

Copyright for Community Archives

2026

Copyright Handbook

Introduction

Copyright is a type of intellectual property right designed to protect individuals creating original works from having the fruits of their creativity exploited by others. It can place limitations on how community archives can legally copy and encourage re-use of items in their collections. Having an understanding of copyright legislation and how it affects the management of and provision of access to archival collections is important for community archive groups, particularly in light of new technologies and digital opportunities.

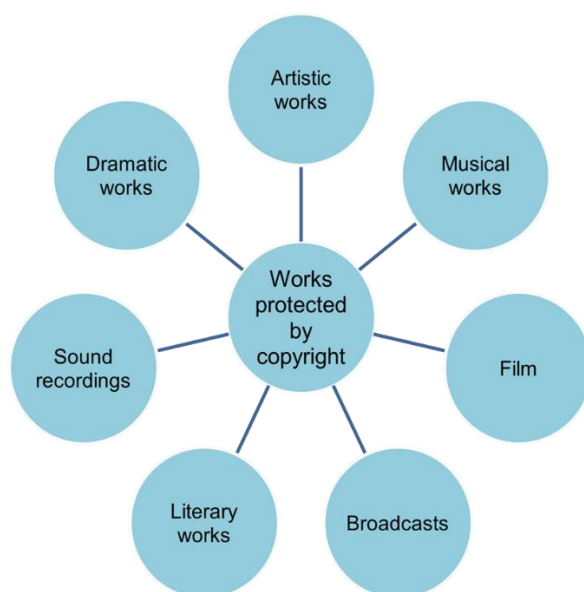
This handout provides a basic overview of some of the key points to be aware of and provides a list of places to look for more detailed guidance and help.

Copyright

Defined by the Copyright, Designs and Patents Act, 1988 (CPDA)

- Copyright is created automatically on the creation of an original work and does not require any formal registration.
- Does not protect ideas but does protect the expression of those ideas in their tangible, material form.
- Covers original works of creativity, but not facts.
- Is legislation that makes up part of the Intellectual Property Rights (IPR) group:
 - Copyright (including moral rights, database rights, publication rights etc.)
 - Patents
 - Trademarks
 - Designs
 - Trade secrets
- It is an intangible property right – it cannot be touched or seen, but it can be transferred, inherited, bought or sold.

Items that copyright covers are known as 'works'



- Literary works can be made up of letter, numbers or symbols.
- Artistic works can be photographs, maps and plans as well as sketches, paintings and sculptures.
- Typographical arrangements – how a page is designed and laid out – can also be a type of work.

Key terms in copyright

- **Author:** the creator of the original work and in most cases the owner of copyright.
- **Copyright infringement:** when an individual or organisation carries out a restricted act such as copying or re-using without permission.
- **Duration:** the amount of time that copyright restrictions last, which varies depending on a number of factors.
- **Orphan Works licences:** a form of usage licence to enable people to share and re-use Orphan Works in the UK.
- **Intellectual Property Rights (IPRs):** a family of economic rights which protect the fruits of human invention, innovation and creativity.

A very good and comprehensive resource is:

Tim Padfield's book: 'Copyright for Archivists and Records managers, 7th edition', Facet Publishing, Jan 2026, ISBN: 9781783307364

Employees vs. volunteers

The copyright in most works created by paid employees of an organisation or company as part of their work will belong to the employer – to the company or body that pays the wages of the creator of the work.

Volunteers usually retain the copyright in literary, artistic or other works they create as part of their volunteering activity, so any volunteer agreement should include a section where the volunteer assigns the copyright in works they create as part of their volunteering to the organisation they are volunteering for. This is very important for community archive groups who may rely on volunteers to help write their catalogues, photograph their events, contribute to their newsletters etc.

Infringing copyright – restrictions on use

Carrying out one of activities listed below without the consent of the copyright owner might be restricted under copyright:

- Copying material
- Issuing or making available copies to the public
- Showing, playing or broadcasting or filming
- Adapting or amending material
- Publishing material, including on the internet.
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Two ways in which copyright can be breached are:

- **Primary Infringement:** which is the activity itself
- **Secondary Infringement:** which is providing the means for others to infringe copyright

Copyright duration

The duration of restrictions under copyright will be dependent on a number of factors including

- Whether the creator is known
- The type of creative work
- Whether it has been published before
- The date of publication

Type of Work	Duration
Artistic works by known creators (including drawings and photographs)	Lifetime of the artist PLUS 70 years
Literary works (published, broadcast or offered for sale)	Lifetime of the author PLUS 70 years
Sound recordings	50 years from the end of the calendar year in which they were made or, if published, 50 years from that date
Films	70 years after the death of the survivor of the principle director or the authors of the screenplay

This table gives a basic summary of duration of copyright for a lot of published works. The full picture is far more complicated and can be seen in flow charts produced by the [National Archives](#).

