licences

www.cilip.org.uk/cilip/advocacy-awards-and-projects/advocacy-and-campaigns/copyright - Library and Archives Copyright Alliance (LACA) are an advocacy group promoting development of a fair and balanced copyright framework