Copyright essentials for researchers

Disclaimer: The contents of this guide are for information only and do not constitute legal advice.

Introduction

This guide is aimed at staff and students of Northumbria University who carry out research. The aims of it are to:

- Provide a brief introduction to UK copyright law.
- Highlight the elements of the law that are most applicable to researchers.
- Look at how materials can be found and reused without first obtaining permissions from copyright owners.
- Explain how permissions can be sought from copyright owners.
- Raise awareness of issues relating to your own copyright and getting published.

The main focus of this guide is for those researchers who are undertaking non-commercial research although there will be elements that are relevant to commercial researchers. For advice on your own specific situation you can contact the Copyright Service.

The Copyright Service

The University Library’s Copyright Service is situated in City Campus Library http://library.northumbria.ac.uk/copyright and offers information and guidance to all members of the University on copyright matters.

Queries can be emailed to copyright@northumbria.ac.uk or you can telephone 0191 243 7314 or 0191 227 3597. You can also request a one-to-one meeting.
What is copyright?

Copyright sits under the umbrella of intellectual property rights and its main focus is to protect the economic and moral rights of the creator of a work. Protection is automatic and does not have to be registered or applied for.

The law has made some attempt to make it easier to copy materials for research or educational purposes without having to obtain permission to do so each time. However, there are still limitations that you should be aware of when making use of the work of others.

This guide provides general information which will hopefully help you to understand copyright law and how you can work within it. If you have any questions which are more specific to your needs please contact the Copyright Service for advice.

What does copyright law protect?

The Copyright, Designs and Patents Act 1988 (CDPA) and amendments offers protection to a variety of types of material:

- Original literary, dramatic, musical or artistic works.
- Sound recordings, films or broadcasts.
- The typographical arrangement of published editions.

To be protected under copyright these items must also be original and fixed/exist in a material form. The term "original" means that the item should not be a direct copy of something else and there should have been some skill used in its creation. It is the work itself which must be original and not the idea, as copyright does not offer protection to ideas.

What are the rights of the copyright owner?

Without permission from the owner, without "permission" under a relevant exception or without operating under a licence you would be infringing the owner’s copyright if you were to do the following:

- Copy/reproduce the work.
- Issue/distribute copies to the public.
- Rent/lend the work (this is fine between individuals and there are exemptions for university libraries etc.).
- Perform, show or play the work in public.
- Communicate the work to the public.
- Make an adaptation of the work, for example, dramatising a novel, translating a text into another language (applies to literary, dramatic and musical works).

Equally, as copyright owners yourselves, these are your rights with regards to your work.

What are moral rights?

The creator of a work retains their moral rights in relation to a work even if copyright ownership rests with another person or organisation.

The moral rights are:

- The right to be identified as the author or director.
- The right to object to derogatory treatment of your work.

The creator of the work does need to assert their right to be identified as the author. You will see this highlighted on the reverse of a book’s title page, for example, Joe Jones has asserted his right under the Copyright, Designs and Patents Act 1988 to be identified as the author of this work.
How long does copyright last?

The duration of copyright is dependent on the type of material and the copyright terms of the country where it has been created, and it is normally calculated in reference to the death of the creator. If you are keen to copy or reuse a work it is worthwhile considering whether it is still protected by copyright. If it is not, you will be free to use the item as you wish. Do be aware that an item may be protected by multiple copyrights and so you would need to ensure that all of the copyrights had expired.

See chart below for UK law copyright duration.

<table>
<thead>
<tr>
<th>Original literary, dramatic, musical or artistic work</th>
<th>Life of creator +70 years from the end of the year that he/she died.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Film</td>
<td>70 years after the end of the year in which the last death occurs of the principal director, the authors of the screenplay and dialogue or the composer of any music specifically created for the film.</td>
</tr>
<tr>
<td>Works with joint authors</td>
<td>70 years from the end of the year in which the last author died.</td>
</tr>
<tr>
<td>Sound recordings and broadcasts</td>
<td>70 years from the end of the year that it was made/published.</td>
</tr>
<tr>
<td>Published editions</td>
<td>Copyright for the typographical arrangement of a published edition expires 25 years from the end of the year in which that edition was published.</td>
</tr>
<tr>
<td>Unpublished works</td>
<td>70 years from the death of the author.</td>
</tr>
<tr>
<td>Unknown authorship</td>
<td>The author remains the copyright owner but as it would be impossible to know when they died, copyright expires 70 years from the date when it was first made available to the public (or 70 years from when it was made if it is not made public within this time).</td>
</tr>
</tbody>
</table>

Exercise: How long does copyright last?

