

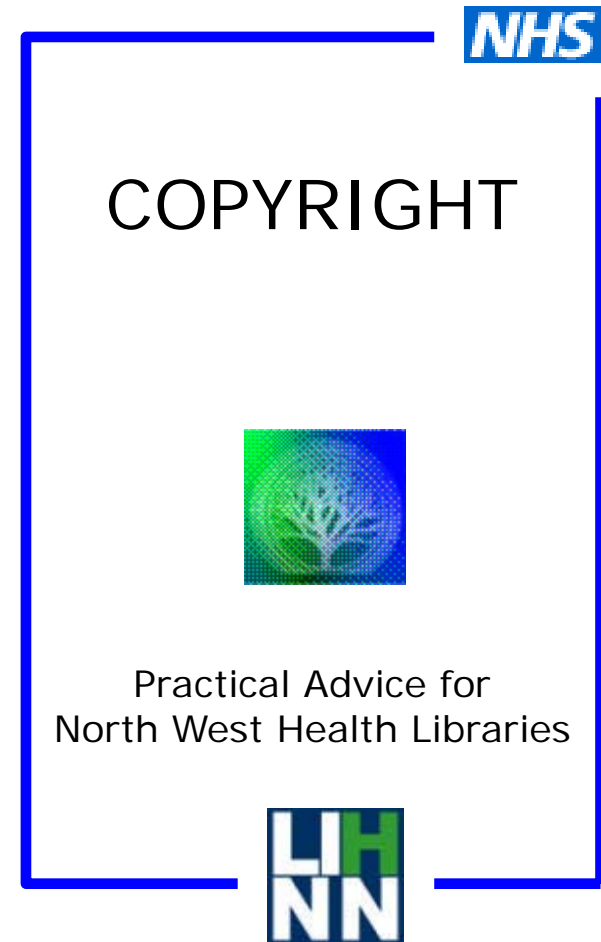
Further information:

Copyright, Designs and Patents Act
1988: [http://www.hmso.gov.uk/acts/
acts1988/Ukpga_19880048_en_1.htm](http://www.hmso.gov.uk/acts/acts1988/Ukpga_19880048_en_1.htm)

Copyright (**Visually Impaired Persons**)
Act 2002: [http://www.hmso.gov.uk/acts/
acts2002/20020033.htm](http://www.hmso.gov.uk/acts/acts2002/20020033.htm)

Diagram pages 6/7
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COPYRIGHT DESIGNS AND PATENTS ACT 1988
(as amended by Statutory Instruments 1999-2003)
and
COPYRIGHT (VISUALLY IMPAIRED PERSONS) ACT 2002

What is copyright?

It is the protection offered by law to the content of almost every work, published or unpublished. The law sets out what is covered, what protection is offered to the owner of the copyright rights, and what use can be made of the material, by individuals and libraries, without permission. The quality of the work is not relevant.

Does everything qualify?

Yes, with or without an indicator. Copyright is automatic, so you must assume it is protected unless there is a clear statement otherwise. Copyright covers all work regardless of where it is accessed, recorded or published.

Practice Point:

Abstracts published with an article in a periodical are outside copyright and may be freely utilized. However, that same abstract published in a data base may not be utilized unless the terms and conditions of the data base licence allow such use.

Special Groups.

Social Services Staff.

Social Services staff may be treated as NHS employees if they are providing services for, on behalf of, or under contract with a NHS organisation. For example, this will include staff employed in learning disabilities, drug abuse care, sexual health care and child protection services.

Visually Impaired Persons (VIPs).

The Copyright (Visually Impaired Persons) Act 2002 was enacted on 31st October 2003. For the first time in UK law, change of format copying can be legally done for VIPs.

Definition. A VIP is defined as:

'one who is blind or partially sighted or has uncorrectable sight-loss or who has a physical disability which makes it impossible for them to hold a book or move their eyes.'

Practice Point:

This makes it possible to provide alternative formats to people with chronic arthritis, for example, as well as the registered blind. However, it does not include dyslexia or any other learning difficulty.

The qualifying rules.

