

ULSTER UNIVERSITY

COPYRIGHT POLICY

2016/2017

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ULSTER UNIVERSITY COPYRIGHT POLICY

1. INTRODUCTION and DEFINITIONS

Copyright is an intellectual property right giving legal protection given to original intellectual and creative work by authors, artists, musicians, photographers and others. It exists to prevent the unauthorised reproduction of work and safeguards the rights of creators and owners to profit from their intellectual property. Only the copyright owner is entitled to authorise copying from an original work.

Original works are automatically protected by copyright law in the UK, whether or not the © symbol is used, and include:

- Written work such as books or articles
- Typographical arrangements of written work
- Artistic works such as paintings, drawings and photographs
- Moving images such as film, video and DVD
- Work in electronic form such as web pages, software and databases
- Music in written, recorded and electronic form.

Copyright in the UK is governed by the Copyright Designs and Patents Act (CDPA) 1988. The legislation has been revised to incorporate changes to UK copyright law made in 2014.

1.1 Definitions

The following definitions shall apply to this Copyright Policy:

- 1.1.1 Copyright Material: works protected by the Act including (without limitation) literary works, artistic works, broadcasts, films, typographic works, sound recordings, musical works and dramatic works that exist in paper or digital form.
- 1.1.2 Licence: the Higher Education Licence purchased by the University from Copyright Licensing Agency (CLA) which permits, with certain restrictions, the (non-profit) multiple copying or scanning of extracts from printed or digital books, journals and magazines. It does not cover music, newspapers etc. Full list available at CLA website.
- 1.1.3 Rightsholder: the legal owner of Copyright Material which in the first instance is the author(s) or creator(s) of the Copyright Material save that where Copyright Material is created by an employee in the course of their employment, the first legal owner is the employer.

2. POLICY STATEMENT

Ulster University is committed to acknowledging and protecting the copyright of Rightsholders including protecting Copyright Material created by or on behalf of the University where the University is the Rightsholder.

3. AIMS OF THE POLICY

The aims of this Policy are to set out:

- the University's approach to compliance with the Act;
- the responsibilities of staff, students and visitors to the University in the use of Copyright Materials in the course of their work, programme of study or visit to the University; and
- ownership of copyright in material relating to the University and its work.

4. RESPONSIBILITIES OF STAFF AND STUDENTS

Staff and students of the University and any visitors to the University are expected to read and understand this Policy and other related policies and, where required, to seek further clarification from the Copyright Officer whose details can be found at Appendix 1.

The Vice-Chancellor, Pro-Vice-Chancellors, Executive Deans, Heads of School, Research Institute Directors and Directors/Heads of support departments are responsible for having in place appropriate arrangements to ensure compliance with the Act within their areas of responsibility.

All staff, students and visitors to the University must apply the criteria listed below at all times:

- i) information on copyright compliance must be included in staff contracts and staff handbooks, in student handbooks, course and other relevant materials produced for students whether in hard copy or electronic form.
- ii) the requisite CLA notice must be displayed by all photocopying/multi-function devices (MFD) and scanning equipment in the Faculty, School or department it being the responsibility of Reprographic Services to ensure that this is the case (if you are unsure as to the current CLA notice required, please speak to the Copyright Officer).
- iii) the use of any photocopiers/MFD within the Faculty, School or department must not exceed the limits allowed by the Licence or infringe the provisions of the Act.
- iv) regular checks may be conducted by Reprographic Services on the use of photocopiers/MFDs to ensure that copying remains within the limits of the Licence.
- v) all scanning and other forms of electronic copying of Copyright Material must be within the limits permitted by and under the terms of the Licence or with express permission from the Rightsholder or under the terms permitted by the statutory exceptions set out in the Act (see Appendix 2 for further details of such exceptions).
- vi) staff, students and visitors must cite and reference Copyright Materials in line with accepted citation practice and must ensure that the appropriate permissions to utilise such materials are acquired before use unless such use is covered by statutory exceptions.
- vii) a standard University copyright statement must be included on any materials published by the University whether in hard copy or electronic format (please ask the Copyright Officer for details of the current Copyright statement required).
- viii) all software used within the Faculty, School or department must be licensed as

required and all such licences must fully comply with any specified terms or restrictions on use.

