Copyright and course materials on MyAberdeen - your responsibilities
Mary Mowat, October 2020
QG GEN024 [https://www.abdn.ac.uk/library/documents/guides/qggen024.pdf]

MyAberdeen

This library guide concerns all areas of the university’s Virtual Learning Environment (VLE) including MyAberdeen, MyMBchB, MyBDS etc.

Staff members are reminded that many of the items they may wish to include as course materials will be subject to copyright and/or licensing restrictions.

This guide explains what you need to do to ensure that your course materials on MyAberdeen do not contravene current UK copyright legislation or licensing restrictions.

Leganto Reading List Project

A new Reading List Service was introduced for the 2020-2021 academic year. If you submitted a reading list as part of this and it contained extracts in the top three essential items, Library staff will check for CLA licence compliance, arrange for a scanned copy that is accessibility compliant (wherever possible), and make the reporting of this content to the Copyright Licensing Agency. No further action is required on your part in respect of these items.

Owing to the demands on the service, it is possible that we will not be able to provide every scanned extract on every reading list via Leganto. For the 2020-2021 session only, you may still upload scanned items directly to your course area in the VLE. If you do add scanned extracts directly to MyAberdeen, you will need to check: (a) The item is covered by the CLA licence, (b) A completed copyright notice is appended as the first page of the scan (c) Wherever possible the scan is in a digitally accessible format and (d) Use of CA licenced material is reported to the copyright officer at the end of the session. Further guidance on how to use copyright materials within the VLE is provided on the Copyright and the VLE page (embedded link to www.abdn.ac.uk/library/support/copyright-and-the-vle-389.php).

Through the course of 2020-2021, as part of the second phase of the Reading List Project, Library staff will sequentially process extracts in extended lists.

Materials that can be freely copied

The following categories of materials can be freely copied and added to MyAberdeen:

- Items which are out of copyright
- Items which you have written or created in the course of your employment or otherwise own the copyright
- Items for which you have the express permission of the copyright holder to use in a VLE
- Items where the copyright holder has waived their rights
- If the content is covered by a Creative Commons licence you can upload it to MyAberdeen
- But if you’re creating a new copyright work based on existing Creative Commons works, you need to consider whether this is a derivative work and therefore if the licence restricts this.

The Copyright Designs and Patents Act 1988

This is the primary legislation which lays down the ways in which copyright information can be re-used. The Act was amended in 2014, extending the range and coverage of exceptions – some of which affect the way in which copyright material may be used for teaching and examination purposes. The most important exception in terms of using copyright materials for education is Section 32 “Illustration for Instruction”.

Illustration for Instruction - the basics:

- You may copy a limited portion of a work to illustrate a teaching point (e.g. a few lines of text, play a short excerpt from a piece of music or short clip from a film/DVD).
- The portion used must be the least amount possible to illustrate the point to be made and should not be used merely as embellishment.
- The use of the work must be for non-commercial purposes.
- There should be sufficient acknowledgement of the content and the source from which it is used.
- The use must comply with the principles of fair dealing.

What is fair dealing?

Fair dealing is a legal term used to determine the extent to which the use of copyright material can be considered lawful and beyond which, its use will be considered to infringe copyright.
There is no statutory definition of the extent of use which constitutes fair dealing, rather each case has to be looked at individually within the specific context in which it is used.

According to the guidance issued by the UK Intellectual Property Office, the question to be asked is: how would a fair-minded and honest person have dealt with the work?

A key change brought about by the new exceptions has been to the range of materials covered by the legislation. The new “illustration for instruction” exception covers all types of copyrighted work so you may use excerpts from films, sound recordings and broadcasts as well as textual materials.

Materials can be included in MyAberdeen or displayed on interactive whiteboards. Sufficient acknowledgement must be given, as well as due consideration as to what constitutes “fair dealing”.

You may also upload PowerPoint presentations containing copyright material to MyAberdeen provided the use of that material can be justified under the “illustration for instruction” exception and satisfies the principle of fair dealing.

Despite the recent amendments to the CDPA, it is likely that your use of textual materials in MyAberdeen will be covered by the terms and conditions of the Copyright Licensing Agency Licence.

The only other exceptions being where:

- Copyright has expired, usually 70 years after copyright owner’s death.
- The copyright owner has published their work under a creative commons licence allowing re-use.
- Copyright belongs to you or the University.
- You have the explicit permission of the copyright holder to use the material in MyAberdeen.

For further information see:

OG GEN008 Introduction to Copyright - quick guide

IPO Exceptions to copyright, education and teaching

JISC legal Copyright: Guide

The UK Copyright Service: Using the work of others

CLA Higher Education Licence

The University of Aberdeen holds a Copyright Licensing Agency (CLA) Higher Education Licence. This allows university staff to make scans of limited extracts from published books, journals and magazines and to make these available to registered students on MyAberdeen.

