



## Keeping your thesis legal

Mary Mowat, June 2021

UGGEN033 [<https://www.abdn.ac.uk/library/documents/guides/uggen033.pdf>]

### Contents

<b>Introduction</b> .....	<b>2</b>
<b>What is an e-thesis?</b> .....	<b>2</b>
<b>Including copyright material in your thesis</b> .....	<b>2</b>
<b>Using third party copyright material</b> .....	<b>3</b>
General considerations .....	3
Criticism or review .....	3
Quotation .....	3
Fair dealing and other considerations .....	3
Practical Steps.....	3
Creative Commons licenses.....	4
Particular material types .....	4
Illustrations, figures and tables .....	4
Maps and charts .....	5
Photographs and images .....	5
Internet material.....	5
Other types of material .....	6
<b>Adaptation</b> .....	<b>6</b>
<b>Seeking permission</b> .....	<b>6</b>
Formal permission .....	6
Sample permission request.....	7
<b>Locating rightsholders</b> .....	<b>7</b>
Identifying the owner .....	7
Locating publishers and rights department .....	8
If the publisher is no longer in business .....	8
Locating known individuals who own the copyright.....	8
Identifying unknown copyright owners .....	9
Orphan works .....	9
Re-using your own previously published work .....	9
Including 3 <sup>rd</sup> party materials in commercial publications .....	10
<b>Copyright transfer agreements</b> .....	<b>10</b>
<b>Managing permissions</b> .....	<b>10</b>
Dealing with rightsholder responses .....	10
<b>Unable to contact a rightsholder</b> .....	<b>11</b>
<b>Publishing from your thesis</b> .....	<b>12</b>
<b>Embargoes</b> .....	<b>12</b>
When is an embargo needed? .....	12
What does the embargo cover? .....	12
<b>Funding bodies</b> .....	<b>12</b>
<b>Final thoughts</b> .....	<b>12</b>
<b>Glossary of terms</b> .....	<b>13</b>
<b>References and further reading</b> .....	<b>13</b>

---

## Introduction

This guide will look at the copyright implications of making your thesis available on the Web. While it focuses primarily on digital theses (e-theses) rather than on the traditional printed versions, there is some coverage of the different formats treated in terms of copyright law.

## What is an e-thesis?

An e-thesis is an electronic or digital copy of the finally-accepted print thesis, which we at the University of Aberdeen store as a PDF document within our digital asset management system [DigiTool](#). An e-thesis is as close as possible in appearance and layout to the printed version, but may have some elements removed for copyright reasons. e-theses can be accessed by readers all around the world, consequently they afford the author's work a much higher profile than would be expected with a traditional, printed thesis which in turn can benefit the author's professional profile and career.

It is a requirement for University of Aberdeen research students to supply a licensed digital copy of their completed, accepted thesis for inclusion in DigiTool in addition to providing a bound paper copy to the University Library.

## Including copyright material in your thesis

You are most likely to want to include material by other authors in your thesis. Material that is not your own creation, or where you are no longer the rightsholder (e.g. where you have signed over copyright in a journal article to the publisher), referred to as **third party material** which is subject to copyright. In UK law, an author automatically owns the copyright in anything they have written or created. The author does not need to apply for copyright to be assigned, nor is it necessary for the work to be marked with the © symbol for it to apply. Ideas and facts are not subject to copyright, however the manner in which they are expressed and presented is likely to be. In addition to copyright in the content, the format or layout (typography) of an item may have rights associated with it. Images within a work, e.g. book illustrations, may also have copyright over and above that embodied by the book as a whole. Finally, authors can assign parts of their copyright to someone else, e.g. a publisher, therefore the individual or corporate entity that currently holds the rights to exploit and reuse an item is known as the **rightsholder**.

If the published item (and this includes journal articles) is from a country in the European Economic Area, i.e. the EU countries plus Iceland, Liechtenstein and Norway, copyright in that item lasts for 70 years after the end of the calendar year in which the author (or last surviving author if there are multiple authors) dies. If the item is published outside the EEA, it gets the same protection as it would get in its home country. If you are not sure if the item is in copyright, ask in the Library for advice.

**Table 1. What is a rightsholder?**

The owner of the copyright in an item is usually referred to as the rightsholder. This may be the author but for academic articles and books, it is probably the publisher. Only the current rightsholder has the exclusive right to:

Copy the work	Broadcast the work
Issue copies to the public	Adapt the work
Perform, show or play the work	Rent or lend the work

If you are not the rightsholder and you want to do any of these things, you need the rightsholder's permission.

