

Higher Education Licence – Photocopying, Scanning, Digital Use

User Guidelines

1 August 2008 – 31 July 2011

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Introduction

These guidelines are issued in support of the Higher Education Licence granted with effect from 1 August 2008. They aim to assist Licence Co-ordinators and all users by explaining issues of detail, based in part on prior experience of applying previous versions of the Licence. However, they do not override or provide a definitive interpretation of the terms contained in the Licence Agreement and the Letter of Agreement between CLA and UUK / GuildHE dated 15 July 2008. In the event of any conflict, the Licence terms and conditions prevail at all times.

In summary, the Licence grants permission for HEIs to make:

- Multiple photocopies of limited extracts sourced from printed books, journals and magazines (paper-to-paper)
- Digital Copies of limited extracts scanned from printed books, journals and magazines that may be stored in a course repository, downloaded and printed out (paper-to-digital-to-paper)
- Digital Copies of limited extracts of digital material (such as E Books and E Journals) that may be stored in a course repository, downloaded and printed out (digital-to-digital and digital-to-paper)

for delivery with reference to a cohort of students enrolled on a Course of Study.

Please note that the guidance on Digital Copies made from Digital Materials set out in Section D applies only to licensees who are signatories to the “Comprehensive” Licence i.e. the version that includes enhanced rights relating to use of digital source material, which are optional. The remaining provisions apply to all licensees.

Section A – General

All points in this section apply to Photocopying, Scanning and Digital Use Rights

Licence Co-ordinator

The Licensee should nominate a Co-ordinator to supervise compliance with its terms. As an indication of the responsibilities involved, the following checklist might be helpful:

- appointing members of staff designated to prepare / distribute Digital Copies
- verifying that each Digital Copy prepared incorporates a Copyright Notice
- ensuring that each Digital Copy distributed is recorded on the Record Sheet
- annual return of Digital Copy Record Sheet (scans / digital original use) to CLA's Survey Operations Dept
- liaising with CLA's Compliance Unit on the conduct of an audit, if and when required
- liaising with CLA's Survey Operations Dept on photocopying surveys, if and when required
- liaising with CLA's Customer Services Dept on Support Material
- liaising with Customer Services Dept on Distance Learning and NCB returns
- circulating postings made to 'CLA-HE-NOTICEBOARD' electronic mailing list

It is recommended that each HEI reviews whether the member of staff currently notified to CLA's Customer Services Dept as the Licence Co-ordinator is the appropriate manager to discharge the set of responsibilities outlined above and that his / her job description is amended accordingly.

Routinely, 'pro forma' contact details for the nominated Licence Co-ordinator are advised to CLA on an annual basis. To ensure that there are no complications relating to the Data Reporting and Auditing procedures, it is essential that any changes are notified immediately upon taking effect.

Student Data

Registered students are charged for in accordance with the following arrangements:

Campus based

All campus based students on credit bearing (e.g. diploma, certificate, degree) courses are charged in accordance with their 'Full Time Equivalence' (FTE), based on returns received from the Higher Education Statistics Agency (HESA).

Distance Learners

With regard to Distance Learning students, CLA's Customer Services Dept write to HEIs each year to request details of the total number of full and part time UK

based and overseas based Distance Learners in respect of the academic year that ended on the preceding 31 July.

This figure must be expressed as a total headcount (i.e. not Full Time Equivalence) and submitted to CLA by no later than 1 July in each year.

Each Distance Learning student is charged on a 'per capita' basis.

Non Credit Bearing (NCB) Courses

HEIs should ensure that their Student Records Office maintains a complete and accurate record of the total number of 'Contact Hours' for all students on Non Credit Bearing courses. These are defined similarly to the definition previously applied by HESA to include essentially all students on courses not already reported to HESA as FTES.

As for Distance Learners, CLA's Customer Services Dept send a pro-forma to all HEIs requiring an annual declaration of the **sum total of NCB Contact Hours** for the academic year that ended on the immediately preceding 31 July; the figures should be submitted by no later than 1 July in each year.

1 FTES is derived from every 300 NCB related Contact Hours reported.

Staff

The licence covers all full time and part time members of academic and administrative staff – whether employed on permanent or fixed term contracts – to make and receive multiple photocopies, to become Designated Persons for the purpose of preparing / distributing Digital Copies and - in respect of those tutors who teach on a course of study - to receive Digital Copies.

Individuals contracted to undertake the normal duties of an established post (for example to cover maternity leave, long term sickness, absence on secondment etc) enjoy equivalent status to that of permanent / temporary staff.

Please note that the licence terms do not extend to "walk in" users (e.g. alumni, former members of staff etc) or to staff employed by the National Health Service based either at an HEI's premises or elsewhere.

Source edition

Multiple photocopies / Digital Copies should be made from either:

- an original of the book, journal or magazine owned by the HEI OR
- a copyright fee paid copy of a chapter / article supplied by an organisation holding a document delivery licence with CLA (e.g. British Library)

A book, journal or magazine owned by an HEI can be acquired through purchase or through bequest, gift or exchange programmes. This includes items hosted on either permanent or extended loan basis on terms which require the material to be available for indefinite use by or for the benefit of Authorised Persons.