The following are versions of Emma by Jane Austen. Austen died in 1817 but you would not be permitted to legally copy indiscriminately from one of the copies.

Answers:
1. For this version, both author copyright and the copyright of the particular published edition have expired. It is out of copyright completely and you are free to copy.

2. This is a recent typographical arrangement with a new introduction to the work. This edition is covered by copyright of typographical arrangement 2011 + 25 years. Copying under fair dealing for non-commercial research would apply.

Please note that with electronic editions of works that are out of copyright, although contracts no longer override copyright law, there may be technical protection measures (TPM) in place to limit copying with electronic resources. For more information about what to do when encountering technological protection measures (TPM) see page 4.
May I make copies of copyright works for my literature review?

The law permits, under “fair dealing”, a limited amount of copying to be undertaken for the purpose of non-commercial research or private study. It applies to all material types, including book chapters, journal articles, films, sound recordings and broadcasts.

The amount copied should be a “reasonable” or “fair” amount but no precise figures are given in law. You should consider the amount that you want to copy and if there would be a negative financial impact on the copyright owner as a result of your copying. To comply with this the copies that you make should be for your use only, should not be circulated and should be sufficiently acknowledged.

The following amounts are well known and often quoted but it is important to note that they do not have a legal standing. There may be occasions when either the amounts listed would be considered unfair or that it would be acceptable for you to copy more than:

- Up to one chapter (or 5%) of a published book.
- Up to one article (or 5%) from a single issue of a journal or in a set of conference proceedings.
- The entire report of a single case of judicial proceedings.
- One short story or one poem not exceeding 10 pages in length, in an anthology of short stories or poems.

Text and Data Mining (TDM) Copyright Exception

Recent changes to copyright law now allow computer-based analysis (known as text and data mining) of copyright material for non-commercial research. This allows individual researchers to make copies of works for the purposes of computational analysis, provided that they have lawful access to the works (for example, through individual or institutional subscription) and that the copies are accompanied by sufficient acknowledgement. This exception cannot be overridden by any contracts.

Note on TDM for international research projects

If the researcher is based abroad, even though s/he is registered with Northumbria University and has legal access to the licensed content, the act of copying needs to take place in the UK in order for the researcher to be covered by the TDM exception.

What to do when encountering technological protection measures (TPM)

Circumventing technological protection measures is not allowed. When content is restricted by technical protection measures (TPM), contact the publisher to negotiate access authorisation. Guidance for a complaints process is available on the Intellectual Property Office (IPO) webpages: https://www.gov.uk/government/publications/technological-protection-measures-tpms-complaints-process.

For further information on practical TDM implementation and recommendations see the guide produced by JISC: The text and data mining copyright exception: benefits and implications for UK higher education: https://www.jisc.ac.uk/guides/text-and-data-mining-copyright-exception.
Is my research commercial or non-commercial?

When considering whether the copying that you need to do is for a commercial purpose you should decide whether it will be used for a purpose which has some commercial value. For example, it is likely to be considered non-commercial research if you are writing a journal article or conference presentation (as long as no payment is expected).

It is likely to be considered commercial research if you are writing a book, or book chapter, that you will receive payment for or if you are undertaking a PhD funded by a commercial organisation.

Undertaking collaborative research?

If you are undertaking collaborative research with any individuals or organisations external to the University you will benefit from considering strategic questions during the planning and negotiating stages, regarding the ownership and management of intellectual property generated in the research partnership.

Please contact Business Development at Business and Enterprise Services for advice relating to intellectual policy including patents and commercialisation of research: https://one.northumbria.ac.uk/service/bes/Pages/Business%20Development.aspx.

For further information regarding ownership, protection and licensing see Northumbria’s IP and Commercialisation webpages: https://www.northumbria.ac.uk/business-services/engage-with-us/research/ip-and-commercialisation/.

You may find it useful to visit the Intellectual Property Office (IPO) webpages: https://www.gov.uk/guidance/model-agreements-for-collaborative-research.
May I include other people’s work within my paper?

The law provides a defence to copyright infringement for those using third party content as part of a criticism or review.