---

## Using third party copyright material

### General considerations

The law states that less than a **substantial part** of a third party work may be copied or quoted without permission or infringement of copyright. Unfortunately, as *substantial* is not defined, it will depend on the significance of the section within the context of the complete item.

**Table 2. Have I used substantial third party items in my thesis?**

- |   |  |
|---|--|
| <ul style="list-style-type: none"><li>• Long extracts of text from work by other people</li><li>• Illustrations or images</li><li>• Figures or tables</li></ul> | <ul style="list-style-type: none"><li>• Maps and charts, even those you have re-drawn yourself</li><li>• Material of your own that has been previously published</li></ul> |
|---|--|

If you have included any of these items in your thesis, then permission from the rightsholder may be required. If you cannot claim the criticism or review defence, or if its inclusion may harm the commercial interests of the rights owner.

If you think you are using a substantial amount of material you may still be able to include it as law stipulates a number of permitted acts in relation to the use of published copyright works. Two of these, criticism or review and the quotation exception may be applicable to material in your thesis.

### Criticism or review

If you use a long extract of text or an illustration or figure which is integral to your argument, then this might count as criticism provided the use is fair, however this is not clear cut and in any dispute, it would be up to a court to decide whether the use was fair depending on what proportion of the work under scrutiny was deemed to consist of quotation as opposed to the proportion that comprised comment or analysis.

### Quotation

You can quote from any type of work, for example you can reproduce an extract or text, or an excerpt from a performance or recording, provided the use is fair. Unlike criticism or review, this allows for the illustrative use of abstracts.

### Fair dealing and other considerations

Both the criticism or review and quotation exceptions state that reuse must be “fair”. There is no definition of what constitutes “fair” in this context, but the following factors should be taken into account:

- the length and importance of the extract
- the amount used in relation to the commentary thereon
- the extent to which the work competes with or rivals the work quoted
- the extent to which the use is commercial rather than academic.

UK copyright law does however specify that for reuse, material needs to qualify for any of these exceptions:

- the work has been made available to the public
- the extent of the extract is no more than is required by the specific purpose for which it is used, and
- the extract is accompanied by a sufficient acknowledgement (unless this would be impossible for reasons of practicality or otherwise).

If therefore you are using a substantial amount of a third party work in your thesis and are unable to claim either the criticism or review or quotation defence, you will need to seek the permission of the rightsholder for its inclusion.

### Practical Steps

Check the copyright of the item in question to see what you are allowed to do with it. You may be allowed to reproduce the material in your e-thesis without asking permission. Alternatively, the material may be licensed under a **Creative Commons** licence allowing non-commercial re-use.

**Table 3: How would I check for copyright and permissions?**

<p><b>For items on the Web</b></p> <ul style="list-style-type: none"><li>• There may be a copyright notice at the top or bottom of the main page.</li><li>• If not, check for terms and conditions on the site.</li></ul>	<p><b>For items from a book or journal</b></p> <ul style="list-style-type: none"><li>• Check the publisher's site for details of their permissions department.</li><li>• Sometimes this can be located under the <i>Contact Us</i> information.</li><li>• If the journal or book was accessed electronically, you should check the licence terms associated with gaining or purchasing access to them.</li></ul>
<p><b>For material from archives, galleries, museums or other similar locations</b></p> <ul style="list-style-type: none"><li>• Check the terms and conditions of access.</li><li>• These may be on your entry ticket otherwise contact the relevant organisation.</li></ul>	
<p><b>Remember:</b> copyright does not have to be claimed, it is automatically owned by the rights holder. Although an item may be on the Web without a copyright notice, this <b>does not</b> mean it is copyright free.</p>	

If permission is required, you will need to **ask** the rightsholder's permission. The rightsholder may be the author, or, more likely, the publisher. **Be specific** about exactly what material you want to include and about what is going to happen to your e-thesis. **Keep copies of all the letters or e-mails you send**, and of all replies received.

### **Creative Commons licenses**

Creative Commons (often abbreviated to CC) is one of the most popular alternatives to absolute copyright. It allows the rightsholder, generally the original creator, to detail certain circumstances under which work can be reused and shared by others without the need to seek permission. In this way, items shared under one of the Creative Commons licenses will allow you to include it within your e-thesis without the need to seek formal permission. Licenses are generally selected by combining one or more elements for the CC licence mix.

