

Your thesis and copyright

is work is licensed under a **Creative Commons Attribution-NonCommercial-ShareAlike 3.0 UK License**

And derived from an original work 'Keeping Your Thesis Legal' created by University Of Leicester library.

With thanks to them.

Updated September 2016

Contents

Tables.....	3
Introduction.....	4
What is an eThesis?	4
Questions & Answers.....	4
Benefits of eTheses.....	4
International Schemes.....	5
Including Copyrighted Materials	5
Fair dealing for criticism or review	6
Using third party copyright material	6
General considerations.....	6
Practical Steps.....	7
Creative Commons Licenses	7
Particular Material Types.....	8
Illustrations, Figures and Tables	8
Maps and Charts.....	8
Photographs and Images	8
Internet Material	9
Other Types of Material	9
Adaptation	10
Seeking Permission.....	10
Formal Permission	10
Sample Permission Request	11
Locating Rights Holders	11
Previously Published Work	12
Including 3 rd Party Materials in Commercial publications.....	12
Managing Permissions.....	13
Dealing with Rights Holder Responses	13
Orphan Works.....	13
Copyright Transfer Agreements	14
Unable to Contact Rights Holder	14
Publishing from your Thesis	15

Embargoes	15
Choosing between an Embargo or Immediate Availability.....	16
Funding Bodies	16
Final Thoughts	17
Getting Help.....	17
Glossary of Terms	18
References & Further Reading	18
Appendix: Frequently Asked Questions & Answers	20

Tables

Table 1: What exactly is a rights holder?.....	5
Table 2: Have I used substantial third party items in my thesis?	6
Table 3: How would I check for copyright & permissions?	7
Table 4: Creative Commons License Mix.....	7
Table 5: Using Images - rules of thumb	9
Table 6: Seeking copyright permissions - protocol.....	10
Table 7: Permissions Request Template Message.....	11

Legal Disclaimer

Copyright is an incredibly labyrinthine area of law. None of the authors of the original work or this document derived from it are intellectual property lawyers, and while advice given is from a best professional understanding standpoint it should not be regarded or construed as legal advice. If you need to seek specific legal advice with respect to copyright you are advised to speak to the institutional legal representative in the first instance or consult a specialist lawyer.

Introduction

This booklet gives you more information on the copyright implications of making your thesis available on the web, as required by the University.

What is an eThesis?

An eThesis is an electronic or digital copy of the finally accepted print thesis, which at UEA we store as a PDF document. An eThesis is as close as possible in appearance and layout to the printed version, but may have some elements removed for copyright reasons. eTheses are accessed many more times by readers around the world than the printed thesis, benefiting the author's professional career and recognition.

Many UK and major international universities have mandates for thesis similar to UEA. As well as being deposited into **the UEA digital repository** your eThesis will also go into the British Library's **ETHOS** national online thesis scheme site as well.

Questions & Answers

If you do have any questions, please do get in touch with an Academic Engagement Librarian but remember to see the **Frequently Asked Questions** at the end of this booklet first. Scholarly publication and open access use a wide variety of terms with which you may not be familiar. While we have endeavoured to keep their use to a minimum, a glossary of key terms is provided towards the end of this booklet.

Benefits of eTheses

UEA doctoral students are now required by institutional ordinances to provide a licensed digital copy of their completed, accepted thesis into the UEA digital repository, in addition to providing a bound paper copy to the PGR Office.

Theses are an often untapped and underutilised source of unique research and information. The print copies are usually hidden away in library stacks and rarely consulted locally, and yet around the world researchers are keen to read them. This is why eTheses are important step forward in getting your research widely read and respected. eTheses are more easily found as well through search tools like Google and because they are made available through open access, anyone around the world can read them.

Statistics on downloads from the repository show that theses are regularly amongst the most popular items

For you the benefits are a combination of gaining more readers, developing your professional reputation and visibility as a researcher within your field. The repository also collects statistical information on how many times your eThesis is being accessed. This can be very useful when approaching an academic publisher in convincing them that work based on your thesis is worth considering for publication as a book.

International Schemes

The UK is not alone in creating extensive online collections of electronic theses. Many places like the US, Australia and the Scandinavian countries in particular have been doing this longer and on a much greater scale than the UK to date.

- **Australasia**, *Australasian Digital Theses Program*
- **Europe**, *DART-Europe E-theses Portal*
- **Sweden**, *Dissertations.Se*
- **USA**, *Networked Digital Library of Theses and Dissertations*

The need for UK based research to remain visible and accessible in a global market is just one more reason why UEA has mandated the licensing of an electronic facsimile of your thesis on the repository.

