

## **COPYRIGHT**

### **Introduction to copyright**

1. Copyright is a property right which protects the owners of original literary, dramatic, musical or artistic work. Literary material is the category of artistic work which is most likely to be relevant to parish councils. The law of copyright, as set out in the Copyright, Designs and Patents Act 1988, (“the 1988 Act”) also applies to sound recordings, films and broadcasts and the typographical arrangement of published editions.
2. “Literary work” means any work, other than a dramatic or musical work, which is written, spoken or sung, and includes (a) a table or compilation other than a database; (b) a computer program; (c) preparatory design material for a computer program; and (d) a database. “Dramatic work” includes a work of dance or mime and “musical work” means a work consisting of music, exclusive of any words or action intended to be sung, spoken or performed with the music (s. 3 of the 1988 Act). “Sound recordings”, “films” and “broadcasts” are defined in s.5A, s.5B and s.6 of the 1988 Act.

### **What steps does an author/ designer need to take to obtain copyright protection?**

3. Authors are not required to take any formal steps to protect their work because UK copyright law applies from the moment material is created. Authors are not required to use the symbol © and only do so by convention. The presence of the symbol serves as a useful reminder that the work is subject to copyright but the absence of the symbol does not necessarily mean that the work is unprotected.

### **Who enjoys the benefit of copyright?**

4. The author/ creator of work usually has the benefit of copyright protection but where material is created by a person under the terms of a contract of employment the employer will be the copyright owner subject to any agreement to the contrary (s. 11(2) of the 1988 Act).

### **What protection does copyright afford?**

5. The owner of the copyright in a work has the exclusive right to do the following acts pursuant to s.16 of the 1988 Act:
  - to copy the work;
  - to issue copies of the work to the public;
  - to rent or lend the work to the public;
  - to perform, show or play the work in public;
  - to broadcast the work; and,
  - to make an adaptation of the work or do any of the above in relation to an adaptation.
6. Those acts are referred to as “acts restricted by the copyright”.

### **How long does copyright last?**

7. In the case of written works, copyright lasts for the life of the author plus 70 years from the end of the calendar year in which the author dies (s.12 of the 1988 Act).

### **What is a breach of copyright?**

8. Copyright in a work is infringed by a person who, without the licence of the copyright owner, does, or authorises another to do, any of the acts restricted by the copyright as set out in paragraph 5 above (s.16 (2) of the 1988 Act). There are, however, exceptions.

### **Exceptions**

9. Chapter III of the 1988 Act lists a number of detailed provisions which set out the circumstances in which a person will not infringe copyright if he does any of the acts

listed in paragraph 5 above. The list is long and complex and is set out in the appendix to this Legal Topic Note. It is not possible within this introductory Note to cover the exceptions in detail and councils seeking more detail should contact NALC.

**Reproducing work subject to copyright**

- 10. Councils considering using work which is subject to copyright should obtain prior permission from the copyright holder beforehand. If prior permission is not sought, the copyright holder may sue for damages. More serious cases of infringement (e.g. infringement for commercial gain and making an article specifically designed or adapted for making copies of a particular copyright work) are also criminal offences.
- 11. It is not always easy to contact copyright owners. The British Copyright Council may be able to assist: <http://www.britishcopyright.org/>
- 12. Similarly, the Authors’ Licensing and Collecting Society may also be able to help: <http://www.alcs.co.uk/>

**Other Legal Topic Notes (LTNs) relevant to this subject:**

LTN	Title	Relevance
60	Copies of Planning Documents	Sets out the copyright provisions in respect of planning documents.

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**Appendix – Exceptions provided by Chapter III of the 1988 Act (referred to in paragraph 9 above)**

- Making of temporary copies
- Research and private study
- Criticism, review and news reporting
- Incidental inclusion of copyright material
- Making copies for visually impaired persons
- Intermediate copies and records
- Licensing schemes
- Limitations, etc following infringement of copyright
- Things done for purposes of instruction or examination
- Anthologies for educational use
- Performing, playing or showing work in course of activities of educational establishment
- Recording by educational establishments of broadcasts
- Reprographic copying by educational establishments of passages from published works
- Lending of copies by educational establishments
- Copying by librarians: articles in periodicals
- Copying by librarians: parts of published works
- Lending of copies by libraries or archives
- Copying by librarians: supply of copies to other libraries
- Copying by librarians or archivists: replacement copies of works
- Copying by librarians or archivists: certain unpublished works
- Legal deposit libraries
- Parliamentary and judicial proceedings
- Royal Commissions and statutory inquiries
- Material open to public inspection or on official register
- Material communicated to the Crown in the course of public business
- Public records
- Acts done under statutory authority
- Computer programs; back up copies
- Computer programs; decompilation
- Other acts permitted to lawful users of computer programs
- Acts permitted in relation to databases
- Design documents and models

- Things done in reliance on registration of design
- Use of typeface in ordinary course of printing
- Articles for producing material in particular typeface
- Transfers of copies of works in electronic form
- Anonymous or pseudonymous works: acts permitted on assumptions as to expiry of copyright or death of author
- Use of notes or recordings of spoken words in certain cases
- Public reading or recitation
- Abstracts of scientific or technical articles
- Recordings of folksongs for archive purposes
- Representation of certain artistic works on public display
- Advertisement of sale of artistic work
- Making of subsequent works by same artist
- Reconstruction of buildings
- Lending to public of copies of certain works
- Films: acts permitted on assumptions as to expiry of copyright
- Incidental recording for purposes of broadcast
- Recording for purposes of supervision and control of broadcasts and other services
- Recording for purposes of time-shifting
- Photographs of broadcasts
- Free public showing or playing of broadcast
- Reception and re-transmission of wireless broadcast by cable
- Provision of sub-titled copies of broadcast
- Recording for archival purposes