**Table 4: Creative Commons license mix**

<p><b>BY – By attribution</b> (original source and author must be cited)</p>
<p><b>SA – Share alike</b> (the work this is included in must also be shared under the same CC licence)</p>
<p><b>NC – Non-Commercial</b> (the material cannot be republished or shared in an item that is sold or otherwise used in any commercial work)</p>
<p><b>ND - No Derivatives</b> (the material cannot be changed, paraphrased, built upon or incorporated in any way to other publications)</p>

### **Particular material types**

This section will look at how copyright impacts on a range of media types you may wish to include in your e-thesis.

#### **Illustrations, figures and tables**

If you have used an illustration purely as decoration, then you would certainly have to obtain express permission. However, if you have used an image or figure as part of your argument, or to illustrate a specific point, then this may fall under one of the exceptions detailed above, and you may not need permission if it is a single instance. If you have re-used multiple figures from the same source then this may be considered as harming the commercial interests of the rightsholder, in which case, you would certainly have to obtain permission. As always, if you are in any doubt as to the rights or license situation for images, always seek permission for inclusion from the rightsholder.

---

## Maps and charts

If you have used a map from an organisation such as the *Ordnance Survey* or *Digimap*, check the relevant licence to see if the use is permitted. If you have obtained the map from a book, check who owns the copyright in the map. This should be indicated either within the map, or at the beginning or end of the book.

Some older maps or charts may be out of copyright (for instance Ordnance Survey maps over 50 years old are out of copyright), but never assume this is the case for all items, and always fully acknowledge the source of the material. If the rights are unclear, best practice is usually to seek permission for use rather than to risk inclusion of items that potentially may still breach copyright. Remember, if you have exercised due diligence in seeking permission, then you may take the low-risk option of including it in your thesis, provided you keep documentation of your efforts.

Where a map's copyright owner is no longer in existence or unable to be traced, then you may wish to include it as an orphan work (see below).

## Photographs and images

These can be an especially tricky area of copyright, as even if you were the original photographer, you may be taking photographs of materials in which someone else holds rights (e.g. artworks or artefacts in a museum). It is also important to remember that a photograph on the internet or in a website is likely to be copyrighted even if it doesn't state this explicitly. However, in terms of including images in your e-thesis the following general rules apply.

**Table 5: Using images – rules of thumb**

- If someone else created the original image or photo:
  - You need to seek permission from the photographer or rights holder.
- If you created the original image or photo, *you* are the rights holder:
  - unless you have assigned the rights to someone else or
  - you have photographed something in which the rights are owned by someone else (e.g. pages in a published book).
- If the image is a photograph of people:
  - You need their formal permission to use the photo in a digital thesis, unless they are incidental to the photo (e.g. a picture of a building with people passing by).
  - If the people are deceased it is unlikely you will need to ask anyone else for permission, but please use caution if the photographs are of a sensitive nature or used in a manner which could cause distress to friends or relatives.
  - If the photograph is of minors or of an otherwise sensitive nature you may need to discuss the ethics of its inclusion as well as seeking permission.
- If the image is of other images (e.g. a portrait in an art gallery):
  - You need to seek the permission of the gallery or artist.
  - This applies even if you took the picture yourself, as most galleries have terms and conditions associated with the reproduction of their works.
- If the image is from a photo sharing site like Flickr or on a blog:
  - Reuse may depend on the specific licences attached to the image. If none are given, assume reuse in your e-thesis requires formal permission.
  - Some people share images for which they are not the rights holder. Reusing these, even with permission, is a higher risk approach!

As this is not a straightforward area, if you are considering using a significant number of pictures in which there are third-party copyright considerations, then it is advisable to contact a member of the copyright team for advice at the earliest possible juncture.

## Internet material

Although material on the Web is freely accessible, this does not mean it can be freely re-used without permission. Check the top or bottom of the main site for links to copyright information, terms and conditions or terms of access to see what is allowed. In some cases, e.g. databases, the rights to reuse the material might even be held by a rights holder external to the site owners.

---

## Other types of material

Contact the copyright team to ask advice if you are using musical scores, audio-visual material, multimedia or anything not mentioned above. These items may well include multiple sources of copyright, e.g. (music within a video), and may need a meticulous permissions approach to several different rightsholders for each item. As always, be prepared to factor in to your timescale a good few weeks to allow for clearance of any items where you think there may be multiple copyright issues to be obtained.

