

## Nine things you need to know about copyright: A good practice guide for administrators, librarians and academics.

*It is impossible to work in a university and avoid coming into contact with copyright at some point, especially given the ease with which online content can be copied, pasted, streamed, downloaded and shared. [Chris Morrison](#) and [Jane Secker](#) provide a helpful explainer of copyright in universities and break down the complexity of how copyright works in practice.*



The [Association of University Administrators](#) (AUA) have just published our good practice guide to copyright. Our intention with the guide was to avoid plunging straight into the technical explanations of how copyright works and instead start off with a conversational explanation of the way in which copyright is experienced in educational establishments. We then thought it would work if we followed this with an explanation of the practical steps that professional services staff can take to do the right thing in what can sometimes be a confusing and worrying environment.



The whole document can be read online [here](#), and downloaded by AUA members [here](#), but this blog post provides a brief summary of the 9 things we think every university administrator (and in fact anyone who works with copyright material) should know about copyright:

### Nine Things You Need to Know About Copyright

#### 1. Copyright covers all fixed, original expressions of human knowledge and creativity for a limited time

Copyright is a law that protects any original creative human expression as recorded in a 'fixed' form (i.e. written down, recorded or saved to digital media). These are known as copyright 'works' and they include books, music, art, software, scholarly publications, films and broadcasts. Protection for copyright works is automatic (i.e. it doesn't need to be registered), but lasts for only a limited time so older works go out of copyright and pass into the 'public domain' (for more detail see the FAQs). The first copyright law was the Statute of Anne, introduced into British law in 1709 and its creation was prompted by the invention of the printing press and the need to regulate copying of literary works. The first words of the Statute said that it was "an act for the encouragement of learning" and even though copyright law has changed a great deal since then, it still has a major impact on those working and studying in education establishments. Copyright is the legal mechanism that governs the production, consumption and sharing of human knowledge and creativity within the industrialised global economy. If education and research is about ideas and the application of them to the needs of other humans and wider society, it is easy to see why it's impossible to work in a University and avoid coming into contact with copyright at some point.



**Image credit: Engineering Patent by ArtsyBee Public Domain**

## 2. It exists on the internet

It is a common misconception that copyright law does not apply to the internet. This is an understandable (and perhaps convenient) conclusion to reach, given the ease with which online content can be copied, pasted, streamed, downloaded and shared. However copyright laws throughout the world were updated around the year 2000 to clarify that making text, images, software, music, or anything else protected by copyright available on the internet, or even a closed computer network, is subject to copyright law. This has created a tension throughout the world.

In the old days before the invention of the World Wide Web we could get away without encountering copyright to any great extent. It was the preserve of professional artists/creators, media/publishing companies and other large organisations who could afford to produce and distribute creative works on a large scale. Universities were generators of copyright material, but this was largely about producing content for distribution by traditional publishing companies who handled the legal considerations. University librarians began to become more aware of copyright with the introduction of photocopiers and other reprographic technology in the 1970s and '80s. Now every administrator has access to a super-fast, global, decentralised copying machine (i.e. the Internet) in which content can be pulled from, pushed through, processed and stored without having to ask anyone's permission. However acquiring or sharing copyright content online without the permission of the copyright owner is risky, unless you understand the implications of these actions and take care.

## 3. Copyright governs certain types of 'usage' of copyright works

If a work qualifies for copyright protection, then there are a number of things which you cannot do with it unless you have the copyright owner's permission. These activities are described in UK copyright law as 'restricted acts' and the most obvious of these is the act of copying. The other restricted acts are described in more detail in the [FAQ section](#) and they cover the vast majority of things that someone might want to do with a copyright work, including publication, performance, sharing or acquiring online, renting and adapting. In short, if you want to use a copyright work in a way that is restricted by copyright, you need to have the permission of the copyright owner.

#### **4. There are resources you can use without asking for permission**

Although copyright does restrict usage, there are obviously ways in which copyright content can be, and is used widely, by those at educational institutions without getting into trouble. When copyright owners give permission for others to use their works, they do so under a legal agreement called a licence. A licence can take many forms, but in essence it says that someone (or a group of people) can do certain things with the work (or works) for a certain period of time, possibly in a specific place and sometimes for a fee.

