

Copyright and Licences (U3A-KMS-DOC-009) Date 23/07/2020

SECTION 1.

Copyright is an area of the law which protects creativity. It confers certain rights on the owner of certain kinds of works including original literary, dramatic, musical & artistic works, as well as sound recordings and films, allowing them to control the way in which such works can be used and exploited. In the UK, copyright arises automatically when a work that qualifies for protection is created and committed to paper or another fixed form. Copyright does not need to be registered and the creator does not have to be a professional in order for their original work to be protected by copyright. So, for example, a photograph by a U3A member can be protected by copyright.

A work does not have to have the copyright symbol or the word copyright on it for it to be subject to copyright. These symbols are merely used to put other people on notice that the piece of work is protected by copyright and not freely available to use. One piece of work can contain lots of different copyright elements. For example, in the case of a song, lyrics are protected as a literary work; the melody is protected as a musical work; and any recording of that song is protected as a sound recording.

Copyright law in the UK is governed by the Copyright, Designs and Patents Act 1988 as amended. You should always refer to the comprehensive and current copyright information at

<https://www.gov.uk/copyright>

SECTION 2

Under the Act, copyright protects the following categories of works:

- Literary works, which include letters, reports, accounts, computer programmes and song lyrics, as well as books, journals and magazines.
- Dramatic works to be performed (such as plays, choreography, film scripts, etc.).
- Musical works.
- Databases.
- Artistic works, including photographs, sculptures, maps, and illustrations.
- Sound recordings and films.
- Broadcasts
- The typographical layout of a published edition of a literary, dramatic or musical work. So, the content of a recently published edition of a work written many years ago could be out of copyright, but the 'typographical arrangement' would not.

The copyright owner has the exclusive right to do the following acts in relation to a copyrighted work and no-one else may do such acts (except as set out in **SECTION 3**):

- Copying - including manual and electronic copies.
- Distributing copies - either free of charge or for sale.
- Renting or lending it to the public.
- Communicating it to the public - including making it available via the internet and broadcasting over radio or television.
- Performing it in public - including performing a play, reading a speech or holding an exhibition.

- Adapting it e.g. translating it.

The author of a copyrighted work is the first owner of the copyright, except that, where they develop it as part of their job, the first owner is their employer. A copyright owner can transfer the ownership of a work to others. This is known as **assignment**.

SECTION 3

Copyright will protect the outputs of many U3A interest groups e.g. craft-based groups, photography, creative writing groups etc. However, other groups may want to use materials already created by someone else e.g. photos, writings, pictures etc. to distribute to interest group members.

There are only 4 circumstances in which the work owned by others can be used:

1. Copyright in the work has expired, so that it has entered the public domain and can be freely used by anyone.
2. The copyright holder has responded to you directly giving permission or has already given a general approval via a public copyright licence such as a **Creative Commons licence** (with or without associated conditions).
3. The use falls under one of the copyright exceptions under the Copyright, Designs and Patents Act 1988 as amended.
4. The relevant work and its use are covered by a licensing scheme to which the U3A and/or the Third Age Trust and/or the relevant venue has subscribed.

3.1 EXPIRED COPYRIGHT

The length of copyright depends on the kind of work. The rules in general are:

Literary, dramatic, musical, artistic works – copyright expires **70 years** from the end of the calendar year in which the last known author of the work dies. If the work is of unknown authorship, copyright lasts until **70 years** from the end of the calendar year in which work was created or, if made available to the public during that period, the calendar year in which it was first made available.

Computer-generated literary, dramatic, musical or artistic works – copyright expires **50 years** from the end of the calendar year in which the work was made.

Sound recordings - copyright expires **70 years** from the end of the calendar year in which it was first published.

Films – copyright expires **70 years** from the end of the calendar year in which the last of the principal director, screenplay author, dialogue author and composer of the music created for and used in the film dies.

If the film is of unknown authorship, copyright expires **70 years** from end of the calendar year in which the film was made or, if made available to the public during that period, the calendar year in which it was first made available.

Television broadcasts & cable programmes – copyright expires **50 years** from the end of the calendar year in which the broadcast was made.

The typographical arrangement of a published edition of a literary, dramatic or musical work – copyright expires **25 years** from the end of the calendar year in which the edition was first published.

IF THE COPYRIGHT HAS EXPIRED (AS ABOVE) THEN YOU ARE ABLE TO USE THE MATERIALS.