It is not essential to obtain permission from the copyright owner as long as you only include the amount of third party content required to adequately make your point and that you include a substantial amount of criticism or review to accompany it. Material must also have previously been made available to the public and sufficient acknowledgement must be included. You should also consider whether the copyright owner is likely to suffer financially from your inclusion of their work within yours.

The law does not specify how much can be used to constitute fair dealing. Guidelines for Quotation (from journal articles) have been written by the STM (International Association of Scientific, Technical & Medical Publishers) and have been agreed by a number of publishers. They permit the use of short quotations with respect to a particular journal article or book being prepared for publication of, for example; three figures (including tables) from a journal article or book chapter, single text extracts of less than 400 words from a journal article or book chapter, but not more than a total of 800 words from a whole book or journal issue/edition (www.stm-assoc.org).

How do I seek permission to use other people’s work?

It may be that you wish to copy or reuse someone else’s work beyond what is permitted by law or licence. The Society of Authors website (www.societyofauthors.org) has a useful “Guide to Copyright and Permissions” which provides details about who and what to ask for and lists a number of organisations you can use to attempt to trace a copyright owner if you experience any difficulties. If you do experience any difficulties you can also contact the Copyright Service for advice.

If you are writing for publication it is likely that you will find details on your publisher’s website of what they will want you to request permission for. Even if you feel that you could claim “fair dealing” for criticism and review or for quotation, many publishers will still require that written permission is obtained to include third party content.

If you are looking for permission to include third party content in your thesis you should alert the copyright owner to what you would like to reuse, where you are seeking to reuse it (i.e. in your thesis) and where it will be made available (in print you may be asked to pay a fee to be granted permission to use the work of someone else).

Steps to obtaining permission to include third party materials:

1. Give yourself enough time to get the permission (it can take a number of weeks or more).
2. Identify the rights holder.
3. Contact and ask for formal, written (print or email) permission to make use of the work in the manner(s) you have specified
   - Contact original publisher
   - Contact an individual – use the WATCH (www.watch-file.com) or Society of Authors (www.societyofauthors.org) website.
4. Keep records of correspondence.
5. Repeat the request if you do not hear back (it is important to note that receiving no response does not entitle you to use the work).

Check with your publisher or funding provider to see if they offer any assistance with covering such costs. (If you would like any further advice on obtaining permissions please contact the Copyright Service).
Are information and images found on the Internet free to use as they are in the public domain?

Many people believe that work placed online is in the public domain and so is free to use in any way. This is not the case. The term “in the public domain” refers to work that is not covered by copyright but this is most likely to be because copyright has expired or the copyright owner has explicitly forfeited the right to copyright protection for their work. Materials on the Internet are as protected by copyright as those on the printed page – they are simply more accessible. Always check the terms of use of any material found online which you wish to reuse.

To find images that can be reused without requesting permission, you can use Google Advanced Image Search (available at https://www.google.com/advanced_image_search) where you can filter the search results by usage rights. Even when the image is tagged as ‘non-commercial reuse’ you should check the specific features of the licence of the work, to confirm whether or not you need to attribute the work.

Creative Commons has created a body of work freely available to use and remix. To find Creative Commons licensed materials use Creative Commons search (available at http://search.creativecommons.org/) or visit https://creativecommons.org/use-remix/ to find open access materials sourced from Google, YouTube, Flickr, Europeana, among many other search tools provided by independent organisations.

Creative Commons (CC) Licences

There are six basic Creative Commons Licences and by assigning one of these to a work, the copyright owner is permitting the user to copy, reuse, distribute and possibly modify their work without having to first ask for permission. For more information about the Creative Commons (CC) licences visit: https://creativecommons.org/licenses/.

If you find material licensed by Creative Commons, be aware that not everything that has a CC licence has been given it by the person who had the right to assign it. Therefore, you should confirm that the licence is genuine and that it has been assigned by the creator of the work. You will need to make a judgement about the content as well as the source of the material.

When finding materials licensed by Creative Commons always acknowledge the source. For more information on best practices for attribution see https://creativecommons.org/use-remix/get-permission/.

You can find out more about Creative Commons at: http://creativecommons.org/about.

My thesis

The University requires PhD students to sign a declaration before final submission of their theses, which includes a statement that ‘All necessary third party permissions have been granted before deposit’.