A source edition used for photocopying and / or scanning does not have to be kept in the Main Collection of the University / College Library – it can, for example, be located in a Faculty, School or Departmental collection of books and journals or in the office of a member of academic or administrative staff.

The following types of book / journal issue are not supplied with view to copying under the terms of the Licence:

- “inspection” copies
- “proof” copies (complimentary early editions provided for review purposes)
- article “reprints” or “offprints” supplied on a complimentary basis by the journal publisher to a contributing academic author(s)

The licence only covers published works, so pre-publication proofs of books or articles are outside its scope. Even after publication, proof copies should not be used as an alternative to copies made from the published edition.

In exceptional circumstances where:

- an HEI cannot acquire a book, journal or magazine on the retail market (or the 2nd hand market)
- cannot acquire a copyright fee paid copy of a chapter / article from the British Library

an HEI can make Paper and / or Digital Copies sourced from a personal copy owned by an academic or administrative member of staff.

Furthermore, provided that the HEI does own an original of the book, journal or magazine (or a copyright fee paid copy) Paper and / or Digital Copies may, if necessary, be made from an alternative copy (e.g. a tutor owned copy or a ‘master’ photocopy obtained from another source) of the same item. This might apply where a library copy contains handwritten annotations, has been defaced or has had some pages removed.

Excluded Categories

The following types of material cannot be copied under the terms of the licence:

❑ printed music (including the words)

this applies to works that consist entirely of sheet music and to music notation included in a published work. For details about obtaining permission to copy printed music, please refer to the Music Publishers Association (MPA) Code of Fair Practice

❑ maps and charts

this applies to works that consist entirely of maps or charts and to maps / charts included within published works (whether as full or part page representations). The Ordnance Survey has its own licensing scheme covering OS maps

❑ newspapers

The Newspaper Licensing Agency Limited (NLA) licenses copying from most newspapers published in the United Kingdom

❑ ‘copying not permitted under CLA licence’

any work in which the copyright owner has expressly stipulated that “permission is not granted for copying under licences issued by The Copyright Licensing Agency”

❑ unpublished material

examples include theses, dissertations, assignments and ephemera such as Company Reports, retail supplier catalogues, in house brochures and pamphlets etc

Excluded Works and Notifying Amendments

In addition to the above general categories, some specific titles are excluded from copying under the terms of the licence.

Full details are given below (in Sections B, C and D) of the various web based lists that apply for the purposes of photocopying, scanning and digital use.

All the relevant lists are subject to additions / deletions. Hence, licensees should routinely check the current status of a particular title / publisher before arranging to make multiple photocopies and / or Digital Copies under the terms of the licence.

CLA will regularly notify HEIs via postings to “CLA-HE-NOTICEBOARD” of changes to the ‘List of Excluded Works’, the ‘List of Works Excluded from Scanning’, the ‘List of Excluded US Publishers’, the ‘List of Included UK Digital Material Publishers – HE’, ‘List of Included US Digital Material Publishers – HE’ and ‘International Territories’. It is strongly recommended that all licensees ensure that at least one member of staff is currently subscribed to this list.

Current edition

Unless there are valid pedagogical reasons for using a superseded edition, Paper Copies / Digital Copies should be made from the current published edition.

Lost, stolen or damaged stock

If an item is lost, stolen or damaged after a copy has been made under the licence, the copy may continue to be used to support a course of study subject to compliance with all its terms and conditions.

However, decisions to replace lost, stolen, damaged editions should be made in line with normal library / departmental practice; such decisions should not be influenced by the availability of photocopied or scanned extracts previously prepared under the terms of the licence.

Copyright fee paid copies

Copies supplied to an HEI by a licensed document supplier (such as the British Library) or by an intermediary holding a CLA licence permitting the supply of content in electronic form (e.g. an organisation holding a Press Cuttings Agency Licence) have the status of copyright cleared and can be used as a source for making multiple photocopies and / or Digital Copies under the CLA Licence.

The copyright fee paid source copy can be supplied to the HEI either in paper or in electronic form (for example, BLDSC's Secure Electronic Delivery service).

Photocopying and / or scanning of copyright fee paid copies is subject to the same conditions for making paper copies / Digital Copies with reference to students on a course of study as is applicable to copies made from an HEI owned original published edition.

Inter library loans

Books, journal parts and magazines borrowed either from the British Library or from another library (for example an HE, FE or NHS Library) on inter library loan cannot be used as source editions for making Paper and / or Digital Copies under the terms of the licence.

Also photocopies acquired from other libraries (including the British Library) in accordance with the 'library privilege' exceptions to copyright law cannot be used as source copies for making Paper and / or Digital Copies under the licence.

Joint Use Library Facilities (HE-FE, HE-NHS etc)

Where an HEI has partnership arrangements with, for example, a local college of Further Education or an NHS Trust under which a collection of books, journals and magazines is housed in a library used jointly by both staff and students of an HEI and by staff and students of an FE College (or by staff of an NHS Trust), it is essential to ensure that works used for courses delivered by the HEI (in respect of which the students are included in the HESA return as FTES) are owned by the HEI and not by the partner institution.