- 1) All Artistic works are excluded.
- 2) The required format is not already available commercially.
- 3) The person has lawfully obtained a copy of the original (this includes obtaining lawful access to the original in a library or archive).
- 4) The copy must carry a statement to this effect.
- 5) A licensing scheme must not be available to cover the required format. (Copying into large print is covered by two available schemes).
- 6) Any intermediate copy created as a result can be kept by an approved body for further use, but the Copyright owner must be informed and records of subsequent use kept.
- 7) Multiple copies for VIPs may only be made by educational establishments or non-commercial bodies, providing points 1,2,4,5, & 6 are met.

The Higher Education Licence allows users and libraries to copy at the same basic level as Library Privilege. However, tutors and lecturers, may make sufficient copies of resources used in teaching sessions for each student in their class plus one copy for themselves. When an academic library supplies to another library a declaration form is required and the conditions of Library Privilege apply.

The Newspaper Licence allows users and organisations to copy from, or operate a cuttings service from, newspapers who have signed up to the Newspaper Licensing Agency licence.

Licences Practice Point:

Copying for a commercial purpose is not allowed under any licence. Please refer to the paragraph "Copying for Commercial Purposes" on page 9.

Terms and conditions.

These are similar to a licence and are usually used to control membership and activity within a scheme. When the library signs up to a scheme these should be read carefully as they may affect what you can and cannot do. Both the BMA and BLDSC operate under terms and conditions of membership, part of which require you to obtain and store a declaration form for each and every request.

What is covered?

Any literary work (e.g.: book, poem, article, report, words of song, electronic text)
Any dramatic work (e.g.: instructions for a play; dance; mime; choreography)
Any musical work (the musical score not the words)
Any artistic work (e.g.: painting; drawing; photograph; sculpture)
Any sound recording (e.g.: vinyl disc; cassette tape; CD; DVD)
Any film (including video or other media); broadcasts; websites; email
The performance of a work
Any database gains rights as a collection
The typographical arrangement of a work

This means that any one item may have several copyright rights holders.

For example, a CD of a pop song will have:

- Artistic rights (any designs, photographs, or logos on the CD; the case and/or insert)
- Literary rights (words of the song, any words on the face of the CD; any words on the case and/or insert)
- Music rights (musical notation of the song)
- Performing rights (of the individual or band, as well as the backing musicians and singers)
- Sound recording rights (CD itself)
- Typographical rights (typography on the face of the CD; the case and/or insert)
- Database rights (the order of the songs chosen)

To make a legal copy will require the permission of all the people who own rights listed above. To complicate matters further, some or all of these rights may have been sold, assigned or licensed to a third party.

Practice Point:

Letters, memorandums and emails are all covered by Copy right (Literary works) and should not be copied or forwarded without the authors permission.

Maps should not be copied or forwarded unless you own the copyright or permission has been granted.

How long does copyright last?

70 years from the end of the year in which the author/creator dies for Literary, Dramatic, Musical, Sound, and Artistic Works. There are some variances to this period depending on the material or rights in force. Please refer to (LIHNN website doc.)

Who owns the Copyright?

Normally the author of a work owns the Copyright.

Practice Point:

However, anything produced at or for work is owned by your employer. Students/pupils own any work produced whilst at college or school, unless they sign a declaration otherwise.

Authors may sell, assign or licence access to, or use of, their material.

Copying for commercial purposes.

Any request for a commercial purpose, regardless of which licence or conditions of supply are used, incurs, in addition to any library charge, a fee that must be paid to the rights holder. It is recommended that libraries make use of the CLA's Sticker Scheme or BLDSC's Copyright Cleared Service or another Copyright Cleared Scheme (e.g.: HERON) for this type of request.

Other Issues.

Licences and Terms and Conditions

For library staff there are two main types of **licence**.

- 1) A licence that controls what can or cannot be done with the information covered by that licence.

Examples:

A licence that covers your electronic journals may prevent you from providing a copy of any article to anybody outside your organisation.

A licence that comes with a CD-ROM may stop you from loading the disc's programme on more than one computer or onto a network.

- 2) A licence that extends the copying allowed under Fair Dealing or Library Privilege.

In Health and Academic Libraries in the North West, there are two main types of licence in use. The Higher Education Copyright Licence and the Newspaper Licence. The details of these licences are different, and therefore the copying limits between different types of libraries in a shared scheme, like the LIHNN Union List, vary.