The *duration* of copyright in works created by employees still comes from the lifespan of the creator plus 70 years, in most cases. Just because a business has gone into liquidation does not mean that its intellectual property rights have been extinguished.

The 2039 rule

- The CDPA states that the duration of copyright in certain *unpublished* literary, dramatic, musical and artistic works, films and sound recordings continues until 50 years from the end of the calendar year in which the 1988 Act came into force – 31 December 2039.
- These provisions apply *regardless* of when relevant works were first created or when their authors died.
- The UK National Archives estimate that there are over 100 million unpublished archive items subject to the 2039 rule in the UK.
- The government has acknowledged the 2039 rule is a significant problem for the use and reuse of historic material. In October 2014 they consulted on reforming the 2039 rule but ultimately decided to take no action.
- It's important for you to identify unpublished material in your collections and know about whether it is caught by the 2039 rule. Just because it's old does **not** mean it's out of copyright!

Orphan Works

An orphan work is a work where the rightsholder(s) cannot be identified or located, despite a diligent search being carried out.

- A partial orphan work can occur when there are multiple rightsholders in a single work, but only some can be identified or located.
- Generally, if the commercial value of a work is low, it will be harder to find a rightsholder for the work.
- Therefore, where works have a low commercial value, rights clearance may be more costly.
- This disproportionately affects archives, where many collections contain unique, unpublished material that was not created for commercial gain.

Licensing schemes for using orphan works

There is a way for anyone to apply for a licence that allows them to use, publish and re-use in-copyright orphan works that might be in archive collections.

The UK Orphan Works Licensing Scheme came into force in the UK in October 2014.

<https://www.gov.uk/guidance/copyright-orphan-works>

You should consider the options if you are thinking of making use of orphan works. You may decide to not to use the OWL scheme, if you believe the risk of someone complaining about possible infringement may be low, but this could leave you at risk if a rights holder does come forward.

The National Archives has produced [guidance](#) for archive services on reasonable searches to identify rights holders in orphan works.

	UK OWLS
Who can use it?	Everyone
What For?	Any purpose, commercial or non-commercial
What types of works?	All works
How much does it cost?	Application fee + non-commercial licence fee set at £0.10 per work. Commercial fees based on standard commercial rates.
Diligent search required?	Yes
How long?	7 years; renewal subject to updated diligent search
Where can the material be used?	UK only

Be aware it requires a diligent search to be made and has associated costs (in money and in time and resources) that may affect your project. There was also an EU Exception, but this is no longer available to UK heritage organisations.

Exceptions to copyright

There are some aspects of copyright law that allow for certain instances of copying without the explicit permission of the rights holder, which can come under the term FAIR DEALING.

These exceptions usually relate to the copying of work, in the circumstances of

- Criticism and review
- Current news reporting (not applicable to photographs)
- **Non-commercial research and private study**
- Teaching and educational use
- Archives, Libraries & Museums can make copies for preservation purposes
- Helping disabled people

Archives can allow a copy to be made of items in their collections using an exception in copyright law that allows one copy to be made for non-commercial research or private study. A copyright declaration has to be acknowledged to show that the researcher has been made aware of their responsibilities to make sure that the copying is legal.

An example of a copyright declaration form from an archive service covering the copying of parts of both published and unpublished works for non-commercial research or private study can be seen [here](#).

Further Guidance and Resources

Legislation

Current UK Legislation can be viewed online in full at <http://www.legislation.gov.uk>

This includes the Copyright, Designs and Patents Act, 1988 –
<http://www.legislation.gov.uk/ukpga/1988/48/contents>

and the Copyright and Related Rights Regulations, 1996 -
<https://www.legislation.gov.uk/uksi/1996/2967/contents/made>

Copyright useful resources

The website of the UK Intellectual Property Office has many useful resources relating to Intellectual Property Rights
<https://www.gov.uk/government/organisations/intellectual-property-office>

They have a lot of detailed guidance about Copyright here:
<https://www.gov.uk/topic/intellectual-property/copyright>

Guidance on the Orphan Works Licensing Scheme can be found here
<https://www.gov.uk/guidance/copyright-orphan-works>

and on how to conduct a 'diligent search' here
<https://www.gov.uk/government/publications/orphan-works-diligent-search-guidance-for-applicants>

Information on Exceptions to copyright can be found here
<https://www.gov.uk/guidance/exceptions-to-copyright>

Information on the 2014 changes to copyright can be found here
<https://www.gov.uk/government/publications/changes-to-copyright-law>

The IPO published advisory notice about the public exhibition of in copyright works is here
<https://www.gov.uk/government/publications/copyright-notice-public-exhibition-of-copyright-works>