- ix) the Faculty, School or department must conduct regular checks on software licensed, loaded and used on all machines to ensure that all software is legitimate and licensed.
- x) computer workstation rooms and other areas of open access to computers must display a notice stating that *'copyright infringement is both a criminal and a civil offence. Only authorised software may be loaded and used on these computers'*. [is this done – could a statement be added to the staff/student desktop?]
- xi) Staff, students and visitors must report immediately to the Copyright Officer any suspected infringements of copyright or of the conditions of the University's Licence.
- xii) the Faculty, School or department responsible for arranging the visit of any third party to the University must ensure that this Copyright Policy is brought to the attention of the visitor prior to them being provided with access to any Copyright Materials.

5. COMPLIANCE

The infringement of copyright by any member of staff, student or visitor of the University may result in legal action against the individual or the University itself. Any breach of this Copyright Policy will be fully investigated and may result in disciplinary action.

Serious breaches may lead to dismissal, suspension or expulsion.

Breaches may also result in immediate, temporary or permanent withdrawal of your rights to use Copyright Materials available from the University.

6. OWNERSHIP OF MATERIAL RELATING TO THE UNIVERSITY AND ITS WORK

6.1 Course Materials

The copyright in course materials including aids to teaching produced by an employee in the course of their employment for the purposes of the curriculum of a course run by the University and produced, used or disseminated by the University belongs to the University. However, the copyright in any material produced by an employee for their personal use and reference shall belong to the employee.

6.2 Students' Work

Subject to clause 6.3 and to the provisions of the Intellectual Property Policy, copyright in materials produced by students during a programme of study at the University will reside with the student.

6.3 Research Theses

The copyright in the thesis produced by a research student will reside with the student. However, the University reserves the right to retain a copy of the thesis, in written or digital format, in the University Library. However, copyright in reports and other material arising from contract research may belong to the University or to the funding body depending on the terms of contract. Subject

to these exceptions the University does not claim the copyright in theses written by research students who will be able to transfer to publishers the copyright of items which they have produced.

Provided the copyright in such theses has not been assigned to a publisher and on approval of the research student, the University may use any theses for non-profit educational purposes such as teaching, research and general use if deemed appropriate subject always to the University's obligation to respect the moral rights of the research student in relation to such Copyright Material.

6.4 Scholarly Work

The copyright in any work or design compiled, edited or otherwise brought into existence by an employee as a scholarly work produced in furtherance of their professional career belongs to the employee. 'Scholarly work' includes items such as books, contributions to books, articles and conference papers, and shall be construed in the light of the common understanding of the phrase in higher education. However, copyright in reports and other material arising from contract research may belong to the University or to the funding body depending on the terms of contract. Subject to these exceptions the University does not claim the copyright in scholarly works written by employees who will be able to transfer to publishers the copyright of items which they have produced.

Provided the copyright in such scholarly works has not been assigned to a publisher and on approval of the employee, the University may use any scholarly works for non-profit educational purposes such as teaching, research and general use if deemed appropriate subject always to the University's obligation to respect the moral rights of the employee in relation to such scholarly works.

Any research or publishing queries should be directed to the Research Office of the University before proceeding with any agreement.

6.5 University Logo, Records and Materials

The copyright of the University's corporate identity i.e. the brand/logo artwork and other official material of the University shall at all times belong to the University. All records, documents and other papers (including copies and summaries thereof) which pertain to the finance and administration of the University and which are made by staff in the course of their employment are also the property of the University and the copyright in all such original records, documents and papers shall at all times belong to the University.

7. **POLICY IMPLEMENTATION**

The University will ensure that this Policy and the appropriate procedures are implemented and disseminated and are kept under regular evaluation and review.

8. **RECENT CHANGES TO UK COPYRIGHT LAW**

The UK government made a number of small legislative changes to update copyright law in 2014. The changes affect education and research, libraries, museums and archives, and public administration. Among the changes is a new exception for text and data mining, which requires lawful access to the content being mined.

The Intellectual Property Office (IPO) has published related guidance on topics

<http://www.ipo.gov.uk/copyright-exceptions.htm>

Including a section on education and teaching:

<http://www.ipo.gov.uk/copyright-guidance-education.pdf>

See also the IPO consumer guidance on the new exceptions:

An unofficial consolidated copy of the legislation incorporating the changes

<http://www.ipo.gov.uk/cdpa1988-unofficial.pdf>

has been deposited in the libraries of the Houses of Parliament. Copyright guidance on this website will be updated on an ongoing basis, as the impact of the changes on education and research are clarified, and good practice for the HE sector is established. Staff and students with questions about the changes in the meantime should contact the University's Copyright Officer.

