

Policy on Copyright and Intellectual Property

New College Durham is committed to safeguarding & promoting the welfare of children and young people, as well as vulnerable adults, and expects all staff and volunteers to share this commitment.

Procedure Title	Copyright & Intellectual Property Policy
Document Owner	Academic Registrar

Directorates and Departments affected by this Procedure	All staff
Procedure Effective From	December 2021
Next Review Date	December 2026

We will consider any request for this procedure to be made available in an alternative format.

We review our policies and procedures regularly to update them and to ensure that they are accessible and fair to all. All policies and procedures are subject to impact assessments. Equality Impact Assessments are carried out to see whether the policy has, or is likely to have, a different impact on grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation or human rights.

We are always keen to hear from anyone who wants to contribute to these impact assessments and we welcome suggestions for improving the accessibility or fairness of the policy.

To make suggestions, seek further information or if any employee has difficulty understanding this policy please contact the Academic Registry at records@newdur.ac.uk

Equality Impact Assessed: November 2021
Accessibility Checked: November 2021

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1. Introduction

The Copyright, Designs and Patents Act 1988 clarifies the rights of, and imposes certain obligations on, the creators and users of Intellectual Property and is supplemented by many related statutory instruments and EU directives.

This Policy describes the college's position on protecting its intellectual property and avoiding infringements of third-party owner rights and also comprises a code of best practice.

2. Scope

Intellectual Property Rights are rights granted to creators and owners of work that are results of human intellectual creativity. These rights cover copyright, patents, trademarks and designs.

This Policy is intended to clarify the College position on the ownership and protection of intellectual property and provide links to guidance and materials to support best practice in securing the use of copyrighted materials.

This Policy covers all materials used and disseminated by members of staff during the course of their work. The action of 'copying' also refers to the action of scanning or faxing of any materials.

3. Responsibilities

The College has a responsibility to collect and hold information in accordance with legislation to ensure rights are upheld. Ultimate responsibility for ensuring compliance with this Policy lies with the Corporation.

The Academic Registrar has responsibility for co-ordinating information on copyright and intellectual property within the College. These responsibilities include:

- a. ensuring associated guidelines are available
- b. promoting compliance with the provisions of these guidelines
- c. maintaining licences as described in section 5c.

All staff are responsible for familiarising themselves with this Policy and any relevant guidelines and subsequently for ensuring that materials used, reproduced or published are done so legitimately.

Compliance with this Policy is compulsory for all staff employed by the College. It is the responsibility of Heads of Departments/School and their Directors/Assistant Principals/Vice Principals to ensure that their staff are made aware of the existence of this policy and its content.

Infringements of copyright legislation or licenses by any individual may result in legal action against the individual or the College. The College considers breach of copyright to be a serious offence and may take disciplinary action where this occurs.

4. Relationship with existing policies and legislation

This Policy has been formulated within the context of the following College documents:-

- a. Information Security Policy
- b. Web and Intranet Management Policy
- c. Management and Monitoring of E-mail, Internet and Telephones Policy
- d. Acceptable Use of IT Policy
- e. VLE Management Policy
- f. Academic Malpractice HE Policy
- g. Records Management Policy

And with the Copyright, Designs and Patents Act 1988 (CDPA1988) and related statutory instruments and EU directives.

5. Policy Statements

a. Ownership of Intellectual Property Rights (IPR)

Rights on all intellectual property created by members of staff in relation to their position at the College belong to the Corporation of New College Durham. The College's contract of employment clearly establishes this.

Rights on any work or design created as a scholarly work outside of the remit of the purposes for which a member of staff is employed remain with the author. This will include works contributing to the development of the author's 'professional career', including items such as books, contributions to books, articles and conference papers, and shall be construed in the light of the common understanding of the phrase in further and higher education.

If a member of staff leaves the College and wishes to use materials that they have developed and used in teaching while working at the College they must gain the permission of the Principal, Deputy Principal or one of the Vice Principals. The decision will be based on a 'reasonableness test',

an assessment of each case on its own merits. This will be especially important in cases where the materials were created jointly or authorship is disputed.

Any collaborative ownership of intellectual property between the College and an external party should be governed by an agreement. This agreement should detail any revenue sharing arrangements.

Copyright on student work normally rests with the student. The College reserves the right to use, reproduce or republish student work as long as the correct attribution is made. Staff should instruct students to obtain consent for any material used in an assignment that is owned by a third party.

The College owns performers rights in all material produced including recordings and webcasts.

The College owns database rights on all collections of data built and maintained by members of staff.

b. Moral Rights

The College will attempt to ensure the preservation of the moral rights of the author of any work, these are:

- i. The right of the creator to be identified as the author of the work.
- ii. The right to object to derogatory treatment of the work
- iii. The right to object to false attribution

Any complaints pertaining to the moral rights of the author should be dealt with under the College's Complaints Procedure.