## Adaptation

You cannot adapt portions of any published literary, dramatic or musical work (including scores, films and sound tracks) without the permission of the rightsholder. Adaptation of an artistic work is not an infringement. Adaptation in this context means to take an original object and then add significant information to it or rework it in some way to create a “new” object.

## Seeking permission

**Start asking for permission as soon as you realise you need to!**

Third party copyright material included in a printed thesis is covered by the “Illustration for instruction” exception of the Copyright Designs and Patents Act (CDPA 1988 Section 32). This exception is subject to the fair dealing test, i.e. the amount of material used should be no more than is necessary for the purpose and the rights of the copyright owner should not be damaged by the proposed use of the work in the thesis. This exception does not however apply to the same material in an e-thesis. When using substantial third party copyrighted items in an e-thesis you **MUST** have the rightsholder’s permission unless you can satisfactorily apply the *criticism or review* defence. If you are in doubt over whether or not you need to have formal permission to include third party material in your e-thesis, the safest course is to obtain permission.

**Table 6: Seeking copyright permission – protocol**

1. Identify the rightsholder
2. Formally request permission to include item
3. Keep records of all correspondence
4. Repeat request after six week if you haven’t heard anything (twice)
5. Leave plenty of time to get all permissions

## Formal permission

While gaining formal written permission may sound a daunting task, in truth it is little more than ensuring you have some documentary evidence that an agreement has been made to allow inclusion of someone else’s work in your thesis. It may be easier to seek permission for individual items during the course of your research rather than wait until the writing-up phase. If you decide not to use a specific extract at a later date, you can simply remove it from your thesis as there is no obligation to inform the rightsholder that you have changed your mind.

Formal permission should always be recorded in writing as it would be extremely difficult to prove the existence of a verbal agreement at a later date. If, for example, during a telephone conversation with a fellow researcher they grant you permission to reuse a portion of their work, then it is good practice to follow this up with a formal written request as soon as possible.

Written permission can be recorded in print or electronically in the form of a dated e-mail, although you may wish to retain a print-copy of any e-mail for your files.

---

## Sample permission request

There is no standard proforma for a copyright permissions request. Table 7 below demonstrates an example of good practice.

**Table 7: Permissions request template message**

<p>Dear [NAME]</p> <p>I am currently in the process of completing my PhD (or M.Sc. etc.) thesis on ..... , which I am shortly due to submit to the University of Aberdeen.</p> <p>During my research, I came across the following article (or image etc.) ..... and would like to request your permission to include it in an electronic copy of my thesis.</p> <p>The University of Aberdeen requires their students to submit an electronic copy to the Library which is subsequently made available via the Library catalogue <a href="http://digitool.abdn.ac.uk">http://digitool.abdn.ac.uk</a> . By submitting my thesis to the Library, it will be available, in full, to anyone, free of charge ("open access").</p> <p>I believe that the inclusion of ..... is integral to my thesis and would therefore be extremely grateful if you could grant permission for me to use this ..... in the manner detailed above. Naturally, I would fully reference your work and include any acknowledgement you deem appropriate.</p> <p>Please let me know if you require any further information, otherwise thank you in advance for your kind consideration.</p>
--

The key points you should always highlight are:

- The item you are seeking permission to use.
- Where you are seeking to re-use it, (i.e. your thesis) remember, permission to re-use will only apply to the specific purpose outlined in your request, you may not for example, subsequently re-use the same material in a different way, e.g. in a book or published article unless blanket permission has been requested (and received) at the time of asking.
- A short background outlining the reason for your request, e.g. to satisfy university regulations, funder's open-access mandates etc.

As in all communications of this kind, be specific, polite and wherever possible, brief; a rightsholder may have limited time to read extensive communications and in some cases may simply not feel they have the time to respond to a longer request. You can always expand on any requirements in subsequent correspondence.

## Locating rightsholders

### Identifying the owner

- Usually the copyright owner of a published work can be identified from the information given on the back of the title page. The author of a book (or their estate if the author is deceased) is usually the copyright holder whereas for journal articles the publisher of the journal will be the copyright holder rather than the author of the individual articles.
- For anything published within the last 25 years, the publisher also owns the copyright of the typographical layout. You will therefore need the publisher's permission if you intend to photocopy or scan a text, even if the author has been dead for a considerable time.
- The copyright in images included in a published work or on a webpage is often not owned by the copyright owner of the accompanying text. The copyright details are usually shown beside the image, or listed separately elsewhere in the publication.

