

Copyright Guidance

Introduction

This guide is aimed at academic staff at LSE. It provides

- a brief overview of copyright law in the UK
- details about copying for your own private research and study
- details about copying for teaching purposes.

It is not a guide to copyright and academic publications, nor does it discuss issues relating to other types of intellectual property rights (IPR). Copyright is dealt with by several different people throughout the School therefore the guide includes advice about who to approach for specific copyright queries. See the section **Where to go for more advice**.

What is Copyright and how is it governed in UK law?

Copyright is part of a wider set of intellectual property rights which offer protection and certain exclusive rights to the owner(s) of the rights in a work. For example copyright laws usually grant the creator of a work the exclusive right to reproduce that work or prepare derivative works.

In the UK the Copyright, Design and Patents Act 1988 (as amended) defines copyright as:

"...a property right which subsists in accordance with this Part in the following descriptions of work -

- (a) original literary, dramatic, musical or artistic works,*
- (b) sound recordings, films, or broadcasts, and*
- (c) the typographical arrangement of published editions."*

Examples of literary, dramatic, musical or artistic works include books, plays, songs and photographs.

There are three tests that you can apply to any work to determine if it is subject to copyright. These include:

- it must be original
- it must be fixed (important in electronic environment) (i.e. exist in a material form – whether that is on paper, electronically or otherwise)
- the author of the work must be a qualified national (broadly either from a country that recognises copyright law or resident in such a country) or where the work has been published, the country of first publication must qualify (broadly that it recognises copyright law).

In the UK the legislation in force is the Copyright, Designs and Patents Act 1988. When looking at

the act do note that you will need to consult a number of statutory instruments as many amendments have been made since 1988. In recent years numerous amendments have been made following EU Directives, which are attempting to harmonise copyright law across the European Union. For more information including links to the act see Further Reading.

Who owns copyright and what is protected?

The creator of a work usually owns copyright in that work, however like any form of property, copyright can be bought, sold or leased. In the case of a book, the author will usually be the copyright owner, however he or she may grant an exclusive licence to a publisher to publish the book. The author may alternatively sell (assign) their copyright to the publisher. Where copyright is licensed, the licensee (the party receiving the licence) will enjoy certain rights in respect of the relevant copyright work.

Who owns copyright depends on the format of the work as well, so in the case of a sound recording the producer owns the copyright in the sound recording. The copyright in a film is owned by the producer and principal director and in a broadcast is owned by the person or organisation who makes the broadcast.

Other forms of copyright may subsist in a sound recording, film or broadcast. For example, there may be additional rights in the script or music used in making the film.

However, if a work is created by an employee in the course of their employment, the copyright in that work will be owned by the employer, unless there is an agreement to the contrary. In the higher education sector there have been ongoing debates over intellectual property rights of teaching and research. This booklet does not cover this in any detail, but generally if you are employed to undertake a task, then the copyright in the work created in the course of that task will be owned by your employer. Conversely, students will own copyright in all their work unless there is an agreement to transfer the copyright to the School. Often the easiest way to determine who owns the copyright in a work is to look for the internationally recognised copyright symbol ©. This is not a definitive statement as to ownership of the copyright in a work, but it is good practice to include this along with the name of the copyright holder and the date of publication on any work where you wish to claim copyright. So this publication for example contains the following © LSE 2005. However never assume that a work is not subject to copyright because it doesn't include the copyright symbol. Also note that copyright does not need to be registered and comes into being when a relevant work is created.

How long does copyright protection last?

Copyright protection for literary, dramatic, musical or artistic work lasts for the life of the author and continues after the author's death for **70 years** from the end of the calendar year in which the author died with the exception that where such works are computer generated, the protection only lasts for **50 years** from the end of the year in which they are made. In this context, computer generated means works generated by a computer in circumstances such that no human author was responsible. For example, it does not cover works created using word processing software, but is likely to cover systems for which the user merely needs to hit "Start" to have the computer create the work.

Copyright protection for a typographical arrangement of a published edition expires **25 years** from the end of the calendar year in which the edition was first published.