Including Copyrighted Materials

In your thesis you will want to include material by other authors and this material will be copyrighted. An author automatically has copyright in anything they write or otherwise create, under UK law they do not need to apply for it or mark their work with the © mark for it to apply. Ideas and facts are not copyrighted, although presentation of ideas and facts may be. In addition to content copyright, the format or layout (typography) of an item may have rights associated with it. Images within a work, e.g. book illustrations, may also have copyright over and above that embodied by the book as a whole. Finally authors can assign parts of their copyright to someone else, for example, a publisher. Therefore any individual or corporate entity that currently holds the rights to exploit and reuse an item is known as the **rights holder**.

If the published item (and this includes periodical articles) is from an EEA¹ country, copyright in that item lasts until 70 years after the end of the calendar year in which the author (or the last surviving author, if there is more than one author) dies. If the item is published outside the EEA, it gets the same protection as it would get in its home country. If you are not sure whether an item is in copyright, ask the Library for advice.

Table 1: What exactly is a rights holder?

The owner of the copyright for an item is usually referred to as the rights holder. This may be the author but for academic articles and books is probably the publisher. Only the current rights holder has the exclusive right to:

- | | |
|----------------------------------|-------------------------|
| • Copy the work | • Broadcast the work |
| • Issue copies to the public | • Adapt the work |
| • Perform, show or play the work | • Rent or lend the work |

If you are not the rights holder and you want to do any of these things, you need the rights holder's permission.

¹ EEA = European Economic Area, which comprises the countries of the EU plus Iceland, Liechtenstein and Norway.

Fair dealing for criticism or review

Despite these exclusive rights, the law specifies a number of permitted acts in relation to the use of published copyright works (generally referred to as **third party material**), and one of these, fair dealing for criticism or review, may be applicable to material in your thesis.

The law says that less than a **substantial part** of a third party work may be copied or quoted without permission or infringement of copyright. Unfortunately as *substantial* is not defined it will depend on the significance of the passage within the whole item. Graham Cornish (2009 pp.18) cites the copying of a report's recommendations and conclusions - even if these constitute only three paragraphs of an 80 page report - as potentially being classed as substantial.

If you think you are using a substantial amount of material then you may still be able to include the excerpt, providing you use one of the fair dealing defences. **Criticism or review** is a reason for claiming fair dealing. For example, if you use a long extract of text or an illustration or figure, and it is integral to your argument, and not too large, then this might count as *criticism*. However, please remember this is not clear cut! For instance, Tim Padfield (2007, p. 116) reports that *a court will consider what proportion of the user's work consists of quotation, and what proportion consists of comment and analysis*. You should also consider whether inclusion of the material would interfere with the commercial interests of the rights holder of the original work. If it does, then you should seek permission.

So, if you are using a substantial amount of a third party work in your thesis and are unable to claim the criticism and review defence detailed above, you will need to seek permission for its inclusion.

Using third party copyright material

General considerations

Using correctly referenced and attributed third party material in a **printed** thesis does not need permission - under the law, the printed thesis is *examination material*, and so permission is not required. **However**, by placing the thesis online you are making the work available to the public, and so **permission must be obtained**.

Table 2: Have I used substantial third party items in my thesis?

- | | |
|--|---|
| • Long extracts of text from works by other people | • Maps & charts, even those you have redrawn yourself |
| • Illustrations or images | • Material of your own that has been previously published |
| • Figures or tables | |

If you have included any of these items in your thesis, then permission from the rights holder may be required if you cannot claim the criticism or review defence, or if its inclusion may harm the commercial interests of the rights holder.

Practical Steps

Check the copyright of the item in question to see what you are allowed to do with it. You may be allowed to reproduce the material in your eThesis without asking permission. Alternatively, the material may be licensed under a **Creative Commons** licence, allowing non commercial re-use.

Table 3: How would I check for copyright & permissions?

For items on the web

- There may be a copyright notice at the top or bottom of the main page.
- If not, check for terms and conditions on the site.

For material from archives, galleries, museums or other similar locations

- Check their terms and conditions of access.
- These may be on your entry ticket otherwise contact the relevant organisation.

For items from a book or journal

- Check the publisher's site for their permissions department.
- Sometimes this can be located under the *Contact Us* information.
- If the journal or book was accessed electronically, you should check the licence terms associated with gaining or purchasing access to the item.

Remember, copyright does not have to be claimed, it is automatically owned by the rights holder. Although an item may be on the Web without a copyright notice this **does not** mean it is copyright free.

If permission is required, you will need to **ask** the rights holder's permission. This may be the author, or, more likely, the publisher. **Be specific** about exactly what material you want to include and about what is going to happen to your eThesis. **Keep copies** of all the letters or emails you send, and of all replies.