Electronic versions of theses are normally placed within the University’s institutional research repository, Northumbria Research Link (NRL) and, therefore, made available online. This is advantageous to you as access to your work is ensured. An open access copy of your work makes it freely accessible to the public and, with this in mind, if you are not confident that you are able to claim the defence of fair dealing for criticism or review or for quotation, then you should obtain permission for third party work that you include. Whether you feel that you need to obtain permission or not you must always ensure that you acknowledge the source sufficiently.

Training and support for PURE, which is the dedicated system for the management and administration of research, is available here: https://one.northumbria.ac.uk/service/ris/puresupport/Pages/Home.aspx.
Getting published

Journal publishing
It is usual practice for a journal publisher to request that you sign an agreement and assign your copyright to them. Before signing such a contract you should consider how you might like to use your article in the future and whether it is important to you to retain your copyright. The publisher, while taking copyright for your work, may offer you certain rights for reuse and you may be happy that these are all you require (you can find out more about publisher copyright policies on the SHERPA/RoMEO website – www.sherpa.ac.uk/romeo/). If, however, you would like to retain your copyright you could explore the alternatives. These include:

- A SPARC author addendum – this is a legal instrument which modifies the publisher’s agreement and allows you to keep key rights to your articles. Find out more at: www.arl.org/sparc/author/addendum.shtml.

Some publishers will refuse to publish your work if you will not transfer your copyright to them. There are many others that will be happy for you to amend the agreement or that will not ask you to assign your copyright to them in the first place. You will also need to consider Open Access (OA) and the University’s Open Access Policy.

Open Access at Northumbria
The University’s Open Access Policy has been designed to ensure that scholarly publications at Northumbria meet the requirements of the University, UK Research England and other research funders and the Research Excellence Framework (REF) 2021. The policy can be viewed at the following webpage: http://library.northumbria.ac.uk/open-access/policy. Academic staff are required to deposit details of their published research in Northumbria Research Link (NRL), located at http://nrl.northumbria.ac.uk/.

For journal articles, both the details and the accepted author manuscript must be deposited upon acceptance for publication. The University supports an optimal balance of Green and Gold Open Access. There is an institutional publication fund, which is managed by the University Library’s Scholarly Publications Team, to support Gold OA and the payment of Article Processing Charges (APCs) for selected articles.

For detailed support and guidance, please contact the University Library’s Scholarly Publications Team on: openaccess@northumbria.ac.uk or by calling 0191 243 7705.

Book publishing
Book publishers will differ on whether they expect you to sign over copyright to them but many academic publishers will offer a copyright transfer agreement by default. You will find some useful advice on the website of the Society of Authors www.societyofauthors.org. If you are writing for a particular publisher then you should check their requirements for permissions to use any third party material. This information should be included in their web pages but also check your contract carefully. They may state that even if something is covered by an exception they would still want you to obtain permission and they may not accept Creative Commons licensed-materials. They may offer assistance with getting permissions (or paying for them). It pays to know what is expected before you start writing. Consider registering with the Authors’ Licensing and Collecting Society (ALCS) www.alcs.co.uk.

Thesis publishing
Making your thesis available online via the University’s institutional research repository, Northumbria Research Link (NRL) or the British Library’s national theses repository through its Electronic Theses Online Service (EThOS), makes your research accessible worldwide. Therefore if you are interested in publishing your thesis you can apply for Restricted Access to the University’s Research degrees Committee, via the Graduate School Nomination of Examiners form. For further information, please contact the Graduate School: https://one.northumbria.ac.uk/service/ar/gs/Pages/Welcome.aspx.
My copyright

As the creator of a work you will be the copyright owner unless and until you decide to sell, lease or give copyright to another person or organisation.

However, under the law, employers will be the copyright owner for materials created by employees during the course of their employment.

The University has stated its policies in a number of documents and these will be of interest to you if you are unsure whether you own copyright in the work that you have created.

- Terms and Conditions/Staff Handbooks (Academic Staff: Main Terms and Conditions of Employment, Sections 46 and 47: Copyright).
- Research Ethics and Governance Handbook (Section 10: Guidelines for the treatment of intellectual property).

As a research student you should read the relevant sections of the following documents:

- Handbook of student regulations (Section 14: Students’ Property Rights).
- Academic Regulations for the Degrees of Master of Philosophy (MPhil) and Doctor of Philosophy (PhD) (Section 11: Deposit, Discovery and Access Copyright).

If you are being funded by an external organisation or if you are undertaking collaborative research with people outside of the University you should find out about any impact this has on your copyright.

What to do if your copyright is infringed?