For films, copyright expires **70 years** from the end of the calendar year in which the last to die of the principal director, the author of the screenplay, the author of the dialogue, and the composer of the music (created for and used in the film) dies.

For sound recordings, copyright lasts for **50 years** from the end of the calendar year in which it was (1) made, (2) published or (3) made available for the public.

For broadcasts, copyright lasts for **50 years** from the end of the calendar year in which the

broadcast was made.

Copyright in unpublished archives and manuscripts is complex and the rights one has vary depending upon when the work in question was made.

Copying for private research and study

Copyright is not all pervasive and does not prevent copyright works being copied in any way. UK law sets out a number of "Permitted Acts". However the permitted acts are defences in a court of law; they are not rights. For example, you would only be deemed to have infringed copyright if you were to copy a 'substantial' part of a work. Unfortunately, like much of the act, terms such as 'substantial' are not defined. What amounts to 'substantial' will vary according to what is being copied. In addition to this, there are certain so called 'Fair dealing' exceptions which permit copying for a number of specific purposes. These include:

- for research (for a non-commercial purpose) and private study;
- for criticism, review and news reporting; and
- for public administration (primarily a defence used by parliament and in court proceedings)

Much of the copying that you might undertake for your private non-commercial research in libraries will fall under fair dealing. So, for example, if you photocopy an article from a journal while conducting your own non-commercial research it will probably amount to 'fair dealing' provided you accompany it with a sufficient acknowledgment (unless an acknowledgment is not practically possible).

Whether research is commercial or not will have to be judged on a case by case basis. However, where research is carried out and it is envisaged that the research will ultimately be used in a project with some commercial value, it will probably not be permitted under the fair dealing exceptions. It is the purpose of the research, not the purpose of the researcher, that is key e.g. if research is conducted to raise funds for a charity, then the research will be commercial.

If you are requesting a photocopy of an article via the Interlending and Document Delivery (IDD) service, you will now need to indicate if you are requesting material for commercial or non-commercial purposes. This is to comply with changes to the law that came into force on 31 October 2003.

Further information regarding commercial and non-commercial copying:

www.lse.ac.uk/library/idd/copyrightlaw.htm and from the British Library at:
<http://www.cla.co.uk/licensing/BL-CLA-FAQ.doc>

Copying for educational use

Copying for educational purposes is permitted provided there is a sufficient acknowledgement and, in the case of the first category below (giving or receiving of instruction) provided such purpose is non-commercial. However the Act is clear that the copying must not be done by a "reprographic process". This basically excludes photocopying a work or scanning it.

In order to permit copying by a reprographic means, (i.e. photocopying or scanning), many educational establishments obtain a licence from the Copyright Licensing Agency (CLA).

Educational purposes fall into two broad categories:

- for the giving or receiving of instruction, e.g. teaching students how to make a film;
- for the purposes of examination (setting, communicating and answering the questions).

The Copyright Licensing Agency (CLA) Higher Education Photocopying Licence

The LSE like the majority of Higher Education Institutions purchases annually a CLA Higher

Education Photocopying Licence (the Photocopying Licence) which is a blanket licence covering paper to paper copying of most UK publications (but only in respect of the giving or receiving of instruction). A number of US and international publishers are also covered. More information is available on their website (<http://www.cla.co.uk>)

The Photocopying Licence is specific about the amount of copying that can be undertaken and specifies that you can copy publications (that are covered by the licence), but you must not copy (either singly or in aggregate) more than that 5% of the work in question or where the work is a book, more than one chapter from that book, or, where the work is a journal, a single article from an issue.

What the Licence does not cover

If you are making copies for teaching purposes you should ensure that you are familiar with the terms of the Photocopying Licence - do not assume that a publication is covered by it. Certain categories of materials are excluded from the licence as are certain specific works. The excluded categories are (amongst other things) unpublished works, printed music (including words) and bibles. The full list of excluded categories is set out in the schedule to the Photocopying Licence: <http://www.cla.co.uk/support/he/he-support-licence.html>. For a full list of the specifically excluded works see: <http://www.cla.co.uk/support/excluded.html>

The Photocopying Licence also permits paper to paper copying of copies of works (e.g. readings), provided certain conditions are met. Details of the conditions imposed may be found in the licence.

