

Copyright for Community Archivists

TaNC Community Archives Digital Preservation Toolkit



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copyrightliteracy.org

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What is copyright?



Works
(The things it protects)



Usages
(The activities it regulates)



Licences
(Legal use with permission)



Exceptions
(Legal use without permission)

COPYRIGHT WORKS



Literary



Artistic



Musical



Dramatic



Broadcast



Sound Recording



Film



Typography



Public Domain



Crown Copyright



Database



Moral Rights




Performance



Non Qualifying

TNA DURATION OF COPYRIGHT

Search Shop

- Visit
- What's on
- Explore the collection
- Help using the archive
- Education
- Professional guidance and services

[Home](#) > [Information management](#) > [Re-using public sector information](#) > Duration of copyright

Duration of copyright

Copyright protection starts as soon as a work is created. The duration (length) of copyright depends on the type of work. It also depends on how long ago the work was created.

Once your copyright has expired, anyone can use or copy your work.

[Duration of Crown copyright flowchart](#) (PDF 214.12 KB)

[Duration of non-Crown copyright flowchart](#) (PDF 212.87KB)

[Also in Re-using public sector information](#)

[Legacy licensing](#)

[UK Government Licensing Framework](#)

[About PSI](#)

[The Re-use of Public Sector Information Regulations](#)

[Licensing for re-use](#)

[Copyright guidance](#)

[Complaints about re-use](#)

[Crown copyright FAQs](#)

<https://www.nationalarchives.gov.uk/information-management/re-using-public-sector-information/duration-copyright/>

USAGES



Copying



Issuing copies to the public



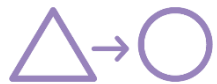
Rental or Lending



Public Performance

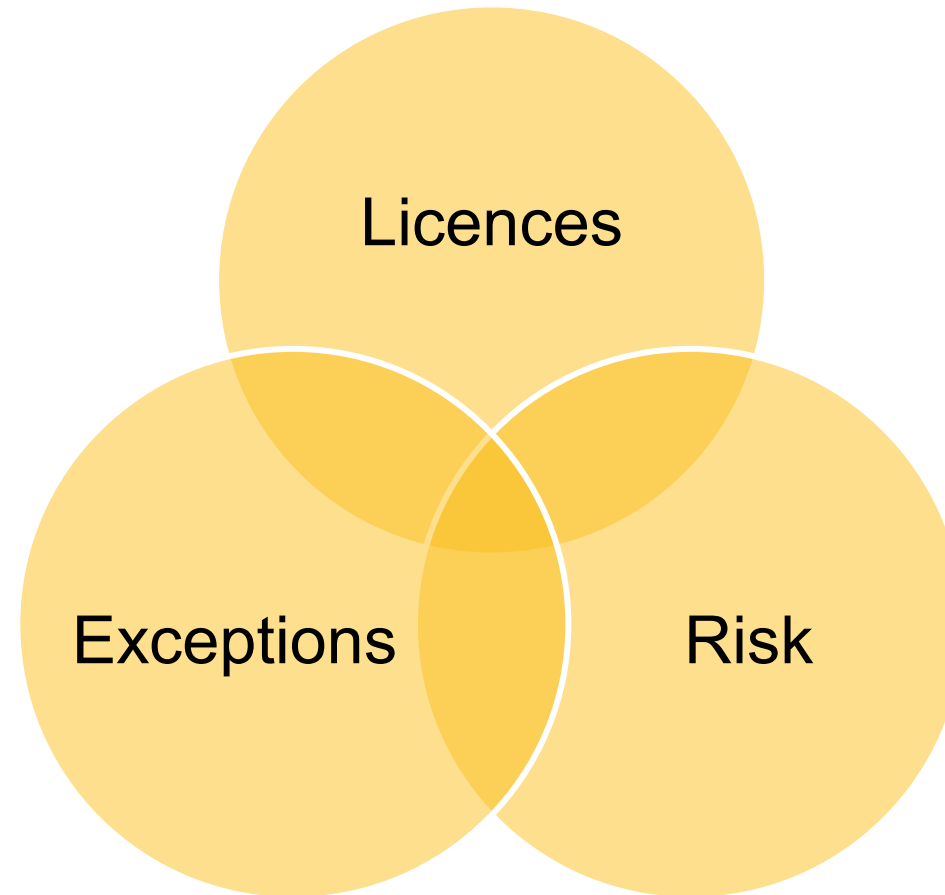


Communication to the public



Adaptation

HOW CAN I USE THIS WORK LEGALLY?



