

Copyright Guidance for Litdrive Members

This Information should only be received as general guidance; we are unable to provide legal advice and this should not be taken as such.

What is copyright?

Copyright protects an author's ownership rights to their work.

The main works currently protected by copyright in the UK include:

- Original literary works (such as novels, poems, tables, lists, and computer programmes)
- Original dramatic works
- Original musical works (i.e. the musical notes themselves)
- Original artistic works
- Sound recordings
- Films
- Broadcasts
- Typographical arrangements (i.e. the layout or actual appearance- logos, for example) of published editions

In general, the author or creator of the work owns the copyright.

Subject to certain exceptions, copyright entitles the copyright owner to control the use and distribution of a protected work by any other persons, whether it is a whole work that is used or just a substantial part.

After a certain period of time, usually seventy years after the death of the artist, copyright expires and works go into the public domain. Any person can use a work in the public domain without obtaining the prior consent of the original owner.

How does this impact upon my uploading of resources?

If you have used the works of an artist i.e, an extract, book, poem, picture, you may need to:

- *either* obtain the prior consent from the copyright owner to upload them
- *or* ensure that you can rely on certain permitted uses under applicable law

otherwise you could be liable for infringing the copyright of another person.

A resource of mine has been removed from Litdrive- is this because of copyright?

If we are contacted by an artist that states that your resource infringes their copyright, we will remove the resource and contact you to advise the reasons behind this removal as standard practice. Usually, this will just be a case of removing the resource from the public domain, but please be aware, if you do not have rights to share the works, the artist has the legal right to pursue for damages/loss of earnings.

What if I just use a section of the text?

You can quote from works to which you do not own copyright without obtaining permission, but only if the extent of the quotation is not more than is required for your specific purposes.

As a rule of thumb, this means that you can usually use one or two lines from a poem, or a couple of sentences from a novel, in the resource that you are creating. But you cannot copy the entire poem or the whole (or even a chapter) of the book without permission.

What is “fair dealing”?

“Fair dealing” is a way in which you can use the work of others in your resources without obtaining their prior consent.

There is no specific legal definition of “fair dealing”. It will be a matter of fact, degree and impression in each case. In other words, it is a case by case approach.

However, the test commonly used is, “*How would an honest person deal with the work?*”

Two factors to consider are:

- Does your use of the work of another cause the owner of the copyright to lose revenue? If it does, your use is unlikely to be “fair dealing”. Similarly, will you obtain a substantial financial benefit from using the work of another? If so, your use is again unlikely to be “fair dealing”.
- Is the amount of the work that you have taken from others necessary, reasonable and appropriate in the circumstances? If you took all of the work of another, your use is unlikely to be “fair dealing”. But if you have only taken a small extract that was reasonable to fulfil the permitted purposes, then your use is likely to be “fair dealing”.

This means, for example, you may not use so much of the original material that someone would not need to buy the original. There is no clear percentage on this; you just need to use your own judgement.

How do I need to acknowledge the owner of the copyright in another work?

If you use a work protected by someone else’s copyright, you need to sufficiently seek permission and acknowledge the owner of the copyright work.

This typically means identifying (where possible):

- the name of the owner; and
- the title of the work that has been copied or a short description of the work so that it can be identified.

Can I use images, photographs, audio or video?

Images, especially famous logos or characters, are protected by copyright and, possibly, other intellectual property rights, such as trade mark protection.

As a general rule, it is permissible to use an image, a photograph, audio or video without obtaining the prior consent of its owner under the “fair dealing” exception, and whether “fair dealing” exists will be assessed on an individual basis.

In practice, a simple way to ensure your pictures are not bound by copyright when sourcing pictures to accompany resources is Google. Google will enable you to filter images so that only those not bound by copyright appear in your search.

The use of short clips of audio and video is more likely to be permitted under the “fair dealing” exception. Providing links to content on a video-hosting site, such as YouTube, is also typically permitted as this content has been, or at least claims to be, made available to be used in this way by its author, as it resides in the public domain.

I live outside of the United Kingdom. Do these copyright rules apply to me?

Litdrive adheres to copyright considerations under English law. You will need to ensure that you comply with the laws of any other countries where you upload or download resources.

Where can I find more information about copyright?

Visit the Copyright Licensing Agency at <https://www.cla.co.uk/> for more information, guidance on ‘fair dealing’ and a checking tool for specific pieces of work.