Copyright Basics for

Researchers

Level: N/A

Table of Contents

[Executive Summary 3](#_Toc86854240)

[Introduction 4](#_Toc86854241)

[1. Do I need to register my work, so it can be copyright protected? 5](#_Toc86854242)

[2. Copyright in relation to Research Outputs 6](#_Toc86854243)

[3. Can I copy materials for private study and my own research? 7](#_Toc86854244)

[3.1: How much can I copy? 7](#_Toc86854245)

[4. Using other people’s work in your thesis 8](#_Toc86854246)

[5. Text and datamining for non-commercial research purposes 9](#_Toc86854247)

[6. Obtaining permission to use other people’s work and work(s) where the copyright owner is unknown (Orphan Works) 10](#_Toc86854248)

[6.1 Obtaining permission from a rights holder 10](#_Toc86854249)

[6.2 Orphan Works 10](#_Toc86854250)

[7. I’m delivering a presentation at a conference, should I be concerned about copyright? 11](#_Toc86854251)

[Appendices 12](#_Toc86854252)

[Copyright (UK Law) 12](#_Toc86854253)

[Fair Dealing 13](#_Toc86854254)

[What are Creative Commons (CC), and should I make use of materials that have licences attached to them? 14](#_Toc86854255)

[How can I find out more information about Open Access? 14](#_Toc86854256)

# Executive Summary

The purpose of this document is to advise post graduate research (PGR) students around their ownership of copyright and Intellectual Property Rights (IPR) in the work they produce. This is complimented by advising on to what extent the UK copyright exceptions can be employed and going over what Orphan Works are. Below are key points found with in this document.

* There is no requirement register works for copyright in the UK, as this protection is automatically generated when a work is available in a ‘fixed’ format. You can have further protection, by choosing to use the internationally recognised copyright symbol “©” when making your work available
* UofG PGR students who are not employed by the University will own any IP they create (including research outputs). Unless this is governed by a third-party agreement (e.g., funding or sponsor), or other factors that bestow an interest in the IP. You can further information regarding this in the University’s [IP and Commercialisation Policy](https://www.gla.ac.uk/media/Media_185772_smxx.pdf) (section 9).
* The UK copyright exceptions can allow excerpts of copyright protected material to be used for [non-commercial research and private study](https://www.legislation.gov.uk/ukpga/1988/48/section/29), providing the usage aligns to fair dealing factors.
* Text and datamining are permitted through the UK copyright exception ([29a](https://www.legislation.gov.uk/ukpga/1988/48/section/29A)). Which allows researchers (who have lawfully acquired the materials, e.g., journal subscriptions), to use automated techniques, for the purposes of non-commercial research.
* It is advised to obtain written permission from a copyright owner when seeking permission to use their work in your thesis (or other materials). Ensure you set aside adequate time for this process, as it can potentially take months for permission to be granted. If you do not receive a reply from a copyright owner, don’t assume that its ok for you to use their material – you’ll need to try and contact them again, or find alternative(s) sources.
* When the owner(s) of copyright protected work cannot be identified, they’re referred to as “Orphan Works”. There are UK licencing schemes and exceptions that can enable you to make them available. However, you should assess the associated risk when making use of Orphan works and ensure you comply with UK Governments “[due diligence](https://www.gov.uk/government/publications/orphan-works-diligent-search-guidance-for-applicants)” when conducting a search.

# Introduction

The purpose of this document is to provide UofG Post Graduate Research (PGR) students with an overview of how Intellectual Property (IP)/copyright ownership is applied to their materials from a UofG perspective. Following on from IP, is the exploration of UK copyright exceptions which allow 3rd party materials to be used for research and private study, along with examining text and datamining. Finally, guidance is provided around what actions can be taken if you want to use a price of work, but the copyright owner cannot be identified.

**Before continuing onto the remainder of the document, please examine the key points below regarding its content:**

* None of the text and content within this document should be considered legal advice.
* The law surrounding the UK Copyright exceptions is open to interpretation, there is no binary ‘yes’ or ‘no’ answer as to how the exceptions can be applied.
* The text contained within this document should not been interpreted as instruction or dictation, but as guidance which you can choose to consider when you are planning to utilise the UK Copyright exceptions for the purpose associated with this document.

