

EXCEPTIONS FOR EDUCATION (Teaching and Instruction)

Under UK Law there is no blanket exception for education, but specific and limited exceptions under 'Fair Dealing' in the [Copyright Designs and Patents Act 1988](#).

What is 'Fair Dealing'?

Fair Dealing is not defined in law but left open to the discretion of the courts in a possible copyright infringement claim. The courts will decide on a matter of fact, degree and impression in each case i.e. what you are doing, how much are you copying and what impact your copying has on the work and its market value.

The key question asked is: how would a fair-minded and honest person have dealt with the work?

Before copying under the 'fair dealing' exceptions, you should always consider:

- a) Would your use substitute for possible sales and cause the rights owner loss of revenue?
- b) Is the amount you are using reasonable, appropriate and absolutely necessary for your purpose?
- c) Does the copying meet the provisos of the exception/s you are relying on?

The educational provisions are limited to instruction or examination and assessment purposes only. Any further use of third party content, particularly if regarded as commercial e.g. sales, publishing, exhibitions, festivals, conferences or personal portfolios, will require copyright permission from the rights owner.

Always cite your sources unless you have a genuinely valid reason not to, i.e. impractical or impossible.

• Copying for Illustration for Instruction and Examination (S.32)

Copying is permitted under 'fair dealing', from any type of copyright work for the purpose of illustration for instruction and examination, provided the copying is:

- 'Fair' (see fair dealing above)
- For a non-commercial educational purpose
- Done by the person giving or receiving instruction or preparing for the giving of instruction e.g. admin staff (includes setting, communicating to pupils, or answering examination questions).
- Accompanied by sufficient acknowledgement (unless this would be impossible for reasons of practicality or otherwise).

No contract or licence terms can override or restrict the above exception.

• Copying Extracts for Instruction (S.36)

Unless licences are available, copying is permitted under 'fair dealing', from any type of copyright work, except a broadcast, or an artistic work which is not incorporated into another work, provided the copying is:

- On behalf of an educational establishment.
- No more than 5% of the work, in any 12 month period, across the establishment.
- For a non-commercial educational purpose.
- Accompanied by sufficient acknowledgement (unless this would be impossible for reasons of practicality or otherwise).
- Accessible to staff and students of the establishment only, via a secure network if communicated outside the premises.

No contract or licence terms can restrict the proportion permitted in the above exception.

Licences available:

Books and journals are licensed by the CLA (Copyright Licensing Agency)

Newspapers are licensed by the NLA (Newspaper Licensing Agency)

- **Recording of a Broadcast (S.35)**

Unless **licences** are available, a recording of a broadcast, or a copy of such a recording or and any work included in it, may be made provided it is:

- On behalf of an educational establishment.
- For non-commercial educational purposes.
- Accompanied by a sufficient acknowledgement (unless this would be impossible for reasons of practicality or otherwise.
- Accessible to staff and students of the establishment only, via a secure network accessible within the UK only, if communicated outside the premises.

Licences available:

Off-air recording is licensed by ERA (Educational Recordings Agency)

However, where certain works have been excluded from a licence and no licence is available, these provisions are reinstated e.g. recording from foreign, cable or Sky channel broadcasts, Feature films which are excluded from the ERA Off-air recordings licence, may be recorded for educational purposes under s.35, if no alternative licence is made available.

- **Showing, Playing or Performing a Copyright Work. (S.34)**

s.34(1) permits the showing, playing or performing of *literary, dramatic, musical (i.e. sheet music) or artistic work*, for *activities* of the University, to staff, students or people directly connected with the University e.g. governors (specifically excludes parents).

s.34(2) permits the showing, playing of *sound recordings, films or broadcasts* for instruction only.

Licences for non-instructional events

Any film screenings or playing of sound recordings (including film soundtracks during film screenings) not part of the curriculum e.g. for social, entertainment or marketing purposes, require specific licensing.

For playing **music**, a PRS **and** a PPL licence is required for the venue.

For **film screenings** a [Filmbank](#) or a [MPLC](#) licence is required to show the film, **and both** [PRS](#) **and** [PPL](#) licences are required to play the film soundtrack at the venue.

If any copying falls outside of the exceptions and licences, permission will be required from the copyright owner/s, e.g. if you exceed the limits or wish to publish commercially or make it publicly available in any way.

General Exceptions (applicable to education):

- **Criticism, Review, Quotation and News Reporting (S.30)**

Copying is permitted under '**fair dealing**' from a work which has already been made available to the public i.e. disseminated, published, broadcast e.g. you may not copy unpublished work or private work/papers/letters without the rights owners permission for this purpose. Although no limit applies, the copying must be considered 'fair'. Therefore only the quantity needed for the purpose should be copied e.g. quotations, passages, clips.

Always cite your sources unless you have a genuinely valid reason not to i.e. impossible or impractical.

No contract or licence terms can override or restrict the above exception.

If any copying falls outside of the exceptions, permission will be required from the copyright owner/s.

An overview of the new exceptions; <https://www.gov.uk/exceptions-to-copyright>
[CDPA 1988](#) as amended.

Research /Coursework/ Dissertations

Student copying and the use of copyright protected work during their studies, for research coursework assignments and examinations are covered under the above mentioned educational exceptions and general exceptions such as Criticism, Review, Quotation and News Reporting (S.30) and the personal Private Study and Non-Commercial Research exception (s.29), depending on the type of copyright work being used and the type of use.

However, it is important to consider copyright at the start of a project, as clearing copyright retrospectively for uses beyond the sphere of the exceptions, can prove extremely difficult and can at times prove disappointing or even impossible e.g. public or commercial use i.e.

- If you decide to publish a dissertation, thesis or research results which contains third party material,
- If you have created a work of art adapted from or comprising of third party material or and then wish to exhibit, show to the public, prospective students or employers, or
- If you have used clips from film/broadcasts/soundtracks and then wish to exhibit, show to the public, prospective students or employers,

the education exceptions will no longer apply and permissions from the copyright owners will be required.

Publishers/rights owners may be difficult to trace, demand unaffordable fees or refuse permission entirely, resulting in the content having to be removed or the student restricted from using the complete work as intended.

If you need help or advice with any of the above, please contact Copyright@mdx.ac.uk, or the Copyright Officer, Kate Vasili, k.vasili@mdx.ac.uk.