A useful factsheet on copyright and related rights from the UK National Archives can be found here:
<https://cdn.nationalarchives.gov.uk/documents/information-management/copyright-related-rights.pdf>

The guidance from the UK National Archives on Orphan Works can be seen here:
<https://cdn.nationalarchives.gov.uk/documents/archives/orphan-works-guidance.pdf>

The UK National Archives Non-Crown Copyright flowchart

<https://cdn.nationalarchives.gov.uk/documents/information-management/non-crown-copyright-flowchart.pdf>

The UK National Archives Crown Copyright flowchart

<https://cdn.nationalarchives.gov.uk/documents/information-management/crown-copyright-flowchart.pdf>

A useful overview on things to consider when using the work of others

https://www.copyrightservice.co.uk/copyright/p27_work_of_others

Some guidance aimed at Community Archives managing digital collections from the Digital Preservation Coalition can be found here:

<https://www.dpconline.org/digipres/implement-digipres/community-archives-dp-toolkit/community-archives-toolkit-matrix/community-archives-plan-to-share/community-archives-plan-to-share-3/guide-copyright-comm-archives>

The Collections Trust has links to useful guidance here:

<https://collectionstrust.org.uk/spectrum-resources/rights-management/>

Information on Creative Commons Licensing can be found here:

<http://creativecommons.org/>

The resources created by the Digitising Morgan project to explore digitising the scrapbooks of Edwin Morgan can be found archived at

<https://conifer.rhizome.org/UoGLibrary/digitising-morgan-two/20241210112616/https://www.digitisingmorgan.org/>

This includes useful research on law, diligence and risk and a number of other resources.

AI and copyright – the report on the UK consultation on AI and copyright:

<https://www.gov.uk/government/publications/report-and-impact-assessment-on-copyright-and-artificial-intelligence/report-on-copyright-and-artificial-intelligence>

Example of a takedown policy from the British Library:

<https://bl.iro.bl.uk/terms?locale=en>

The IP Kat – a blog about copyright issues (among other IPRs):

<https://ipkitten.blogspot.com/search/label/copyright>

Copyright Case Studies

Case study – Using the Orphan Works Licensing scheme by Melissa Terras

<http://melissaterras.blogspot.co.uk/2014/10/reuse-of-digitised-content-4-chasing.html>

Case study – Bollywood blocks the Internet Archive. Access to the Wayback Machine of the Internet Archive has been blocked for almost a whole country because of a takedown request made by a Bollywood film company. When it first happened there were all sorts of conspiracy theories about how India was trying to block public access to older government information or online resources (China blocks all sorts of sites to limit the access people have to information), but it turned out to be copyright that caused the issue.

<http://www.bbc.co.uk/news/technology-40875528>

Case study – Warner Brothers reports its own website for copyright infringement. A lot of big companies employ agencies to trawl through the internet, looking for illegally shared content and issuing legal takedown notices to search engines like Google to stop people being able to find them. In this case they were a bit too enthusiastic and didn't notice they were issuing a legal notice against the official website.

<http://www.bbc.co.uk/news/technology-37275603>

Case study – Copyright trolls online block access to a popular rights-free music channel on YouTube.

<https://www.bbc.co.uk/news/newsbeat-62133768>

Case study – a professional author and blogger finds out re-using photographs you find on the internet can infringe copyright.

<https://roniloren.com/blog/2012/7/20/bloggers-beware-you-can-get-sued-for-using-pics-on-your-blog.html>

Case Study – a German school district is successfully sued by a rights owner because they published an image on their school website that had been used in a piece of schoolwork offline.

<https://www.bbc.co.uk/news/technology-45113092>

Case Study – the 'monkey selfie' case, in which a photographer ended up embroiled in a 2 year case because he published a photograph a monkey took of itself using his photographic equipment.

<https://www.bbc.co.uk/news/uk-wales-south-east-wales-41235131>

Case Study – a publisher adapted an artistic work (a map) to include in a book, but the original artist was accidentally missed from the acknowledgements. This highlights the importance of contract clauses, keeping accurate rights information and approaches to making things right.

<https://ilona-andrews.com/blog/a-public-apology-to-becka-moon/>

Case Study – the internet, social media ads and counterfeiting – An independent luxury brand producing a limited number of stationery advent calendars found their product had been noted, copied (using their own advertising photographs), and counterfeits of poor quality were being sold in multiple online 'TikTok Shops' that popped up again as soon as a takedown notice was issued. This kind of copyright infringement disproportionately affects small, independent, makers who often lack the resources to fight sustained counterfeiting attacks.

<https://www.marthabrook.com/blog/stationery-advent-calendar-counterfeits/>