# 1. Do I need to register my work, so it can be copyright protected?

There’s no need to register your work, as copyright is assigned automatically (under UK Law), when a work is created in a fixed format (i.e., a photograph taken using a mobile phone). Several steps can be taken to demonstrate evidence that you created the work at a specific point in time.

One of the steps that you can employ is to add the internationally recognised copyright symbol “©” when you’re publishing or making your copyright protected work available. On a similar theme, you could add a watermark to your documents and images to further indicate they’re protected by copyright. Finally, you could produce a copyright notice to deter possible infringement and make it clear your work is protected. A copyright notice demonstrates you have an awareness of copyright and take any infringement seriously.   
  
The UK Copyright Service, have guidance you can refer to when writing your copyright notice, which can be viewed at the following webpage: [Using Copyright Notices](https://copyrightservice.co.uk/copyright/p03_copyright_notices).

***N.B, a fuller explanation of how copyright is created (UK Law), can be viewed in the appendices section of this document.***

# 2. Copyright in relation to Research Outputs

Research Outputs such as, papers, datasets, images, documents, and publications are likely to receive automatic copyright protection. Depending on the type of research output, it may be eligible for intellectual property protection – examples could in include a new drug you’ve developed, created an innovative software application.

Regarding the ownership of Intellectual Property (IP) for work created, the University’s policy is that PGR students who are not employed by the University own their IP unless this is governed by a third-party agreement (e.g., funding or sponsor), or other factors that bestow an interest in the IP. In some circumstances students may choose to assign their IPR to the University, in which case the institution (University) gets the same rights as an employee inventor as set out in the IP policy (link below).

Full details around the ownership of IP with work created at UofG, can be found in the [University’s Policy](https://www.gla.ac.uk/media/Media_185772_smxx.pdf).

For further guidance and assistance relating to IPR, you should examine and contact (if required), the [Research and Innovation Services](https://www.gla.ac.uk/myglasgow/ris/) (RIS), who offer a supportive environment for researchers.

**Useful Copyright and IPR related Links:**

* [Introduction Intellectual Property FAQ for Postgraduate Research (PG) students](https://www.gla.ac.uk/research/ourresearchenvironment/prs/intellectualproperty/ipfaqs/)
* [Flowchart: who owns Intellectual Property Rights (IPR), UofG context](https://www.gla.ac.uk/media/Media_195589_smxx.pdf)
* [Permission Templates for including third party material in both versions of your thesis (Enlighten)](https://www.gla.ac.uk/myglasgow/research/enlighten/theses/permission/)

# 3. Can I copy materials for private study and my own research?

Yes, copying limited excerpts of copyright protected material is permissible, providing the intended use is for **non-commercial research and private study**. The UK copyright exception [Section 29](https://www.legislation.gov.uk/ukpga/1988/48/section/29), is what permits the copying conditions outlined in the previous sentence, however you must make sure the use would align to “[Fair Dealing](https://www.gov.uk/guidance/exceptions-to-copyright#fair-dealing)”. Below are some factors that you must consider when trying to determine if your use is “Fair”.

* Only use the amount of work required to fulfil your purpose, i.e., don’t copy pages of a book unnecessarily, if you all you need is two sentences to illustrate your point.
* Would your usage damage the interests of the creator, and impact them negatively financially?
* Always provide attribution (citation) for the creator and their work unless it is impossible or impractical to do so.

## 3.1: How much can I copy?

There is no legally defined amount or exact percentage of what can be copied under fair dealing exceptions. Its at this point you should refer to the guidance around Fair Dealing and consider the factors we previously looked at (shown below):

* Only use the amount of work required to fulfil your purpose, i.e., don’t copy pages of a book unnecessarily, if you all you need is two sentences to illustrate your point.
* Would your usage damage the interests of the creator, and impact them negatively financially?
* Always provide attribution (citation) for the creator and their work unless it is impossible or impractical to do so.

