

COPYRIGHT FAQs – am I allowed to....?

Copyright is the IP property right which exists automatically (it doesn't have to be registered) in original creative or artistic works. A separate copyright also subsists in sound recordings, films, television or radio broadcasts (including cable broadcasts), and the printed text of books and other printed matter. Like most other IP rights, copyright allows its owner to stop any unauthorised copying of the work itself or a substantial part of it.

The answers to the copyright FAQs below are given in good faith as general guidance in a UK context. Professional help should always be sought when the circumstances require definitive legal advice.



Am I allowed to record television programmes?



Yes you are, but only so you or other members of your family can watch it at a more convenient time—so called time-shifting. The recording must be made and viewed in your own home, and must not be made to build up a collection for repeated viewing, public showing—including on the Internet—or for broadcasting.

Copyright in various guises applies to television and radio content (conventional broadcasts). Permission to “time-shift” this copyright material is a special exception to the normal rule that you need permission from the copyright holder to make a recorded copy. Making one or more copies for someone else infringes the copyright as does making any commercial gain from the recording.

Some Broadcasters such as the BBC have decided to make downloadable copies of their broadcasts available via the Internet sometimes also requiring proprietary digital rights management software to be downloaded. Generally a limited licence is granted to record the material for your own private non-commercial use, for example to hold as an MP3 file. The Broadcaster's Terms and Conditions should be read to find out what you may do and for how long with the downloaded material.



Am I allowed to copy a drawing from a library book for my school project?



Yes you are, but only one copy and you must acknowledge the original source in your project

Copyright exists in most published printed works, both in respect of content and typographical layout. Unauthorised copying including re-publication on the Internet is prohibited as an infringement but there are limited exemptions for educational use. Copyright in the content of an article continues for 70 years after the end of the year in which the author died and the typographical layout for 25 years after the end of the year of first publication.

In many cases authors assign their copyright rights to the content to a learned society or commercial publisher, so that they must give permission before any non-exempt copying of the content and typographical layout takes place.

You may copy a small extract from a published work for private study – such as part of an educational course, or as a hobby. However, the copyright owner

must not suffer financially through the copying, for example by loss of sales in the published work, and the copyright owner must be properly acknowledged.

There are special copyright rules relating to photographs.

Q **Am I allowed to make a copy for a friend of a movie or music on DVD I have bought?**

A **No** you are not. By making a copy for a friend the movie copyright owner, usually the movie distributor, suffers a financial loss by losing the sale of a DVD to your friend which would have helped cover the costs of making the movie and making it available for purchase as a DVD.

When you purchase a book, a DVD, CD or other form of published copyright material you do not receive unlimited usage rights, but are normally only permitted to enjoy the material on a personal basis for example in the privacy of your own home or on a personal portable player. You may normally make a single copy for your own personal use but normally there are no rights to make copies onto another medium or in another format e.g. as an MP3 file for supply to others.

Q **Am I allowed to make copies of my home video of me giving a solo performance of my latest piano compositions, and send them on DVD to my relatives abroad?**

A **Yes** you are. In this circumstance all the copyright is owned by you – provided you have not sold the compositions to someone else. Further you own the rights to your performance, and you own the rights to the video recording, so there is no-one who will suffer any financial loss if you decided to make copies and to give them away.

You would be wise to assert your rights in the compositions, the performance and the video recording by suitable marking, so that in the future when your deserved fame has arrived, others cannot broadcast the recorded performance without your permission!

Q **Am I allowed to make a copy of software I have purchased for my computer?**

A **Yes** and **No**. Application software is often supplied with the program code on a CD-ROM or DVD which has to be loaded (copied) onto the hard disk drive (HDD) of a host computer where the operating system can access it, load (copy) it into the volatile random access memory (RAM) and

run the program. A well managed computer will have its HDD backed up to a separate HDD or other high capacity storage medium, which will in turn involve making another (backup) copy of the application software. Permission for such operation and backup copies is usually given in the licence supplied with the software which should be carefully read.

When application software is purchased what is obtained is a limited licence to use a copy of the original program code under certain specified conditions. The copyright in the original code continues to be owned by its creator (or more likely the creator's employer). The purchaser has no rights to modify the software, and usually no right to hire or sell the software or to supply it to a third party in any form. If in doubt, contact the copyright owner to receive permission for any use beyond that stated within the licence. Multi-concurrent use software licences are also sold for use by businesses—these are often termed site licences. Agreement with the supplied licence is a usual requirement before the software can be loaded (copied) to any host system.