The converse also applies – if the students are registered with the FE college or come under the NHS Trust, copies cannot be made under the terms of the Higher Education Licence, but would have to be covered by an applicable FE or NHS Licence.

Direct permission

The rights granted by the licence are not contravened by a licensee securing direct permission from a rightsowner for rights and uses which fall outside its current scope, e.g.

- copying in excess of 5% / one chapter / one article
- copying a title on the 'Excluded Works' List

- copying sourced from a photocopy from a book, journal or magazine not owned by the HEI and where the 'master' copy is not a copyright fee paid one

It is recommended that HEIs retain copies on file of all letters granting such permission.

Quantity limits

The permission to make or use Paper and / or Digital Copies applies to enable each student on a course of study (and the course tutors) being supplied with one copy of each extract from a copyright protected work, whether in paper or electronic form or both.

It is recognised that there will be circumstances of, for example, printer malfunction, toner / paper tray reloading or of a first copy being lost, spoiled or degraded where it is appropriate for an additional copy to be made / printed.

Extent Limits

With strict reference to supply to a student enrolled on a Course of Study, the proportion of a work that can be copied consists of whichever is the greater of 5% or:

one chapter of a **book**

one article of a **journal issue**

one paper of one **set of conference proceedings**

one report of a **single case** from a **report of judicial proceedings**

one short story or **one poem** of not more than **10 pages** in an anthology of short stories or poems

These extent limits are intended to apply to both printed books, journals and magazines and also to e books and e journals. (see also notes in Section D on extent limits for Digital Material)

Where a book is subdivided into parts or sections (such as a collection of essays) that are demonstrably equivalent to a chapter based organisation of topics (but not described as such), the whole part can be photocopied as for a chapter.

In some extremely rare cases, books are not divided into chapters or might be published with only 1 or 2 chapters or other divisions. In these circumstances, it is suggested that, in keeping with the spirit of the Agreement the 5% limit should be applied.

Where endnotes and / or references integral to a specific chapter or article are given at the end of a book or journal issue, they can, nevertheless, be treated as forming part of that chapter or article.

Visual Display

There are no limits on the number of times a Digital Copy prepared under the terms of the licence can be opened and viewed on screen.

Artistic works

The licence permits the photocopying and / or scanning of pages in printed books, journals and magazines consisting either wholly of text, pages consisting wholly of images (e.g. illustrations, photographs and other works produced by visual creators) and of pages consisting of a combination of text and images, notwithstanding any credits / special acknowledgements / statement of copyright ownership often printed adjacent to an artistic work.

Slides

The licence does not include permission for making copies of images stored on slides. It is recommended that you either contact the Design and Artists Copyright Society Ltd for details of the DACS Slide Licensing Scheme or make contact with the relevant rightsowner for direct permission.

Shortening / Annotating Extracts or Juxtaposing Text / Images

Some changes may be made to items copied, with the important proviso that all such activity should be entirely for pedagogical purposes and should not be detrimental to the moral rights of authors and visual creators.

Licensees may copy only part of - or abbreviate or shorten the text of an article, chapter or other extract – provided that any omissions are clearly marked and do not affect the meaning or sense of the text in any way which might affect the author's moral rights. Parts of a text may be blanked out, e.g. for the purposes of asking students to answer questions about it, or to translate some of the words from / into English or another language, with the same proviso.

Annotations may be added to copies e.g. in the form of a Commentary, again subject to the same proviso. Licensees are also permitted to annotate an image by adding some narrative text / commentary, produce a copy of an image stripped of its accompanying text and 'synchronise' text / images otherwise separated by the layout of the original published edition.

In all cases noted above, there must be a clear statement in the body of the copy to the effect that the extract has been subject to alteration strictly for teaching purposes.

Non Substitution

The main purpose of the rights granted in the licence is to allow HEIs to make full use of their collection of books, journals and magazines in support of the processes of learning, teaching and commercial research.

In this context, the making of photocopies and Digital Copies is not intended to substitute for the purchase of an original published edition (either printed or electronic) or the commissioning of an original artistic work.

CLA and UUK / GuildHE recognise that rightsholders have concerns regarding the potential impact of the licence on primary sales, especially if compilations consisting of a series of chapters from 'core' student textbooks were to be made. A 'Working Group' has been established to review such issues.

UK territory

The licence permits copies to be made in the United Kingdom only – Paper Copies and Digital Copies cannot be made by staff / students based overseas.

However, irrespective of whether based in the United Kingdom or located abroad, Distance Learning students enjoy the same rights as campus based students to receive photocopies and to view, download and print Digital Copies.

Any further copying of licensed copies in overseas territories cannot be undertaken unless local laws, regulations and / or a licensing schemes allows.

Outsourcing

HEIs may subcontract the making of paper or Digital Copies to third party contractors (such as specialist Print Service companies / bureaux).

