SHARED PRACTICE GUIDE 011 - COPYRIGHT

Rev 05

1. Introduction

Shared Practice Guides (SPG) are a vehicle to share knowledge between the u3as in the London area. They are created by collating knowledge and experiences from those u3as. They are only a guide – what worked for one u3a might not work for your u3a. If in your experience something is wrong or you disagree with something, please write in to allow an update to be created and published. It's hoped these guides will grow over time with more shared experiences.

2. Scope

This SPG addresses the aspect of Copyright Law.

3. Background

The National Office for the Third Age Trust has warned u3as to be vigilant in this area. Some individual u3as have been fined for breach of Copyright Law.

4. Learnings

4.1 What is Copyright?

Copyright Law is complicated! Hence it is easy to breach Copyright Law but ignorance is no defence. u3as have been fined previously for copyright infringement. Copyright is one of the main types of intellectual property. It allows the copyright owner to protect against others copying or reproducing their work.

Intellectual property gives a person ownership over the things they create the same way as something physical can be owned. The main legislation dealing with copyright in the United Kingdom is the Copyright, Designs and Patents Act, 1988. (See Appendix 1 for how long copyright protection lasts.)

Copyright arises automatically (you don't need to register for copyright protection) when a work that qualifies for protection is created. The work must be original, meaning it needs to originate with the author, who will have used some judgement or skill in its creation.

The main works currently protected by copyright in the UK include:

- original literary works (such as novels, poems, tables, lists, and computer programmes),
- original dramatic works,
- original musical works (i.e. the musical notes themselves),
- original artistic works,
- sound recordings,
- films,
- broadcasts, and
- typographical arrangements (i.e. the layout or actual appearance) of published editions.

In general, the author or creator of the work owns the copyright.

However, copyright for work created by an employee during their employment is owned by the employer.

4.2 Photographs

We have recently found out that some u3as have published pictures on their websites without the permission of the copyright holder. This has led to those u3as being issued with a financial penalty for the unauthorised use of the images.

We in LRU3A are therefore careful about what images we put on our website and try whenever possible to use images that we have generated for the purpose or are copyright free and encourage other u3as to be vigilant also. There are a couple of areas where we might slip up so it is worthwhile explaining the position in relation to Copyright Law. This advice applies to the use of pictures published in our bulletin, newsletters, social media sites, and website.

Every photograph has a copyright; it is not related to displaying a copyright symbol ©. Normally the copyright in a photograph belongs to the person who actually took the picture, although it could be that the photographer has been commissioned and has agreed that the copyright can be transferred to their client. Either way, the copyright holder has legal rights over the use of the image. Many photographers earn most of their income from copyright fees, and the law is set up to protect their interests.

We should ensure that whenever we publish a photograph, we have permission to use it or that it's copyright free. You can use Google Advanced Search to find an image that is copyright free.

A case study might help explain the situation.

Case study publicising a holiday or outing: If we were putting out a handout about a holiday and illustrating that with a picture of the hotel, we would need to make sure that we had permission to use the photograph. It is not acceptable to use a search engine to find a picture on the web and then to use it without permission. In this case a simple email to the hotel asking for a photograph or jpeg file that we can use to publicise the holiday would obtain both the image and the agreement that we could use it. Similarly, if your group was publicising an outing, to say a stately home, an email will usually obtain a suitable image.

If requesting an image, you should be as clear as possible in stating exactly how you will use the image: "We would like permission to use the picture for free in the publicity for the event both in print and on our website." Do not ask for a licence to use the picture, which implies you would pay a fee.

Using a photograph taken by a member: we do not have an automatic right to use photographs taken by members. If you want to use a photograph taken by a member to publicise your group, you should always ask them first and ask if they wish to be credited, e.g. "Photograph by John Smith". This would be in line with our normal established procedure for the newsletter which is to ask the member concerned if we can use the picture. The best way is to ask by email so that you have a record of the response. If a member sends in an unsolicited photograph a simple reply by email saying "Thanks for the picture that you have sent which we will use on the website" will create a paper trail.

4.3 Photographs on the Website

We try to minimise the risk for LRU3A by as far as possible using photographs taken by members, or other people we know, and given to us for use on the website. We have issued advice to the Group Coordinators (in the Coordinators Guidelines booklet).

Where we don't have a suitable photograph, there are some cases when we can use one found on the Internet. Some pictures are not copyright because copyright has expired or because it's not been asserted, such as NASA's pictures from space. Others are covered by 'Creative Commons' licences and can be used free of charge provided the copyright holder is acknowledged. Also, as book-cover pictures and media stills for theatres are publicity materials, we are permitted to use them too.

We've generally taken the view that a photo of marketing info - book covers, theatre flyers, are ok to use - they want the publicity.

If you are looking for a copyright-free image, then try using Google Advanced Search. You can put in your subject key words, & at 'Usage Rights', the drop down, select "Free To Use, Even Commercially". This should provide a good range.