Application software licences usually forbid the making of further copies except to allow the program to be accessible in use by the host computer. Unless the software is supplied by downloading from the Internet, you are not normally allowed to make a copy to another media form in case the original becomes unusable. However in some cases, you may install the software on the HDD of your own portable computer provided you do not use this copy concurrently with that on the main computer. Again you should read the licence carefully to see if this is permitted

Some personal digital equipment doesn't use a HDD. In such cases, the supplied software media itself acts as the source from which the application is loaded into volatile RAM for the program to be executed. The software licence then usually forbids the making of any copies other than within the RAM.



Am I allowed to copy other's photographs?



Yes you are provided you have the copyright owner's permission, or it is for the purposes of non-commercial research and private study, or non-reproductive copying for use in as part of a course in a teaching establishment—so called 'fair dealing'.

This is the glib answer to a question that is dependent upon when the photograph was taken: - prior to 1 June 1957; between 1 June 1957 and 01 August 1989; after 01 August 1989. By its nature it is difficult to copy a photograph without using reproductive processes. So the safe assumption has to be that you can only legally copy a photograph with the copyright owner's permission, or its use is solely for private study. Any commercial use of another's photographs must be with their permission. This equally applies to images acquired from the Internet, any electronic source (broadcast, CD Rom, DVD, video tape etc) or printed publication or media.



Am I allowed to photograph original paintings and sell prints?

A **No** you are not. An original painting has copyright which will be owned by someone, or some entity, so to copy the image for commercial gain will require their permission.

*This could equally well have been answered as “yes” **provided that you have the copyright owner’s permission**. But the safe rule to follow is that copying an artistic image requires the permission of the copyright owner. Limited ‘fair dealing’ exceptions apply if the use is for private study or inclusion within an educational course without any commercial transaction involved.*

Q **Am I allowed to loan my DVDs or CDs to a friend?**

A **No** you are not. Under the strict terms of the licence given when purchasing a DVD or CD, loaning them to a friend would cause the copyright owner financial loss since they would not have the benefit of sales to your friend.

Note that the law does not concern itself with trifles— de minimus non curat lex—and is unlikely to pursue John for lending Jane his copy of a CD so Jane could find out if she wanted to buy her own copy to enjoy at her leisure. However, John’s act should not be part of a policy to defraud the copyright owner’s of the benefit of Jane’s business!

The inability of the authorities to police loaning and copying of copyright material should not be taken as a reason to commit deliberate acts of copyright infringement.

Q **Am I allowed to show a high street purchased DVD, play a CD, at a party?**

A **Yes** you can. Provided the party is a private, non-public, event then this constitutes permitted private enjoyment of the copyright material within the domestic environment. But if the public can get benefit of the material then a licence is required from the copyright owner or owners. There are also exemptions in the UK for clubs and bodies which are for charitable purposes, and to allow, for example, showing broadcast images/sound in public places to promote sale of reception equipment where the public have not been charged to view/listen.

Within the UK a public performance licence would be required from a couple of UK representative bodies who issue licences on behalf of artistic performance copyright owners (the artists and publishers) MCPS-PRS Alliance [<http://www.mcps-prs-alliance.co.uk/Pages/default.aspx>] and Phonographic Performance Limited (PPL) [<http://www.ppluk.com/>]. Contacting either of these bodies will allow determination as to whether a licence is required or not.



Am I allowed to buy and sell DVDs and CDs on eBay?



Yes you are. DVDs and CDs constitute personal goods and chattels and so may be bought and sold on eBay. However please be aware that most software licences have a clause which explicitly excludes hire or resale.

In the UK if the volume of trading you undertake on eBay is deemed greater than that which would be normal for the average household then you may find Her Majesty's Revenue and Customs show an interest in your eBay activities!



Am I allowed to copy material downloaded from the Internet to use in my own private works?



Yes you can so long as the purpose is solely for your own enjoyment and could be construed as private study and skills development i.e. education. Copyright exists in most original Internet material but the 'fair dealing' rule applies so that private studying use is permitted as is use in educational courses, where non-reproductive copying is involved. However, copying downloaded material for editing and republication on the Internet for example as a new video clip collection, or sale for commercial advantage, requires the copyright owner's permission.

Copyright is governed by international agreements Berne Convention and the Universal Copyright Convention, with automatic rights transfer. Most countries in the world are signed up to these copyright conventions so the fact that the material originates on an overseas Website should not be taken to mean that you are free of copyright considerations.