9. FURTHER INFORMATION

A Copyright Compliance Guide is attached at Appendix 2 and sources of further information can be found on the University's Copyright website www.ulster.ac.uk/copyright/uuonly/guidance.html. This content is accessible within the University network only.

10. GUIDANCE FOR TEACHING MATERIAL ON BLACKBOARD LEARN

Make the process simple!

When preparing any teaching material, you should start the process by talking to your Faculty Sub-Librarian who will be able to help source materials and direct you to the Library scanning service that complies with our CLA Licence and will significantly remove the risk of copyright infringement. Further information on the scanning service is available from: <http://library.ulster.ac.uk/scanning/>

Here is a useful JISC guidance website that can assist with planning the use of images etc. in the VLE (Blackboard Learn) – 'Roles and Responsibilities for Staff Using Images for Teaching and Research'

<http://www.jiscdigitalmedia.ac.uk/guide/roles-and-responsibilities-images-for-teaching-and-research/>

If you are uncertain about the copyright status or origin of an image, article, book chapter, audio, video etc. then please avoid using it on Blackboard until you have consulted with your [Subject Librarian](#) or Copyright Officer.

The University also has a guide specific to preparing teaching material available in the VLE or copyright web page:

Copyright Guidance for Teaching Material on Blackboard Learn

CONTACTS
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Copyright Services Development Manager - Copyright@ulster.ac.uk

Faculty Sub-Librarians (http://library.ulster.ac.uk/contact/contact_subject.php)

BlackBoard Learn Helpdesk

The nature of Copyright

Copyright in the UK is automatic (i.e. there is no registration required) and work is legally protected under the Act the moment it is created in material form. Copyright is a property right.

Works protected by copyright include literary works, artistic works, broadcasts, films, typographic works, sound recordings, musical works, and dramatic works.

Most works must be original to attract copyright protection.

A work can only be original if it is the result of independent creative effort. It will not be original if it has been copied from something that already exists. If it is similar to something that already exists but there has been no copying from the existing work either directly or indirectly, then it may be original.

In general, the legal owner in the first instance is the author/creator of the work. Copyright law gives such creators the right to control their work and enables them to profit from its use. IP (Intellectual Property) created by the University's employees shall be owned by the University if the IP was created in the course of the employee's normal or specifically assigned duties. Copyright in any material produced by an employee for their personal use shall belong to the employee.

It should be noted that more than one person may own the copyright if the work has joint creators in which case the rights of each creator need to be taken into account.

Copyright protection in the UK generally lasts for 70 years from the end of the year of the death of the author. However, different types of copyright may last for shorter periods than this and if you are in any doubt please seek the advice of the Copyright Officer (see Appendix 1).

Copyright law gives the author/creator a number of rights which pertain to them alone. These rights are also known as 'restricted acts' which only the owner can authorise. Among these rights are:

- the right to make a copy of the work;
- the right to issue copies to the public;
- the right to communicate the work to the public by electronic transmission;
- the right to perform, show or play a copyright work in public.
- the right to make an adaptation
- the right to rent or lend

Copyright Infringement

Copyright infringement takes place when a restricted act occurs without the permission of the copyright owner and can occur where either the whole or a substantial part of a work is used without permission, unless the copying falls within the scope of one of the copyright exceptions. The Act does not define what constitutes a "substantial part" but according to the courts it means "a qualitatively significant part of a work even where this is not a large part of the work". As a result it

is quite likely that even a small portion of the whole work will still be a substantial part.

The outcome of infringement may be an informal settlement or an action for damages. It should also be borne in mind that deliberate infringement of copyright on a commercial scale may be a criminal offence and give rise to prosecution. As a result certain breaches of this Copyright Policy may result in disclosure of that breach to the relevant law enforcement authorities (if the University considers it necessary to do so). This may in turn result in legal proceedings being taken against you and should such proceedings also involve the University, the University reserves the right to seek reimbursement from you (on an indemnity basis) of all costs (including, but not limited to, reasonable administrative and legal costs) incurred by it as a result of your breach of this Copyright Policy.

