

## GUIDANCE NOTE FOR ACADEMICS ON THE USE OF TEACHING MATERIALS

### 1. INTRODUCTION

This guidance note provides guidance for academics in relation to the use of materials for teaching purposes. We anticipate that you will be well aware of the matters in this guidance. However, as it is now standard practice for the University to film or record lectures, which may be made available publicly and widely, it is all the more important that we, as a University, are getting these things right.

Recording lectures is now common practice at a number of institutions. It provides both the University and its students with useful learning resources that can be viewed on demand. This has many advantages for distance learning, accessibility, revision and the re-use of materials.

Many of the legal issues raised in this guidance are already applicable to your use of third party materials whether your lectures are being recorded or not. However, the recording of lectures does raise new considerations and it is your responsibility to familiarise yourself with this guidance and follow it. You are responsible for ensuring that you have the right to use third party materials in both your lecture and as part of a recorded lecture. A common misconception is that limiting the use of copyright materials to the password protected virtual learning environment ("VLE") would not constitute copyright infringement, this is not the case. Both you and the University could be liable for infringing content that is placed on the VLE.

Whilst this guidance flags many important legal issues, it is intended to support you in using third party materials within lectures rather than discouraging such use. The University has a number of licences in place to assist with the use of third party materials within lectures. In addition, the law in this area changed in 2014 to extend the use that can be made of third party materials in lectures and recorded lectures. This guidance is aimed at helping you to use third party materials in a lawful manner and we encourage you to raise any concerns or ask questions about the use of third party material by contacting [library@sheffield.ac.uk](mailto:library@sheffield.ac.uk).

### 2. USE OF THIRD PARTY COPYRIGHT MATERIALS

Original third party materials, including books, journal articles, newspapers, photographs, graphics, diagrams, sound recordings, films, television and radio broadcasts and music are normally protected by copyright.

It is an infringement of copyright in a work to copy the whole or a substantial part of the work, whether manually, electronically or otherwise. Substantial is measured by reference to quality and therefore copying of even a small part could be an infringement. **This is the case even if the work is freely accessible and available in the public domain, including online. Just because you do not need to pay to look at or download a work, it does not mean that you are free to copy and use it.**

**Before you copy or use any third party materials, you should:**

- (i) **Identify whether the work could be protected by copyright.** This is likely to be the case unless you are working with older materials in which the copyright has expired.
- (ii) **Identify who might own that copyright.** This may be clear from the materials themselves or you may be able to find out online.
- (iii) **Ensure that you are allowed to copy or use the materials before you do so.** In the majority of cases third party materials can only legitimately be used if one of the following circumstances applies:
  - (a) You have permission from the copyright owner or relevant licensing agency and this permission extends to both use in lectures and the recording of lectures and publishing of the recording; and/or

- (b) The use being made of the materials falls within the "illustration for instruction" educational exemption.

**(a) Permission from the copyright owner:**

- The materials may have certain permissions or licences specified on or attached to them. If so, you can use them within the scope of those permissions / licences.
- The University has certain collective copyright licensing arrangements in place with collective licensing societies such as the Copyright Licensing Agency, the Newspaper Licensing Agency, ERA for off air recordings and the PRS for Music, which allow us and you (on behalf of the University) to copy certain copyright materials within the scope of those licences. You should familiarise yourself with the scope of these licences but you should not assume that the materials you want to use are covered by them. Please see the following guide for further details:  
[www.sheffield.ac.uk/library/services/copyonline](http://www.sheffield.ac.uk/library/services/copyonline)
- You can ask the copyright owner for their permission to copy and use their copyright materials for your lectures/ teaching materials. Also ensure the permission extends to the University recording/ filming the lecture and broadcasting/ issuing the recordings. Try to get this permission in writing (an email from the copyright owner is usually sufficient). Remember to reference the author in your written materials and comply with any restrictions or obligations the copyright owner puts on their permission. **Referencing the author will not avoid copyright infringement - the copyright owner's express consent is required.**

**(b) Relying on the "illustration for instruction" exemption:**

Until June 2014 the education exemptions for copyright infringement were very limited and could not be relied upon in relation to the display of third party materials electronically (e.g. through slide shows) or the recording/broadcast of lectures. However, these exemptions have been slightly expanded through the "illustration for instruction" fair dealing exception which allows copying of third party materials in any medium as long as certain conditions apply.