Universities hold a great many licences which allow the legal use of large collections of copyright material. For example University libraries purchase subscriptions to electronic journals and e-books, IT departments purchase software and the institution is likely to hold a range of 'blanket' licences from a 'collective management organisation' such as the Copyright Licensing Agency (CLA). These blanket licences allow copying and use of whole classes of work, such as published books and journals, and represent a significant investment for Universities to ensure legal use of copyright content. It is likely that there is someone responsible for copyright in your Institution who can advise on these. Additionally, or alternatively, there may be other named individuals or teams who are responsible for the administration of these licences and can advise on whether and how they apply to what you are doing.

Although the licences described above mostly involve payment and are relatively restrictive, the open and shared nature of the internet has led to development of a range of 'open' licences which promote permissive use of copyright works. The most famous of these are the Creative Commons licences conceived by American lawyer and activist Laurence Lessig. These licences are described in more detail in the [FAQ section](#), but works made available under Creative Commons licences provide a hugely valuable resource and all of them are available free of charge under clear re-use terms. At the time of writing, there were over 1 billion works licensed under Creative Commons, including thousands of educational resources, millions of Flickr photos, and the entirety of Wikipedia.





**Image credit: *Creative Commons guiding the contributors*. This image is a derivative work of *Liberty Leading the People* by Eugène Delacroix. [CC BY-SA 3.0](#)**

Finally there are what we call the exceptions to copyright, which are legal provisions to do something without the copyright owner's permission when a licence is unavailable or inappropriate for the given use. These get a bit trickier because they require some thought, but are extremely important to all in education. More information on the exceptions is provided in the FAQs and the case studies, but the majority of them relate to the concept of fair dealing (note that the concept of 'fair use' comes from US law and is not directly relevant to the UK or other jurisdictions). That is, how the work would be dealt with by a fair-minded and honest person. Ideally a prudent yet pragmatic application of the copyright exceptions should be ingrained in your Institution's culture and processes as much as possible, and guidance and support on their use should be provided. However each Institution will have its own approach.

##### **5. All copyright works are equal in the eyes of the law, but some are more equal than others**

By this stage we have determined that many works are likely to be protected by copyright. In addition we have seen that the things that you want to do with those works (the usages) are often restricted by copyright law.

We have also determined that those usages might be acceptable under a range of licences and/or exceptions. However it is also important to consider the wider context. As we saw in point 1, copyright protection arises automatically in anything someone creates that is original and fixed. This therefore covers a huge range of things, from the mundane (e.g. a doodle drawn in a notebook) to a hugely intricate creative work involving thousands of people and representing millions of pounds of investment (e.g. a film or a piece of software). This is the reason why it is not possible to select a one-size-fits-all approach to working with copyright content – it covers so many different classes of work, created by very different people or groups of people for different reasons. Some copyright holders (e.g. Hollywood film studios) are likely to be much more concerned about protecting their copyright than others (e.g. someone posting contributions to a public website) and are also much more likely to have the resources to take legal action.

This is effectively the reason why it can be so hard to get a straight answer out of a lawyer or copyright adviser. If you ask the question "can I do this?" the answer will often be "it depends". Hopefully by now you will have seen some of the things it depends on; the type of work, type of usage, licences available, exceptions that might apply and

who the copyright owner is. In order to complete the picture you need to understand how the application of risk management relates to the use of copyright material.

## **6. The biggest risk is to reputation, but money still talks**

Risk management is about minimising unwanted outcomes and maximising benefits in an uncertain environment. In the context of copyright there are a number of uncertainties: whether what you are doing is an infringement of copyright, whether the copyright owner(s) will find out, whether the copyright owner(s) will object and what action they might take if they do.