3.2 PERMISSIONS

Just because an image or resource e.g. a photograph, article, story text etc. is available on the internet, it does not mean it is exempt from copyright.

If copyright in the work has not expired, check if the work has been published (and the intended use is permitted) under a relevant public copyright licence such as a **Creative Commons (CC) licence**. If not, you can either ask the copyright owner for permission to use the work or check if there is a similar work that has been published by a relevant public copyright licence that you could use.

3.2.1 Creative Commons

Creative Commons (CC) is a non-profit organisation which provides free licences which creators can use to make their work available to the public. CC offers six different licence types, each of which gives anyone the right to use the relevant work under certain conditions. The most permissive licence is CC BY, which allows re-users to distribute, remix, adapt, and build upon the material in any medium or format, so long as attribution is given to the creator. The most restrictive is CC BY-NC-ND, which allows re-users to copy and distribute the material in any medium or format in unadapted form only, for non-commercial purposes only, and only so long as attribution is given to the creator. There is a listing and explanation of the 6 different types of licence at:

<https://creativecommons.org/about/cclicenses>

You can search for content to reuse at:

<https://search.creativecommons.org/>

3.2.2 Ask permission from the copyright owner(s)

You should contact the owner of the original work and ask for permission, stating the intended use. It may not be immediately obvious who that might be as the copyright owner will not necessarily be the original author. There may also be more than one copyright owner (for example, if two different songwriters write a song jointly). In the first instance, it is usually best to first contact the publisher (in the case of a musical or printed work), the record label (in the case of a sound recording) or the website owner (in the case of material published on the internet).

Many copyright owners will be happy to grant permission for a specific use or occurrence. Larger organisations often have departments which deal with this type of request. However, the copyright owner does not have to reply and has the right to refuse to give permission or to charge for that permission. They can also impose some conditions to the permission.

You should be particularly careful with the internet as some websites are using material illegally. If you receive permission from someone that does not have the rights to give such permission, you would still be infringing copyright in the relevant work. The safest sites are official sites from reputable organisations. If the copyright owner cannot be identified or located, or does not give consent, the work should not be used.

3.3 EXCEPTIONS AND 'FAIR DEALING'

The Copyright, Designs and Patents Act 1988 as amended sets out certain acts in relation to copyright works which will not infringe copyright. These exceptions are specific to the relevant uses and are narrowly interpreted by the courts. (The UK does not have a general defence of 'fair use'.) A number of these are fair dealing exceptions, where the exception will only apply where the relevant use is 'fair'. Fairness is a question of degree and impression but the courts will consider a number of factors including:

- The quantity and quality of what is taken – it may be fair to reproduce the whole of a work if it is short, but in general the defence will only apply where part of a work is taken.
- The use made of the work – where a person derives a commercial benefit from the dealing, this will weigh against the dealing being fair.
- The consequences of the dealing – i.e. the impact that the dealing will have upon the market for the work.
- Whether the work is unpublished – if the work has not been published or made widely available to the public, this will weigh against the dealing being fair.
- How the work was obtained – where the work is leaked or stolen or obtained by unauthorised access, it is less likely for any dealing in that work to be fair.
- The motives for the dealing – where the person acts dishonestly or with questionably motives, this is likely to weigh against the dealing being fair.
- Whether the purposes could have been achieved by different means.

A number of the exceptions only apply if the relevant use is accompanied by a sufficient acknowledgement (where this is possible). This means that the author (as opposed to the owner) and the work must be identified.

There are 3 copyright exceptions which are of particular relevance to U3As and interest groups:

- Fair dealing with a work for the sole purpose of illustration for instruction. The defence applies to dealing by a person giving instruction (a teacher or lecturer) and the person receiving instruction (a pupil or student). The exception will not apply unless the dealing is for a non-commercial purpose and accompanied by a sufficient acknowledgement (where this is possible).
- Performing a literary, dramatic or music work before an audience consisting of teachers and pupils at an educational establishment. The performance must be carried out either by a teacher or a pupil, or by any other person for the purposes of instruction.
- Playing or showing a sound recording, film or broadcast before an audience consisting of teachers and pupils at an educational establishment for the purposes of instruction.