Creative Commons Licenses

Creative Commons (often abbreviated to CC) is one of the most popular alternatives to absolute copyright. It allows the rights holder, generally the original creator, to detail certain circumstances under which work can be reused and shared by others without the need for seeking permission. In this way items shared under one of the Creative Commons licenses will allow you to include it within your eThesis without the need to seek formal permission. Licenses are generally selected by combining one or more elements from the CC license mix.

Table 4: Creative Commons License Mix

- **BY - By Attribution** (original source and author must be cited)
- **SA - Share Alike** (the work this is included in must also be shared under the same CC license)
- **NC - Non-Commercial** (the material cannot be republished or shared in an item that is sold or otherwise used in any commercial work)
- **ND - No Derivatives** (the material cannot be changed, paraphrased, built upon or incorporated in any way to other publications)

For example this booklet is shared under a **BY-SA-NC license** which means that others can rework and develop the material in this booklet, so long as they credit its authors and license their new creations under the identical terms. It should be noted that if an item is shared under a license with a NC element then you would not be permitted to include it in a commercial publication such as a book; but you would be allowed to include it in your eThesis. Creative Commons licenses can be applied to all forms of media and are not solely limited to text based works.

Particular Material Types

In this section we will look at some of the differences between making use of different kinds of media within your eThesis, other than purely text based items.

Illustrations, Figures and Tables

If you have used an illustration purely as decoration, then this would certainly need to have express permission as it falls outside the bounds of fair use. However, if you have used an image or figure as part of your argument, then this may count as **criticism**, and you may not need permission if it is a single instance. If you have reused multiple figures from the same source then this may well be considered as harming the commercial interests of the rights holder, in which case you would almost certainly need to obtain permission. As always if you are in any doubt as to the rights or license situation for images, always seek permission for inclusion from the rights holder.

Maps and Charts

If you have used a map from organisations like the *Ordnance Survey* or *Digimap*, check the relevant licence to see if the use is permitted. If you have obtained the map from a book, check who owns the copyright in the map, this should be indicated either with the map, or at the beginning or end of the book.

Some older maps or charts may be out of copyright (for instance, Ordnance Survey maps over 50 years old are out of copyright), but never assume this is the case for all items, and always fully acknowledge the source of the material. If the rights are unclear it is usually better practice to take the steps towards seeking permission than risk inclusion of items that may still potentially breach copyright. Remember, if you have exercised due diligence in seeking permission, then you may take the low risk option of including it in your thesis, provided you keep documentation of your efforts.

Where a map's copyright owner is no longer in existence or unable to be traced, then you may wish to include it as an orphan work (see below).

Photographs and Images

These can be an especially tricky area of copyright, as even if you were the original photographer, you may be taking photographs of materials in which someone else holds rights (e.g. artworks in a museum). It is also important to remember that a photograph on the Internet or a Website is likely to be copyrighted even if it doesn't explicitly state this fact. However, in terms of including images in your eThesis the following general rules apply.

Table 5: Using Images - rules of thumb

- If someone else created the original image or photo,
 - You need to seek permission from the photographer or rights holder.
- If you created the original image or photo, *you* are the rights holder
 - Unless you have assigned it to someone else or
 - You have photographed something in which the rights are owned by someone else (e.g. a pages in a published book).
- If the image is a photograph of people
 - You need their formal permission to use the photo in the digital thesis, unless they are incidental to the photo (e.g. a picture of a building with people passing by)
 - If the people are deceased, it is unlikely you will need to ask anyone else for permission, but please use caution if the photographs are of a sensitive nature or used in a manner which could cause distress to friends and relatives.
 - If the photograph is of minors or of an otherwise sensitive nature you may need to discuss the ethics of its inclusion as well as seeking permission.
- If the image is of other images (e.g. portraits in a museum)
 - You would need to seek permission of the gallery or painter.
 - This applies even if you took the picture yourself, as most galleries have terms and conditions associated with the reproduction of their works.
- If the image is from a photosharing site like Flickr or on a blog
 - Reuse may depend on the specific licenses attached to the image. If none are given assume reuse in your eThesis requires formal permission.
 - Some people share images for which they are not the rights holder. Reusing these, even with permission, is a higher risk approach!

As this is not a straightforward area, if you are considering using a significant number of pictures in which there are third party copyright considerations then it is advisable to contact copyright@uea.ac.uk for advice at the earliest possible juncture.

Internet Material

Although material on the web is freely accessible, this does not mean it can be freely re-used without permission. Check the top or bottom of the main site page for links to copyright information, terms and conditions or terms of access to see what is allowed. In some cases, e.g. databases, the rights to reuse the material might even be held by rights holders external to the site owners.