LICENCES



Library electronic resource licences



Creative Commons



Website terms of use



Open Government Licence (Crown copyright)



CLA Licence (books and journals)



Your employer owns the copyright



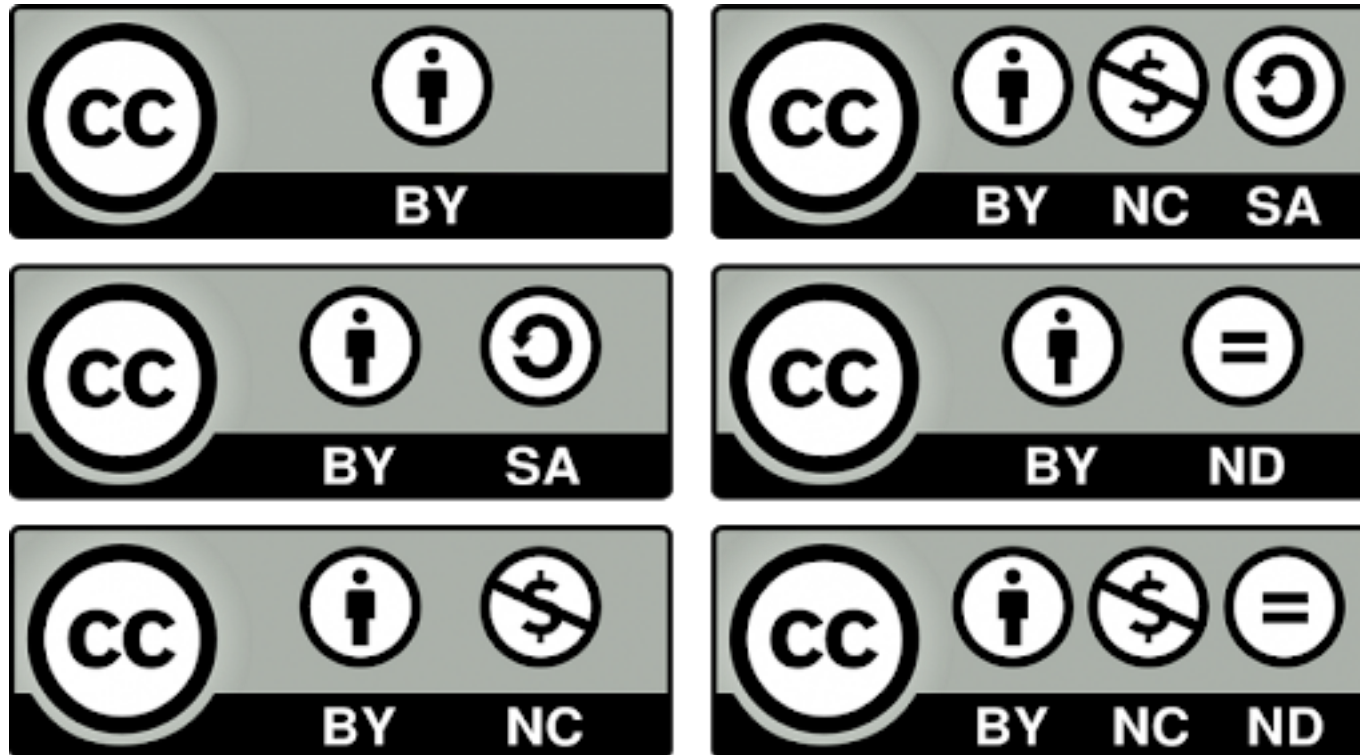
Newspapers (NLA)



You own the copyright

APPLYING LICENCES TO ARCHIVE CONTENT

CREATIVE COMMONS



<https://creativecommons.org/>

COPYRIGHT EXCEPTIONS FOR DIGITAL PRESERVATION



Preservation for libraries and archives ([S42 CDPA](#))



Providing copies of published works ([S42A CDPA](#))



Providing single copies of unpublished works ([S43 CDPA](#))



Providing access via dedicated terminals ([S40B](#)

FAIR DEALING AND FAIR USE



FAIR DEALING

Is what you're doing 'fair' on a case-by-case basis. Ask yourself the following questions:

- have you used the work in a way that stops the rights holder from selling the work, or making use of it in the way they want to?
- have you used more of the work than you need to for your purpose?