Other copyright exceptions which may also be relevant to U3As and interest groups are:

- Fair dealing with a work for the purposes of research for a non-commercial purpose or for the purposes of private study. The exception will not apply unless the dealing is accompanied by a sufficient acknowledgement (where this is possible).

- Criticism, review, quotation – there are two related defences: (i) fair dealing with a work for the purpose of criticism or review; and (ii) the use of a quotation from the work. Both defences only apply where the work has previously been made available to the public, the dealing is fair and the dealing is accompanied by a sufficient acknowledgement (where this is possible). Quotation is only allowed where the extent of the quotation is no more than is required by the specific purpose for which it is used.
- Fair dealing with a work (other than a photograph) for the purpose of reporting current events. The exception will not apply unless the dealing is accompanied by a sufficient acknowledgement (where this is possible).
- Fair dealing with a work for the purpose of caricature, parody or pastiche.
- An educational establishment or not for profit body making, communicating, making available, distributing or lending accessible copies of a work on a non-profit basis for the personal use of disabled persons. The relevant educational establishment or body must:
 - Distribute, communicate, make available or lend accessible copies only to disabled persons or other educational establishments or not for profit bodies.
 - Take appropriate steps to discourage the unauthorised reproduction, distribution, communication to the public or making available to the public of accessible copies.
 - Demonstrate due care in, and maintain records of, its handling of works and accessible copies.
 - Publish and update, on its website if appropriate, or through other online or offline channels, information on how it complies with each of the requirements above.

Showing an image to illustrate a point or for discussion at an interest group is likely to fall under the copyright exception relating to “illustration for instruction”. Using the same image on a U3A website to encourage people to join an interest group, or in a newsletter will constitute copyright infringement, even if only a limited number of people, e.g. members, can access it.

3.4 LICENCES

The Third Age Trust subscribes to a number of licences to support interest group activities. Certain uses of copyright works are permitted under one of these licences. These are:

3.4.1 Copying and re-using digital and printed material

A **Copyright Licensing Agency (CLA) licence** allows the copying and re-use of extracts from digital and print books, magazines, journals and websites for educational and teaching purposes.

- Copies must not exceed one chapter of a book, one article from a publication, one short story or poem from an anthology, or one case report from a published report of judicial proceedings, or 5% of the total, whichever is greater.
- For digital material, copying must be limited to extracts that are equivalent to these limits.
- Members are entitled to share copies with one another in person or online for educational and teaching purposes but must not circulate copies more widely.
- Paper copies intended for a meeting of an interest group must not exceed the number of members attending

Certain works are not covered by the CLA Licence, as the copyright owner has intentionally excluded them from this scheme. The lists of these works can be checked on the CLA website:

www.cla.co.uk/excluded-works.

Similarly, the following published works **are not covered by the CLA licence**. If the copyright has not expired then you will need to evaluate on an individual basis. These include:

- maps and charts - consult the Ordnance Survey or Google maps or other source for the necessary permissions.
- newspapers - consult the Newspaper Licensing Agency for the necessary licence.
- printed sheet music including lyrics (unless the work is out of copyright, direct permission has been granted, or the use falls under one of the limited copyright exceptions). Please note that certain copyright owners have agreed that they will not institute proceedings if copies are made in certain circumstances in respect of music both printed and published in the UK, notwithstanding the Copyright, Designs and Patents Act 1988 – please see the **Music Publishers Association's Code of Fair Practice on the Graphic Copying of Music**.
- workbooks, work cards or assignment sheets.

If U3As want to purchase this licence they can do so from the Third Age Trust for £60 per year via our online form: CLA Licence Application Form. Please check that your U3A has a current CLA licence before copying or re-using any digital or printed material.

3.4.2 Licences to show films and other audio-visual material in public

The **MPLC Umbrella Licence** allows audio-visual content (including DVDs, downloads and streamed materials) to be screened in a public location, or in a member's home as part of an interest group, provided admission is not charged.

The Third Age Trust has an MPLC Umbrella Licence which covers all U3As and allows U3A group members to show all MPLC films for educational and entertainment purposes. The cost of the MPLC Umbrella Licence is included in Third Age Trust membership. It is automatically renewed by the Trust on an annual basis.

3.4.3 Licences to play music in public

The **PPL PRS Licence** (also called 'TheMusicLicence') allows a business or organisation to legally play music through the radio, television, other digital devices and during live performances. PPL, through PPL PRS Ltd, can license a venue operator or an individual music user, depending on the type of venue and how music is used.