The consequences of being caught infringing copyright will depend on a number of factors. It is unlikely for people to go to jail unless they engage in intentional, large scale infringement such as making or selling counterfeit goods. The most likely impact on an educational institution of its staff members being caught infringing copyright is on its reputation. This doesn't just cause embarrassment for the individuals involved, it can have serious consequences for the whole institution. A college that was recently found guilty of hosting copyright content on its website was made to [post an apology](#) on its website home page. Given the importance of a higher education institution's online presence for recruiting new students this is something that anyone would want to avoid.

The college in the example above was also made to pay a fine of £23,000 so money is still a major concern. Rights holders who do find infringing uses of copyright content usually calculate damages based on the number of people who have, or could have accessed their content and the going market rate for the material. Out of court payments from organisations to rights holders for infringing uses are often not publicly disclosed because they are by their very nature settlements made to avoid the embarrassment of public scrutiny. Anecdotal evidence suggests that at least one university agreed to pay a six-figure sum for the posting of commercially valuable content by a staff member on the institutional website.

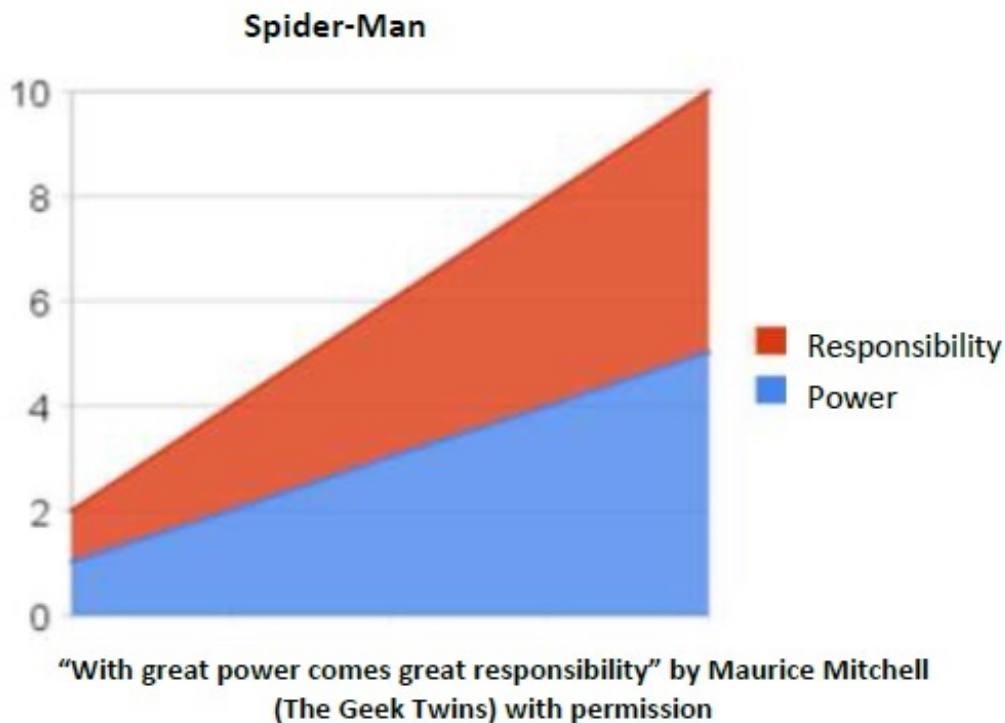
## **7. There is no such thing as zero risk, but you can get pretty close if you think about what you're doing.**

The concept of taking a risk based approach can often cause anxiety for those who work with copyright material on a regular basis ([Morrison & Secker 2015](#)). It is understandable why an employee would want to be given clear rules as to how to avoid getting themselves and their employer into legal difficulties. Although there is by definition no such thing as zero risk (even getting out of bed each morning incurs a risk that something undesirable might happen) there are a number of things that administrators in Higher Education can do which will effectively manage the risk of infringing copyright.

Firstly, it is important to know which copyright-protected resources are already available to you in your job and how to access these legally. As previously stated, Universities pay large sums of money for material to support teaching, research and wider engagement (such as library resources and stock image services) and it is in their best interests to ensure that employees are aware of the existence of this material and how to make best use of it. Creative Commons (or similar) licensed content is now an extremely useful resource and is becoming increasingly adopted by Higher Education to create material produced for a wide variety of purposes.

