



Intellectual
Property
Office

Introduction to copyright and exceptions

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Copyright protects...

Original literary
works

Original dramatic
works

Original musical
works

Original artistic
works

Original = 'the
author's own
intellectual
creation'

Films

Broadcasts

Sound recordings

Published Editions

Performances

What is not protected by copyright?



Ideas – only the expression of the idea is covered



Facts and data



Works where copyright has expired, or the right holder has chosen to make it available without restriction

How long does copyright last?

Type of work	How long copyright usually lasts
Literary, dramatic, musical and artistic work	Lifetime of the author, plus 70 years
Sound and music recording	70 years from when it's first published
Films	70 years after the death of the director, screenplay author and composer
Broadcasts	50 years from when it's first broadcast
Layout of published editions of written, dramatic or musical works	25 years from when it's first published
Unpublished works	Lifetime of the author, plus 70 years [or 2039 (if the creator died before 1969 and work unpublished before 1989) – whichever is later]

Why does copyright matter for your project?

Projects can be all shapes and sizes: an exhibition in a polyclinic, an app to engage younger patients, digitising a local archive etc.

You will need to know the copyright status of the underlying works.

Then you can decide whether you can rely on an exception or need permission.

Who owns copyright? Generally the creator, except:


Films: producer & principal director; sound recordings: producer; broadcasts: broadcaster; typographical arrangements: publisher; **Crown copyright: monarch**


The employer will own the copyright of a work if an employee produces it in the course of their employment


A contractor, a consultant or other third party will retain ownership unless their contract is explicit to the contrary


The creator assigns (transfers) their rights to another party e.g. publisher


Licensing copyright works

 Permission usually granted in the form of a licence (NB remember website terms and conditions)

 Licences can be exclusive or non-exclusive

 Usually a licence fee, but some free e.g. Creative Commons, **Open Government Licence**

 Collective Management Organisations (CMOs, aka Collecting Societies) license on behalf of their members

 If you cannot find the rights holder, you can apply to the IPO for an orphan works licence

Orphan Works Licensing Scheme

Run by the IPO: anyone can obtain a licence to use orphan works in the UK, commercially or non-commercially, for a maximum of 7 years

Online application, diligent search must be completed and uploaded, and an application fee paid (£20 for one work, rising to £80 for 30 works)

Non-commercial use £0.10 + VAT. Commercial licence fees reflect fees in the market as far as possible. Licence fee only payable if application is successful.

Licence fees are held by the IPO for 8 years in case the right holder comes forward

Copyright exceptions

Allow people to use works for certain purposes without needing permission from the rights holder

Provide balance to the copyright system

Must comply with the three-step test:

- relate to certain special cases
- which do not conflict with a normal exploitation of the work
- and do not unreasonably prejudice the legitimate interests of the rights holder

Around 50 exceptions in the Copyright, Designs and Patents Act 1988

Exceptions useful for individuals (fair dealing)

Non-commercial research/private study: single copies can be made of copyright works for research and private study (educational or leisure); attribution/acknowledgement required **NB Text and data mining**

Quotation/criticism and review/news reporting: work must have been published/made available to the public and does not apply to photographs; attribution required where possible

Disability: A disabled person or someone acting on their behalf may make an accessible version of a literary, dramatic, musical or artistic work that allows them to access the work, such as a Braille version

Parody, caricature and pastiche

Fair dealing – not fair use!

Certain exceptions (e.g. quotation, parody, research, etc.) only apply if the use is a ‘fair dealing’

There is no statutory definition of fair dealing - it will always be a matter of fact, degree and impression in each case. The questions to be asked:

- how would a fair-minded and honest person have dealt with the work?
- does using the work affect the market for the original work? If a use of a work acts as a substitute for it, causing the owner to lose revenue, then it is not likely to be fair
- is the amount of the work taken reasonable and appropriate? Was it necessary to use the amount that was taken?

Fair dealing ultimately decided by the Courts on a case-by-case basis

Exceptions useful for libraries, archives, museums

Archiving and preservation: any copyright work in your permanent collection that is not available on loan to the public may be copied for preservation purposes if it cannot readily be replaced

Research and private study: works may be copied onto a dedicated terminal to provide access to users for research and private study

Recordings of folksongs: a recording may be made for the purpose of archiving of folksongs; words must be unpublished and of unknown authorship

Public reading or recitation: copyright is not infringed if it is a reasonable extract from a published literary or dramatic work; attribution required

Exceptions useful more widely

Education: copyright is not infringed if it is to illustrate a point for instruction and it is not done for commercial purposes; also subject to fair dealing.

Anonymous works: if it is not possible to ascertain the identity of the author and it is reasonable to assume that copyright has expired/more than 70 years have passed since the author died, copyright will not be infringed by relevant acts

Incidental use: copyright is not infringed by incidental inclusion in an artistic work

'Panorama': copyright not infringed by photographing or making other artistic work of it, if permanently situated in public place or premises open to the public; applies only to buildings, sculptures and works of artistic craftsmanship

Any questions?

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