When you send photos to the webmaster, please state from where they have come so the webmaster knows what acknowledgments are necessary.

4.4 General Data Protection Regulations and Photography

The GDPR gives certain rights to individuals about the use of their image. You can view our GDPR Policy through our website: LRU3A Privacy Policy.

Many organisations document their events and activities through photos and videos. Like other activities, you should be clear on whether this is justified under 'legitimate interests' - often it is reasonable to expect that you will document your activities, so specific consent may not always be required.

Photographs of people (even in groups), however, can be seen as personal information, especially if accompanied by other personal details. You should obtain the written consent of anyone who appears in your photograph before it is published on your website. While consent may not be required in all cases, it is still good practice to respect the privacy of individuals if they request not to be included in images. If captioning images, consider whether you need to use the full names, e.g. "Roger and Sue relaxing over a cup of tea at the New Members meeting" rather than "Roger Brown and Susan Smith". However, it would be usual to name in full members of committees or trustees.

It is normally sufficient to display a notice at meetings and other events with wording like this:

"Please note we may take general photographs of this event to publicise our work. We may also wish to set up and photograph some smaller groups. If you would prefer not to be included in these groups, please speak to our photographer beforehand. Thanks for your co-operation"

On other occasions – during an outing or visit somewhere, if a photo is to be taken of the group, then a general announcement should be made to gain permission and tell any member to move out of the group if they don't want their image used. Silence is taken as consent.

4.5 Playing Music

In relation to recorded music, there used to be a 'PPL' and/or a 'PRS'. These are now offered as a joint licence. The Third Age Trust holds a PPL (Phonographic Performance Limited) and PRS (Performing Rights Society) licence - also called 'The Music Licence'. This allows all u3as to play recorded music in public through the radio, TV, other digital devices and during live performances. The cost of this is included in Third Age Trust membership and the licence is automatically renewed by the Trust on an annual basis.

4.6 DVDs

The MPLC (Motion Picture Licensing Corporation) Umbrella Licence gives a u3a the right for its members to view audiovisual content (including DVDs, downloads and streamed materials) outside the home in a public location, for example a community hall or other venue. The Third Age Trust has an Umbrella MPLC licence which covers all u3as and allows u3a group members to show all MPLC films outside their homes for educational and entertainment purposes. The cost of this is included in Third Age Trust membership. This licence is automatically renewed by the Trust on an annual basis.

The use of DVDs is usually covered by an exemption in Copyright Law which allows the use of videos or DVDs for educational purposes; however, this does not include the copying of material.

The Trust does not have a PVSL (Public Video Screening Licence). This licence is to allow organisations to legally screen films to create background ambiance within their premises. Screenings must be ad hoc and unplanned. If u3as want to purchase this licence need to do so themselves. However the Trust does have an MPLC umbrella licence. The MPLC Umbrella Licence allows audio-visual content (including DVDs, downloads and streamed materials) to be screened in a public location, for example a community hall or in a member's home as part of an interest group, provided admission is not charged.

If the content you wish to show isn't covered by the MPLC licence you may need to purchase a separate licence, please contact the Trust's office for assistance.

4.7 Photo and Digital Copying

Do we need a Copyright Licensing Agency (CLA) licence? A CLA licence lets you legally copy extracts of content in an efficient and cost-effective manner. CLA offer licences tailored for businesses, charities, educational institutions, and public sector organisations.

In our day-to-day role, you might use content from a range of copyright print and digital books, magazines and journals. For example, you might photocopy an article from a journal to share via email, download content from an original digital publication to use in a presentation or receive press cuttings from a media monitoring agency.

A CLA makes copying content simple because you don't need to ask permission and negotiate terms of use from the copyright owner every time you copy something. Instead, a CLA licence means you have blanket clearance to copies (within limits) of the content you need, when you need it.

What does a CLA licence let you do?

- Access articles and chapters from millions of publications.
- Access publications from more than 35 countries.

- Access one annual licence, so no need to seek permissions every time.
- Access a single transaction and a published rate card for certainty of cost.
- Our indemnity ensures peace of mind and reduces risk of infringement.

For an annual fee, this allows us to copy extracts from books etc. for our internal use. There are limits as to how much of a publication we can copy, this is up to 5%, one chapter or one article. This agreement is not all encompassing. We cannot copy Ordinance Survey Maps, newspapers, or printed sheet music or words. This licence does not automatically cover use on our website or other forms of publishing where members of the public can see the material.

Third Age Trust recommends that individual u3as should procure a CLA. More information here: CLA Licence

There is no blanket licence for multiple copying of sheet music; this is illegal unless it is no longer in copyright. Agreements for the copying of music are dealt with on a case-by-case basis by the Music Publishers Association at www.mpaonline.org.uk.