Other Types of Material

Contact the Library to ask advice if you are using musical scores, audiovisual material, multimedia, or anything not mentioned above. These items may well include multiple sources of copyright (e.g. music inside a video), and may need a meticulous permissions approach to several different rights holders for each item. As always be prepared to factor in a number of weeks to ensure clearance of items where you think there may well be multiple copyright issues.

Adaptation

You cannot adapt portions of any published literary, dramatic, musical (including scores, films and soundtracks) or artistic work without the permission of the rights holder.

If you have demonstrated a significant degree of skill and judgment in creating a new work this could be classified as an adaptation. Such works may then qualify for copyright protection in their own right. However, the end product may or may not be sufficiently distinct enough to be a new item free from the original rights, and it is usually advisable to seek formal permission for inclusion all the same.

As this is quite a complex area, you are strongly suggested to discuss this matter with the Copyright Co-ordinator if you are including such adapted objects in your eThesis.

Adaptation in this context means to take an original object and then add significant information to it or rework it in some way to create a 'new' object.

Seeking Permission

Start asking for permission as soon as you realise that you need to!

While an *examination exception* applies for the items you have included in your submitted thesis, this rule does not apply to the same material in the published version. You **MUST** have permission for all substantial third party copyrighted items in your eThesis, unless you can satisfactorily apply the *criticism or review defence*. If you are in doubt over whether you need to have formal permission to include Third Party material in your Thesis or not the safest course is to ask permission.

Table 6: Seeking copyright permissions - protocol

1. Identify the rights holder
2. Formally request permission to include item
3. Keep records of all correspondence
4. Repeat request after 6 weeks if you haven't heard anything (twice)
5. Leave plenty of time to get all permissions

When you submit your thesis you will sign to agree that all appropriate copyright permissions have been sought and obtained, so the responsibility for seeking permission is **YOURS**.

Formal Permission

While gaining formal written permission may sound a daunting task, in truth it is little more than ensuring you have some documentary evidence that an agreement has been made to allow inclusion of a work in your thesis.

During your research you may find it easiest to seek permission as soon as you are sure you will be including a third party item in your work. Note if you decide at a later point not to include an item you can simply remove it from the thesis, you don't need to inform the rights holder that you have changed your mind.

However, a verbal agreement is not sufficient and would certainly be difficult legally to prove at a later date. If, for example, during a telephone conversation with a fellow researcher they grant you permission to reuse portions of their work, then it is good practice to ensure you follow this up with a written formal request as soon as possible.

Written permission does not need to be in print, a dated email is likely to be sufficiently attributable for your purposes. However, some rights holders do not possess readily locatable email addresses and in all eventualities you will probably send a letter or two as well. Remember postal replies will take longer than email, and you will need to factor this into your permissions seeking timescale.

Sample Permission Request

There is no absolute format that a permissions request must take, but a good practice example is shown below (Table 7). Permission to adapt and make use of this permission request template for the purposes of your own copyright clearances, as per the Creative Commons license for this whole booklet.

Table 7: Permissions Request Template Message

Dear [NAME],

I am currently in the process of finalising my PhD thesis on, which I am shortly due to submit to the University of East Anglia.

During my research, I came across the following article/image and would like to request your permission to include it in an electronic copy of my thesis.

The University of East Anglia requires their students to submit an electronic copy to their institutional repository, UEA digital repository (<https://eprints.uea.ac.uk/>), which is a digital archive of research outputs from the University. By submitting my thesis to the repository it will be available in full, to anyone, free of charge ("open access").

I believe that the inclusion of is integral to my thesis and would therefore be extremely grateful if you could grant permission for me to use this in the manner detailed above. Naturally, I would fully reference your work and include any acknowledgement you deem appropriate.

Please let me know if you require any further information, otherwise thank you in advance for your kind consideration.

The key points that you should always highlight are:

- The item for which you are seeking permission to reuse
- Where you are seeking to reuse it (your thesis)
- A short background to your need (the UEA regulations, scholastic reasoning)

As in all communication of this kind be specific, be polite and wherever possible be brief; a rights holder may have limited time to read extensive communications and in some cases may simply not feel they have the time to respond to a longer request. You can always expand on any requirements in subsequent correspondence.

Locating Rights Holders

In many cases the rights holders you will be approaching will be academic publishing houses; for whom the details will be easily locatable on the Internet. However, you may well wish to include materials for which you need to seek out a specific individual or entity whom are not as easy to locate. While you may spend some time tracking them down yourself, or decide to treat materials as an orphan work (see below) there are agencies that exist to aid in their location, such as WATCH and the Society of Authors websites.

Previously Published Work

Publishing a portion of your thesis prior to its submission is a common and well established academic practice. However, you may need to consider carefully your rights to re-use your own work within your thesis at this point, if any rights have been gifted or otherwise assigned to a publisher.

