



## Understanding Open Licensing

**This Guidance document introduces school staff to open licensing. It covers copyright, fair dealing, different types of Creative Commons licences and the public domain.**

### What is an open licence?

Open content, including Open Educational Resources (OER), can be described as legally free. This legal freedom is expressed through a licence — called an open licence — through which the copyright holder grants permission to use, access and re-distribute work with few restrictions. For example, a set of lesson plans made available under a Creative Commons open licence on a website means that anybody is free to view, print and share the work. The majority of Creative Commons licences also provide permission to adapt and change the work, and share your adapted content online or in print.

### Understanding copyright

Copyright is a type of intellectual property which grants the owner of the copyright exclusive rights to control how their work is used, reproduced and credited, as well as compensation in association with any use or reproduction of their work.

Usually, the owner is the author of a work, unless they have transferred the copyright to someone else, like a publisher. Where a work has been produced in the line of employment, the employer, rather than the author, holds the rights to the work, unless a specific agreement has been made. Copyrighted content without a licence granting permissions for reuse or further distribution is 'closed' content; the work cannot legally be copied or reused in its entirety, unless usage can be defended under one of the UK's limited "fair dealing exceptions" (see below). Generally, the only permission granted by default is for viewing, reading or listening to the work. These works cannot be shared, modified or reused without permission from the copyright holder. Copyright applies to all original works, including films, songs, images, books, dramas, sound recordings, TV and radio broadcasts, and Internet publications and transmissions. From a school's perspective, works also include educational resources such as lesson plans, study materials, revision guides, homework tasks, and diagrams.



Works acquire copyright automatically, without the need to register the work. Copyright is granted to new works when they are recorded in a material form, such as being written down or saved on a computer. It does not matter if you cannot see the © symbol — or if the site hosting the work is non-commercial — copyright rules still apply.

Copyright lasts for the lifetime of the creator, plus usually an additional few decades following their death, depending on the type of work. In the UK, copyright for literary, dramatic, musical or artistic works lasts for 70 years from the death of the last remaining author of the work.

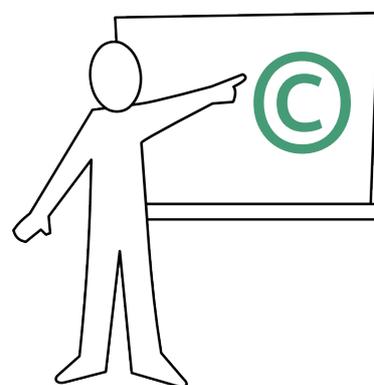
If a work is copyrighted, or if you are unsure of a work's copyright status, you should not copy, reuse or modify the work without getting the permission of the copyright holder.

## Fair dealing

“Fair dealing” in the UK covers the use of a limited amount of copyrighted material for the purposes of quotation, caricature, parody and pastiche, illustration for instruction purposes, non-commercial research or private study and current news reporting (excluding photos). Fair dealing also includes some provisions for educational use. UK Copyright Law has recently been amended and the Educational Exceptions now cover digital media (such as film, audio files, webpages), and use of digital materials in schools through classroom presentation technologies and ‘secure distance learning networks’ (for example, a Virtual Learning Environment).

The updated Educational Exceptions are still based on the principle of fair dealing, which cover copying where it is used to ‘illustrate a point’. Under fair dealing rules, this copying must be for educational and non-commercial use, and the creator and source of the work needs to be acknowledged. There is no formal definition of fair dealing, but it is used in law to determine infringement of copyright and asks how a fair-minded person would act. In practice, this means that displaying an image, some text from a book, or a few lines of poetry on a projector or interactive whiteboard in order to illustrate a point is permitted. However, any use that may undermine the sale of educational materials (such as copying a book chapter for distribution to students) still requires a licence, for example, from the Copyright Licensing Agency.

“Fair dealing” in the UK covers the use of a limited amount of copyrighted material.



“Fair use” is often used colloquially instead of “fair dealing”, but may also refer to “fair use” copyright law in the US, which shares many similarities with “fair dealing”, but is not identical.

Because of the extensive use of licensed material in UK schools, the fair dealing exceptions are useful, but the additional rights they provide to educators are limited.

## Copyright licences available to schools

From April 2014, the [Department of Education](#) provides licences from the following copyright management organisations for all primary and secondary state-funded schools in England:

- [Copyright Licensing Agency](#), for print and digital copyright content in books, journals and magazines;
- [Printed Music Licensing Limited](#), for printed music;
- [Newspaper Licensing Agency](#), for newspapers and magazines;
- [Educational Recording Agency](#), for recording and use of copies of radio and television programmes;
- [Filmbank](#) and [Motion Picture Licensing Company](#), for showing of films.

These licences are provided to maintained schools, academies, free schools, special schools, non-maintained special schools and pupil referral units (PRUs).