---

## Locating publishers and rights department

- Your first port of call should be to contact the publisher. The publisher's website will normally provide comprehensive information on how to apply for permission to use their material.

## If the publisher is no longer in business

- If the book has an ISBN, the ISBN prefix may have been taken over by another publisher or group. You can search the [FOB \(Firms out of Business\) database](#) for publishers who have gone out of business.
- Consult the [British Library Catalogue](#), [Jisc Library Hub Discover](#) or an online bookshop such as [Amazon](#) to see whether there is a more recent edition of the book in print.
- Try to trace the author, as the rights may have reverted to him or her.

## Locating known individuals who own the copyright

### *Authors of theses*

- A search of a bibliographic database may reveal some recent publications by the author concerned, and may yield up-to-date contact details.
- The department in which the research was carried out may know the current address of the author and be able to forward correspondence.

Many UK universities have an alumni office which will forward letters to graduates for whom they have an address on file. The University of Aberdeen are happy to forward correspondence to the copyright holder where the thesis was awarded by the University of Aberdeen. You can contact the alumni office at: [alumni@abdn.ac.uk](mailto:alumni@abdn.ac.uk)

### *Authors of journal articles*

- Try to locate the most recent work by the author as this is likely to contain their most recent address. A very general bibliographic tool such as Scopus, Web of Science or Google can be useful. Social media may also be used to locate authors.
- If the address given in the article is out of date, someone else may be able to give a current address or forward correspondence.

### *Authors and illustrators*

1. Try a search on the internet using the authors/illustrator's name and title of the work.
2. The publisher may be able and willing to pass on correspondence to the rightsholder.
3. A publisher of the author's later work may be able to assist.
4. The [Society of Authors \[UK\]](#) may be able to help.
5. [The Design and Artists Copyright Society](#) may represent an artist or photographer.

---

## Identifying unknown copyright owners

- Try to locate the most recent work of the author concerned and contact the publisher.
- Contact libraries and/or archives that hold a large collection of the author's work or private papers.
- Contact biographers or other scholars who specialise in the work of the author.
- Consult authors directories in libraries.
- You may be able to trace a copyright holder via the [WATCH](#) database.

## Orphan works

“Orphan works” is the term used to describe a work for which the rightsholder either cannot be identified or contacted. This can happen if the publisher has gone out of business (the [FOB](#) website may be of use), or repeated attempts to contact them have failed. It may also be that the rightsholder has predeceased your request and you have been unable to establish to whom the rights have passed.

The UK Government has introduced an “Orphan Work” licensing scheme for reuse of all works for commercial or non-commercial use. A licence can be granted by the UK Intellectual Property Office (IPO) for seven years (upon payment of a fee) provided you can be shown to have exercised **due diligence**. Check lists for performing **due diligence** for different types of works can be found on the IPO website:

- [Orphan works diligent search guidance for applicants: Literary Works](#)
- [Orphan works diligent search guidance: Film and Sound](#)
- [Orphan works diligent search guidance: Still Visual Art](#)

If you do not wish to apply for a licence, you can opt to remove the potentially risky item from your e-thesis. However, it may be that the removal will cause structural or scholarly problems with your research narrative. If this is the case, you will need to weigh up the balance of accepting the modicum of risk to which you are exposing yourself to against the benefits of retaining the integrity of your e-thesis as a whole.

If you need any advice over seeking permission, or interpreting responses of a rightsholder, then remember to contact the [Copyright Officer](#) for further advice.

## Re-using your own previously published work

Publishing a portion of your thesis prior to its submission is a common and well-established academic practice. However, you may need to carefully consider the extent to which you retain the rights to re-use your own work within your thesis at this point. This is particularly true if you have assigned any rights to a publisher.

If any portion of your thesis has already been published, perhaps as a journal article, you must check the agreement you signed with the publisher. Even if you did assign copyright to the publisher, the agreement may still allow you to use the material in your thesis, so look for any educational exemption clause. If it does not expressly note this, or if you are unable to find the agreement, then you should approach the publisher directly for permission.

Remember, you must **clearly attribute** any portion of your work that has appeared elsewhere prior to your thesis submission, simply to avoid charges of **self-plagiarism** by your examiners.