If any portion of your **thesis has been already published**, perhaps as a journal article, you must check the agreement that you signed with the publisher. Even if you assigned copyright to the publisher, the agreement may still allow you to use the material in your thesis, so look for any educational exemption clause. If it does not expressly note this or you are unable to find the agreement then you must directly approach the publisher for permission.

On the other hand you may wish to include a **complete published version** of an article written by you within the thesis. Normally when these articles are included they appear in the appendices of the thesis print version, but are commonly removed from the eThesis due to copyright restrictions. Ideally you should seek permission from the publisher to include them, as they will contain significant elements of third party material such as your publisher's type-setting, logo and branding.

However, many publishers will be disinclined to grant permission for these full articles to be made available within an institutional repository, and your time may be better spent elsewhere in your research. In this case just remember to notify the library at the time of eThesis submission where there are any elements of the thesis that do not appear in the electronic version, for reasons of copyright.

Including 3rd Party Materials in Commercial publications

Throughout this booklet we are considering gaining permission to use materials within your eThesis. If subsequent to your doctorate you wish to publish an article or a book using material from your thesis, then you would need to seek permission again from any third party rights holders; unless you specifically state in your original request that you will also be seeking to publish using the materials as well. It is not unknown in these eventualities for a rights holder to request or expect a fee to be paid. Permission is normally granted to reuse an item **ONLY** under the circumstances originally requested

Managing Permissions

Dealing with Rights Holder Responses

If you are able to gain a response from the rights holder, there are a number of common outcomes:

1. Yes, permission granted

- a. At the relevant place in the thesis, make sure you fully reference the item and acknowledge that permission has been granted.

- i. E.g. *Picture reproduced with permission of Mr T.C. Smith.*

2. Yes, permission granted but with conditions

- a. These will vary between different rights holders.
- b. They may require a link to the published material, or a more formally worded acknowledgement in the text.
- c. They might even request that the eThesis not be made available immediately. You can request an embargo (delay) when you submit your thesis to address this.

3. Fee required for permission

- a. Some rights holders will request a fee to include their item in your thesis.
- b. You and your supervisor will have to discuss ways in which this fee can be paid.
- c. If you decline to pay the fee, then permission is not granted and you will have to proceed as below.

4. No, permission not granted

a. If the copyright holder declines permission, then you could remove the material from your

eThesis (see *submitting an edited thesis* below).

- b. The examination exception will let you keep the item in the print thesis, but it should not be made available outside the school.

5. Unclear

- a. You may have been in touch with a rights holder, but at the point of thesis submission they may not have granted nor declined permissions to include their items.
- b. If it looks likely that they may (eventually) grant permission, place an embargo on your thesis. You can always request this to be lifted once the rights holder grants permission.
- c. Alternatively you can deposit an **edited thesis** (see below) with the item removed. If at a later date the rights holder gives permission, the repository will happily update the version of your thesis available online.

Ensure you keep copies of the correspondence between you and the rights holders for some years after you graduate, you may need to refer to them again in the unlikely event of a challenge to your inclusion of the material.

Orphan Works

Orphan works is the term used to describe works where the rights holder cannot either be identified, or contacted. This can happen if the publisher has gone out of business (the FOB website may be of use), or repeated attempts to contact them have failed. It may also be that the rights holder has predeceased your request, and you have been unable to establish to whom the rights have passed. Normally this is the next of kin but they may have been willed or subsequently sold to a third party, further complicating the matter.

The UK Government has introduced an Orphan Work licensing scheme for reuse of all works for commercial or non-commercial use. A licence can be granted by the UK Intellectual Property Office (IPO) for seven years (upon payment of a fee) provided you can be shown to have exercised due diligence. Check lists for performing due diligence for different types of works can be found on the IPO website (detailed at the end of this booklet). If you do not wish to apply for a licence, as you will see below, you can opt to remove the potentially risky item from your eThesis. However, it may be that the removal will cause structural or scholarly problems with your research narrative. In this eventuality you will need to decide whether to accept the modicum of risk you are exposing yourself to contrasted with the benefit to retaining the integrity of your eThesis as a whole.

If you need advice over seeking permission, or interpreting the responses of a rights holder, then remember to contact the Library for further advice.

Copyright Transfer Agreements

Publishers' copyright transfer agreements (CTA) for journals can be complex, lengthy, confusing or in some cases impossible to even locate. If you have ever formally published a journal article or a book chapter then you will probably have been asked to sign one prior to publication. Upon signing one an author will likely have transferred the economic rights for reproduction and reuse of their work to the publisher; although their moral rights will have been retained. While some more cunning authors might have made use of something like the *SPARC Authors Addendum* to retain a majority of them will have complied with the publisher's standard terms and conditions.

