



Fair Dealing and Free Use of Copyright Works

This Fact File has been created by CCLI as a guide to Fair Dealing and how it applies to church services and other church activities. If you do not find all the information you need here, visit uk.ccli.com/churches or contact CCLI (details overleaf).

What do I need to know?

In most cases the reproduction of a copyright work requires prior permission and often a payment is required. However, in certain circumstances some limited concessions may negate the need for prior permission or payment.

What is Fair Dealing?

The Copyright, Designs and Patents Act 1988 (CDPA) includes certain exemptions known as 'Fair Dealing'. Fair Dealing allows for works to be used or reproduced without permission from the copyright owner. There is no strict definition of what this means. However, the courts have determined economic impact to be a major consideration.

Therefore, it may be within the scope of Fair Dealing to make copies, though not by reprographic processes (no photocopying or scanning), of short extracts of a copyright work for non-commercial research or private study, criticism or review, or reporting current events, provided a sufficient acknowledgement is included.

The purpose of this exception is to provide students and non-commercial researchers with more access to copyright works. In all other cases, permission must be obtained from the copyright owner, often in the form of a copyright licence.

Educational establishments enjoy certain extended rights, but these should not be confused with the Fair Dealing rights given for private study and research.

How much can be reproduced under Fair Dealing?

There isn't a strict definition of how much of a copyright protected work can be reproduced without infringement. However, as a result of various court cases over the years, it is generally considered that where the economic impact is not significant, the use may count as Fair Dealing. For example, Fair Dealing might permit you to make single copies of short extracts of a copyright work for non-commercial research or private study, criticism or review, or to report current events.

The basic rule is that if you're unsure about how much of a work you can reproduce, contact the copyright owner. More importantly, consider why the copies are being made. Reproducing even the smallest portions of a work included within a publication, or any medium produced for public consumption, would usually infringe copyright.

When reproducing any work, perhaps for publication or posting on a website, regardless of the amount you're copying, you should contact the copyright owner prior to publication.

Copyright free works

Some copyright owners do not demand any fee to reproduce or perform their work. Such works are sometimes known as 'Copyright Free' works. However, they do technically remain copyright protected. Good practice would be to acknowledge the author/composer/copyright owner if you reproduce or perform Copyright Free works.

Reproducing Public Domain works

Copyright in a literary, dramatic, musical or artistic work does not last indefinitely and will ultimately expire and enter the Public Domain. Once a piece of work enters Public Domain it may be performed, copied or recorded without permission and without charge.

Copyright 'lifetime' in different works varies. For example, copyright in a song or a film lasts for 70 years after the death of the last to survive of the author/composer/director. Commercially available songbooks carry a 25 year typography right protecting the printed page; to freely photocopy from a songbook, both the song and the songbook must be Public Domain. Copyright in a music recording lasts for 70 years if it was in copyright on or after 1st November 2013, otherwise it is 50 years. Copyright in a broadcast or cable programme lasts for 50 years, though this is likely to be extended to 70 years in the near future.

When reproducing old hymns and worship songs, first ensure that you have the original work, not an updated version or arrangement that might still be in copyright. Occasionally a songwriter might take an old Public Domain hymn and modernise the language or arrangement. If the result is distinct enough, a new copyright might be established in the new version. If you wish to reproduce the new work, copyright permission should be sought as normal. However, this does not preclude you from reproducing the original Public Domain work.

Provisions for people with disabilities

In 2014 UK copyright law was adjusted to allow copies of copyright works to be made for use by people with disabilities. "Disabled person" is defined as a person who has a physical or mental impairment which prevents them from enjoying a copyright work to the same degree as a person who does not have that impairment. However, a person is not to be regarded as disabled by reason only of an impairment of visual function which can be improved, by the use of corrective lenses, to a level that is normally acceptable for reading without a special level or kind of light.

Note, copies made under this provision can only be made by the disabled person or by a person acting on behalf of the disabled person, the copy can only be for the disabled person's use and can only be made if the work is not already commercially available in an accessible format by the copyright owner.

For more information visit legislation.gov.uk/uksi/2014/1384

File sharing

File sharing is a phenomenon of the digital age. When a piece of music is digitised, the resulting data is known as a file. File sharing occurs when someone makes a copy of the file and distributes it to one or more people via email, websites, or digital storage devices.

It has become a serious issue for music publishers and copyright owners. Making a copy of the music file and/or distributing it to a third-party is illegal. The result is that people obtain copies of music without making a payment to the music publishers and copyright owners.

File sharing is not permitted under the concessions provided by Fair Dealing.

What is copyright?

Copyright is an intellectual property right given to the creators of original musical, literary and dramatic works. The Copyright, Designs and Patents Act 1988 (CDPA) is the legislation that currently operates in the UK and provides the creator with two main rights:

Economic

this allows the creator to charge anyone who wishes to copy, perform or record their work for any commercial or non-commercial use.

Moral

this allows the creator to protect their work from any change which might be considered offensive or not in keeping with their wishes.

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This Fact File is provided for information purposes only and does not constitute legal advice. If in doubt you should consult a legal expert. Whilst we aim to be as accurate as possible, CCLI can accept no responsibility for any errors or omissions in the information provided.