On the other hand, you may wish to include a **complete published version** of an article you have written in your thesis. Normally when these articles are included they appear in the appendices of the print version of the thesis but are commonly removed from the electronic version due to copyright restrictions. Ideally you should seek permission from the publisher to include them, as they will include significant elements of third party materials such as your publisher's type-setting, logo and branding.

Many publishers will however be disinclined to grant permission for these full articles to be made available within an institutional repository. In this case, if the publishers decline to grant you permission to include the material, remember to indicate this in your [thesis deposit and declaration check list](#).

---

## Including 3<sup>rd</sup> party materials in commercial publications

This guide has focussed on gaining permission to use material in your e-thesis. If subsequent to your doctorate you wish to publish an article or book using material from your thesis, then you would need to re-ask permission from any third-party rightsholders unless you had specifically stated at the time of your original permission request that you were also intending to publish the material at a later date.

In such cases, it is not unusual for rightsholders to request a fee in respect of granting permission for commercial re-use. Remember, permission is normally granted to reuse material **ONLY** for the specific purpose originally requested.

## Copyright transfer agreements

Publishers' copyright transfer agreements (**CTA**) for journals can be complex, lengthy, confusing or in some cases impossible to even locate. If you have ever formally published a journal article or a book chapter then you will probably have been asked to sign one prior to publication. On signing a copyright transfer agreement, an author is likely to have transferred the economic rights for the reproduction and reuse of their work to the publisher, although the moral rights will have been retained. It may sometimes be possible to retain some of your rights whilst permitting the author to publish your work by using tools such as the *SPARC Authors Addendum*, but in most cases authors simply comply with the publisher's standard terms and conditions.

If you are re-using portions of your journal articles in your thesis you will probably need to examine the CTAs for the journals in question. You can usually find the agreements on either the publisher's general website or on the website for the individual journal.

**Moral rights** are concerned with the author's right to be identified as the originator of a work, and cannot be transferred. It also includes the right for their work not to be subject to derogatory treatment.

**Economic rights** allow for the control of the reproduction and reuse of a piece of work. These can be sold, transferred or gifted to another entity.

## Managing permissions

### Dealing with rightsholder responses

If you are able to get a response from the rights holder, there are a number of common outcomes:

#### 1. Yes, permission granted

At the relevant place in the thesis, make sure you fully reference the item and acknowledge that permission has been granted; e.g. *Picture reproduced with permission of Mr J. Smith.*

#### 2. Yes, permission granted but with conditions

- a. These will vary between different rightsholders.
- b. They might require a link to the published material, or a more formally worded acknowledgement in the text.
- c. They might even request that the e-thesis not be made available immediately.  
You can request an embargo when you submit your thesis to address this.

---

### 3. Fee required for permission

- a. Some rightsholders will request a fee to include their item in your thesis.
- b. You and your supervisor will have to discuss ways in which this fee can be paid.
- c. If you decline to pay the fee, then permission is not granted and you will have to proceed as below.

**Fees** and the amounts rightsholders charge are an uncertain science. While it is not uncommon to encounter one of the order of £7 to £50, higher or lower fees are not unknown. In some rare cases rightsholders have even been known to ask the requestor what they consider an appropriate fee.

### 4. No, permission not granted

- a. If the copyright holder declines permission, then you could remove the material from your e-thesis (See *Submitting an edited Thesis* below).
- b. The examination exception will let you keep the item in the print thesis.

### 5. Unclear

- a. You may have been in touch with the rightsholder, but at the point of thesis submission you may have not received a response either granting or declining permission to include their items.
- b. If it looks likely that they may (eventually) grant permission, place an embargo on your thesis. You can always request this to be lifted once the rights holder grants permission.
- c. Alternatively, you can deposit an edited version of your thesis with the item removed. If at a later date the rights holder gives permission to include the material, you can contact the Library and ask for the material to be reinstated.

Ensure you keep copies of the correspondence between you and the rightsholder for some years after you graduate; you may need to refer to them again in the unlikely event of a challenge to your inclusion of the material.

## Unable to contact a rightsholder

If you are unable to trace a rights holder and do not obtain an orphan work licence, or if you do not receive a response after repeated attempts to ask for permission, you have two options open to you.