The CLA licence also covers copying from certain digital materials including electronic journals and websites.

The licence covers most UK publications and a number of European, US and international publishers.

To ensure compliance with the CLA licence:

When you have identified the materials you want to include in your course module in MyAberdeen:

- Check whether the Library holds a digital copy of the item (e.g. an electronic book or journal) using Primo.
- If so, provide a link to the item.

The best way to do this is via a stable URL. To create a stable URL, add the prefix https://doi.org to the article’s DOI (Digital Object Identifier).

A few things to bear in mind when providing links to online articles:

- Always provide a full reference.
- Pay particular heed to any specific terms and conditions listed on individual websites.
- Set links to open in a new window.

Most journal publishers expressly exclude the use of full-text pdf versions of their publications in a VLE, although many electronic titles are now covered by the CLA licence. See the Check Permissions tool for details of digital journals covered by the licence. However, if you choose this option you MUST attach a copyright notice to the PDF (see end of this guide) and usage must be included in our report to the CLA. Failure to comply with these conditions will immediately render the university in breach not only of the CLA licence, but also the publisher’s licence.

We therefore strongly recommend that you DO NOT upload publisher’s pdf copies and instead, simply provide a permanent link to the article. This way, you do not have to attach a copyright notice, nor do you have to report your usage in your annual CLA return. In addition, each time a student accesses the material via a link, it registers on our usage statistics: an important determinant when considering journal cancellations.

Where the university does not have electronic access to a specific resource, you may scan from a print copy.

The amount of material you may scan under the licence for any one module must not exceed, either singly or in aggregate, the greater of 10% of any published edition or:

- in the case of a book, one complete chapter
- in the case of an article in an issue of a serial publication or in a set of conference proceedings, one whole article
- in the case of an anthology or short stories or poems, one short story or poem not exceeding 10 pages in length
- in the case of a published report of judicial proceedings, the entire report of a single case.
The materials scanned may be text only, text with embedded image(s) or images disembedded from text. Where endnotes and/or references integral to a specific chapter or article are given at the end of a book or journal issue, they can be treated as forming part of that chapter or article.

You may make minor changes to the material copied provided this is done for purely pedagogical reasons and your changes are in no way detrimental to the moral rights of the author/creator. You may for example abbreviate the text of an article, chapter or other extract provided this does not affect the meaning of the text. All omissions should be clearly marked.

You may also annotate an image to include a narrative text or commentary, or disembed an image from its accompanying text. You may also re-order text and images independently from the layout of the printed original.

The CLA have recently introduced The Second Extract Permissions Service which offers universities the option to buy permission to copy and use an additional amount – a ‘second extract’ – e.g. another chapter from the book or another 10% Use the Check Permissions tool to check whether the title is included in the service.

The cost of the additional extract will vary depending on the number of students in the class and the price-per-page set by the publisher. The cost of using this service must be borne by a discretionary budget, and may in some instances far exceed the cost of purchasing additional copies of the original text.

There are specific conditions attached to the use of copyright materials in MyAberdeen. The copy from which the scan is made must be owned by the university – this excludes personal or review copies. If the item is covered by the licence, but the university does not own a copy, you will need to obtain a Copyright Fee Paid (CFP) copy from the British Library. Library staff will be able to assist you in obtaining such a copy. There will be an additional charge for a CFP copy beyond that of the standard Inter Library Loan fee. Library staff will advise on the cost of the item at the time of ordering the copy.

If a CFP copy cannot be sourced or if the item is not covered by the licence you will need to contact the rightholder to obtain (or purchase) permission to use the material.

- A **copyright notice** MUST be appended to each item used under the licence. This applies to pdf copies of articles uploaded from electronic journals or chapters from electronic book as well as materials scanned from printed sources. The copyright notice should appear as the first page of the item.
- The copy can be made from any published edition of the work, however you must not attempt to circumvent the extent limits by scanning excerpts from different editions of the same work.
- Materials must be made available on a secure server and only to students registered on the relevant course of study, and only for the duration of the course.

Course readings from previous sessions may be made available to students for the full duration of their degree programme (or equivalent programme of study) unless a work subsequently becomes excluded from the licence in which case it must be removed from MyAberdeen. (See ‘Licence Exclusions’ section below.)

**Blackboard Ally**

Blackboard Ally is a relatively new feature within MyAberdeen which allows documents to be created in a range of formats, giving students an option on how they access materials. Copyright restrictions mean that documents scanned from books, journals, etc, or pdf copies of journal articles cannot be re-produced in alternative formats. Staff must ensure that any documents containing third-party copyright materials must have the alternative formats function disabled whenever these items are included in MyAberdeen.