If you feel that your copyright has been infringed you may want to take some action.

The first step is often to contact the person who you believe to be the infringer and inform them of what you feel is an infringement of your copyright. You can let them know what you would like them to do (for example, withdrawal of the content, pay you for inclusion of your content) and when you would like this done by. You can also let them know if you will be seeking legal advice on this matter. If you have found the infringing material on a website you could consider contacting the provider and asking for it to be removed. As with all legally related matters, it is advisable to keep records of any correspondence.

For further relevant advice visit the Intellectual Property Office (IPO) webpage at: https://www.gov.uk/defend-your-intellectual-property/overview.

You will find some useful additional information from the Intellectual Property Office (IPO) website on copyright infringement at: https://www.gov.uk/government/organisations/intellectual-property-office.

Free 1:1 legal advice may be available to you from the Student Law Office. You can telephone 0191 227 3909 or complete the following enquiry form: https://www.northumbria.ac.uk/about-us/academic-departments/northumbria-law-school/study/student-law-office/contact-us/. For more information about the Student Law Office see http://www.northumbria.ac.uk/sd/academic/law/slo/. 
Scenarios – specific times of material

Group research

**You are working with a group of other researchers and you would like to obtain a copy of a journal article that the Library does not hold. What issues should you consider?**

Will the article be read by/circulated to all members of the group?

Is the research being done for a commercial purpose?

A copyright fee paid Inter Library Loan should be requested if it (the print copy) will be circulated to other members of the group and if it is for commercial research.

Do you wish to make further copies or email the article to colleagues?

Just because a copyright fee paid item is paid does not mean that it can be copied further, unless the law applies or the University owns a relevant licence. If for non-commercial research then each researcher could take their own copy of the article if it is deemed “fair”.

Theses

**You would like to include tables and images created by other people within your thesis. What issues should you consider?**

It is advisable to obtain permission for the use of third party material included in your thesis.

Where have the tables and images been taken from?

The author of the book may not also be the creator of the table or image. You would need to seek permission from the creator to include.

How many do you wish to include from one book/journal issue? For the inclusion of multiple tables/images taken from the same item it is advisable to seek permission from the copyright owner.

What is the purpose for inclusion?

Could your use be covered by fair dealing for criticism or review, or for quotation?

If the image is just for decorative purposes permission must be sought to include.
Derivatives

You have created a table of information which is based on the published work of someone else. What issues should you consider?

How much of the original work have you taken?

Could a colleague read your work and the original and pick out any key or substantial points from your work which are also included within the original? If they could, permission should be sought.

What are you planning to do with the work that you create? Publish it yourself?

Have you created a new item that could be viewed as subjecting the original to derogatory treatment?

The original creator should be acknowledged.

If you are in any doubt, permission should be sought.

Use of images and photographs

You would like to include an image or photograph within a journal article that you are writing. What issues should you consider?

Are you the copyright owner of the image or photograph? Did you seek permission from any people captured? Did you have permission from the owner of the piece of art that you photographed?

Where did you get the image or photograph from? Is it from the Internet? Was the person who added it the copyright owner? Has a Creative Commons licence been assigned to the item? What does the licence allow you to do with the image/photograph?

What are you using the image or photograph for? Decoration? To criticise/review?

What are your publisher's guidelines relating to obtaining permissions for third party content?

How old is the image/photograph and when was the book published? Could copyright have expired for both? Are you able to add sufficient acknowledgement?

What is the photograph of? If it is of a painting, for example, the copyright in the painting may have expired but it is argued that the photographer has copyright protection for the actual photograph. You would still, therefore, need permission to make use of the photograph.
Internet materials

You have found a video on YouTube and you would like to make use of it within a presentation that you are delivering at a conference. What issues should you consider?

Can you be sure that the person who uploaded the video to YouTube is the copyright owner? If it is a BBC programme is it available via their BBC YouTube channel, for example? How do you intend to show the video? Streaming is allowed but downloading/copying of videos is not.

What permissions has the copyright owner granted with respect to how the content can be used? Has the creator assigned the video a Creative Commons Attribution Licence? You can check the video’s description to find out. To search for Creative Commons videos on YouTube go to: http://search.creativecommons.org/.

Further reading

Northumbria University Copyright
http://library.northumbria.ac.uk/copyright
Copyright, Designs and Patents Act 1988
Intellectual Property Office
www.ipo.gov.uk/copy.htm