RISK MANAGEMENT

What's the likelihood that your activity infringes copyright?

What is the likelihood that the copyright owner will discover and object to your activity?

what is the impact (both financial and reputational) if the copyright holder was to take action against you or your institution?

ORPHAN WORKS



Definition:

“A work – such as a book, a piece of music, a painting or a film – in which copyright exists, but where the copyright owner is either unknown or cannot be located”

(copyrightuser.org)

- Risk managed approach commonly used by libraries and archives when making digital collections available online
- The UK Intellectual Property Office offer a [Licensing Scheme](#) for orphan works (UK use only and limited to 7 years)
- A '[diligent search](#)' required in either scenario

CONSIDER THE FOLLOWING SCENARIO

An amateur historian has donated her collection to a local historical society of which she was a member.

The collection includes letters, books, journals, photographs, ephemera and videos in a range of different formats.

How would the society archive address the copyright considerations of digitising the collection, preserving it and making it available to the public?



Photo of papers in box by [vuk burgic](#) on [Unsplash](#)

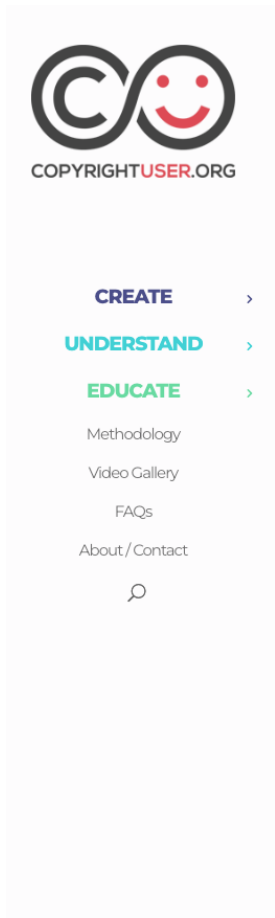
THINGS TO CONSIDER

- Are the items in copyright? If not, no rights clearance is needed
- Who owns the copyright in the collection items? Get permission from the historian for the archive to use and reuse content they have created.
- If relying on preservation exceptions, are the items now in the archive's 'permanent collection'?
- Are any of the collection items 'orphan works' and if so, what is the archive's due diligence process?
- Should the archive use a risk managed approach, or is the UK Orphan Works Licensing Scheme more appropriate?

IN SUMMARY

1. Copyright automatically arises in any original creative expression recorded in a fixed form
2. Copyright licences provide permission from the copyright owner to use their works and come in many different forms from closed to open
3. Copyright is not just about licences; exceptions allow for many archival and preservation activities without the authorisation of the copyright owner
4. Copyright exceptions for preservation allow community archives to digitise in-copyright material, but not necessarily make them publicly available online
5. In many situations you will need to think about 'risk management' – particularly when working with 'orphan works' where the copyright owner cannot be identified or located

FIND OUT MORE: COPYRIGHTUSER.ORG



Archives & Preservation

Author: Ronan Deazley

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Archives are memory institutions. They hold unique documents and records that are vital for helping people connect with and understand their identities, their communities and their cultural heritage. They are also sources of authoritative and trustworthy information about decisions taken by government and other public bodies.

Archivists have a public mission to preserve these records in ways that ensure their authenticity, reliability and integrity. They are also committed to making these records accessible to everyone, while at the same time respecting the rights of individuals, creators, owners and users.

The copyright regime assists the work of archivists in these two basic activities: in preserving unique records and in making those records accessible to users.

<https://www.copyrightuser.org/educate/archives/>

USEFUL LINKS

- **Bodleian Copyright Guidance -**
<https://www.bodleian.ox.ac.uk/ask/copyright>
- **Copyright, Designs & Patents Act 1988 -**
<https://www.legislation.gov.uk/ukpga/1988/48/contents>
- **Copyright Literacy -** <https://copyrightliteracy.org/>
- **Copyright User -** <https://copyrightuser.org> (see in particular the sections on Archives and Preservation and Orphan Works)
- **EnDOW Due diligent search tool -** <https://diligentsearch.eu/>
- **Intellectual Property Office (2020) Orphan works and cultural heritage.**
Available at: <https://www.gov.uk/guidance/orphan-works-and-cultural-heritage-institutions>
- **TNA Copyright Duration -**
<https://www.nationalarchives.gov.uk/information-management/re-using-public-sector-information/duration-copyright/>