If in doubt seek expert advice from one of the contacts listed at the end of this booklet. Please note that the Photocopying Licence only covers paper to paper copying and does not include digital copying, e.g. scanning. The CLA Higher Education Digitisation Licence (Digitisation Licence) which the School holds may permit scanning (and use of such digital copies) of copyrighted works although there are a number of conditions imposed – the most important is that for each copy made, the CLA's permission must be sought. Alternatively, the rights holder's permission could be obtained directly. If you wish to scan any material for teaching purposes you should contact the Learning Technology Librarian who coordinates the e-course pack service.

The School is liable for any infringing copies that you might produce, so if in doubt ask advice first!

Paper course packs

Where material within them is covered by the Photocopying Licence, paper course packs can now be produced without the need to get additional copyright clearance. Staff are advised to contact the library before preparing a paper course pack as they can offer expert advice and support about whether material can be included. For further information about the paper course pack service offered by the library contact: coursepacks@lse.ac.uk

As discussed above, the production of electronic copies, including electronic course packs, may be permitted under the Digitisation Licence, although permission needs to be obtained from the CLA. Alternatively, permission may be sought from the rights holder. A permission service is operated by the Library / Centre for Learning Technology and more information about this service is available at: <http://teaching.lse.ac.uk/tech/copyright/e-packs.htm>

Other Licences held by the School

The LSE hold a number of other licences which regulate copying of works. These include:

- **The Educational Recording Agency Licence.** This licence covers off-air recording of TV and radio broadcasts.
- **The CLA Higher Education Digitisation Licence.** This licence covers the scanning of publications for classroom use.
- **The Newspaper Licensing Agency Licence.** This licence covers the reproduction of newspaper articles from both national and some regional titles.
- **The HMSO Click and Use Licence.** This licence covers the reproduction of Crown Copyright material.

Further information about all these licences is available at:

<http://www.lse.ac.uk/collections/secretariat/copyright/Default.htm>

Images and maps

Images, including photographs, illustrations or diagrams from books, journals or the web which qualify for copyright protection will be subject to copyright in their own right and must be treated accordingly. Original photographs such as those held in LSE Archives may still have copyright protection. Researchers wishing to copy or film photographs should check with Archives staff whether the photograph they require is still in copyright and staff can advise on the procedure to follow.

Like other copyright works, it may be possible to copy images under one of the fair dealing exceptions without infringing copyright provided you comply with the various conditions imposed as discussed above. For example, a lecturer could copy (using a reprographic process) an image (which has been made available to the public) for the purposes of giving criticism and review of the image in a lecture to students, provided a suitable acknowledgment is given.

For further advice about copying images from the web contact the Centre for Learning Technology (clt-support@lse.ac.uk <<mailto:clt-support@lse.ac.uk>>)

Under fair dealing Ordnance Survey maps a maximum of four copies of a single extract may be made from any Ordnance Survey map, with the size of the extract limited to A4. Copies may be made for research, private study or for submission to Court relating to judicial proceedings. Copies may NOT be made for professional or business use, or for planning applications.

Please note that the Library also have access to Ordnance Survey maps through Digimap. Digimap is an EDINA service that delivers Ordnance Survey Map Data to UK Higher Education. Data is available either to download to use with appropriate application software such as GIS or CAD, or as maps generated by Digimap online. Digimap allows users to view and print maps of any location in Great Britain at a series of predefined scales. To access Digimap you need to be registered with the Data Library. See the Data Library website for more details:

<http://www.lse.ac.uk/library/datlib/Default.htm>

Theses and other unpublished materials

Unpublished materials may include archives (personal papers, letters) and theses (the library holds those accepted for a PhD). Provided you comply with the relevant conditions, it may be possible to copy the materials under one of the fair dealing exceptions set out above and therefore avoid infringing copyright. For example, you may copy an unpublished thesis using a non-reprographic

means provided you make a suitable acknowledgment and the copying is being done for a non-commercial purpose.