The Copyright Licensing Agency (CLA) is a UK non-profit organisation which licenses organisations to copy and reuse extracts from print and digital publications on behalf of the copyright owners. All maintained schools and academies in England are covered by the national CLA Education Licence. The CLA Education Licence is very broad, providing blanket permissions to photocopy and scan a certain amount of content from the millions of books, journals and magazines covered by the licence. Under the terms of the licence, you can copy a chapter or 5% of a book (whichever is greater) for a particular course of study. The licence also permits copying from a wide range of digital material including e-books and some websites. Not all resources you might want to use are necessarily included, so school staff should check the CLA website first.

While the CLA Education Licence gives you permission to use a certain amount of selected copyright content in schools, it does not cover combining and adapting content, or publishing content more widely (e.g. through the school website).



## Open licensing and Creative Commons

There are a range of licences which can be used by educators to provide additional permissions to use and reuse work. In this Guidance, we focus on Creative Commons licences. **Creative Commons** licences are one type of open licence, often used for a variety of media, including documents and images. Other types of open licences include the UK Open Government licence (OGL), as well as licences used for open source software.

In this Guidance, we focus on Creative Commons licences because they are well established, standardised, internationally recognised, and there are a significant number of resources available to support school staff in learning more about the licences. The licences are also optionally machine-readable, which means that a summary of the key information can be read by software systems and search engines.

CC licences work alongside existing copyright laws to provide more flexible and fit-for-purpose access, and to support creativity, innovation and sharing. Their suite of free licences can be used by copyright holders to allow others to share, reuse and remix their works, legally and without having to ask permission first. All Creative Commons licences allow you to use and share content. Creative Commons licences are flexible, easy to understand and legally robust.



## Remixing with Creative Commons

Creative Commons licences are great for educators because they allow you to “remix” content: all Creative Commons licences allow you to combine resources without modification, and most of the licences also allow you to modify and adapt resources.



*Remixing is often associated with music. In the 1980s, musicians mixed and mashed old jazz, blues and reggae records, before adding their own beats and raps to create a whole new sound – and Hip Hop emerged. Since then, thousands of musicians have built on these early experiments, creating an extraordinarily rich global culture of remix music.*

Because culture always builds on the past, just about all creative work is a kind of remix. Remixing also happens in other areas, such as research and, of course, education: scientists, artists and teachers all build on the past to create new works and make new discoveries. With the development of the Internet, the range of materials available for remix and reuse is larger than ever. In the digital age, it has become much easier to make innovative new works, and supporting learners to be creative (including by creating digital art, music and film), is important. Of course, this can cause problems when it comes to keeping track of who made what — and who owns what.

So, while borrowing and adapting is part of the creative process, educators have a responsibility to set the example and to take the time to **credit the work of others**. Giving credit also places the work in its context, which may benefit its users.

Acknowledgement is independent of copyright and is necessary to avoid plagiarism. Being identified and credited as the author of a work is a “moral right”. If no other arrangements are in place (such as an employment contract), the author of a work is also the original copyright holder. The same is true for moral rights. When an employment contract is in place, copyright and moral rights are usually held by the employer.



## Types of Creative Commons licences

Creative Commons licences offer a range of choices between full copyright (i.e. reserving all rights) and waiving as many rights as possible (allowing the work to be treated like a work in the “public domain”).

A work is in the public domain if the intellectual property rights have expired. For example, the works of Shakespeare are in the public domain because the author died over 70 years ago, and all intellectual property rights have expired. Works in the public domain can be used free of any restrictions. Often copyright holders are happy to share their work in principle, but would like to apply some conditions, rather waiving as many rights as possible. The six Creative Commons licences enable rights holders to apply a range of permissions. Each licence has different features through which copyright holders specify certain restrictions, as well as grant users various freedoms:



**1. All Creative Commons licences require that you credit the copyright holder when reusing their work in any way.** Likewise, others who use your work in any way must give you credit in the way you request, but not in a way that suggests you endorse them or their use. If they want to use your work without giving you credit, or for endorsement purposes, they must get your permission first.



**2. “Share-Alike” (SA):** You let others copy, distribute, display, perform and modify your work, as long as they distribute the work and any modified work on the same terms. If they want to distribute modified works under other terms, they must get your permission first.



**3. “NoDerivatives” (ND):** You let others copy, distribute, display and perform only original copies of your work. If they want to modify your work, they must get your permission first.



**4. “NonCommercial” (NC):** You let others copy, distribute, display, perform and (unless you have chosen NoDerivatives) modify and use your work for any purpose other than commercially, unless they get your permission first.