Am I allowed to copy pictures from a magazine?



No – not without permission. Pictures in a magazine are subject to copyright. The magazine will have either commissioned the image to be created and usually own the copyright, or else paid for a licence for its use. When you bought your copy of the magazine you were licensed to read its contents and acquire the intellectual content and knowledge it contained. You have no right to copy images or other content apart from the normal 'fair dealing' rights to make one copy for your own private study or non-commercial research with full acknowledgement of the source of the image.

Most publishers have a department that deals with requests to use their material and you should write for permission to copy images beyond 'fair dealing'. Note that there will also be copyright over the print 'layout – format' [typographical arrangement] associated with the published material.

Q Am I allowed to use my favourite music CD as a sound track for my home movies?

A No you are not. The licence which comes with a CD is solely for purposes of listening to it in its original form. To copy it to some other medium, and in some other arrangement i.e. as part of a home movie, is to infringe the copyright.

The UK's copyright and related rights regulations are aimed primarily at curtailing deliberate acts of copying to defraud owners of their rights and the financial rewards which come from them. However, by its very nature, it can place an individual in a situation of acting illegally even if it is just one copy which is made, and there is no business or trade benefit to the individual.

Q Am I allowed to make an MP3 file of my CD to play on my MP3 player?

A Yes you can so long as you own the CD or received it as a gift and will be the only person who listens to the MP3 file.

This constitutes exempt copying under the 'fair dealing' terms. However, even passing the copied MP3 file to a member of the family would constitute breaking of the copyright laws.

Q Am I allowed to photograph a stranger in the street and use it in my school project/ a book I am preparing?

A Yes you are. The UK permits the taking of photographs of people in **public places** without the need to seek their permission. Unless you signed the rights over to someone else, the copyright in the photograph belongs to you.

You are similarly, allowed to take photographs of buildings or sculptures, or other works of art, that are in public places or ones which are open to the public and do not display signs forbidding the taking of photographs.

It is good practice (and good manners) to get advance agreement from people where practical, before taking their photograph even in a public place. The work place is not a public place and permission must always be sought from colleagues, and the management, before taking pictures in the workplace.

Q Am I allowed to copy written content for use in a course I am teaching at school?

A Yes you are, provided you re-key the content without amendments into a word-processor for printing rather than photocopied and the original source is duly acknowledged.

Note that by not using a photocopy the issue of any typographical rights which may exist in the original is avoided. There must not be any financial advantage made out of the material that is copied so the course cannot be sold, nor given, to others to use.

Q Am I allowed to use a CD music track as part of a school play?

A **It all depends!** In the UK you may use a CD music track as part of a school play at which the audience comprises only pupils, supervisory staff, and teaching staff from the school. You may NOT do so if parents or any other members of the public form part of the audience. It does not matter whether the parents and public pay to attend the play or not.

This educational exception in current UK copyright law places unfortunate additional administrative burdens on the education sector.

Q Am I allowed to download music tracks from the Internet?

A Yes in some cases. There are legal download sites on the Internet. These are usually, but not exclusively, discernible by the fact they charge for the tracks that you download and give contact details for service. The fact that you have 'heard of' a download site is not usually sufficient in its own right, to give assurance of its legitimacy, as illegal sites are some of those with the highest profile.

There are many illegal sites offering free or very low cost music downloads, determining which these are is often difficult, as they are often fronted by good quality webpage designs. Probably, a good yardstick is that if it "sounds too good to be true" then it is probably an illegal site. Not only does downloading from illegal sites risk copyright infringement it may also expose your computer to viruses delivered along with the music download.

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Further FAQs on copyright matters:

University of Leeds Library

<http://www.leeds.ac.uk/library/rights/faq.htm>

this site (last updated in December 2007) provides an excellent set of extended FAQs and other help about copyright issues. The topics include basic questions, different types of material, images (including photographs), electronic copying (scanning), using other people's web pages, creating your own web pages, copying for teaching and ownership of copyright

Arts and Humanities Data Service

<http://ahds.ac.uk/copyrightfaq.htm>

this site (last updated in October 2003) provides extensive FAQs including a useful table showing the length of copyright for different categories of work

University of Abertay Dundee - Information Services

<http://iserv.tay.ac.uk/copyright/Copyright%20FAQ.htm>

this site (last updated in 2005) gives FAQs from a library perspective