Thus if you are reusing portions of journal articles in your thesis you will probably need to examine the CTAs for the journals in question. Thankfully the **SHERPA/RoMEO** site allows you to search by publisher or journal, and provides links to publishers' copyright transfer agreements, which can be much quicker than simply searching Google. However, the information on the SHERPA/RoMEO site itself is aimed at archiving papers in open access repositories, rather than including items in thesis, so for the latter you will need to visit the publisher's sites directly.

Moral rights are the right of the author to be identified as the originator of a work, and cannot be transferred. It also includes the right for their work not to be subject to derogatory treatment

Economic rights allow for the control of the reproduction and reuse of a piece of work. These can be sold, transferred or gifted to another entity

Remember, if you do run into any difficulty in understanding what rights a CTA does or doesn't transfer to a publisher, then speak to an academic engagement librarian for more help.

Unable to Contact Rights Holder

If you are unable to trace a rights holder or receive no response to repeated requests for permission, you have two options open to you.

1. Submit an edited eThesis to the repository (no risk)

- a. Remove any items/sections where you were unable to locate a right's holders, or obtain permission.
- b. You will need to notify the repository that this is an incomplete copy of your work so they can add the information to your thesis record.
- c. Your unedited print thesis will be deposited in the library.
- d. If taking the third party material out renders the thesis unusable, then you will need to speak to the repository team about the possible options available. There is **no legal risk** associated with this approach.

2. Submit with the items still included (potential risk)

- a. Where you have made a number of repeated and documented efforts to contact a rights holder, and have received no response, then you could choose to include the item.
- b. You must be able to show the lengths to which you went to contact a rights holder for some years afterwards on request.

There is **some risk** associated with this second approach. The rights holder may at some point object to items being used and ask for the repository to take down the thesis and potentially threaten legal action. At this point you will need to demonstrate that you used all **due diligence** in trying to obtain permission.

The **only 100% risk free approach** to dealing with third party copyright items is to have clear permission granted for each one or to remove any items with uncertain permissions status from your eThesis.

Publishing from your Thesis

If you think you might want to publish part of your thesis in its current form and you have a publisher in mind, you should check the publisher's policy. If you think that your chances of publication will be harmed, or you have not yet identified a suitable publisher, seek **an embargo**. It should be noted that a number of recent studies (see References) have indicated that the risk of publisher rejection of a manuscript that has been previously shared as an eThesis is negligible.

Remember, you are still required to submit an electronic copy to the repository Administration team; Even with an embargo!

If you think you will be publishing it after significant revisions or changes, then this may not be an issue, but it is worth discussing it with your supervisor and the prospective publisher if possible.

Embargo

An embargo is a delay in the thesis being loaned to another library or placed onto EThOS and the repository, of up to three years from the date of your degree award.

If you think you will need to place an embargo you and your supervisor must apply to the School Board some **3 months** before you submit your thesis. Once the embargo has expired, then your thesis will be made available online. Common reasons for placing an embargo are to allow journal articles to be published or to comply with rights holder or funder requests before your thesis is shared with the world. However, you are still required to submit an electronic copy of your thesis at the same time as your printed version.

If you are unsure as to the length of time that you should request for an embargo, it is advisable that you discuss this with your doctoral supervisor. They will have an insight into the average length of time it takes a scholarly text in your discipline to move from final submission to eventual appearance as a publication. This can be anything from a few weeks, to many months depending on the discipline and the publisher.

At the point of which the University deems an embargo to have expired, then your eThesis will be made live on the repository and EThOS.

Choosing between an Embargo or Immediate Availability

To gain the maximum career benefits from your eThesis you will want to make it available as soon as possible. However, as noted above, in order to assuage some publishers' concerns over prior availability of original work² on the web you may wish to delay availability. How long that period should be is best a question discussed directly with your supervisor.

A thesis with an embargo won't be supplied in print or as a photocopy to other universities; slowing the speed at which your research and professional recognition will spread. It will be listed on the library catalogue so you will be able to direct potential employers there for general information, although the entries are kept very simple in detail. The shorter the period of embargo that you decide on, the more quickly the open access career advantages will benefit you.

To all intents and purposes there will be nothing to direct employers or collaborators towards if they wish to know more about your doctoral research, unless you have published from it. However, if for ethical, commercial or national security reasons you need to restrict access to your thesis then this is a decision you will have to take.

Remember, if it is only an issue with elements of your thesis (e.g. a table of data or extract from a book) then you could always choose to edit this from the eThesis; while leaving it in the print version. This would allow you to gain the benefits without exposing yourself to any form of legal risk.