With regard to the making of Digital Copies, HEIs should take reasonable steps to ensure that any such third parties apply the appropriate procedures for quality and security necessary to comply with the terms of the licence. HEIs should also keep a record of all such subcontractors for supply, on request, to CLA.

Importantly, subcontractors should not retain any Digital Copy (or the source book, journal part or magazine) created under the terms of a contract once the item has been produced and delivered and accepted by the contracting HEI.

Commercial Research / Consultancy

Photocopies and Digital Copies can be prepared for the purpose of an HEI's commercially funded research – for example, a contract or collaborative research project or consultancy. Copies made for this purpose can be supplied to:

- members of an HEI's research team (e.g. staff / postgraduate students) and
- a third party organisation wholly (or partly) funding the research

These special arrangements are intimately linked to partnership agreements between an HEI and a business enterprise – copies cannot be supplied to companies who are simply engaged in sponsoring studentships, fellowships, honorary posts, secondments, placements and university clubs and networks.

Please note that subscribing to the CLA Low Volume Document Delivery Licence will enable HEIs to supply licensed copies to those commercial end users (e.g

firms of solicitors) who are not formally involved in supporting an HEI's commercial research / consultancy activity.

Copies supplied to a commercial third party are subject to strict restrictions prohibiting further use; any hard or electronic copies must incorporate the form of words of the Copyright Legend set out in Schedule 4 of the Licence Agreement.

Such copies are charged for by:

Step 1

Deriving a notional FTES for the total number of academic members of staff engaged in commercial research / consultancy from tables in the annual HESA publication "Resources of Higher Education Institutions"

Step 2

Multiplying the derived FTES by the published 'annual fee per Professional Employee' in CLA's Business Licence (Band A rate)

The relevant HESA tables are those covering:

- total income (derived from all sources)
- total income contributed by 'commerce, industry and public corporations'
- total academic staff.

For the purpose of illustration, sample figures / calculations are set out below:

- total annual income of the *University of Wessex* = £207,121,000
- total income contributed by *commerce / industry* = £3,106,815

Percentage of total income derived from commerce / industry = 1.5%

- total academic staff = 1,669

1.5% of total academic staff = notional FTES of 25

25 x £35-96 § (Business Licence rate per professional employee) = £899

§ this figure is used for the purposes of illustration only – the total no of FTES will be multiplied by the Band A Business Rate applicable in the invoicing year

This calculated figure will appear as a separate line entry in an HEI's invoice.

Research Assessment Exercise

CLA has granted a separate, royalty free licence in relation to copying for the purposes of the Research Assessment Exercise (RAE).

This licence authorises HEFCE to permit HEIs to make photocopies or digital copies of printed books and journals and to transmit these copies to HEFCE for

storage on their Data Collection System; the licence also permits HEIs to submit Digital Object Identifiers (DOIs) in respect of articles from e journals.

For further details of the rights associated with the HEFCE Licence, please refer to the information available at: www.rae.ac.uk/aboutus/policies/outputs/licence

If an HEI's RAE related activities are limited to (i) photocopying and / or scanning and (ii) prompt submission of such copies to HEFCE, HEIs do not need to exploit the rights granted in the HE Licence to cover such copying.

However, some HEIs may wish to undertake some RAE related copying which goes beyond this, e.g. for the purposes of internal review to decide which items should be submitted. This would entail:

- (i) maintaining an internal collection of items to be viewed by persons responsible for the RAE and / or
- (ii) scanning items which may, in the end, not be submitted to HEFCE

In such cases, the rights incorporated in the HE Licence are applicable.

Noting that Paper and / or Digital Copies made under the terms of the HE Licence for RAE purposes are subject to the same terms and conditions as apply to all licensed copies, the following particular points are highlighted:

- any member of an HEI's staff responsible for RAE preparation may be appointed as a 'Designated Person' for the purpose of making and storing Digital Copies in a secure area (an equivalent of a Course Collection)
- in the Copyright Notice, all references to a listed 'Course of Study' should be replaced by the term 'RAE'
- on the Digital Copy Record spreadsheet, the code 'RAE' should be used in place of the Course Code and the expanded form 'Research Assessment Exercise' inserted into the Course Title field; the number of course users should consist of the total number of staff who have been authorised to view, download and print Digital Copies stored on the RAE Course Collection
- the RAE dataset should be reviewed in line with the standard housekeeping procedures for Digital Copies held on Course Collections – i.e. any superseded editions or deselected extracts should be withdrawn

Visual Impairment, Dyslexia and other Disabilities

The licence does not remove or diminish any of the protection extended to students and members of staff of an HEI who have any kind of visual, cognitive or other disability recognised in the Disability Discrimination Act to receive an accessible copy of a copyright protected work.

The supply of an accessible copy is subject to the HEI owning an original published edition of a title which is not otherwise commercially available in a

suitable alternative accessible format; the suitability of the accessible copy is determined by reference to the needs / disability of the user e.g. a Braille edition is not suitable to someone incapable of reading Braille; a large print edition is not suitable to someone who is completely blind.