It is also worth referring to your Institution's guidance for social media if you use it as part of your role ([Recent guidance from UCISA](#) is also helpful and recommended). It is common for people to share copyright material on social media sites, but the terms of use of services such as Facebook and Twitter make it very clear that the responsibility to use content legally lies with the user. If you or your colleagues are posting infringing content on behalf of an official University account, then the risk of a rights holder objecting and taking action is higher than for a private individual. This is because of the likelihood that the rights holder would think the University should know better and also because of a belief that Universities have deep pockets.

## **8. Act responsibly**



In most cases you can avoid unpleasantness when working with copyright material by thinking about what you’re doing and, by acting in good faith, always citing your sources and attributing creators/rights holders. Although copyright can be seen as a system of arbitrary rules, particularly when using technology that allows the user to do lots of exciting things that the law says they shouldn’t, it is important not to lose sight of why it exists. Copyright is supposed to formalise a respect for creativity, to ensure that people only use others’ creative works with their permission, or in a way that provides a wider benefit to society.

It’s very important to use empathy when thinking about how to use copyright content. Consider why the material you want to use was created, think about how you would feel if you were the creator and somebody else wanted to use your work. People often make the mistake of suggesting to creators that the use of their works would be good for their ‘exposure’. This rarely goes down well – professionals see it as a way of justifying getting them to work for free and those who didn’t create for commercial purposes are unlikely to want wider exposure according to someone else’s agenda. Commercial companies, like textbook publishers aiming to sell their books to students, are likely to be financially disadvantaged if a University makes several chapters of a title available for free on its virtual learning environment (VLE). This is because students won’t buy the book.

This isn’t really as relevant when handling the more straightforward scenarios such as when you are relying on blanket licences (see point 4) or using material for which you already have permission. However, if you do need to seek permission or rely on a copyright exception, thinking in this way will get you most of the way to choosing the right path.

### 9. You are not alone...

...or at least you shouldn’t be. Do you have a Copyright Officer? Who, if anyone, in your Institution is taking responsibility for advising on copyright? If you don’t know the answers to these questions, you should ask them. The UK Higher Education Sector is very fortunate in having a large and active copyright support community who are always willing to help provide opinions or point people in the right direction. However it is very useful to have someone within your Institution dedicated to copyright support issues who can provide consistent advice. This person would ideally be able to develop copyright policy based on the types of questions they are asked and the

institution's attitude to copyright risk.

*This is an extract of the AUA Good Practice Guide to Copyright which can be accessed and downloaded by AUA members [here](#) and can be read online [here](#). The extract is reposted with permission from the copyright holders. The introduction to this piece first appeared on the blog [UK Copyright Literacy](#) and is reposted with permission.*

*Note: This article gives the views of the author, and not the position of the LSE Impact blog, nor of the London School of Economics. Please review our [Comments Policy](#) if you have any concerns on posting a comment below.*

## **About the Authors**

**Chris Morrison** is the Copyright and Licensing Compliance Officer at the University of Kent, responsible for copyright policy, education and advice, and is also a member of the UUK / Guild HE Copyright Working Group. He was previously Copyright Assurance Manager at the British Library and prior to that worked for copyright collecting society PRS for Music. Chris is the creator of [Copyright the Card Game](#), a game-based approach to understanding copyright.

**Dr Jane Secker** is the Copyright and Digital Literacy Advisor at LSE where she coordinates digital literacy programmes for staff and students including copyright training and advice. She is Chair of the CILIP Information Literacy Group, a member of the Libraries and Archives Copyright Alliance and the Universities UK Copyright Working Group, which negotiates licences for the higher education sector. She is widely published and author of four books, including *Copyright and E-learning: a guide for practitioners*, which was published in 2010 by Facet. The second edition (authored with Chris Morrison) is due for publication in June 2016.

Jane and Chris maintain the website [UK Copyright Literacy](#) and tweet as [@UKCopyrightLit](#)

- Copyright 2015 LSE Impact of Social Sciences - Unless otherwise stated, this work is licensed under a Creative Commons Attribution Unported 3.0 License.