Funding Bodies

If you are externally funded, check the conditions of the grant. For example, the grant making body may own the research you produce, or apply certain conditions to its reuse. If those appear to clash with the University mandate, seek advice from your funding body. The funder may agree to allow re-use of the material subject to a short embargo. Some funders may however, insist on commercial secrecy of their funded work and may require that you seek a longer embargo. In this case it is best to discuss this matter with your supervisor and the PGR Office as soon as possible.

² Interestingly, you might like to think about the impacts of discussing your work through social networking sites (e.g. blogs) and how a publisher might view those as well.

Final Thoughts

- If you are in doubt about an item's copyright and reuse status, ask permission from the rights holder.
- Don't leave seeking permission until the last minute, it can take weeks to arrange.
- Remember if permission is still outstanding on the day that you submit your print and electronic theses, you can place an embargo on the eThesis. You can always request its removal once permission is granted.
- Keep copies of all correspondence, for at least 5 years after you graduate. You may need to refer to them again.
- Reference and acknowledge everything, even if you have not had to ask permission. This is good academic practice.
- Ask for help if you need it: the Library is here to help.

Getting Help

Remember, you are not alone. There are lots of people around the University who will be able to support you with this process.

Academic Engagement Librarians

- Can help with matters relating to the mandate, copyright policies of publishers or journals, submitting digitally, and any possible clashes with grant making bodies. Also happy to discuss practical issues embargoes.

<https://portal.uea.ac.uk/library/academic-engagement-librarians>

Strategy, Policy & Compliance team

- Can advise on matters relating to copyright, including methods of seeking permission.
 - Email: copyright@uea.ac.uk
 - tel. +44(0)1603 593523
 - Web: <https://portal.uea.ac.uk/information-services/strategy-planning-and-compliance/regulations-and-policies/information-regulations-and-policies/copyright/further-help>

Your Supervisor

- Can help by advising on how publication timescales relate to embargoes. They can also assist you in discussions with rights holders.

PGR Office

- Can advise on the appropriate method of obtaining an embargo and the University regulations relating to doctoral candidates.

<https://portal.uea.ac.uk/postgraduate-research/who-does-what/contact-details>

IT Service Desk

- Can advise on creating PDFs from Word and other word processing packages.

○ Email: _

it.servicedesk@uea.ac.uk

○ Tel. +44(0)1603 592345

Hopefully now you have a better idea about how to seek permission for items in your thesis where other people have rights. If you're not sure or would like more details about anything please ask.

Glossary of Terms

- **Copyright** - (simply) is legal protection for an author/ creator which restricts the copying and reuse of an original work they have created. Often shortened to simply *rights*.
- **Copyright transfer agreement (CTA)** - legal form commonly signed by authors transferring reproduction and reuse rights in a work to a publisher for the purposes of publication.
- **Creative Commons** - a form of open licensing that permits certain categories of reuse chosen by the rights holder.
- **Dark archive** - a term commonly used to refer to an offline store for electronic or physical information where content is safely maintained but is not made accessible.
- **Embargo** - a permanent or semi-permanent restriction in an electronic and printed thesis' availability; only grantable upon application to School Board.
- **eThesis** - electronic digital facsimile of the print doctoral thesis
- **Fair dealing, criticism and review** - a poorly defined right to reuse substantial portions of a work without seeking formal permission.
- **Formal permission** - written or emailed correspondence with a rights holder granting permission to reuse/include a work in your thesis.
- **The UEA digital repository** - the University's online open access institutional repository.
- **Mandate** - a Senate & VC approved university requirement with respect to deposition of research in the institutional repository
- **Open access** - making a publication or a thesis available without placing any kind of fee based restriction on accessing it.
- **Rights holder** - an individual or corporate entity who owns the rights for reuse of any materials.
- **Third party copyright** - material in which others hold rights.

References & Further Reading

Australasian Digital Theses Program, <http://adt.caul.edu.au/>

Brown, J. & Sadler, J. (2010). ETheses: Impact on future publication: RSP Briefing Paper, Online at:

<http://www.rsp.ac.uk/documents/eTheses-briefing-papers/ImpactOnFuturePublication.pdf>

Business Link, *Sample internet policies and notices: Sample website terms and conditions*

<http://www.businesslink.gov.uk/bdotg/action/detail?itemId=1076142035&type=RESOURCES>

CAIRSS (CAUL Australian Institutional Repository Support Service), <http://www.caul.edu.au/caul-programs/cairss>

Cornish, G. (2009). *Copyright: interpreting the law for libraries, archives and information services*. 5th ed. London, Facet Publishing.