### 1. Submit an edited e-thesis to the Library (no risk)

- a. Remove any items/sections where you were unable to locate a rights holder or where permission has been declined.
- b. You will need to indicate on the [thesis deposit and declaration check list](#) that sections/items have been removed.
- c. You will also need to submit an unedited electronic version of your thesis. However, if your thesis is wholly comprised of published articles, it will not be made available in electronic format, although you are still required to submit a full electronic version.
- d. Your unedited print thesis will be deposited in the Library (subject to embargo).

### 2. Submit with the items still included (potential risk)

- a. Where you have made a number of repeated and documented efforts to contact a rights holder, and have received no response, then you could choose to risk including the item.
- b. You must be able to show on request, the lengths to which you went to contact a rights holder. You should keep all documentation for a number of years following deposit of your thesis.

There is **some risk** associated with this second approach. The rights holder may at some point object to the use of their material and ask the Library to take down the thesis. They may potentially threaten legal action in which case you would need to demonstrate that you used all **due diligence** in trying to obtain permission.

The only **100% risk free approach** to dealing with third party copyright items is to have clear permission granted for the use of each individual item/section or to remove any items with uncertain permission status from your thesis.

---

## Publishing from your thesis

If you think you might want to publish part of your thesis in its current form and you have a particular journal/publisher in mind, you should check the publisher's policy. If you think that your chances of publication will be harmed, or if you have not yet identified a suitable publisher, request a thesis embargo. It should be noted that a number of recent studies (see references) have indicated that the risk of publisher rejection of a manuscript that has been previously published as an e-thesis is negligible.

If you think you will be making significant revisions or changes to the text before publication, then this may not be such an issue, but it is worth discussing it with your supervisor and the prospective publisher if at all possible.

## Embargoes

An embargo means that the University has formally restricted access to your thesis. The embargo period will not normally exceed five years and during this time the thesis is not made available either electronically or in print during this period.

### When is an embargo needed?

Occasionally there are circumstances which mean that open access is not appropriate. To protect this type of material, access to these research outputs can be restricted where the University accepts that there are good reasons for doing so.

A thesis embargo may be appropriate where the thesis contains material that is:

- Commercially sensitive – in these cases an embargo can provide time for a concept to be brought to market or for more formal protection such as a patent, to be applied for.
- Ethically sensitive – in these cases an embargo can provide time for ethical sensitivities to lessen where the thesis includes material relating to an identifiable individual, though situations of this type should be avoided as far as possible and issues relating to publication of results considered as part of the original ethical approval of the research.

Research students who think they may need to request an embargo are encouraged to discuss this with their supervisors as early as possible.

### What does the embargo cover?

You may stipulate a period of time, up to a maximum of five years, during which the thesis, although still available for consultation as above, cannot be borrowed, sent on inter-library loan or made available through any institutional digital repository of the University of Aberdeen.

You may restrict all access to a thesis through consultation, borrowing, inter-library loan or any institutional digital repository of the University of Aberdeen **only if the Librarian is requested in writing to do so by the Academic Standards Committee (Postgraduate)**. A copy of the request must accompany the thesis.

## Funding bodies

If you are externally funded, check the conditions of the grant. For example, the grant-making body may own the research you produce, or apply certain conditions to its reuse. If these appear to clash with the University mandate, seek advice from your funding body. The funder may agree to allow re-use of the material subject to an embargo on the e-thesis only. Some funders may however insist on commercial secrecy of their funded work and may require that you seek a full embargo. In this case, it is best to discuss this matter with your supervisor as soon as possible.

## Final thoughts

- If you are in doubt about an item's copyright and re-use status, ask permission from the rightsholder.
- Don't leave seeking permission until the last minute, it can take weeks to arrange.
- Remember if permission is still outstanding on the day that you submit your print and electronic theses, you can place an embargo on your e-thesis. You can always request its removal once permission is granted.
- Keep copies of all correspondence for at least five years after you graduate. You may need to refer to them again.
- Reference and acknowledge everything, even if you have not had to ask permission. This is good academic practice.
- Ask for help if you need it. The copyright team are here to help. If you need help on any matters relating to copyright contact [copyright@abdn.ac.uk](mailto:copyright@abdn.ac.uk)