**Other requirements related to the CLA Licence**

**Licence Exclusions**

Permitted works that become excluded during an academic year may be made available until the end of that academic year, however it is the responsibility of the course co-ordinator to ensure that all material intended for use in future iterations of the course is still covered by the licence by checking each item against the Check Permissions tool at the time of the annual roll-over of course material on MyAberdeen. We also advise that when courses are rolled over, you check that each item used under the CLA licence includes a copyright notice.

**Textbook substitution**

Staff should be aware that the course materials selected for inclusion in MyAberdeen must not inadvertently create a collection of items which cover substantially the same material as a standard textbook for a given course. This could happen when individual extracts on a particular topic from a number of different books are gathered together as course readings which, when taken together, form a “virtual textbook”. This form of textbook substitution is not considered best practice under the terms of the licence.
Reporting and Weeding

Under the terms of our CLA licence, we are required to provide an annual report of all extracts copied under the licence. All staff who use materials under the licence are required to provide details of the items used. Please download a copy of the spreadsheet to record details of all items scanned under the licence and remember to include details of the course code, course duration and student numbers for each of the courses covered.

You may use the same spreadsheet to report scanning from multiple classes. You should first add information on the course code, course duration and student numbers to the course code tab on the reporting spreadsheet. You will only need to do this once for each course, then add the details of the materials scanned listed under the CLA_DRF tab.

Please note, you can use the same extract for more than one module, but each use must be reported separately.

Please forward the spreadsheet to Mary Mowat by the end of the half-session in which your course is run, and at the latest (for second half-session courses) by 14th May 2021.

Weeding of material

- Digital copies should be removed from MyAberdeen at the end of the academic session unless the course is to be re-run in the next academic year in which case the item can be retained and re-used. Back-up files of materials used can be created and held in secure storage.
- Materials used in a previous academic session should be compliance-checked before re-use in a subsequent session.

Materials not covered by the CLA Licence

Some classes of material are excluded from the photocopying and scanning licence. These include newspapers, printed music, maps, photographs, theses and other unpublished materials. In addition, the CLA licence does not cover materials published in a number of countries and there are also some publishers whose output is excluded from the licence, so each title should be checked individually using the Check Permissions tool.

Uploading materials covered by other licences

ERA (Education Recording Agency) Licence

This licence allows licence holders to record the broadcast output from the BBC (television and radio), and broadcasts from The Open University, ITV, Channel 4, Channel 5, S4C. Broadcasts made under the ERA licence may be shown to students for educational purposes and may also be digitised for use in MyAberdeen provided these are made available to students based in the UK only.

The ERA licence also covers the use of the Box of Broadcasts (BoB) service.

Using images found on the internet

Images on the internet are subject to copyright, and as such, for any usage which goes beyond the limits of fair dealing you need to obtain permission from the rightsholder before placing them onto MyAberdeen.

Sometimes websites will include a statement of permitted use, or the images may have been made available under Creative Commons or other similar sharing and re-use licences. If you intend to take advantage of such licences, please ensure you are familiar with the terms and conditions attached, including the requirement to include an attribution of both source and ownership of the image.

As with printed material from the internet, the safest way is to provide a link and always acknowledge the source.

You can also search a number of “copyright free” image databases. These contain images that have been produced under a Creative Commons Licence. Sites such as Flickr (See the Commons for collections of images with no known copyright restrictions) and Scran offer a wide range of images produced under CC licences, and you can use the Advanced Search feature in Google images to search for images with appropriate re-use rights.

You do not have to report your usage of such images, but you should always attribute the source. Please ensure that the type of licence used covers your intended usage.

Using Photographs

Copyright in photographs lasts the lifetime of the photographer plus 70 years, or if the photographer is unknown, 70 years from creation. Copyright of photographs taken after 1989 is owned by the photographer irrespective of whether the photograph was commissioned whereas the copyright in pre-1989 photographs is owned by the person commissioning the work. You must have permission of the copyright owner to use a photograph in MyAberdeen unless the photograph has been taken from a published work in which case it can be used under the terms of the CLA licence.

The University of Aberdeen Media Services section can help with the creation of a wide range of images, photographs and other illustrative materials which can be used in MyAberdeen without copyright restriction.
Further information and guidance:

“Roles and Responsibilities for Staff Using Images for Teaching and Research” JISC Digital Media Guide

Design and Artists Copyright Society “Copyright in Photographs”

Help

The Library website includes a section on Copyright and MyAberdeen. Further help and guidance is available from the Copyright Officer:

Mary Mowat
E-mail: m.mowat@abdn.ac.uk
Telephone: 01224-438703.

See also QG GEN008: Introduction to copyright - quick guide