



NORTHERN MIDLANDS COUNCIL

POLICY MANUAL

COPYRIGHT

- Originated Date:** Adopted 21 July 2014 – Min. No. 171/14 (as Policy 75)
- Amended Date/s:**
- Applicable Legislation:** *Copyright Act 1968 (Cth)*
Music Video & Software Piracy Policy
- Objective** To outline responsibilities and procedures regarding the use of third-party copyright material.
- Administration:** Governance
- Review Cycle/Date:** Next review 2019

1. POLICY STATEMENT

The purpose of this Policy is to outline responsibilities and procedures regarding the use of third party copyright material, with the objectives of:

- reducing staff and Council exposure to the risks associated with the use of third party copyright material;
- assisting staff to make full legal use of the materials at their disposal by clearly identifying responsibilities; and
- promoting copyright compliance.

2. DEFINITIONS

What individuals can do with copyright protected materials depends upon who owns copyright, whether the use of the material is the subject of an agreement, the type of material used, how the material is used, how much material is used, and the purpose for which the material will be used. Consequently, the following definitions are necessarily detailed.

All copyright material will fall under the definition of either "first party copyright material", "unlicensed third party copyright material", or "licensed third party copyright material":

Word/Term	Definition (with examples if required)
First party copyright material	Any material created by staff as part of their employment, in which copyright has not been transferred or exclusively licensed to a third party.
Third party copyright material	Includes both unlicensed and licensed third party copyright material.
Unlicensed third party copyright material	Any copyright protected material not governed by an agreement between the copyright owner and the user. Consequently, allowable uses are determined by the Copyright Act 1968. The term "unlicensed third party copyright material" includes material copied in reliance upon Parts VA or VB of the Copyright Act 1968 (that is, material copied for teaching purposes in reliance upon statutory licence). The term "unlicensed third party copyright material" does not refer to the circulation of original published copies. For example, the act of loaning an original purchased copy of a book is not covered by this Policy. However, the act of loaning photocopies of the purchased book to students would be covered by this Policy.
Licensed third party copyright material	Any copyright protected material for which the terms of use are governed by licence, or any other form of agreement. Licensed third party copyright material does not include material copied in reliance upon Part VA or VB of the Copyright Act 1968 (that is, material copied for teaching purposes in reliance upon statutory licence).
Use	Includes the following acts: copying; communicating (electronically transmitting); adapting; publishing; performing in public; causing to be seen or heard in public; entering into a commercial rental arrangement; rebroadcasting; or any other copyright as defined by law.



NORTHERN MIDLANDS COUNCIL

POLICY MANUAL

3. ROLES AND RESPONSIBILITIES

All staff must ensure that they understand and comply with the legal restrictions and obligations regarding the use of third party copyright material.

All managers must ensure that they have covered the policy to all staff within their departmental control.

All managers must ensure that the appropriate permission to use forms have been completed and filed on Council's Dataworks software.

4. COPYRIGHT PROTECTION IS AUTOMATIC

A creator has copyright protection as soon as he / she sets their vision down in a particular creative expression. So as soon as a singer records a song or a writer writes a paragraph of his novel, he has copyright in that creative expression.

INSTRUCTIONS

Avoid copyright infringement lawsuits by not stealing other artists / professional's audio, video, or written material. The information or produced media may be solicited as free online but in many cases the information is stolen illegally and attempted to be resold for a profit. Do a search for the content or piece before using it.

The best way to avoid copyright legal problems is by creating your own media from scratch. Don't copy other work and you should be fine. If you do find yourself being prosecuted for taking credit for someone else's work you should assist the original producer in removing the publication, or, if they allow you, just add in credit to the original producer of the material.

Avoid copyrighted content usage. You should not use a song you download and pay for from iTunes or other online music downloading sites to make videos or slide shows. Although many people do it online, technically the artist can sue you if they so choose.

Copyrighted work gives the original author or the holder of the copyright of a specific work control over how it is distributed, where it is published, and how it may be adapted for a specified period of time. After that time, works become the property of the public domain.

Copyrighted work includes expressible forms of any idea ranging from texts (such as literature and articles) to audio (music, interviews) to video (film, television programs) to images (graphic designs, animations).

5. COPYRIGHT PROTECTION PHOTOGRAPHERS

With the prolific use of digital cameras, photo sharing websites, and social networks online, the copyright rules on photography become more important each day. Some people mistakenly think that if a photo is found online or through a search engine, then it must be copyright free. In reality, however, this is far from the truth.

PHOTOGRAPHERS

By default and with a few notable exceptions outlined below, photographers own the full copyrights to photos they take. As the copyright holder, they can authorize or restrict usage of the photos in any manner they please.

Since they own all rights to their photos, photographers can sell the copyright to those photos outright if they'd like, but that would mean they'd be releasing all rights to it themselves, so this is done rarely.

Instead, photographers usually license the use of the photos. There are a wide variety of ways photographer's license photos, including payment for each use; licenses to specific magazines for one article; product licensing where royalties are paid as products are sold; commercial use for advertisements. The type of license agreement designates how the photos can and cannot be used, but the copyrights to those photos remain with the photographer.



NORTHERN MIDLANDS COUNCIL

POLICY MANUAL

WORK FOR HIRE

Some photographers work on assignment for one or more clients in a work for hire capacity. Photos that are taken on a work for hire assignment are not owned or controlled by the photographer. In those cases, all copyrights are owned by the company, organisation, or individual who hired the photographer. The photographer is not allowed to do anything with those photos--even display them in his or her portfolio--unless the use is specified as allowed in the work for hire contract.

MODEL RELEASES

Photos that have recognisable people in them fall into a more complicated area of copyright law. The photographer has the copyrights to the photos they've taken, but they are limited in what they can do with those photos, because the people in them hold rights to their own identifiable images.

For photographers to have extra rights to the photos, such as displaying them in a portfolio or licensing them to clients for editorial or commercial purposes, the people shown in the images must sign a model release.

A model release is a legal form that gives photographers the right to use the photos of the person in specified or general ways. How the photos can legally be used depends upon the wording of the model release that is signed.

PROPERTY RELEASES

In certain circumstances, photos that have property in them--including animals, real estate, and personal possessions--sometimes fall under similar copyright situations to those photos with people in them.

Some buildings are trademarked, for example, and photos of them cannot be sold for commercial purposes without a signed property release that legally authorises it. The Sears Tower and the Seattle Needle are two famous examples, but this copyright complication can arise with photos of race horses, show dogs, and even the interior of a friend's home.

RELEASE FORM

The Council permission to use Photographic Image or Video Footage form must be completed by the owner and / or the identifiable individual in the image before use by Council is considered.