Copyright in LSE theses are held by the author *and* the University of London. Please read the Copyright notice at the front of every LSE thesis before using or reproducing any material from them as different conditions apply depending on date of completion.

If requesting to view theses from other UK universities via the Library's Inter-lending service, please be aware that due to copyright reasons you need a print out the Thesis Declaration form within the Library Catalogue (select Requests and Interlending) and submit it to the Library Service Counter. The thesis declaration form states that the copyright of the described thesis rests with the author or the university to which it was submitted, and that no quotation from it or information derived from it may be published without the prior written consent of the author or university as may be appropriate.

If you wish to make use of the LSE Archives for research or teaching you must contact the Archivist, who can advise on obtaining copyright permission. You will be asked to sign a copyright declaration form before copies can be made. Some archive collections may not be able to be copied either for preservation reasons or conditions attached to the collection by the depositor or owner.

Films, sound recordings and off air broadcasts

The existence and duration of copyright in films and sound recordings is discussed above. Additionally, as discussed above, it may be possible to copy the films and sound recordings (without infringing copyright) by relying on a fair dealing exception and complying with the requisite conditions of that exception. For example, a lecturer can copy a film (which has been made available to the public) for the purposes of giving criticism and review of the film in a lecture to students, provided a suitable acknowledgment is given.

If a film or sound recording is broadcast then it can probably be copied (including digitisation) under the terms of the Educational Recording Agency (ERA) Licence. A digitisation service is available from the Centre for Learning Technology. For more information contact CLT-Support@lse.ac.uk

As noted above, the LSE holds a licence with the Educational Recording Agency (ERA) which permits the recording of most television and radio programmes for educational purposes. Recordings can be made in departments, or through the Audio-Visual Unit, or by members of staff at home. The recordings can be kept in departments or deposited in the Library.

Recordings must be carried out in accordance with the terms of the ERA Licence which specifies :

- They must be for the non-commercial educational purposes
- They must not be edited or modified (though extracts may be recorded)
- They must be marked with the date of the recording, the title of the recording, the name of the broadcaster, and the following statement:
- 'This recording is to be used only under the terms of the ERA Licence'

In addition copies of a broadcast recording may be made but not sold commercially and the details of any recordings made must be kept by the relevant department.

Recordings made under the ERA Licence may be shown to registered students within the premises of an educational establishment. This means that recordings made under the ERA Licence can be digitised and accessed via WebCT, providing access is restricted to the campus. The Centre for

Learning Technology maintain a database of digitised media resources.

Crown copyright

Crown copyright exists in works 'made by Her Majesty or by an officer or servant of the Crown in the course of his duties' such as legislation, government reports and other official material. If the work in question was commercially published within 75 years of the end of the calendar year in which it was made, Crown copyright will last for 50 years from the end of the calendar year in which it was published. Conversely if it is not so published, Crown copyright will last for 125 years. The Crown has waived their copyright in certain documents and whilst this makes it significantly simpler to deal with the works in question, the Crown has issued guidance notes on how such works can and should be used. For many other Crown copyright works, the Crown's Click-Use licence (which the LSE holds with the HMSO) governs the way you can deal with Crown copyright works.

For details of reproducing Crown or Parliamentary copyright material, please see:

http://www.lse.ac.uk/library/govpub/unikin/UK_government_copyright.htm

Her Majesty's Stationery Office (HMSO) have produced a range of Guidance notes

http://www.hmso.gov.uk/copyright/guidance/guidance_notes.htm

Further information on Crown copyright is available at:

http://www.hmso.gov.uk/copyright/policy/c_copyright/about_copyright.htm

and on Parliamentary copyright e.g. House of Lords/Commons Reports (Hansard):

http://www.hmso.gov.uk/copyright/policy/parli_copyright.htm

Copyright and the electronic environment

The majority of resources stored in electronic format (such as material on the Internet) will be subject to copyright restrictions, unless there is an explicit statement to say otherwise. Therefore they are the property of the copyright holder (who might be the creator, the publisher, employer etc). Even if there is no copyright statement on the material you are viewing, you must not assume that it is copyright-free.