As users of Copyright Material in connection with the University it is important to avoid copyright infringement. Please therefore note that you can only copy if:

- you hold the right to do so;
- or, copyright in the material concerned has already expired;
- or, you have the permission of the Rightsholder;
- or, the copying falls within the terms of the University's HE Licence from the Copyright Licensing Agency;
- or, the copying falls within one of the statutory exceptions.

In particular, please note that most software and computer programs are protected as copyright works.

Copyright Licences

The easiest way to obtain permission to use Copyright Materials is to buy a licence from an agency such as the CLA (Copyright Licensing Agency) which will indemnify the user in return for an annual payment. The University has obtained an HE Licence from the CLA which permits members of the University to copy or scan Copyright Material subject to a number of constraints (appendix 3).

When providing information on a virtual learning environment (VLE), teaching staff should **ONLY** provide links to, not copies of digital Copyright Material (other than that Copyright Material scanned under the CLA HE Licence).

The University has an ERA (Educational Recording Agency) licence. This enables designated users to make recordings from broadcasts made in the UK of works and performances owned or represented by ERA members. The licence permits electronic communication of licensed recordings within the University. Recordings may not be shown to students off-campus under the particular licence held. The licence does not cover on-demand services.

Statutory Exceptions and Fair Dealing

As mentioned above there are a number of **exceptions** in the Act which allow limited use of Copyright Materials without the permission of the Rightsholder these including:

- Non-commercial research and private study.
- Criticism and review
- Reporting current events.

There is no blanket exception for teaching but there are specific exceptions. These include:

- Copying for examinations or summative assessment i.e. for setting or answering (cannot be used for coursework or formative assessment)
- Copying for instruction only if it is done in longhand (i.e. no copying by a photocopier or by electronic means).
- Helping visually impaired people.

These statutory exceptions permit use of Copyright Material providing they involve fair dealing. 'Fair dealing' is not defined in the Act but the courts have generally considered the extent to which the copying activity is likely to be economically prejudicial to the copyright owner to decide whether this condition is met. **Making more than one copy is unlikely to be fair dealing.**

Fair dealing is NOT to be considered a right. It generally requires that the user gives sufficient acknowledgement of the author and title of the quoted work.

Comparison between our Licences' and Fair Dealing

The availability of licensing schemes are underpinned by copyright exceptions which mean that, where a particular work is not covered by a licence, an educational establishment is still able to copy it. This means that academic staff do not have to check the terms of each item they want to copy before they copy it.

Changes to the law made in 2014 apply these exceptions to a wider range of copyright works which were previously not covered – such as artistic works (including photographs), films and sound recordings. They also permit sharing of copies over secure distance learning networks. In order to carry out these activities, universities simply need to make sure they hold the relevant licences.

The previous law also allowed limited copying of literary, dramatic, musical or artistic works for the purposes of teaching, provided it was not by means of a reprographic process. This meant copying by hand was permitted, but the use of laptops and interactive whiteboards was not. The previous law has been replaced with a general "fair dealing" exception, allowing copying of works in any medium as long as the following conditions apply:

- the work must be used solely to illustrate a point;
- the use of the work must not be for commercial purposes;
- the use must be fair dealing; and
- it must be accompanied by a sufficient acknowledgement.

Before You Copy

Essentially when you come across Copyright Material you would like to use ASK the following:

- Who owns it?
- Can you use it under the statutory exceptions? (The main ones have been listed above).
- Does the University have permission or licence to allow you to do what you wish to do with it?

If the Copyright Material is on a website look at the terms of use on that website. If there is not a licence or permission or statutory exception then do NOT reproduce the Copyright Material of a third party. (Even storing the work without the permission of the owner may constitute copyright infringement.) Copying third party material may result in the University and yourself being pursued for infringement. This may include claims for damages.

Web 2.0

In the Web 2.0 environment copyright still applies. Web 2.0 technologies use content from different sources to create new Copyright Material which has a multiple layering of rights from different creators. These multiple rights will require multiple permissions.

If you place Copyright Material online without permission or licence or statutory exception you may be liable for copyright infringement. Innovative activity may need to be withdrawn or hidden due to copyright infringement.

If you encourage students to place Copyright Material online without permission or licence or statutory exception this would be regarded as bad practice. There may also be institutional liability.