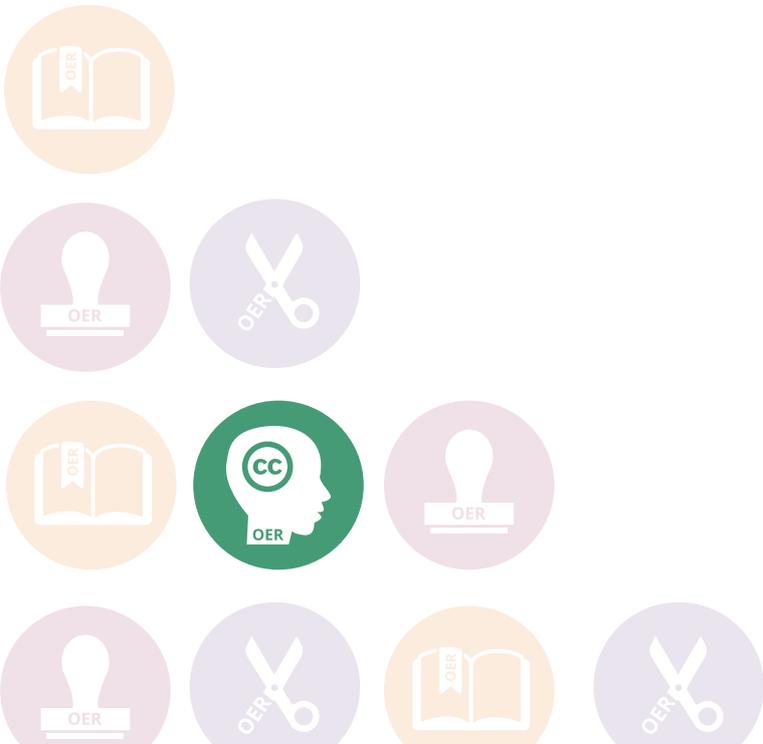


These permissions can be combined to give six different types of Creative Commons licences:

		<b>Attribution</b> CC BY	
		<b>Attribution - Share-Alike</b> CC BY-SA	
		<b>Attribution - NoDerivatives</b> CC BY-ND	
		<b>Attribution - NonCommercial</b> CC BY-NC	
			<b>Attribution - NonCommercial - Share-ALike</b> CC BY-NC-SA
			<b>Attribution - NonCommercial - NoDerivatives</b> CC BY-NC-ND

Creative Commons licences do not affect fair dealing rights. Share-Alike and NoDerivatives licences do not prevent you using extracts of the work if your use falls under fair dealing.

If you would like to use a Creative Commons-licensed work in a way that is not permitted by the licence, you can ask the copyright holder for permission. Copyright holders are free to offer permission for additional uses as they wish.



## The licence URL

Each Creative Commons licence has a particular web address or URL, where you can find a description of the licence, as well as a link to the legal wording on the licence. For example, the Creative Commons Attribution licence can be found here:

<http://creativecommons.org/licenses/by/2.0/uk/>

If you look at the URL for the Creative Commons licence above, you'll notice a number ("2.0"), and a country code ("uk"). The number indicates a particular version of the licence, which is necessary because the Creative Commons licences are occasionally revised. At the time of writing, the most recent version is version 4.0, which has been designed to apply internationally and does not need individual country codes. The Creative Commons Attribution licence (version 4.0) can be found here:

<http://creativecommons.org/licenses/by/4.0/>

Creative Commons licensing allows you to find content that you can use legally to support teaching and learning. When sharing content, Creative Commons clarifies the terms on which you are happy for your work to be shared.



## Further reading

This document is part of a 4-part series, available at <http://schools.leicester.gov.uk/openeducation> for download and in editable versions, alongside supplementary information sheets, workshop and classroom ideas, as well as step-by-step walk-throughs.

- The Copyright Licensing Agency has a number of resources available for schools and educators (all accessed September 2014):
  - For more information on the CLA Licence, you can visit the [CLA website for schools](#).
  - General information about what copyright content can be copied under all the collective licences offered to schools can be found here on the [Copyright and Schools](#) website.
  - Search for material available via the “[title search](#)” of the [Copyright Licensing Agency](#).
  - A list of UK digital material publishers that have opted in to the CLA Education Licence is available at [CLA Schools: Digital Materials Publishers](#).
  - Further information about copyright is available at [CLA Schools: How to avoid infringing copyright](#).
- A detailed explanation of copyright suitable for schools and educators: [Copy rights and wrongs: What is copyright?](#) (accessed September 2014).
- You can find out more about fair dealing here: [Copy rights and wrongs: Fair dealing](#) (accessed September 2014), and particularly with regard to the changes to fair dealing from 1st October 2014, see [Exceptions\\_to\\_copyright\\_-\\_Education\\_and\\_Teaching.pdf](#) (October 2014).
- The [Creative Commons licence chooser](#) is a useful, quick tool for selecting and exploring the Creative Commons licences.
- The [UK Open Government Licence \(version 2\)](#) is compatible with the Creative Commons Attribution licence.



## Acknowledgements

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- Guide to Open Licensing by Open Knowledge, available under Creative Commons Attribution 3.0.
- The list of copyright licences schools have access to was adapted from [Copyright licences: information for schools](#), Department for Education (8 April 2014), available under the [Open Government Licence v2.0](#).
- We have also used (and adapted) the public domain image [professeur--teacher-by-lmproulx](#) from [openclipart.org](http://openclipart.org).

The OER Guidance for Schools documents are available from <http://schools.leicester.gov.uk/openeducation>.

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