

A Guide to Copyright and Creative Commons in Research

Learn the basics of copyright and licensing, find out what to consider when publishing your work and how to make use of published materials in your own research.

What is copyright?

Copyright exists automatically from the moment an original work (such as a journal article, photograph or artwork) is created. The author or creator is granted rights protected by law that limit the ways that work can be reused by others (such as copying or selling it). Copyright is often held by an individual author, but can be shared among co-authors, and employers will usually own the copyright of their employees' work.

In many countries, including the UK, copyright protects literary and artistic works until 70 years after the author's death. Some very old unpublished and archival materials are still in copyright in the UK due to the complexities of the 1988 Copyright, Designs and Patents Act (as amended). Works created before 1989 by an author who died before 1969 are in copyright until 2040. Copyright is important for researchers because:

- It can limit how you make use of already published material
- You may sign over copyright or specific rights (e.g. translation or distribution) for your works to other parties like publishers, which can hinder access and reuse.

What is Creative Commons?

Creative Commons is a licensing scheme which builds upon copyright. Copyright restricts future reuse, and often results in 'all rights reserved' being placed alongside copyright statements. This means others may need to ask permission to reuse published research, even in part. Creative Commons licences make it easier to allow others to reuse in-copyright work in certain ways, without the need to seek permission.

Creative Commons licenses are often applied to open access research outputs. This helps guarantee free access in the long term and allows other researchers to more easily reuse and build upon previous research findings. It also enables all kinds of creative reuse, such as producing derivative works or translations, and creating a commercial product out of an idea.

Choosing a Creative Commons licence

A rights holder can apply a Creative Commons licence by including a set statement on their work, along with a link to the licence text on the Creative Commons website. A Creative Commons logo is usually included.

There are several licences available to choose from, which outline what others can and cannot do. Almost all licences start with the acronym 'CC' and then a series of letters. All these licences can be combined in different ways. Generally speaking, the more letters in the licence, the more restrictive it is. Some examples are below.



CC BY (Attribution Licence): anyone can reuse the work as long as attribution is made to the original author (i.e. they must cite the original publication). This is the most useful kind of licence, as it enables all kinds of academic and creative reuse



CC BY-NC (Non-Commercial): all kinds of reuse are permitted as long as they are for non-commercial purposes (i.e. the work is not being sold)



CC BY-ND (No Derivatives): the work can be reused as is, without modification. This might be useful if the integrity of the original work is important



CC BY-SA (Share Alike): the work can be reused for all kinds of purposes, but any newly created work must also be shared under the same licence (e.g. you could not create a new work and then issue it under a more open or more restrictive licence)



The CC BY-NC-ND licence is quite common in academic publishing, though it is very restrictive. It only allows others to freely download and redistribute the work, but not modify or build upon it for commercial purposes



The CC0 (Creative Commons Zero) licence allows researchers to waive their rights in a piece of work. Many researchers choose to use this licence for their research data to enable maximum reuse.

Moral rights

Moral rights protect the reputation and goodwill which the author or creator builds up in their works, and are less focussed on protecting the actual work itself. The main

rights are:

- The right to be identified as the creator of the work
- The right to object to derogatory treatment of work
- The right not to have a work falsely attributed to you.

Moral rights need to be asserted to exist. The imprint page of most books will include a statement where the author asserts their moral rights. Moral rights can be waived (discarded) but cannot be licensed or assigned. Commercial publishers in particular may ask for a waiver of some rights. However, an author of an article or book could sign over copyright or apply a Creative Commons licence but could still own and exercise some moral rights. The exception is the CC0 licence, which waives an author's moral rights.

Copyright in academic publishing

When you publish an article or book, it is common for the publisher to ask you to sign over copyright and/or a range of rights. You may no longer be the primary rights holder and may not be able to apply a Creative Commons licence to your work. However, many publishers now offer

authors the option to publish under a Creative Commons licence (known as open access publishing). Some publishers charge a large fee for this but a growing range of open access publishers offer this by default and for free.