Practice Point:

All libraries require a form signed by the requestor before they can supply.

Copying by a Library – without a copyright licence.

The Copyright Act gives libraries the right to make use of copyrighted works in certain circumstances. This is known as **Library Privilege**. These rules apply when a library makes a copy on behalf of a user or on behalf of another library.

The rules:

- 1) Any library may make a copy, but only a prescribed library can receive a copy. A prescribed library is any not-for-profit library in the following categories: Public, National, Educational, Government (including NHS), or a library whose main purpose is to encourage the study of a wide range of subjects (including non-UK libraries).
- 2) The copy made must be for non-commercial private study or research for a non-commercial purpose.
- 3) The request must be neither similar nor related to any other persons request.
- 4) Only one copy may be made.
- 5) Only one article per issue per requestor, in their lifetime, may be copied from a periodical. An article is defined as an item of any description, e.g.: article, editorial, letter, advertisement or the contents page.
- 6) A reasonable portion of a book may be copied. Reasonable is not defined. Publishers have made it known that they consider 5% or not greater than one chapter of a book to be reasonable. Only one act of copying may take place from a single source in a requestors' lifetime.
- 7) For each item a payment must be made. (see LIHHN doc)
- 8) For each item a declaration form must be filled in and personally signed by the requestor.

Practice Points:

The form must be obtained before the item is handed over.
The form must be stored by the library for 6 years plus one day from the end of the year in which it was signed. The library is responsible, as far as reasonably possible, for ensuring conditions 5 and 6 above are met.

Other rules allow prescribed libraries to copy or request copies for preservation or replacement purposes. (See LIHHN doc)

Copying by an individual for own personal use.

The Act gives individuals the right to make use of copyrighted works in certain circumstances. This is known as **Fair Dealing**.

The rules:

- 1) The copy made must be for:
 - their own non-commercial private study
 - research for a non-commercial purpose
 - criticism or review
 - reporting current events
- 2) Only one copy may be made.
- 3) Only one article may be copied from a periodical.
An article is defined as an item of any description, e.g.: article, editorial, letter, advert or the contents page.
- 4) An insubstantial portion of a book may be copied.
Insubstantial is not defined, however, the last page of an Agatha Christie novel that reveals the murderer would be considered a substantial part!
It is generally accepted that up to 5% of a book, or one chapter, may be copied.

Practice Point:

A poster laying out these conditions must be displayed by every photocopier.

COPYRIGHT

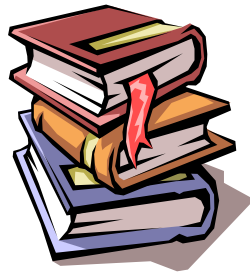
The Control of Photocopying or 'What Can I Copy and How Much?'

Copyright exists in, for example, text, layout, content, typeface and pictures.

A single page may have several rights holder

COPY ANYTHING

PERMISSION



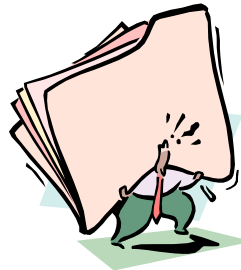
With the Rights Holders' permission you can copy anything – subject to the limits of permission. A payment may be required.



LIMITED COPYING

THE LAW

Copyright Designs and Patents Act 1988



As an Individual.
You can make one copy of material for own use, subject to prescribed limits, eg: 1 article per behalf of users, subject to issue; 5% of a book. This is called 'Fair Dealing'.

As a Library.
Statutory Instrument 1212, 1989, allows librarians to obtain or make copies on same restrictions as for an individual and the obtaining of a signed declaration and receipt of a payment. This is called Library Privilege'

LIMITED COPYING

LICENCED

(Agencies set up by law).



A purchased licence, licences copying up to agreed limits in return for a payment. The Higher Education Copyright Licence and the Newspaper Licence are examples.

No payment is made to the Rights Holder

2003 EU Directive amends the Act and restricts copying to 'for non-commercial purposes'

Copying for commercial purposes now means payment to Rights Holder plus library costs

Payment is divided amongst the rights Holders by the Licensing Agency