

## RE: Hi Georgina, do you have info on whether staff can use the copyright exception 'Fair Dealing' on materials uploaded to NILE?

Georgina Dimmock

To: Richard Byles

Cc: Rob Howe; Robert Farmer; Chris Powis

20 February 2019 08:53

You replied on 20/02/2019 09:17.

Hi Richard. Yes, the horrors of copyright exceptions, fair dealing and the virtual classroom! There is some information on fair dealing on the LibGuides *Copyright exceptions* page: [http://libguides.northampton.ac.uk/copyright/copyright\\_exceptions](http://libguides.northampton.ac.uk/copyright/copyright_exceptions) with a link to the IPO Government guidance on the use of the copyright exceptions and fair dealing in Education. However, so far I've skirted the issue of what exactly we can do on the VLE in terms of copyright exceptions and fair dealing, because it's a little bit of an ambiguous horror show (as you've discovered) and I don't want to put LearnTechs and Academic Librarians in the firing line should an academic go rogue! I'm off from today until Weds, but I'll try to add something to the LibGuides pages, before the session on March 4<sup>th</sup> (I like a good deadline).

However, I've been mulling it over, and what I think we need to do is have a checklist approach, i.e.

- Is it covered by the HE scanning licence? Have you checked if it can be digitised?
- Is it covered by the ERA licence already? It may well be...
- Do we already have it available via BoB or via X, Y and Z?
- Is the material on an open government licence, a creative commons licence or another "open" licence already?
- Have you correctly attributed your source?
- Is it covered HE Exception and the use could be deemed fair dealing (see for info on how this is usually determined by the courts [http://libguides.northampton.ac.uk/copyright/copyright\\_exceptions#s-lg-box-wrapper-17332632](http://libguides.northampton.ac.uk/copyright/copyright_exceptions#s-lg-box-wrapper-17332632) )
- Etc.

On the copyright web pages I've mentioned Takedown Procedures and Notices (see <http://libguides.northampton.ac.uk/copyright/overview#s-lg-box-wrapper-17538636>). However, I can't see a Takedown Procedure on the NILE pages – I could write something if there isn't already something available (I may have missed it). The British Library have a good statement, we also have them on the Skills Hub and on NECTAR, which is available via the link above. However, a takedown notice should never be used in lieu of the checklist approach above; this is critical. Also, we should not become the copyright police; it is not for us to check every NILE module is copyright compliant. We should draw the attention of academics to our copyright advice though (should there be something about IP and copyright in all job contracts?).

I'm also copying in the Robs and Chris, because I forgot to tell them about what might happen if we have a CLA audit! I went to the Mercian Copyright meeting on Friday 8<sup>th</sup> Feb, and several universities in the region have just been (or are being) audited by the Copyright Licensing Authority (Loughborough, DMU and Newnham). The way the audit works is they give you a call (probably me, Chris P, Fiona Watkins or Theresa Lowe will get the call) and they identify 10 modules on the VLE which they wish to scrutinise for copyright breaches. However, the big things they are looking for are:

- when use of copyrighted material is being used as a substitute for paying for material, i.e. are extracts of material (in any format) being used for genuinely illustrative purposes or are they being used to avoid buying the original resource, e.g. multiple extracts from different textbooks that when used in combination could be used to form a textbook, thus avoiding buying a textbook./ Does the use really constitute fair dealing or are we taking the micky by using something and really stretching the boundaries of fair dealing?
- Is material from books/text being uploaded and scanned without going via the CLA HE digitisation process, i.e.