



Queen's University
Belfast

Copyright

A guide for the researcher

Copyright is primarily a property right. The owner of copyright has the right to prevent others copying without permission. Copying is one of the 'restricted acts' outlined in the legislation; others include broadcasting, performing, renting and lending.

There are some copyright issues that are important to bear in mind when copying from books and journals for private study, or quoting for publication.

Who holds the copyright?

Copyright in text belongs with the author, unless it has been assigned to someone else. However, a book may contain illustrations and photographs that have their own copyright protection. This guide concentrates on published text. There are further considerations that need to be taken into account in considering the copyright position for non-text material (including databases, computer programs, videos and films).

Copyright in journal articles usually belongs with the publisher. Universities have not pressed a claim for ownership, although an organisation can claim ownership of materials produced in the course of employment.

Bear in mind also that a copyright holder may not be free to do what he or she wishes with published text. In most cases the author will have entered into an agreement with the publisher which prevents re-publication without the publisher's permission.

How long does copyright last?

Copyright in the published text of a work continues for 70 years after the author's death. It can be inherited or passed on like any other right to property. There is also copyright in the typographical arrangement of a work, which belongs with the publisher for 25 years.

Copying under licence

If a text is in copyright you may copy certain amounts for research or teaching, under the provisions of the Higher Education Copying Accord (at www.cla.co.uk/support/he/ihe-support-explan.pdf). This is a photocopying licence made for the UK university sector by the Copyright Licensing Agency (CLA). The terms allow copying of the following amounts:

No more than one article from an issue of a journal, or one chapter from a book
No more than 5% of a given work, whichever is the greater

The licence only covers books and journals held by Queen's and does not cover copying for commercial purposes.

The licence does not cover all publishers, though most UK and European publishers are covered. Many US publishers are also covered. The CLA website has the full list of excluded categories (at www.cla.co.uk/have_licence/support/excluded.html).

Statutory provisions for copying are not affected by the licence.

Copying works not covered by the CLA licence

The restrictions on the coverage of the CLA licence need not be a problem as copyright legislation allows the copying of any published text for the purposes of non-commercial

research or private study. However, whereas the CLA licence allows multiple copying for teaching, copyright legislation only allows you to make single copies for (non-commercial) personal use.

The legal background of 'substantial part' and 'fair dealing' which covers this kind of copying is set out below in the section on quoting for publication. In practice the library community has assumed rule of thumb guidelines on fair dealing that correspond to the CLA licence limits. The Library Association (now CILIP: the Chartered Institute of Library and Information Professionals) has suggested in addition that 10% of short works could be copied under fair dealing (but not more than 20 pages).

Quoting for publication

Published text can be quoted for the purposes of criticism or review, without any need to obtain permission from the copyright holder. However, the amount you can quote (i.e. copy) without permission is restricted by the considerations set out below.

The amount of text you can quote is defined by two key terms found in the legislation: 'substantial part' and 'fair dealing'.

Substantial part

The first point to bear in mind is that infringement of copyright does not become an issue unless a substantial part of the text has been copied for study or publication. So what is a substantial part?

There is no single definition (this would ultimately be for a court to decide). A substantial part might be text that is vital to the whole work, perhaps a conclusion, or it might be an extract which contains significant original work by the author, e.g. data from a survey. A single page explaining the offside rule from a book about football has been held to be an infringement of the author's copyright, as has four lines from Kipling's poem 'If' used for an advertisement. Approximately 5% of a work quoted in a book of study notes has also been held to be substantial.

If you wish to use a substantial part of a work, the defence of 'fair dealing' can be invoked against infringement. Otherwise you need to seek the permission of the copyright holder.

Fair dealing

The concept of fair dealing applies to non-commercial research and private study, criticism, review and news reporting. It is not a right or an exception, simply an accepted defence if a substantial amount of a work has been copied.

The amount and significance of the text quoted is again a crucial consideration. The more text quoted, the less likely the defence to succeed. A quotation from a text is more likely to be considered fair dealing if the amount quoted is reasonable and appropriate to the purpose. Most importantly, the copying should not undermine the commercial interests of the copyright holder. The proportion of quoted to original material is a further consideration. When quoting for publication there must also be sufficient acknowledgment of the source.

The Society of Authors has published guidelines on fair dealing for criticism and review which suggest the following limits: 400 words for a single extract, or 800 words over a series of extracts each of no more than 300 words. In the case of poems, no more than one quarter of the whole or 40 lines (whichever is the shorter). However, these are guidelines only.

Unpublished works

The position on quoting from unpublished works for publication purposes is somewhat different. If you wish to quote from an unpublished work for publication, it must be a work which has been 'made available' to the public. Quotation from a privately held letter for

example would require permission from the copyright holder. Considerations of 'substantial part' and 'fair dealing' still apply.

Library copying (and inter-library loans)

Current legislation allows a number of exceptions for libraries when making copies. The most important of these for the researcher is the exception entitling librarians to make copies of single journal articles and parts of published works for supply to other libraries. This exception allows the supply of photocopies which forms an essential part of an inter-library loan service.

Before photocopies can be supplied the library user must sign a declaration which states among other things, that the copy has not previously been supplied and that the copy will be used for non-commercial research or private study.

Libraries may only copy one article from any single issue of a periodical (or journal). Libraries can also copy a 'reasonable proportion' of a book. What constitutes a reasonable proportion is not defined. The British Copyright Council has suggested a limit of 10%, the Library Association / CILIP 5%. The British Library has a 10% limit, but normally lends the book itself if an extract is requested.

A library may also copy an unpublished work provided the author has not prohibited copying. A declaration similar to that for published works must be signed. However there are no limits on the amount of the work that can be copied.

Moral rights

Authors have a number of moral rights in addition to the economic rights that form the major part of copyright law. These include a right to be identified as the author (the right of paternity); a right to prevent or object to derogatory treatment (the right of integrity); and a right not to have a work falsely described as their own (the right of false attribution).

Copying digital works

There is no special law applying to text held in digital form. Unless the author of the text has given permission for unrestricted copying, the statutory provisions noted above apply. There is no implied permission to copy a web page or a pdf file. There is also no blanket CLA licence covering copying (The CLA does have licence arrangements which cover the making scanned copies of UK published material for teaching purposes – the licence allows the Library to scan copies of 'offprint' readings for Queen's Online).

The Joint Information Systems Committee and the Publishers Association have agreed guidelines on fair dealing in an electronic environment (at www.ukoln.ac.uk/services/elib/papers/pa/fair/intro.html). Printing or storing part of an electronic document on disc for personal use is considered fair dealing. A part is defined as one article from a journal issue, one chapter from a book, or 10% of other works. Re-posting all or part of an electronic document onto a server is not considered fair dealing. Copying must be for an individual's study or research, or for criticism and review.