# 4. Using other people’s work in your thesis

**The steps outlined below; is the suggested process you should take if your thesis contains material(s) for which you don’t own the copyright to, e.g., diagrams, charts, illustrations.**

1. Has the copyright expired? Copyright lasts for a set period of time, after which the work “falls” into the public domain, with no types of restrictions. View this [document](https://edshare.gla.ac.uk/id/document/2412) to examine more information about the varying lengths of copyright associated with different types of work.
2. Get written permission from the creator/rightsholder, to use their copyright protected materials in your work. Before starting this process, it is important to determine who owns the work, e.g., author, photographer, or publisher? For printed materials [PLS Clear](https://plsclear.com/), may be of some use, and for web-based material, you should examine the terms and conditions.

Once you have determined who the copyright owner is, factor in the following:

* The length of time for obtaining permission may vary, it could take from several days, to weeks or months. Allow for adequate time, and if you don’t receive a response, do not assume its ok to use their work.
* Be exact about your intended use, provide as much detail as possible
* Consider how you will use the material: if a fee is involved, then it may not be suitable for use in your thesis

Make use of this [template](https://www.gla.ac.uk/myglasgow/research/enlighten/theses/permission/) when requesting permission from a rights holder/ copyright owner to use their work in your thesis.

1. Find an alternative source. Whether it’s a piece of text, image, video, or audio, it’s worthwhile taking time to search online for more openly licenced alternatives, e.g., [Creative Commons licenced](https://creativecommons.org/licenses/) materials.

***N.B, this*** [***document***](https://edshare.gla.ac.uk/id/document/5522) ***contains lists of online sources for copyright free, images, audio   
 and video.***

# 5. Text and datamining for non-commercial research purposes

This UK Copyright exception ([29A](https://www.legislation.gov.uk/ukpga/1988/48/section/29A)) allows researchers to copy a work in order to analyse it using automated techniques, for the purposes of non-commercial research. Data and text mining technologies can be utilised, without the risk of infringement. Journal subscriptions are still required (personal or institutional), as you must have lawful access to the copyright protected work.

When a work is copied, sufficient acknowledgement must be provided, unless it is impossible to do so.

**Additional notes about this UK copyright exception:**

* Providing you’re datamining in line with the Copyright Exception (s.29A), licences cannot remove the right to Data Mining under [articles](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32019L0790&from=EN) within the European Digital Single Market Directive.
* Its worthwhile checking the licence agreement associated with the work, as some of the terms may afford more rights than the Data Mining exception. For example, some publishers of databases have clauses in their licences that stipulate, derived output (a database) from text and datamining activity, the Copyright/IP is owned by the researcher under normal institutional practice.
* **This exception cannot be overridden by contract terms**. To clarify, this means you can ignore what publisher contract/subscription or licences says. This is because the law changed in 2014, stating that the UK copyright exceptions that have “no contractual override” associated with them cannot be overridden by contracts or licence agreements. For further information, please visit the following CILIP webpage: “[Copyright law gets the upper hand - how contracts can no longer remove many rights users have in UK](https://www.cilip.org.uk/news/479875/Copyright-law-gets-the-upper-hand---how-contracts-can-no-longer-remove-many-rights-users-have-in-UK-.htm)”

# 6. Obtaining permission to use other people’s work and work(s) where the copyright owner is unknown (Orphan Works)

## 6.1 Obtaining permission from a rights holder

As touched on section 4 (page 8), you should obtain the copyright owners permission if you intend to use their work in your thesis or research outputs. When obtaining permission you should ensure its written, as other forms (e.g., verbal), wouldn’t stand up to scrutiny in a court of law. Written permission doesn’t have to be a printed-out form or formal contract, an email that contains the date of agreement will suffice.

Make use of this [template](https://www.gla.ac.uk/myglasgow/research/enlighten/theses/permission/) when requesting permission from a rights holder/ copyright owner to use their work in your thesis.

## 6.2 Orphan Works

In some instances, it may not be possible to identify the copyright owner of a piece of work(s) you would like to use. These types of works are referred to as Orphan works, and there are UK licencing schemes and exceptions that can enable you to make them available. There are, however, disadvantages to making use of these schemes and exceptions, as you may be required to make a risk-based assessment when choosing to make the content available, when you haven’t cleared the rights (gained written permission). Aside from the potential associated risk, you should also ensure you’ve adhered to the UK Governments “[due diligence](https://www.gov.uk/government/publications/orphan-works-diligent-search-guidance-for-applicants)” , when conducting a Orphan works search.