When placing Copyright Material online consider the following -

- Be mindful who owns the Copyright Material.
- Be mindful of what other people can do with your work.
- Be careful where you place Copyright Material relating to your work.
- Are there people you would not wish to see it?
- Is the Copyright Material of a sensitive or confidential nature?
- Is the web space suitable for the information that is being posted?
- Do you wish to share this information with millions of people?

Copyright in material created by staff in the course of their employment will belong to the University unless there is an agreement to the contrary. (See CDPA 1988s11 (2)) Students own the copyright in the work they produce. (See CDPA1988s11 (1)) Where the student is required to “hand over” their IP to the University as a condition of enrolment is likely to be invalid in law.

At the outset of any collaboration make clear who is to own the IP produced using Web 2.0 technologies.

Under the Act, copyright in a commissioned work belongs to the author of the commissioned work (unless there is an agreement to the contrary.)

Guidance Available

There is a set of FAQ'S on practical detailed aspects of copyright on the University's copyright website at www.ulster.ac.uk/copyright/uuonly/guidance.html. This content is accessible within the University network only

If you have questions about copyright contact the Copyright Officer at copyright@ulster.ac.uk

The University holds a licence with The Copyright Licensing Agency Ltd (CLA) that, subject to terms and conditions, permits the copying and re-use of extracts of text and still images from books, journals and magazines (print and digital), and from digital publications including some free-to-view and subscription.

The purpose of the licence

- The licence is intended to broaden and enrich students' learning experience, by enabling HEIs to provide greater and easier access to copyright materials than would otherwise be possible. Two ways in which they can do this is by creating course packs and by putting reading material on VLEs.
- Any material held by an HEI and covered by the licence may be used in these ways, subject to certain limitations that are explained in the User Guidelines (please refer to section below 'How much can I copy?').
- Course packs provide a particularly valuable way of enabling students to read around a subject, providing them with greater context and depth. Course packs may include chapters from student textbooks and are likely to include a substantial proportion of material in the form of extracts from learned/research journals/monographs.
- However, this provision is not intended to be used to create course packs comprising extracts that, as a collection, cover substantively the same material as a standard textbook – even if individual extracts are within the licence limits. Depending on the nature of the course, such use would offer students a real alternative to the likelihood of otherwise buying one or more textbooks.

What can I copy?

- The Licence covers most printed books, journals and magazines published in the UK, plus many published overseas and a large number of digital publications
- You can check whether an item is covered by your CLA Licence by using the Check Permissions search tool, available at:
<http://he.cla.co.uk/check-permissions/>

How much can I copy?

Up to the following may be copied under the Licence:

- One whole chapter from a book
- One whole article from a journal issue
- One short story, poem or play (not exceeding 10 pages in length) from an anthology
- One whole scene from a play
- One whole paper from a set of conference proceedings
- One whole report of a single case from a volume of judicial proceedings

Or **10%** of the total publication, whichever is the greater

- Where a digital publication is not organised in a similar way to conventional printed items, you are advised to exercise your best judgement to copy reasonable extracts.

Can anyone at the institution copy under the Licence?

- Photocopies may be made by all staff and students.
- Digital copies (whether made by scanning from print or copying from digital publications) may only be made by members of staff who have been specifically trained in this role. The Library provides a centralised scanning staff for copyright material. Contact your [Subject Librarian](#) for details.

Who can I make copies for?

Copies may be distributed to registered students and members of staff, with strict reference to a Course of Study.

What to do if in doubt

- For most courses there will normally be at least one textbook (usually more) considered to be Required, Essential or Core reading. If there is no recommendation in this respect, it may be that the course pack would replace the need for a student to purchase any textbook.
- However, it is recognised and accepted that there are some courses not covered by a relevant textbook, or where there are only a small number of extracts from one or two textbooks that are relevant. Use of the licence to support courses of this nature is entirely appropriate.
- It is recommended that a comparison is made of the proposed course pack with those textbooks, if any, on the subject. If the course pack covers the same ground as the textbooks, and does so at the same level, then there is a need to consider carefully whether it is thought that a student with the course pack would still need a textbook.
- If it seems likely that he or she may not, then there may be a need to reconfigure the course pack – one way of doing this would be to remove some of the material from textbooks and replace it with journal articles or other material for 'reading round the subject'.
- The CLA Licence Co-ordinators at HEIs can offer further guidance and advice. If necessary, they will consult with CLA's Education Team, which has undertaken to provide support and assistance in a timely manner