

CORNWALL
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COPYRIGHT



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COPYRIGHT

Contents

What is copyright	3
Who owns copyright?	3
Works covered by copyright	4
What can I do?	7
What can't I do?	7
Are digitised copies of older images protected by copyright?	8
Exceptions for Museums.....	9

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What is copyright?

Copyright is simply the right to copy. It is the element of intellectual property that protects the tangible expression of ideas, rather than the idea itself.

Copyright is automatically in place from the moment a piece is created; it does not need to be registered or have a © symbol to be protected. Copyright also exists irrespective of creative merit; it is not just high literature or artistic masterpieces that are covered.

- Form of intellectual property
- Protects **tangible expression of ideas**, *not* the idea itself
- Work must be **original**
- Sweat of the brow'
- Regardless of creative merit

Who owns copyright?

The copyright owner will often be the direct descendent(s) or successor (such as a successor company) of the first owner. However, copyright may be bequeathed to someone or to a body in a will, or assigned to someone or to a body by a document signed by the owner.

This can include museums and archives; when items come into the collection, there needs to be an appropriate form to ask the copyright owner to assign copyright to the museum or archive.

Works covered by copyright

Copyright is not a blanket rule that covers all forms of media, instead there are different considerations for each. Each category of works is covered by copyright. There are eight distinctive categories:

Types of work covered by copyright	Duration of copyright	Who owns copyright
<p>Text based works</p> <p>This covers anything that is written and includes both published and unpublished works, such as reports, accounts, computer programmes, databases, letters.</p>	<p>Lifetime of the creator, + 70 years.</p>	<p>The author.</p> <p>Also, the employer can own the copyright if this work was produced by an employee during their employment.</p>
<p>Typographic arrangements</p> <p>This is the layout of information, either text or images. For instance, you are able to reproduce the text of a Charles Dickens book as this is out of copyright, but you are unable to reproduce the typographic arrangement of this text, say in a Penguin Classic's edition.</p>	<p>25 years from the date of creation.</p>	<p>The publisher of a typographic arrangement.</p>

<p>Artistic works</p> <p>This includes both 2D (such as paintings, photographs, maps) and 3D works (such as sculptures and medals). There is no requirement for the work to have any artistic merit, any quality of work is protected.</p>	<p>Lifetime of the creator, + 70 years. However, if the artistic works are royal, for example a stamp or an OS map, the copyright period is 50 years from the date of creation.</p>	<p>The creator.</p> <p>Also, the employer is this work was produced by an employee in the course of their employment.</p> <p><u>Photographs, engraving and portraits:</u> the person who commissioned and paid for the work, if this was prior to 1st August 1989.</p> <p><u>Negatives:</u> the owner of the negative if the photograph was taken between 1st July 1912 and 31st July 1989.</p>
<p>Sound recordings</p> <p>This covered the actual sound recording, rather than the work (such as a piece of music).</p>	<p>70 years from the date of creation.</p>	<p>The producer of the sound recording. This is the person (or body) who initiated and financed the recordings.</p>

<p>Broadcasts TV and radio.</p>	50 years from the date of broadcast.	The broadcaster .
<p>Films Including DVDs and videos. Non-fiction films made prior to 1 June 1957 are not protected as films, but rather as sequences of photographs, while fiction films before 1957 are protected as dramatic works.</p>	Lifetime of the principal director, the producer and composer, + 70 years from the death of the last of these to die.	The producer and the principal director jointly.
<p>Dramatic and musical works These are works that are performed (such as plays) and works of music alone (without the lyrics).</p>	Lifetime of the creator, + 70 years.	The creator .

What can I do?

Decide whether the work is still in copyright

Identify and trace the present copyright owner

Ask for permission to do what you wish – remember also to seek permission for everything you might want to do with the copyrighted work in the future. This will make the process easier for both you and the copyright owner.

Acknowledge the copyright, give credit as appropriate to the author, the rights owner and the custodian, and pay any associated fees.

What can't I do?

The copyright owner has the right to control certain uses of a copyright work, including:

- **Copying** – this includes making a manual copy (e.g. a tracing or a transcript) as well as making electronic copies (such as a photocopy or a scan).
- **Issuing copies to the public** – this is how the statute defines conventional publication
- **Communication to the public** – including via the internet or broadcasting over radio or TV
- **Performance** – this includes normal performances (e.g. performing a play or reading a speech), or, more importantly for museums presentation, such as exhibition. However, this does not apply to artistic works.
- **Rental and lending** – the difference between rental and lending is that rental is done for profit.
- **Adaptation** – this includes translation and converting a computer programme to a different language.

Are digitised copies of older images protected by copyright?

“Simply creating a copy of an image won’t result in a new copyright in the new item. However, there is a degree of uncertainty regarding whether copyright can exist in digitised copies of older images for which copyright has expired. Some people argue that a new copyright may arise in such copies if specialist skills have been used to optimise detail, and/or the original image has been touched up to remove blemishes, stains or creases.

However, according to the Court of Justice of the European Union which has effect in UK law, copyright can only subsist in subject matter that is original in the sense that it is the author’s own ‘intellectual creation’. Given this criteria, it seems unlikely that what is merely a retouched, digitised image of an older work can be considered as ‘original’. This is because there will generally be minimal scope for a creator to exercise free and creative choices if their aim is simply to make a faithful reproduction of an existing work.”

From: [Copyright Notice: digital images, photographs and the internet \(2015\)](#)

Exceptions for Museums

In 2014, the government introduced a series of exceptions aimed at making copyright more suitable to the work of museums and archives.

Preservation

The main exception that was introduced was the ability to create a preservation copy of a copyrighted item within your permanent collection. This is very important as it facilitates digitisation on the grounds of preservation, allowing you to digitally capture the image of a deteriorating objects or documents. There are a few provisos;

- The work is held in the permanent collection of the archive or museum. This does not apply to material that is on loan, for example as part of a short-term exhibition.
- It would not be practical for the museum to buy a replacement copy. This is an easy requirement to satisfy as these collections usually consist of unique items and documents that are likely not to have been made commercially available.

Access

A second exception was the ability to display this material, along with copies of all copyrighted works in the museum on a 'dedicated terminal' within a museum's gallery space. Providing this is only viewable by a single person at a time, for instance on a tablet or small screen, you can display copies of works that otherwise you would be unable to do. Another way that access to copyrighted collections is improved through these exception is the ability to provide a copy of copyrighted material to disabled users, as long a commercial copy is not available that would solve this issue.

Research and teaching

Whilst teaching at museums, staff can reproduce copyrighted works to illustrate a point as long as activity is a) non-commercial b) there is sufficient acknowledgement c) use is fair and reasonable. Staff can also make a single copy of a limited amount of all works for public's non-commercial research – or if there is a fee it is on a cost recovery basis.