Type size enlargement / reduction, alternative fonts, colour adjustment (background or font) left / right justification (and other techniques designed to make content accessible by those visually or otherwise disabled) is permitted.

An audio file (i.e. containing the spoken words on the printed page) may be generated from an accessible electronic copy if a user has difficulty in using Screen Reader software.

The right to make Accessible Copies under the terms of the licence is a separate one from the permission to make Digital Copies; there is no requirement to include entries for Accessible Copies on the Digital Copy Record Sheet.

Surveys and Compliance Audits

Licensees are required to assist CLA with its programme of Surveys, which currently cover **Photocopying**, as well as Audits of **Scanning** and **Digital Copying**.

Surveys

Each year, Surveys are conducted, by prior arrangement, at 12 HEIs, 6 in the Autumn and 6 in the Spring. These aim to collect data on the volume and identity of photocopies made under the licence in libraries, Departments and Reprographic Services Units.

To ensure comparability with data prior to 2001, separate data are collected for Course Packs. The method of collecting Course Packs from surveyed HEIs is currently subject to review by the 'Surveys and Data Working Group'; further details will be advised at the conclusion of this process.

The information collected is used for the purpose of the accurate distribution of licence fee revenue to the appropriate rightsowners. It may also be used to help quantify trends in copying volumes for the purposes of agreeing a fee for future licences.

Audits

Since all Digital Copies (whether made by scanning or digital copying) must be recorded and reported, the audit has different aims and objectives.

The priority of an audit is to determine that Digital Copies are being prepared and distributed in accordance with the terms of the CLA licence.

This may, for example, include verifying compliance with defined extent limits, monitoring that the procedures for ensuring securely authenticated access are

demonstrably robust and reviewing whether the moral rights of authors and visual creators are being observed.

The Compliance Officer will complete a pro-forma checklist seeking to verify, for example, that all Digital Copies created under licence have been correctly recorded on the Digital Copy Record Sheet, that a Copyright Notice has been appended, that each Digital Copy represents a direct unaltered representation of the original printed page(s) and that it has been sourced from an original published edition owned by the HEI or a copyright fee paid equivalent.

To complete all the defined tasks, the Compliance Officer will require full access to Digital Copies stored in the Course Collection segments of the secure network – such access may be supervised by an appointed member of the HEI’s staff.

A copy of the results of the audit will be routinely provided to the audited HEI; each licensee will be given full opportunity to comment on and discuss any problems which have been highlighted.

Section B – Photocopying

All the points in this section are specific to the Photocopying Rights

Repertoire – what material can be photocopied?

The licence permits photocopying of extracts from most books, journals, periodicals, conference proceedings and law reports published:

- in the United Kingdom and also in
- Argentina, Australia, Austria, Barbados, Belgium, Canada (including Quebec), Denmark, Finland, France, Germany, Greece, Hong Kong, Iceland, Ireland, Italy, Jamaica, Japan, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Singapore, South Africa, Spain, Sweden, Switzerland, Taiwan (R.O.C.), Trinidad and Tobago and the United States of America (as also published on the CLA website under the heading ‘International Territories’ and amended to from time to time)

with the exception of:

- those UK publications listed on the ‘List of Excluded Categories and Works’ (as published on the CLA website and amended from time to time)
- those US publications published by ‘Excluded US Publishers’ (as published on the CLA website and amended from time to time)

Who can make and receive photocopies?

- registered students, contracted members of staff and visiting academics based in the United Kingdom can make and receive photocopies of extracts of licensed material
 - registered students and contracted members of staff based outside the United Kingdom can receive photocopies of extracts of licensed material
 - officers contracted by regulatory agencies such as the Quality Assurance Agency and the Research Assessment Exercise can receive photocopies of extracts of licensed material
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Section C – Scanning

All the points in this section are specific to the Scanning Rights

Repertoire – what material can be scanned?

UK

Printed books, journals and magazines published in the United Kingdom may be scanned, subject to not being listed in either:

- the standard 'List of Excluded Categories and Works' (as published on the CLA website and amended from time to time)

OR

- the special list of 'Works Excluded from Scanning under the HE Licence' (as published on the CLA website and amended from time to time)

USA

Printed books, journals and magazines published in the United States of America may be scanned, subject to the publisher not being listed in:

- the 'List of Excluded US Publishers' (as published on the CLA website and amended from time to time)

Other countries

Most printed books, journals and magazines published in Australia, Canada (including Quebec), France, Ireland, South Africa, Spain and Switzerland may be scanned under the licence. For further details, please refer to the CLA website under the heading 'International Territories'.

Integrity

A Digital Copy – whether rendered as an image file or as a text file - should be an authentic representation of the original printed page(s).

With the exception of the shortening, annotation and disembedding for pedagogical purposes outlined in Section A, alteration or manipulation of the source text and / or images is not allowed.

Images

The licence permits a Digital Copy to be prepared of a whole page visual image (e.g. a plate) and the disembedding of a part page visual image.

The Copyright Notice and Data Reporting requirements set out in the sections below apply to a Digital Copy – irrespective of whether it consists of a full or a part page artistic work.