**N.B, view this** [**document (Seeking permission for Copyright protected works & Orphan works)**](https://edshare.gla.ac.uk/id/document/5530)**, for more detailed information about obtaining written permission and due diligence relating to Orphan works.**

# 7. I’m delivering a presentation at a conference, should I be concerned about copyright?

Yes, best practice should be adhered to when you’re incorporating other peoples work into your research. You should ensure you’ve obtained permission to use 3rd party copyright protected materials. Considering associated risks is advisable, i.e., is the conference going to be recorded and shared online? If this is the case, then the associated risk will be higher. However, you could consider making use of the UK copyright exceptions that fall under [Fair Dealing](https://www.gov.uk/guidance/exceptions-to-copyright#fair-dealing), to defend the use excerpts of work.

# Appendices

## Copyright (UK Law)

Copyright is a legal protection, automatically assigned to a piece of work as soon as it is in a fixed format (e.g., written or recorded). Copyright protects the works of authors and performers for a spec Copyright is a legal protection, automatically assigned to a piece of work as soon as it is in a fixed format (e.g., written or recorded). Copyright protects the works of authors and performers for a specific period of time. The current copyright legislation in the United Kingdom is the [Copyright and Patents Act 1988](http://www.legislation.gov.uk/ukpga/1988/48/contents). The act has been amended several times, so it is important you consult the most up to date version.

There are currently four areas, which must be met for your work to receive copyright protection, these are listed below:

1 of 4. **Original** – The work must be original, i.e. you must have created it and not copied from anyone else.

2 of 4. **Fixed** - Copyright does not protect ideas. Works must be presented in a physical form in order to receive copyright protection.

3 of 4. **The types of works that are currently protected** - Copyright protects work that fall under one of the categories below:

* Literary Works
* Dramatic Works
* Musical Works
* Artistic Works
* Sound Recordings
* Films
* Broadcasts
* Typographic arrangements of published editions
* Websites

4 of 4. **UK Nationality, domicile or residence or first publication in the UK** - For a work to be protected under the UK's copyright laws, the author's nationality, domicile or residence must be in the UK or else the work must have been first published in the UK (this would include where it has been simultaneously published elsewhere within 30 days).

Copyright exists automatically when qualifying work is created, but many people use the copyright symbol to make this clear, e.g. ‘John Smith ©

## Fair Dealing

Fair Dealing is a legal framework designed to allow the lawful use of copyright protected work without having to seek permission from the author under certain circumstances. Sufficient acknowledgement must be provided to the author when their work is used unless it is impossible to do so.

There is no legal definition of what Fair Dealing is, however the [CDPA](https://www.gov.uk/guidance/exceptions-to-copyright#fair-dealing) does refer to some case law (a legal test) which does provide some factors that should be considered when trying to decide if a use is considered fair or not. A direct quote of these factors can be viewed below:

* *“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? Usually, only part of a work may be used”*

*N.B., unless it is impossible to do so, you must provide attribution (credit)*

Aside from the above ‘Fair Dealing factors’, you could also consider implementing the following technical measures to help increase the usage being considered “fair”.

Wherever possible try to make use of [low-resolution](https://www.computerhope.com/jargon/l/low-resolution.htm#:~:text=%22Low%20resolution%22%20is%20a%20relative,may%20appear%20blurry%20or%20indistinct.) copies of images.

## What are Creative Commons (CC), and should I make use of materials that have licences attached to them?

From the perspective of someone who is using materials that have a Creative Commons licence associated with them. They allow you to reuse the copyright material without having to contact the owner for permission. The licences tell you how to use, share and distribute the work. ​There are four conditions which can be combined to create six different types of licenses, all with varying levels of restrictions.

To find out more about Creative Commons and the different types of licenses, click on the link below (you’ll find resources under ‘text’, ‘video’ & ‘Creative Commons Learning Objects’):

[Copyright Guidance Page UofG](https://www.gla.ac.uk/myglasgow/library/help/copyright/guidance/)

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## How can I find out more information about Open Access?

Open access publications means making the full text freely available on the web. This helps make your publication more discoverable, encouraging the sharing of work.

For information around Open Access, and publishing your thesis, you should visit the link below:

[University of Glasgow Open Access page](https://www.gla.ac.uk/myglasgow/openaccess/)