---

## Glossary of terms

- **Copyright** – (simply) is legal protection for an author/ creator which restricts the copying and reuse of an original work they have created. Often shortened to simply rights.
- **Copyright transfer agreement (CTA)** – legal form commonly signed by authors transferring reproduction and reuse rights in a work to a publisher for the purposes of publication.
- **Creative Commons** – a form of open licensing that permits certain categories of reuse chosen by the rights holder.
- **Dark archive** – a term commonly used to refer to an offline store for electronic or physical information where content is safely maintained but is not made accessible.
- **Embargo** – a permanent or semi-permanent restriction in an electronic and printed thesis' availability; All requests for embargo must be approved by your supervisor and Head of School.
- **e-thesis** – electronic digital facsimile of your master's thesis.
- **Fair dealing, criticism and review** – a poorly defined right to reuse substantial portions of a work without seeking formal permission.
- **Formal permission** – written or emailed correspondence with a rightsholder granting permission to reuse/include a work in your thesis.
- **Open access** – making a publication or a thesis available without placing any kind of fee-based restriction on accessing it.
- **Rightsholder** – an individual or corporate entity who owns the rights for reuse of any materials.
- **Third party copyright** – material in which others hold rights.

## References and further reading

Australasian Digital Theses Program, <https://www.caul.edu.au/programs-projects/past-programs/australasian-digital-theses>

Brown, J. & Sadler, J. (2010). ETheses: Impact on future publication: RSP Briefing Paper, online at: <http://www.rsp.ac.uk/documents/eTheses-briefing-papers/ImpactOnFuturePublication.pdf>

Business Link, *Sample internet policies and notices: Sample website terms and conditions* <http://www.businesslink.gov.uk/bdotg/action/detail?itemId=1076142035&type=RESOURCES>

Cornish, G. (2009). *Copyright: interpreting the law for libraries, archives and information services*. 5th ed. London, Facet Publishing.

Creative Commons (2011) *About the licenses*, <http://creativecommons.org/licenses/>

EThOS- Electronic Theses Online Service, <http://ethos.bl.uk>

Intellectual Property Office, Due Diligence checklists - <https://www.gov.uk/government/publications/orphan-works-diligent-search-guidance-for-applicants>

JISC, *Copyright Guides* <https://www.jisc.ac.uk/search/Copyright?f%5B0%5D=type%3Aguide>

Networked Digital Library of Theses and Dissertations, <http://www.ndltd.org>

McMillan, G. (2001). Do ETDs Deter Publishers?, *College and Research Libraries News*, 62(6), 620-621, online at: <http://scholar.lib.vt.edu/staff/gailmac/publications/pubrsETD2001.html>

---

Orphan works diligent search guidance for applicants, Intellectual Property Office, 17 September 2014, <https://www.gov.uk/government/publications/orphan-works-diligent-search-guidance-for-applicants>

Owen, T.M. et al. (2009). ETDs in lock down: Trends, analyses and faculty perspectives on ETD embargoes, online at: <http://drum.lib.umd.edu/handle/1903/9087>

Padfield, T. (2007) *Copyright for Archivists and Managers*, 3rd ed. London, Facet Publishing

The Society of Authors, <http://www.societyofauthors.org/>

SHERPA/RoMEO, <http://www.sherpa.ac.uk/romeo/>

SHERPA, *Glossary of open access abbreviations, acronyms and terms*, <http://www.sherpa.ac.uk/glossary.html>

SPARC (2006) *Using the SPARC Author Addendum to secure your rights as the author of a journal article* <https://sparcopen.org/our-work/author-rights/#addendum>

The Copyright and Rights in Performances (Quotation and Parody) Regulations 2014 - [http://www.legislation.gov.uk/ukxi/2014/2356/pdfs/ukxi\\_20142356\\_en.pdf](http://www.legislation.gov.uk/ukxi/2014/2356/pdfs/ukxi_20142356_en.pdf)

University of Aberdeen *Information for Research Students on Thesis Submission and Examination* [http://www.abdn.ac.uk/staffnet/documents/information-on-thesis-submission\\_000.pdf](http://www.abdn.ac.uk/staffnet/documents/information-on-thesis-submission_000.pdf)

University of Aberdeen *Submission of Research Theses*, Library Guide. <http://www.abdn.ac.uk/library/documents/guides/qggen009.pdf>

University of Texas at Austin: *FOB: Firms out of Business database*, <http://tyler.hrc.utexas.edu/fob.cfm>

University of Texas at Austin, *WATCH: Writers, Artists and their copyright holders*, <http://tyler.hrc.utexas.edu/>

This guide is adapted from: Johnson, G., Rowlett, T Melocha, "Keeping your thesis legal". University of Leicester, v.2.4 November 2014. Licensed under a Creative Commons Attribution-Non-Commercial-Share-Alike Licence.