Equivalent Digital Version

Licensees should not scan from a printed book, journal or magazine where they also subscribe to or own an electronic version of the publication, provided that the desired use of the electronic product is technically possible and is permitted under a relevant licence. This applies if:

- (i) the HEI owns or has access to a digital version under a licence or subscription which allows copies to be made for this purpose (in which case a digital copy may be made under the primary licence and rights in the CLA licence not invoked) OR
- (ii) the HEI has opted into the Digital Material element of the CLA Licence and the item is included in the repertoire under that Licence

HEIs should use all reasonable endeavours to determine if they do subscribe to or own the digital equivalent of whatever they are planning to scan.

Sharing

With a view to minimising the staff and equipment costs associated with scanning throughout the Higher Education sector, the licence permits an HEI to supply or receive a digital copy from another CLA licensed Higher or Further Education institution provided that each institution owns an original published edition (or a copyright fee paid equivalent) and holds a CLA Licence that includes scanning rights.

However, the permission to transfer and exchange Digital Copies between licensed institutions does not extend to allowing any single HEI (or consortium of HEIs) to establish a central repository of Digital Copies for the purpose of providing a service to either the Higher and / or the Further Education sectors.

Course Collections – how can Digital Copies be supplied?

Digital Copies should be distributed via course based collections. This requirement corresponds with common practice in HEIs for organising courseware into a series of self contained “silos” or course repositories within a Virtual Learning Environment (VLE) or a school or departmental intranet where each course designer is responsible for building a collection of learning and teaching materials tailored for a specific course.

HEIs are required to apply strict procedures for secure authentication (by some combination of user name, password and / or course enrolment key) to make sure that access to Course Collections is limited to Authorised Persons.

Provided that Digital Copies are organised in Course Collections, the Licence permits any Authorised Person to view Digital Copies made for any course (which might apply where a student is involved in deciding whether to enrol on a particular course). However, downloading or printing out of a Digital Copy is limited to the enrolled students plus the course tutor(s).

Digital Copies **cannot** be stored in “open” resources such as an Institutional or Subject Repository, an Electronic Reserve or Digital Library which enables delivery to persons regardless of the course they are studying.

However, a Course Collection may permit:

- the same extract of a book, journal or magazine to be made simultaneously available to students on more than one discrete course of study
- a Digital Copy of a different part of the same book, journal and magazine to be made available to students on another course of study

Who can create and add Digital Copies to a Course Collection?

The permission to prepare and distribute Digital Copies via a Course Collection is restricted to “Designated Persons”. While any contracted member of staff can be appointed, students cannot be appointed as Designated Persons.

A flexible approach as to how HEIs allocate these responsibilities is allowed. For example the designation of members of staff might be by reference to a single postholder (e.g. Licence Co-ordinator, VLE System Administrator) or a list of defined postholders (listed either by name and / or job title) or a defined category of appointment (e.g Course Administrator, Course Designer, Course Convenor).

To ensure that the Licensee can show, when audited, that digital copies have been duly authorised, HEIs should keep accurate and up-to-date records of Designated Persons.

Copyright Notice

All Digital Copies produced by scanning must contain in a prominent place a Copyright Notice that includes the form of words and the bibliographical / course related information set out in Schedule 3 of the Licence.

Where a Digital Copy consists of a Portable Document File (PDF), licensees may wish to define document settings in such a way that will allow the Copyright Notice to be subsequently amended, e.g. if the same item is to be re-used for another course. It is recommended that the Designated Person uses the option to define a secure password, with a view to preventing:

- unauthorised members of staff / students editing the text of the notice or
- 'cutting + pasting' (or otherwise altering) licensed content

To support compliance, HEIs should add a form of words to the text of the notice to the effect that a Digital Copy "should not be downloaded or printed by anyone other than a student enrolled on the named course or the course tutor(s)".

In some cases, it may be either undesirable or inappropriate to display the full text of the prescribed Copyright Notice, e.g. as part of an image or if Digital Copies are displayed in a lecture presentation. In such cases, it is acceptable for an abbreviated form of words noting "copied under CLA Licence – please refer to the full Copyright Notice" subject to the full Notice being added elsewhere.

Who is entitled to access Digital Copies?

Digital Copies stored in Course Collections may be downloaded and printed out (once only) by the following Course Users:

- each student enrolled on the particular course of study
- a tutor, lecturer or supervisor providing teaching or instruction on the course
- a visiting academic teaching or auditing the course (e.g. an external examiner or a learning technologist)

However, all registered students and all contracted members of staff of the HEI may view (but not download or print out) any Digital Copy prepared under the terms of the Licence – browsing a set of course readings might be relevant, for example, to the process of a student selecting or transferring to another course of study or to a member of staff engaged in choosing required / recommended readings for a new module.

Please note that Licensees are not obliged to make Digital Copies available for viewing by individuals other than those who are defined as Course Users.

Online Reading Lists

Digital Copies can be cited in an online reading list for a specific course of study provided for students on that course only; however, they should not be indexed or listed in a general library catalogue.