There are several steps you can take when choosing a publisher to prevent your work being overly restricted:

- 1) Choose an open access publisher with no open access charges (or an affordable charge). [The Directory of Open Access Journals](#) is a useful resource for finding an open access journal publisher. The [Radical Open Access](#) group maintains a directory of book publishers, many of which are free to publish in
- 2) Check your organisation's resources for open access publishing. There may be funds available in case a publisher charges for open access, or other deals to which your organisation subscribes to enable open access publishing. Ask library or research support staff for advice
- 3) Check the ways in which your publisher allows you to reuse your published work, if you are choosing a non-open access publisher or you can't

afford an open access fee. Many publishers let authors use their accepted manuscript (the final draft document after peer review) in a less restrictive way than the final published work. This means you could share your work freely via an open access repository. Read more in our leaflet on open access

- 4) Negotiate rights with the publisher. The rights you retain as an author are detailed in a publishing contract or license to publish. Negotiation of these might not be possible with major journal publishers, but smaller publishers and book publishers may be more willing to negotiate what rights you can retain (e.g. the right to arrange translations, or upload it to a repository).

Using copyrighted work in your publications

Copyright exceptions

When writing up research, it's likely that you will want to make use of some material that has already been published, like an image or an excerpt from another publication. If you're not the rights holder, these materials are referred to as being under 'third party copyright', as if you signed over copyright to a

publisher, you may not own all the rights to your own work. In many countries, there are laws permitting the limited reuse of third party copyright materials. For research purposes, in the UK there are a number of copyright exceptions available.

The main exception which can be used in the context of publication is the exception for 'criticism and review' (section 30 of the CDPA). This allows a researcher to include third party copyright material, as long as it has previously been made publicly available, is the minimum amount required, is attributed, and it is in the context of critical analysis. For example, you may wish to include an extract from a famous theorist's book and provide a commentary on it. In this case you should include the minimum amount possible (i.e. three lines might make the point, rather than two paragraphs).

Alternatively, you may wish to include an image or diagram in order to analyse it (a whole image is fine if it is relevant, but probably not four or five images when one would do). You should avoid using third party materials solely for illustration: you must directly engage with it.

Archival and orphaned material

If the material you wish to reuse has not been published or made publicly available, for example archival material, you should normally seek permission from the copyright holder before reusing any amount. In addition, archives often have conditions of access, and there may be charges or forms to complete to even obtain copies of materials. The archive should be able to help you identify the copyright holder, which may be the author's heirs.

If you cannot identify a copyright owner, then the work may be an 'orphan work'. You need to make all possible attempts to identify an owner before deciding to reuse the material in this case. The UK's [Intellectual Property Office](#) provides further information about this.

Seeking permission to reuse material

When you need to include third party material and it does not fall under copyright exception guidelines, you will need to seek permission from the rights holder. Most organisations, including publishers, museums and galleries, have information about how to apply for

permission on their websites.

Some kinds of third party material may be difficult to use in open access publications, especially if there are multiple rights holders or the material is commercially valuable. Images of artwork, for instance, may involve asking permission from the owner of the artwork as well as whoever created the image. Sometimes permissions are not granted and fees to reuse materials are not affordable, particularly in the case of open access publications. In this case you may be able to make your accepted manuscript available via an open access repository, but remove or link out to the third party material if it is available on the rights holder's website.

Work which is already licensed for reuse under a Creative Commons licence can be freely used, as long as it is properly attributed. However, if you're publishing your work with a commercial publisher, it may not be possible to reuse materials licensed with the NC (non-commercial) element, and you would need to rely on the copyright exceptions above or ask permission from the rights holder. Make sure permission is gained for the life of the publication or duration

of copyright, rather than for a limited period of time, otherwise permissions would need to be cleared again in the future.

Further Resources

[Creative Commons Licence](#)

[Chooser](#): can help you to choose the most appropriate licence for your work.

[Creative Commons Search](#):

provides a tool to find materials, including images, licensed for reuse.

[Copyright User](#): provides easy to understand guidance on a range of copyright issues, with a UK focus.

The British Library

Scholarly Communications Toolkit

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Note: this document does not constitute legal advice.

