



Intellectual  
Property  
Office

# Exceptions to copyright: Research



October 2014

**Copyright** protects literary, dramatic, musical and artistic works as well as films, sound recordings, book layouts, and broadcasts. If you want to copy or use a copyright work then you usually have to get permission from the copyright owner, but there are a few exceptions where you can copy or use part or all of a copyright work without permission. Where a work contains a performance, the performer will also have rights over how the work is used. The exceptions to copyright also apply to these related rights.

The law on these exceptions has changed in a number of small but important ways, to make our copyright system better suited to the digital age. These changes affect how you can use content like books, music, films and photographs.

The majority of uses of copyright materials continue to require permission from copyright owners, so you should be careful when considering whether you can rely on an exception, and if in doubt you should seek legal advice. Copyright infringement is against the law. Deliberate infringement on a commercial scale may lead to a criminal prosecution, so you should take care when using copyright materials. Further guidance on copyright is available on the GOV.UK website.



## Who should read this guidance?

This leaflet is particularly relevant to those who need to use copyright works as part of their non-commercial research or private study. This is relevant to:

- Researchers who wish to copy copyright works as part of their research
- Publishers, those who own copyright to material, and those who provide access to copyright works
- Administrators and senior management of research and education institutions need to understand the changes in order to ensure that researchers in their institutions comply with copyright law

## What's changed?

The law already permitted limited copying of some types of copyright material, such as books, for non-commercial research or genuine private study. The law has now changed so that all types of copyright works are covered.

Text and data mining technologies help researchers process large amounts of data. Copyright law has altered to help ensure that if a researcher is carrying out non-commercial research they will not infringe copyright by copying material for a text and data mining analysis. The conditions under which this exception applies are set out in this guidance.

## Copying works for research and private study

Copyright law recognises that researchers and students may legitimately need to copy limited extracts of copyright works for the purpose of their studies. Therefore, the law already allowed researchers and students to copy limited extracts of some types of copyright works (books, plays and musical scores, picture and photos, literary, dramatic musical and artistic works) as long as they are carrying out non-commercial research or private study. Librarians are permitted to assist researchers and students by providing limited copies of these types of copyright works.

The amount that can be copied is restricted to “fair dealing” (see inset), which rules out unfair or unreasonable uses such as copying a whole film for “research” instead of buying the DVD. Use of a copy should be accompanied by sufficient acknowledgement (e.g. in a reference or bibliography).

## What has changed?

Copyright law has now changed so that all types of published copyright works are covered by the exception allowing limited copying for the purpose of research. This means that researchers and students (or the librarians and archivists who are assisting them) who need to copy limited parts of sound recordings, films or broadcasts for non-commercial research or private study are allowed to do so. The provisions about only copying a part of a work and sufficiently acknowledging the original work still apply.

Additionally, educational institutions, libraries, archives and museums are now permitted to offer access to copyright works on their premises at dedicated electronic terminals for research and private study. More information can be found in the leaflet “Exceptions to copyright: Libraries, archives and museums”.



## FAQs

**Does this mean that students can, on grounds of “research”, use this exception to copy parts of any film they wish to watch?**

Not unless the film was genuinely relevant to their course, or to some other independent study they were carrying out. Copying is limited to what’s strictly necessary for genuine non-commercial research or private study.

**How much of a work am I allowed to copy?**

The amount you are able to copy is limited by the legal concept of “fair dealing” – see inset for more information. Copying the whole work would not generally be considered fair dealing

**Why can’t I copy the whole work? Studying films and music will be much harder if I can’t make a copy in its entirety.**

The law does allow you to make a copy of a limited part of a work, but the laws are designed to protect the hard work and investment of those who create the work. If you wish to copy the whole work, you will need to obtain a licence or purchase the work. The IPO’s website has further information on obtaining a licence from a copyright owner at:

<http://www.ipo.gov.uk/types/copy/c-other/c-licence.htm>

**Do I have to delete the copies I make once my research project is over?**

You are not required to delete the copies but you may not use them for any purpose other than research or private study. You must not share them, sell them or make them available on the internet; if you do you may be liable to be sued for copyright infringement.

### Is this limited to students at school/college/university?

No, this also applies to those carrying out their own private study but you must be genuinely studying (like you would if you were studying for a college course) to qualify and of course the same provisions that only permit limited copying apply. An example of when this provision could apply would be researching your town's local history, or studying your hobby in greater depth.