A hyperlink may be provided to enable students on that course to access the item directly, but a Reading List and Hyperlink system should not facilitate a Digital Copy being downloaded and printed out by anyone other than a Course User.

Internet

Digital Copies cannot, under any circumstances, be made available on the publicly accessible internet. However, remote networked access to Digital Copies stored on Course Collections can be enabled via the internet, provided that the technical means of access is by a process of secure authentication that excludes anyone other than a Course User.

CD-ROM

In line with the supply of course directed learning and teaching support material, HEIs can distribute Digital Copies created under licence on CD-ROMs (and other removable / portable storage media) provided that one copy only is delivered only to the enrolled students on the course of study for which it is prepared.

Email

Designated Persons can deliver Digital Copies to students on a course (and the course tutor) by means of an attachment to an email. Downloaded Digital Copies can be emailed by a course user to his / her own email account.

Presentation software

Digital Copies may also be used in standard presentation software packages (such as MS PowerPoint) for the purpose of illustrating a lecture or tutorial, provided that only staff and a cohort of students on a particular Course of Study are in attendance.

Redistribution

The licence allows the student on the Course of Study (and the course tutor) to view, download and print a Digital Copy – the rights granted do not extend to redistributing, reformatting or republishing the Digital Copy (or any part of it).

For example, a Digital Copy cannot be forwarded by a student by email to another student on the same course, to a student on another course of study or to any other individual / third party organisation.

Housekeeping

HEIs are required to apply “weeding” procedures designed to ensure that Digital Copies added to any Course Collection are routinely removed as soon as the teaching, examination and / or assessment of an individual unit or course of study is completed, unless the same course is likely to be taught in the next term / semester or academic year.

Such procedures should be invoked at least once a year and, more frequently, where a course of study runs for less than twelve months.

Backup files

The licence permits HEIs to maintain backup copies of Digital Copies made under licence in line with standard computing industry practice for a database to be restored in the event of loss, damage or corruption of data. Access to backup files should be strictly limited to those Designated Persons nominated by the HEI.

There are no obligations to remove digital copies stored on backup files when a course of study has been completed. Consequently, copies on backup files can be used as an alternative to repeating the process of scanning to:

- reload a Course Collection on the recommencement of the same course *OR*
- to populate a Course Collection for a different course of study

However, the process of reloading a Digital Copy stored as a backup file into a Course Collection must not be an automatic one – HEIs should review that the content continues to be relevant to the course of study for which it is intended. If the Digital Copy is reintroduced into the Course Collection, it must be included again in the scanning report.

Data Reporting

All licensees must compile a Digital Copy Register consisting of bibliographic and course related details for each and every Digital Copy prepared / distributed under licence. These details must be recorded on the Digital Copy Record Sheet, a ‘specimen’ version of which is available on the CLA website.

Shortly after a signed copy of the licence is received by CLA, the Survey Operations Dept will forward an MS EXCEL spreadsheet version of the Digital Copy Record Sheet template to the nominated Licence Co-ordinator.

The Licence Co-ordinator must ensure that details are recorded on the spreadsheet so that a complete and accurate return is collated. Please note that:

- if the same Digital Copy is made available for more than one course of study, a separate entry is required on the Digital Copy Record Sheet for each course
- each time a course of study is delivered to a fresh intake of students, a fresh record must be made
- an entry is required on the Digital Copy Record Sheet irrespective of the means (e.g. VLE, CD-ROM, POWERPOINT presentation) used to deliver the Digital Copy to students on a course of study (although only one entry is needed for each item on a course of study even if it is used in different ways, e.g. stored on VLE and printed out)
- the column headed 'Artistic Works' is only required to be completed if the main purpose of preparing / distributing the Digital Copy is to capture either a full page or a part page image (irrespective of whether this has been disembedded from the accompanying text)

Fifteen days after the end of each 12 months of the licence cycle (i.e. 15 August), a completed spreadsheet listing **all** Digital Copies (whether produced by scanning or by copying of digital material) made available to Course Users via Course Collections in the preceding 12 month period must be forwarded electronically to CLA's Survey Operations Dept care of the dedicated email address hescan@cla.co.uk

The data reported to CLA will inform the accurate distribution of licence fee revenue. However, unless compelled by law, it will not be used by CLA to provide evidence for or in any way pursue a claim of an infringement of copyright.

Section D – Digital Use

All points in this Section apply to use of Digital Material; the guidance is only relevant to those licensees who are signatories to the Comprehensive Licence including digital copying rights

Repertoire

The Digital Material available for use under the terms of the licence consists only of those works published in:

UK

with specific reference to those publishers listed in the '[List of UK Digital Material Publishers included in Higher Education Licence](#)' (as published on the CLA website and amended from time to time)

USA

with specific reference to those publishers listed in the '[List of US Digital Material Publishers included in HE Licence](#)' (as published on the CLA website and amended from time to time)

Other countries

Australia, Canada (including Quebec), France, Ireland, South Africa, Spain and Switzerland, subject to inclusions and exclusions: please refer to the CLA website under the heading 'International Territories' which is amended from time to time.