The Third Age Trust has a PPL licence for music use for U3As across all venues. This ensures that all recorded music used by U3As is licensed by PPL and eliminates the need to investigate whether the licences held by the venues (if any) are suitable to cover music used by U3As.

3.4.4 Licences for U3A choirs and singing groups

The Third Age Trust does not currently subscribe to the **Amateur Choir Licence** which has been launched by PMLL on a trial basis until 30th June 2021. This licence allows members of the choir to make photocopies of a certain number works (as long as the publisher is a member of the scheme). It also allows small arrangements of works without the need for further permission. The licence is charged on the basis of the number of works a choir wishes to use and the number of members in the choir. Further details are available at

<https://www.printmusiclicensing.co.uk/licences/amateur-choir-licence/>.

3.5. MEMBER'S RESPONSIBILITIES WHEN USING THE WORKS OF OTHERS

All U3A members are responsible for respecting the rights of others and should only use the work of others if it is legally permissible. If you wish to use the work of others, advice should be sought from the Groups' Coordinator, the region, networks or National Office. **Any breach of copyright will not be covered by the insurance provided by the Third Age Trust.**

3.6. CONSEQUENCES OF MAKING UNAUTHORISED OR ILLEGAL USE OF COPYRIGHT MATERIAL

Illegal or unauthorised use of copyright material has led to U3A groups in the UK facing threats of court action and requests to pay substantial damages for copyright infringement. The internet has created a means by which materials can easily be accessed and distributed to millions of people. This leads people to believe that, because a work is available on the internet, it can be used free of charge. Others believe that any image can be used in any manner as long the use is accompanied by a sufficient acknowledgement. These are misconceptions.

Members should be mindful that many copyright owners systematically monitor different media, including the internet, for copyright infringement. Large scale deliberate copyright infringement can also lead to criminal prosecution.

A CLA Education Licence allows copying of materials for u3as groups within certain limits. Most u3as will need this licence.

This licence allows your u3a to copy up to 5% or one chapter/article from eligible books, journals and magazines per licence year and per course or group. What is covered can be checked by entering an ISBN into the Check Permissions tool on the CLA website and full terms and conditions are here. Please note, copies of materials cannot be shared outside of the group or on a public-facing website.

This licence costs £60 per u3a per year and is valid from 1st August – 31st July each year. Renew or purchase a licence here :

[CLA Licence Application Form](#)

The **PPL PRS (music licence)** and **MPLC (film licence)** allow u3as to screen music and films respectively. **They are included in their membership of the Trust. They automatically renew each year and u3as are covered.**

The PPL PRS expires at the end of December and the MPLC expires on the 1st July. Neither issue formal certificates.

Can I photocopy a section from a book and email it to my interest group for discussion?

Yes, provided your U3A has a CLA licence and you have checked the CLA exemptions list to ensure the relevant material is covered. You must also ensure that any copies made do not exceed the limits set out in section 5.5 above.

Can I play recorded music in the public venue where my interest group meet?

This is covered by the Third Age Trust's PPL PRS licence.

I would like to use an image from the internet. Is it enough to credit the original website?

Not necessarily. You should find the source of the original image and identify the owner, so that you can check whether the copyright has expired, and if the owner has made it available e.g. under a Creative Commons licence. If they haven't, you may be able to rely on a copyright exception provided you meet the relevant conditions (e.g. sufficient acknowledgement).

Can I post or show copyright works on Zoom or any other video conferencing app?

Provided your U3A group has a CLA licence and the session is password protected and is not being recorded, you can share materials covered by the licence for educational and teaching purposes. Any other use of copyright works is likely not only to infringe copyright but also breach the terms of service (sometimes alternatively known as "terms of use" or "terms and conditions") which govern your use of the app – see for example Section 11 of the Zoom terms of service.

Can I scan a document to make it bigger for disabled person?

Yes, provided it is on a non-profit basis for their personal use and you ensure compliance with the requirements set out in section 5.3 above.

Can I copy sheet music (staff notation) to distribute to my choir/musical group?

Only if all copyright in the relevant sheet music has expired (i.e. the copyright in not only the lyrics and music, but also the typographical arrangement). Otherwise, each member of the group will need to purchase the music individually. Alternatively, you may want to purchase an Amateur Choir Licence which enables you to legally make copies of certain materials.