### What does sufficient acknowledgement mean?

This generally means that you will need to identify the author, artist or creator of the work, and the title or some other identifying description of the work that has been copied. This is good practice for research in any case.

### Can I ask a library to make a copy of any type of material they hold in their collection?

You may ask a library to provide you a copy of any type of copyright work, regardless of the medium in which it has been recorded.

### Does this mean that companies will be able to access material for free if they are doing research?

This exception only applies to non-commercial research so it is very unlikely to apply to research done by a company.

## Text and Data Mining for non-commercial research

Text and data mining is the use of automated analytical techniques to analyse text and data for patterns, trends and other useful information. Text and data mining usually requires copying of the work to be analysed. Before the law was changed, researchers using text and data mining in their research risked infringing copyright unless they had specific permission from the copyright owner.

### What's changed?

The new copyright exception allows researchers to make copies of any copyright material for the purpose of computational analysis if they already have the right to read the work (that is, work that they have “lawful access” to). They will be able to do this without having to obtain additional permission to make these copies from the rights holder. This exception only permits the making of copies for the purpose of text and data mining for non-commercial research. Researchers will still have to buy subscriptions to access material; this could be from many sources including academic publishers.

Publishers and content providers are able to apply reasonable measures to maintain their network security or stability so long as these measures do not prevent or unreasonably restrict a researcher's ability to make the copies they need to make for their text and data mining. Contract terms that stop researchers making copies of works to which they have lawful access in order to carry out a text and data mining analysis will be unenforceable.

## FAQ

### What copying are researchers allowed to do for text and data mining analysis?

Under this law, researchers are allowed to make copies of whole copyright works that they have lawful access to, without asking for specific permission, as long as they are making these copies solely for the purpose of non-commercial research. The guidance in this leaflet is relevant to copyright law, other laws such as those covering data protection are unaffected by these changes.

## What can researchers do with the copies they make as part of their research?

The copies can only be used by those who have lawful access to the original material for text and data mining for non-commercial purposes. They can't be shared, sold, or made publically available in any way and anyone doing so could be sued for copyright infringement.

## What does lawful access mean?

It covers where researchers have the legal right to access a copyright work to read it; examples could include paying for a subscription to a journal or database or material published under open licences including Creative Commons and Open Government Licences licences.

## Does this mean that publishers who own copyright material must allow anyone to text and data mine it?

No it doesn't. Often, researchers (or their institutions) access copyright material such as journal articles by entering into a contract or licensing agreement with a publisher. This change has no impact on the freedom of both parties to enter into a contract. However, this change does mean that once the contract is entered into the researcher will be able to copy works for text and data mining for non-commercial purposes without seeking additional permissions.

## Does this mean that publishers can't control how much material users can access?

No, this change has no impact on the freedom of those entering into a contract to decide how much material is made available under the terms of the contract. If a researcher has the right to read a copyright document under the terms of the licensing agreement with the content provider, they must be permitted to copy the work for the purpose of non-commercial text and data mining. Contract terms which have the effect of preventing this will be unenforceable.



## Does this mean that publishers can't control the way that users access material?

No it doesn't. Publishers may wish to apply technological measures on networks for a number of purposes such as to ensure security or stability. These measures may be for reasons unrelated to text and data mining or may, for example, be intended to ensure that all users can access the benefits that text and data mining offers researchers. Examples of possible measures could be to impose a reasonable limit on download speeds or to control the number of times a user can access a network in a given period. These measures should not stop or unreasonably restrict any researcher's ability to benefit from the exception.

## I have a licence granted under the old law, what happens under the new law?

If your licence grants wider permissions than the new law then nothing changes. Under the new law, you cannot be made to comply with existing licence terms that would stop you copying material, as long as you are copying for the right purpose and obey the conditions set out in this guidance. However, all other terms of your contract that are unrelated to copyright - including those covering how much material you can access - will be unaffected.

## What types of material does the exception apply to?

This applies to any copyright material that a researcher has lawful access to, as long as the purpose of the research is non-commercial.

## Does this mean that researchers or companies can now access material for free?

No, researchers or their institutions still have to buy access to content if that is the business model of the publisher. Those carrying out commercial research are not affected by this change in copyright law and will still have to ensure they have the appropriate permissions to copy copyright works for text and data mining.