The material licensed consists largely of (but is not limited to) electronic journals and electronic books – irrespective of whether the source digital product owned / subscribed to consists of the whole work (e.g. an E Book or an E Journal issue) or is supplied as a single chapter or as a single article on a "pay-per-view" basis.

Please note that chapters / articles obtained on a pay-per-view basis copied under the terms of the licence are subject to the same requirement for ownership by the HEI rather than by an individual member of staff. This might be of relevance where a supplier offers the option for a purchase to be debited to an institution's deposit account or a personal credit card.

That which is available for digital use is different from the repertoire of printed books, journals and magazines available for photocopying and / or scanning. HEIs should not assume that because a printed book, journal or magazine has not been subject to exclusion for the purposes of photocopying and / or scanning that the digital product is available for use under the Comprehensive Licence.

Licensees are entitled to rely on any information provided by or through the CLA, especially via its website, to determine whether an item is covered for the purposes of photocopying, scanning and / or digital use.

With a view to supplementing the web based lists of included publishers (noted above), CLA is currently developing a database of titles (for lookup by ISBN / ISSN) that will be made available to HE licensees. Further details will be announced immediately prior to implementation.

Extent Limits

As noted in the relevant sub section of Section A (see above), the extent limits applicable to printed books, journals and magazines are intended to apply also to digital products (e.g. electronic books and electronic journals).

However, it is recognised that in the digital environment there are some publications that do not conform to a conventional printed "book" or a "journal part", especially where the item is made available as part of an online database.

For example, some "virtual" journals might not be published with the same Volume No / Part No convention used for printed journals. This will inevitably require licensees to apply commonsense / best judgement – preferably referring any especially problematic examples to CLA.

Digital Use

Provided the item is included in the available repertoire, the rights and conditions set out in Section C above apply to all Digital Copies, whether derived from scanning of a printed book, journal or magazine or from the copying of a digital source.

The rights to use Digital Material are additional to (and do not detract from) the rights granted in primary licence agreements (such as those issued in line with JISC Model licences such as NESLI) under which an HEI either owns, has access to and / or permission to make further use of a digital item.

However, where the terms of a primary licence do not grant the necessary permissions e.g. to download a Digital Copy to a Virtual Learning Environment, the terms of the CLA licence can be invoked to authorise this activity.

Where the CLA licence is used, the obligations that apply to scanned Digital Copies (e.g. copying activity authorised by a Designated Person only, requirement to append a Copyright Notice, Data Reporting of all Digital Copies, housekeeping etc) are fully applicable.

Conversely, where the digital material copying activity is wholly authorised under the terms of the original or primary licence agreement with the publisher, the Copyright Notice, Data Reporting (and various other obligations) of the CLA HE Licence) do not apply.

Digital Rights Management

The CLA licence does not authorise an HEI to circumvent technical protection measures (TPMs) or override any Digital Rights Management (DRM) protocols embedded in a digital product.

However, other means may be used to make copies authorised by the CLA Licence, provided that they do not involve circumvention of TPMs or DRMs. For example, an extract from a digital product covered by the licence may be printed out and then scanned under the scanning provisions of the CLA Licence.

Alternatively a Digital Copy of a chapter from an e book included in the Digital Material element of the CLA Licence may be made by digitally copying one page at a time, including into a different format.

Copyright Notice

Where the digital source file already incorporates a suitable Copyright Notice provided by the publisher, there is no need to add a Copyright Notice as normally required. Otherwise, a Notice should be added to all editable files in accordance with the form of words set out in Schedule 3.

If it is not technically feasible to add the CLA Copyright Notice into the Digital Copy made under the licence (i.e. the file cannot be edited), the Notice should be

linked in such a way that a user must view the Notice before accessing the document.

Data Reporting

As noted in Section C (see above), all Digital Copies made under licence by copying of digital source material must also be recorded on the Digital Copy Record Sheet (in line with the procedures for reporting Digital Copies produced by scanning).

If a licensee is operating entirely under the terms of a primary licence (for example in enabling students access to a publisher URL that relates to a publication licensed for multiple access), the relevant Digital Copy should not be included on the CLA Digital Copy Record Sheet.

Support Material

Electronic copies of these Guidelines can be downloaded from the Higher Education 'Support Material' pages of the CLA website at www.cla.co.uk

Additionally, a one page A4 'Notice for Display' is also available both from CLA Customer Services and on the CLA website, As an alternative, licensees are permitted to incorporate parts of and / or adapt the text of these Guidelines in their own customised versions of posters, notices, guides etc.

Further Information

Please contact CLA at the following address(es):

The Copyright Licensing Agency Ltd
Saffron House
6-10 Kirby Street
London
EC1N 8TS

Switchboard tel no: 020 7400 3100
Customer Support (HE) tel no: 020 7400 3122

Email: education.customers@cla.co.uk

CLA Scottish Office
CBC House
24 Canning Street
Edinburgh
EH3 8EG

Tel no: 0131 272 2711

Email: clascotland@cla.co.uk

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