Creative Commons (2011) *About the licenses*, <http://creativecommons.org/licenses/>

EThOS- Electronic Theses Online Service, <http://ethos.bl.uk>

Intellectual Property Office, Due Diligence checklists –

<https://www.gov.uk/government/publications/orphanworks-diligent-search-guidance-for-applicants>

JISC, Copyright Law Overview (12 June 2014)

<http://www.jisclegal.ac.uk/ManageContent/ViewDetail/ID/3588/Copyright-Law-Overview-12-June-2014.aspx>

Networked Digital Library of Theses and Dissertations,
<http://www.ndltd.org>

McCutcheon, A. M. (2010). Impact of Publishers' Policy on Electronic Thesis and Dissertation (ETD) Distribution Options within the United States (PhD thesis), Ohio University,
http://etd.ohiolink.edu/send_pdf.cgi/McCutcheon%20Angela%20M.pdf?ohiou1273584209

McMillan, G. (2001). Do ETDs Deter Publishers?, *College and Research Libraries News*, 62(6), 620-621, online at: <http://scholar.lib.vt.edu/staff/gailmac/publications/pubrsETD2001.html>

Orphan works diligent search guidance for applicants, Intellectual Property Office, 17 September 2014,
<https://www.gov.uk/government/publications/orphan-works-diligent-search-guidance-for-applicants>

Owen, T.M. et al. (2009). ETDs in lock down: Trends, analyses and faculty perspectives on ETD embargoes, online at: <http://drum.lib.umd.edu/handle/1903/9087>

Padfield, T. (2007) *Copyright for Archivists and Managers*, 3rd ed. London, Facet Publishing

The Society of Authors,
<http://www.societyofauthors.org/>

SHERPA/RoMEO,
<http://www.sherpa.ac.uk/romeo/>

SHERPA, *Glossary of open access abbreviations, acronyms and terms*,
<http://www.sherpa.ac.uk/glossary.html>

SPARC (2006) *Using the SPARC Author Addendum to secure your rights as the author of a journal article*
<http://www.arl.org/sparc/author/addendum.shtml>

University of East Anglia copyright support <https://portal.uea.ac.uk/information-services/strategy-planning-and-compliance/regulations-and-policies/information-regulations-and-policies/copyright/further-help>

University of Texas at Austin: *FOB: Firms out of Business database*,
<http://tyler.hrc.utexas.edu/fob.cfm>

University of Texas at Austin, *WATCH: Writers, Artists and their copyright holders*,
<http://tyler.hrc.utexas.edu/>

Amended at UEA to form 'Your thesis and copyright' v1 Jun 2013
V2 Revised Sep 2016

V2 Revised Nov 2011

Revised, augmented and updated by Gareth J Johnson, Tania Rowlett and Rob Melocha
Original 1.0 version by K. Nockles & Tania Rowlett 2008

Appendix: Frequently Asked Questions & Answers

<p>If I redraw a map from an original, do I need permission of the copyright holder of the original to include my map?</p>	<p>Yes, as this is a substantial reuse of an object.</p>
<p>If there is an object in my photo, (e.g. a Coke can) do I need permission of the copyright holder of the object?</p>	<p>Probably not, as long as it's inclusion is either incidental (ie. not the primary reason for the photo) or, in terms of the print copy of your thesis only, is for the purpose of criticism and review.</p>
<p>Does the university view my thesis as a "published" work - that is, can I list it as such on my cv?</p>	<p>You could list it as published but would need to list the digital version</p>
<p>Can a permanent embargo be lifted by me?</p>	<p>Yes - you would need to contact the PGR office in the first instance.</p>
<p>I want to place a copy of my thesis in the local record office. Is this a problem?</p>	<p>You would need third party copyright permission as for the digital copy</p>
<p>Does copyright last for 70 years after death of author even if someone else is the copyright holder?</p>	<p>Yes</p>
<p>Can we take no reply to our request as a "yes" - or make statement to that effect in letter (that is, "if I do not hear from you within one month, I will assume you are granting permission")?</p>	<p>This is a judgement of risk, but our advice is not to include any work for which you do not have permission to use.</p>
<p>Can the University mandate a student to submit a digital copy of their thesis if it was not in their original terms and conditions?</p>	<p>Only students submitting from 2013 onwards are mandated.</p>
<p>How long is a 'substantial' or 'fair' piece of text?</p>	<p>The law makes no definition of substantial but it is important to remember that it relates to quantity and quality. A general rule of thumb is that if you are asking the question, then it probably <i>is</i> a substantial extract.</p>
<p>Is only work with a © on it copyrighted?</p>	<p>No, in the UK copyright automatically applies unless otherwise stated. You always needs to check the items terms and conditions of use/copyright information. However, in the USA you are required to register your copyright and use this symbol, it is not a requirement in other countries.</p>