Your use of third party materials will only fall within this exemption if the following conditions apply:

- *the use of the materials must be "fair".* In order for the use to be fair the materials must be included to illustrate a teaching point and only so much of the copyright materials can be used as is necessary. Any use of copyright materials which would adversely affect a copyright owner's ability to exploit their work and/or undermine the sales of teaching materials would not be classed as "fair";
- *the third party materials must be used by a person giving or receiving instruction and solely to illustrate a point;*
- *the use of the materials must not be for commercial purposes; and*
- *the use must be accompanied by a sufficient acknowledgement (i.e. by crediting the original author/copyright owner on slides and/or handouts) unless it would be impractical to do so (e.g. where part of a question is for students to identify the source of an extract, it would be impractical to acknowledge the source).*

**If in doubt, you should make sure you have express permission to copy and use the materials in the manner you propose or you should not include them.**

### **3. USE OF UNIVERSITY COPYRIGHT MATERIALS**

You may copy and use copyright materials belonging to the University for internal teaching and research purposes, including as part of your lectures and in your teaching materials.

We remind you that as an employee of the University and in accordance with your contract of employment or otherwise provided by law, all rights in materials created by you in the normal course of your employment with the University belong to the University<sup>1</sup>.

You must not copy or use any such materials for non-University purposes without our consent.

### **4. USE OF OWN COPYRIGHT MATERIALS**

You may want to use your own copyright materials in your lectures or as part of your teaching materials, which of course is permitted. Please remember that these materials may be used, reproduced and publicised by the University as part of any film or audio recording of your lectures and distributed for academic or commercial purposes. By including them in your lectures or as part of your teaching materials you are consenting to this.

Please note - if you have already entered into publishing agreements in relation to the content you want to use, you must check the terms of these publishing agreements to ensure you are permitted to use these materials and grant the University the scope of consent outlined above.

### **5. CONFIDENTIAL INFORMATION**

You should be careful not to disclose information that is confidential to the University or any third party in your lectures or teaching materials. It should be clear whether information you intend to use is confidential. If the information is freely available online or in published textbooks or journals, this information is not confidential. However, when you access certain data as part of your research or otherwise, you may be required to accept obligations of confidentiality which prohibit onward disclosure, publication and / or certain other uses of the data in question.

Where you intend to publish, use or disclose data that is not freely available in the public domain, you should check the terms of your access to such data to ensure you are not prohibited from doing so.

### **6. DEFAMATORY/ SLANDEROUS STATEMENTS**

Making untrue statements that are disparaging about a person may be defamatory (if written) and/ or slanderous (if made orally). Making untrue statements that may damage an organisation or its products or services, may constitute "malicious falsehood". The University may be liable for these statements if we publish them (for example, in the recordings of your lectures) or we may be vicariously liable for them as your employer. You may also be personally liable.

You must be very careful about making any statements about individuals, companies or their products or services, in your lectures, tutorials and seminars that could be taken to be disparaging even if you believe them to be true.

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<sup>1</sup> In accordance with the University's guidance on Intellectual Property (Ownership, Protection and Exploitation), the University waives its right to the ownership of intellectual property rights relating to the publication of books and articles written by employees except in abnormal circumstances, which may include where the employee undertakes the work as a commercial proposition using identifiable University resources (including employee time) or where the revenue generated is substantial and may be related in part to the employee's connection with the University. Please see the guidance for further details.

7. **PERSONAL DATA**

You should be careful not to include personal details of identifiable individuals in your teaching materials or lectures, unless you have their consent to do so. This does not prevent you from naming individual students in the class, when conversing with them or asking them questions.

8. **FURTHER GUIDANCE**

For more information about using third party materials in recorded lectures, please refer to: <https://www.jisc.ac.uk/guides/recording-lectures-legal-considerations>.

For more guidance on the copyright exceptions, please refer to: <https://www.gov.uk/government/publications/changes-to-copyright-law>

If you have any questions regarding the use of third party materials (either generally or in relation to a specific example) please contact [library@sheffield.ac.uk](mailto:library@sheffield.ac.uk).