4.8 Creative Commons

Many educational institutes publish (online) their material under Creative Commons rules. But even Creative Commons does not necessarily give one unlimited rights. Creative Commons is a licence to do some things. "Creative Commons (CC) is an internationally active, non-profit organisation that provides free licences for creators to use when making their work available to the public. These licences help the creator to give permission for others to use the work in advance under certain conditions." So even for CC material we need to watch there are no caveats and no restrictions quoted.

4.9 YouTube

It seems YouTube has tried to set up a 'Fair Use' scheme to protect themselves and downstream users - with mixed results. Some creators have taken YouTube to court saying they didn't give permission for their material to be on the site. However, it seems the general view is that it is safe to provide a link to any publicly available website including YouTube. Where the problems occur is when someone copies something from the web and then passes it on as if it's their own work. So, the safe thing is always to provide links (not download a copy and pass that on). YouTube videos and most other learning providers have what in effect are built in credits to the originator.

4.10 Publicity Material

What about using the image of a book cover or a theatre poster? There is a view that anything prompting sales (e.g. theatre posters, images of a venue and book covers) are copyright-free. Why would you prosecute someone for using, promoting your product? But this doesn't seem to be explicitly written down. Regarding guides there is this from the British Library:
https://bl.libguides.com/copyright/frequently-asked-questions

You can also put something equivalent to the following statement on your website:
"All images claimed under fair use. If you have the rights to an image on this site and believe it's being used improperly, please contact …. (your u3a contact)

5. Reference Material

There is a guidance document issued by National office on the Advice (Legal) section of the Third Age Trust's website: Copyright and Licences.

6. Contact Point

If you have any queries on content of this SPG or can offer any updates, please contact: Webmaster.londonregionu3a@gmail.com

APPENDIX 1 – Photography Consent Form - Group

The following is more for your GDPR policy rather than copyright policy.

Depending on your GDPR policy, a u3a might need to ask for specific consent to take a members photograph. If this is the case the following might be useful:

XXX u3a would like to take your photograph for promotional purposes. These images may be sent out to the media with a press release, used for our publications or on our website.
Person(s) in photograph:
We the undersigned agree to allow XXX u3a to take photographs of us and grant permission for these to be used by XXX u3a to promote XXX u3a or the u3a in general in publications, press articles, promotional material and websites, exclusively for non-profit making purposes.

Group:……
Date: ……

Name (please print)	u3a Membership No.	Signed
.....		.....
.....		.....
.....		.....
.....		.....
.....		.....
.....		.....

XXXX u3a will not use the images taken, or any other information you provide, for any other purpose.

Guidelines for the Photographer
The following are guidelines on how to use the form, but at all times bear in mind common sense. e.g. - if photographing a field and someone happens to be walking across but their face cannot be seen, it may not be necessary to complete a form.

Inform people of:
- context of the image, and
- intended use of image .

Taking photos:
- Ensure no children below the age of 18 or any vulnerable adults are in the photograph. A different consent form from a parent/carer is required for such individuals.
- If people are identifiable (even if in a large street scene for example), written permission is required from all persons, but if it is a large group, it may be preferable to ask if one is able to sign for all.
- If a specific house/property is being identified, permission from the owner must be sought.
- Inform group/individual how images will be used in context.
- Ensure a consent form has been signed.

Copyright:
- The copyright of each photograph remains with the photographer (who must separately grant permission for XXXX u3a to use his/her photographs).

- It is up to the photographer whether copies of photographs are provided to the individuals in the photographs and to make his/her own arrangements direct with those individuals.

APPENDIX 2 – Photography Consent Form - Individual

Depending on your GDPR policy, a u3a might need to ask for specific consent to take a members photograph. If this is the case the following might be useful:

XXX u3a would like to take your photograph for promotional purposes. These images may be sent out to the media with a press release, used for our publications or on our website.

Person(s) in photograph:
I agree to allow XXX u3a to take photographs of me and grant permission for these to be used by XXX u3a to promote XXX u3a or the u3a in general in publications, press articles, promotional material and websites, exclusively for non-profit making purposes.

Name (please print): .....
XXX u3a Number (if applicable): .....
Signed: .....
Date: .....

I also agree to my name being published in any associated publicity if required. ▪ Yes ▪ No

XXXX u3a will not use the images taken, or any other information you provide, for any other purpose.

Guidelines for the Photographer
The following are guidelines on how to use the form, but at all times bear in mind common sense. e.g. - if photographing a field and someone happens to be walking across but their face cannot be seen it may not be necessary to complete a form.

Inform people of:
- context of the image, and
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- If a specific house/property is being identified, permission from the owner must be sought.
- Inform group/individual how images will be used in context.
- Ensure a consent form has been signed.

Copyright:
- The copyright of each photograph remains with the photographer (who must separately grant permission for XXX u3a to use his/her photographs).
- It is up to the photographer whether copies of photographs are provided to the individuals in the photographs and to make his/her own arrangements direct with those individuals.