Key points to remember when using electronic material are:

- Always check any copyright notices, or terms of use associated with any electronic resources you use.
- Never assume that as you can easily access information, that it is freely available to reproduce.
- Remember that distributing material in electronic format (e.g. by e-mailing it to colleagues or students, uploading it to WebCT or placing it in public folders constitutes copying and is likely to infringe the rights of the copyright owner unless you have permission from the owner.
- If in any doubt always ask permission from the copyright owner before you copy or distribute their work.

Further information about copyright and digital resources is available from the Centre for Learning Technology's copyright web pages: <http://teaching.lse.ac.uk/tech/copyright/>

Please note that staff wishing to use digital resources in the VLE should seek expert advice from the Centre for Learning Technology at CLT-Support@lse.ac.uk

Electronic resources and e-journals

Electronic resources accessed via the Electronic Library such as networked CD ROMs, online databases and electronic journals are subject to similar restrictions to those applying for print materials. In most cases the publisher or service provider will have limited their use by an individual license agreement, which will often cover copying or downloading. Users should read any copyright information provided, and seek advice from Library staff if specific instructions are not given.

Moral rights

An individual author of a copyright work will also have certain “moral rights”. The two most important rights are:

- the right to be identified as the author (though the author needs to “assert” this right). A failure to so identify will amount to an infringement of the author’s moral rights. Even if you have the copyright owner’s permission to reproduce the work, the obligation to identify the author will remain.
- the right to object to derogatory treatment of the work (this can include any deletion, addition, alteration to the work which affects the reputation of the author). If a derogatory treatment of the work is made public, it will infringe the author’s rights.

Unlike copyright itself, moral rights cannot be assigned and remain with the author.

Performance rights

In broad terms, performance rights will come into being when an individual gives a performance. A performance in this context would include a variety of different types of performance from a poetry reading to an improvised lecture.

Performance rights usually only need to be considered when a performance is to be recorded (either sound only or film). You will infringe an individual’s performance rights if, without their consent, you record their performance or play a recording (which was made without consent) in public.

Further Reading

Cornish, Graham.(2004) *Copyright: Interpreting the Law for Libraries Archives and Information Services*. London: Facet Publishing.

Padfield, Tim *Copyright for Archivists and users of archives*. 2nd edition, 2004. London: Facet Publishing.

The UK government’s official intellectual property website http://www.intellectual_property.gov.uk/

World Intellectual Property Organization <http://www.wipo.org/>

The Copyright Circle <http://www.copyrightcircle.co.uk/>

For those interested in pursuing the legislative background to copyright here is a list of relevant reading:

[Copyright, Designs and Patents Act, 1988 \(c.48\)](#)

[Statutory Instrument 1989/1212: The Copyright \(Librarians and Archivists\) \(Copying of Copyright Material\) Regulations 1989](#)

[Statutory Instrument 1995/3297: The Duration of Copyright and Rights in Performances Regulations 1995](#)

[Statutory Instrument 1996/2967: The Copyright and Related Rights Regulations 1996](#)
[Statutory Instrument 1997/3032: The Copyright and Rights in Databases Regulations 1997](#)
[Statutory Instrument 2003/2498: The Copyright and Related Rights Regulations 2003](#)
[Copyright \(Visually Impaired Persons\) Act 2002](#)

Disclaimer

The information contained within this document, is intended as general guidelines and an interpretation of current copyright issues. It is not intended and should not be construed as legal advice.

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Review schedule

Review interval	Next review due by	Next review start

Version history

Version	Date	Approved by	Notes
1	2005		

Contacts

Position	Name	Email	Notes
Head of Legal	Kevin Haynes	k.j.haynes@lse.ac.uk	Contact for copyright guidance

Communications and Training

Will this document be publicised through Internal Communications?	Yes/ No
Will training needs arise from this policy	Yes/ No
If Yes, please give details	