If a member of staff uses or re-publishes another author's material (including student work) the member of staff must make the correct acknowledgement and obtain permission if appropriate (see section 5c).

c. Using Intellectual Property

If intellectual property is used in breach of one of the two rights above it is considered a **Primary Infringement** under the law.

The College sources and maintains relevant licences with collecting societies to ensure usage of certain materials is allowed. These licences are listed below.

- i. **Copyright Licensing Agency (CLA) FE Licence** (as negotiated by the AoC) covers the copying of a stipulated percentage of book content, magazines, journals and periodicals. The provisions of

- this licence are displayed above every college photocopier. This licence is maintained and monitored by the Academic Registrar.
- ii. **Educational Recording Agency (ERA) FE Licence** (as negotiated by the AoC) covers the recording of TV and Radio broadcasts and the keeping of subsequent copies, which must be correctly labelled. The licence also covers the placing of recordings of TV and Radio broadcasts onto the VLE and IPTV systems. This licence is maintained by the Academic Registrar.
 - iii. **PPL Licence** covers the playing of music before and after college shows and events. This licence is maintained by the Academic Registrar.
 - iv. **Software Licences** cover usage by College staff. Further detail may be found in the Information Security Policy. Software licences are managed by the individual System Owners as assigned in the Information Asset Register.
 - v. **Performing Rights Society (PRS) License** covers the use of music in performances and concerts held on College property. The College's PRS license is administrated by the Centre for Education and Finance Management (CEFM). This licence is maintained and monitored by the Academic Registrar.
 - vi. **NLA License** covers the copying (including scanning) of newspaper articles. This licence is maintained and monitored by the Academic Registrar.

Other licences must be applied for by staff as required. These include ad-hoc Recording and Distribution licences (obtained from PRS/MCPS) and licences to use proprietary DVD recordings.

It is the responsibility of individual members of staff or others working on behalf of the College to establish consent for the use of third-party material and not to infringe the rights of the copyright holder.

All materials used on the College website must be used with the permission of the rights holder(s).

The College's policy is that it will develop institution wide reusable resources. In particular, material published on the VLE can be used by any member of staff as long as it is correctly attributed (see section 5b).

The College will seek to use copyright free resources. The LRC provides access to materials that can be freely used by staff without infringing copyright. This is done via the College Intranet. Where the use of these pre-sourced materials requires acknowledgement guidance will be provided.

d. Protecting Intellectual Property

In addition to asserting ownership, the College will protect its intellectual property by certain other means. Statements must be used on all published material in any form, these will normally take the form:

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Deliberate unauthorised removal of materials from the VLE is against College policy. In this case the College will seek to restore the deleted material by electronic means or contact the person responsible to return or restore the work.

Assessments, lessons and lectures may only be recorded

- a. with reference to the provisions of other College policies, especially the safeguarding, data protection and equality policies
- b. with due regard for the privacy of any person in attendance who does not wish to be filmed

Recordings of assessments, lessons and lectures may not be reproduced in the public domain.

Decisions on the exploitation or sharing of College copyrighted material will be made by the College's Senior Postholders. This may be by assigning or licensing materials externally. Requests will be administrated by the Academic Registrar.

In order to successfully assert ownership of information assets the College recognises the importance of accurate recordkeeping in the preparation of materials to ensure proof of design can be maintained. This includes keeping a record of materials used. This will also prevent successful claims for infringement of third party copyright.

e. Copying for disabled persons

It is permitted by law to make accessible copies of copyrighted works for the use of disabled persons. If copies have been made of works which are not covered by the College's various licences, they must be marked as having been copied under section 31A or 31B of the CDPA1988. Section 31A applies to single copies, and 31B applies to multiple copies. Where multiple copies are made, records should be kept of these, including how many there are and to whom they are lent.

f. Records of licences and permissions

Where permission or licence to copy has been obtained, a record should be retained for the life of the permission or licence.

g. Handling of infringement claims

If members of staff are accused of copyright infringement they should contact the Academic Registrar in the first instance. The Academic Registrar will investigate the claim and assist in the negotiation process, providing advice and support. *It should be noted however, that ignorance is no defence under copyright law.*

If students are accused of copyright infringement they should contact their tutor in the first instance. Cases must be referred to the Academic Registrar who will offer advice and assistance. This does not apply to students who have been accused of plagiarism. Plagiarism claims are dealt with under separate College guidelines.

6. Evaluation and review

The performance of this Policy will be reported on annually and it will be formally reviewed every five years by the appropriate Corporation committee.

In addition, the effectiveness of this Policy will be monitored as necessary on an on-going basis to ensure it is compliant with relevant legislation.