## Do researchers have to acknowledge every work they analyse in this way?

The law requires that there is sufficient acknowledgment of copied works, but recognises that it may be impractical to acknowledge every work in a large-scale analysis. A researcher could, for example, refer to the databases from which the works were obtained.

## I'm a researcher in a university doing some contract research for an outside company. Can I text and data mine copyright material?

It is unlikely that your research falls within the definition of non-commercial. You should check with your local copyright advisor but the likelihood is that you will have to agree with the copyright owner that you can make copies for your research.

## I'm a researcher working in a University department that is part funded by a company. I choose my own research topics and am free to publish my work without interference from the company. Can I text and data mine?

This is likely to be fine as long as the purpose of your research is non-commercial but you should check with your local copyright advisor.

## Are the results of my text and data mining analysis covered by copyright?

Copyright covers the artistic expression of an idea or fact, not the fact or idea itself. So if your results are simply facts they are not covered by copyright. If you need to quote parts of a work to support your arguments when you publish your research you should ensure you obey copyright laws. You may find the information on copyright exceptions for quotation helpful.

### Is this compatible with Open Access?

Absolutely. You can text and data mine any work that has been made available under an open access route. You may publish your research in an open access journal (and indeed you should do so if it has been publicly funded), under either a green or (the Government's preferred) gold route. You should acknowledge the works you have mined, unless this is impossible for reasons of practicality.

### Can the results of my non-commercial research be used for commercial purposes?

There are no restrictions on how or where outputs of text and data mining can be published, including journals published for profit by academic publishers and under licences that permit commercial research, such as CC-BY. Other commercialisation of the research outputs is not restricted either. But it is important to be scrupulous in assessing whether the original purpose of carrying out the text and data mining analysis is solely non-commercial; if it isn't, then researchers are very likely to be infringing copyright.



## Quotation

### What has changed?

Before the law changed, minor uses of quotations from copyright works could be prevented by copyright owners, unless they fell within fair dealing exceptions for criticism, review or news reporting.

The law has been amended to give people greater freedom to quote the works of others for other purposes, as long as this is reasonable and fair (“fair dealing”).

### FAQ

#### Does this exception mean that people can quote any amount of copyright material for free?

No. It only allows the use of material for the purpose of quotation to a fair extent (e.g. it does not replace a commercial sale). So, for example, it could permit a short quotation that is necessary and relevant in an essay or academic paper.

#### Does this apply to photographs?

Whilst the exception applies to all types of copyright work, it would only be in exceptional circumstances that copying a photograph would be allowed under this exception. It would not be considered fair dealing if the proposed use of a copyright work would conflict with the copyright owner’s normal exploitation of their work. For example, the ability to sell or license copies of photographs for inclusion in newspapers would be a normal exploitation.

## What is fair dealing?

“Fair dealing” is a legal term used to establish whether a use of copyright material is lawful or whether it infringes copyright. There is no statutory definition of fair dealing - it will always be a matter of fact, degree and impression in each case. The question to be asked is: how would a fair-minded and honest person have dealt with the work?

Factors that have been identified by the courts as relevant in determining whether a particular dealing with a work is fair, include:

- Does using the work affect the market for the original work? If a use of a work acts as a substitute for it, causing the owner to lose revenue, then it is not likely to be fair.
- Is the amount of the work taken reasonable and appropriate? Was it necessary to use the amount that was taken? Usually only part of a work may be used.

The relative importance of any one factor will vary according to the case in hand and the type of dealing in question.

## Further Information

Guidance on changes to the copyright exceptions is available at <https://www.gov.uk/government/publications/changes-to-copyright-law> Guides include:

- Overview
- Education and Teaching
- Copyright material held by public bodies
- Libraires, archives and museums
- Accessible formats for disabled people
- Creators and copyright owners
- Guidance for consumers

Find out why the Government has changed the copyright exceptions here:

*Modernising Copyright, a modern, robust and flexible framework:* [www.ipo.gov.uk/response-2011-copyright-final.pdf](http://www.ipo.gov.uk/response-2011-copyright-final.pdf)

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**Note:** This guidance sets out the general principles of the changes to copyright law, it is not legal advice. It is recommended that you obtain legal advice in circumstances where you have specific questions relating to the law.





## Intellectual Property Office Online

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DPS/B900/09-14

