

COPYRIGHT COMPLIANCE PROCEDURE

SCOPE

This procedure applies to:

- all Monash University staff and other authorised users (collectively referred to as 'staff' for the purpose of this procedure) and students in all locations; and
- all Monash College staff and students.

The former Monash South Africa campus is included in the scope of this policy for the duration of the teach-out period, to end-2022.

PROCEDURE STATEMENT

Monash University (the University) supports its staff and students in complying with their individual responsibilities to uphold copyright law in the course of their work or study. This procedure sets out the University's approach to complying with copyright law and managing copyright infringement notices it receives relating to material hosted on Monash online environments and accessed through the Monash ICT network.

1. Copyright compliance structure

- 1.1 Staff and students are able to use copyright material, provided they comply with their legal obligations and any specific requirements under licence agreements between the University and licensees.
- 1.2 Through its copyright compliance structure, the University aims to:
 - inform users of their legal obligations and assist them in meeting these obligations;
 - prevent, and appropriately respond to, unlawful use of copyright material; and,
 - promote a compliance culture that respects the rights of copyright owners.
- 1.3 The University's copyright compliance structure consists of:
 - the Monash University Copyright Compliance Officer;
 - the Monash University Copyright Adviser;
 - the Monash University [Copyright Website](#).
- 1.4 Specific arrangements in each Monash University location will differ according to the level of activity occurring in that location, and the associated risk of copyright infringement.

Copyright compliance in Australia

- 1.5 In Australia, the University convenes a Copyright Advisory Group (CoAG) to address matters as they arise, and appoints Local Copyright Coordinators to assist with implementing compliance measures.
 - 1.5.1 The CoAG, chaired by the University Copyright Compliance Officer, reports to the Learning and Teaching Committee. The Group includes the University Copyright Adviser, representatives from faculties, the Library, eSolutions, the Office of the General Counsel and others as required or invited by the Chair.
 - 1.5.2 In accordance with its terms of reference, this group provides a consultative forum for the University's policy direction in relation to copyright compliance and for copyright related matters affecting the University's operations.
- 1.6 In Australia, the University Copyright Compliance Officer oversees the administration of the University's copyright compliance structure and reporting processes. The Copyright Compliance Officer is responsible for:

- providing assurance that the University has processes and systems in place to comply with the Copyright Act 1968 (Cth). This may take the form of annual attestations and/ or self assessment questionnaires (with the assistance of the University Copyright Adviser and the Office of the General Counsel); and,
 - alerting the relevant senior executive officers of the University to issues or changes in copyright law affecting the University (in conjunction with the Office of the General Counsel and the Risk and Compliance Unit).
- 1.7 The University Copyright Adviser is the University's designated representative under Regulation 19 of the [Copyright Regulations 2017](#) for Australian locations. The Copyright Adviser is responsible for issuing take-down notices and responding to infringement complaints, including take-down notices received and sent under the [Copyright Act 1968 \(Cth\)](#), [Directive 2000/31/EC of the European Parliament, Electronic Commerce \(EC Directive\) Regulations 2002 \(UK\)](#) and the [Digital Millennium Copyright Act \(DMCA\) US](#). This is in addition to any other authority to issue such a notice.
- 1.8 Each faculty and central division must designate one or more staff members to act as a Local Copyright Coordinator who is responsible for:
- providing assistance during copyright surveys and audits;
 - assisting the University Copyright Adviser to raise and maintain awareness of copyright compliance requirements among staff and students; and,
 - alerting the University Copyright Adviser to copyright issues that arise within the faculty or division.

2. Responsibility for copyright compliance

Use of licensed third-party material

- 2.1 The University enters into licence agreements with commercial providers in order to ensure staff and students have access to a wide and relevant range of content to support University research, education and other activities. These may include resources such as software, image banks, music collections, online journals, databases and ebooks.
- 2.2 Staff and students must abide by the terms of the relevant commercial licence or other licence. Such terms may prohibit:
- making multiple copies, or making a copy of a resource for use by an unauthorised person or organisation;
 - communicating or electronically transferring or sharing a resource, in whole or in part, to an unauthorised person or organisation; and
 - making a resource available, in whole or in part, independently of the database provider's site.
- 2.3 Where users are unsure whether a proposed use is within the scope of a commercial licence or other licence, they should consult the relevant licence administrator, where available. For example:
- for information about specific ebook, online journal or library database terms and conditions, send a query to the [University Copyright Adviser](#) and check the [databases use table](#);
 - for computer software contact [eSolutions](#);
 - for information about the University's Educational Music Licence for educational/research purposes contact the [University Copyright Adviser](#);
 - for information about music licensing for paid/public/University business events contact [Monash University Academy of Performing Arts](#).
- 2.4 In all other cases, staff and students should seek advice from the [University Copyright Adviser](#).

Use of third-party material for teaching, research and study

- 2.5 In most countries in which the University operates, copyright legislation permits the use and copying of copyright materials to some extent for the purposes of teaching, research and study, although the breadth of the exception varies from country to country.
- 2.6 In Australia, the Copyright Act 1968 (Cth) permits the use of third-party copyright materials for teaching, research and study and other limited purposes.
- 2.6.1 In the absence of any licence agreement governing the use of third-party content, or other express permission, staff and students can use third-party content in accordance with the allowances provided within the Copyright Act 1968 (Cth). For more information see [fair dealing](#) and the [educational copyright licence](#) on the [University Copyright Website](#).
- 2.6.2 Material reproduced or placed online in reliance on the Educational Copyright Licence in the Copyright Act 1968 (Cth) must be accessible to students and staff of Monash University only. Material made available under this licence should be password protected and must include the [Copyright Warning Notice](#). This notice must appear before or at the same time the material is accessed.

- 2.6.3 Theses containing third-party copyright materials may be placed in the restricted access section of the online repository, in accordance with the fair dealing provisions in the Copyright Act 1968 (Cth), but may require permission from the copyright owner to be placed in the open access section.
- 2.6.4 Staff are advised to use the University's [online reading list service](#) provided by the Library when making text and images available online or for the creation of links to online journal articles or ebooks for use in teaching and learning.
- 2.7 In Malaysia, the Copyright Act 1987 (Malaysia) permits the use of third-party copyright materials for teaching, research and study and other limited purposes. For more information see [Use of Copyright Material \(Malaysia\)](#).
- 2.8 In other jurisdictions where Monash University has a presence (including China, India, Italy and South Africa), the scope and nature of permissions to use of copyright materials for educational or teaching purposes varies. For more information contact the [University Copyright Adviser in the first instance](#).

Use of third-party material for other purposes

- 2.9 Where no licence agreement is in force and the intended use of third-party copyright material extends beyond what copyright legislation allows, staff must obtain written permission on behalf of the University from the copyright owner. For example, if seeking to use unlicensed third-party materials for activities such as research or consultancy, public lectures or marketing and promotional activities.
- 2.10 Staff are responsible for storing permission documentation in a way that ensures the University can access that documentation and that any subsequent use of the material complies with the terms and conditions of the permission granted. For more information see [obtaining copyright permissions](#).

Use of University-owned copyright works

- 2.11 Works in which the University owns copyright must be used in strict accordance with the rules of ownership set out in the [Monash University \(Vice-Chancellor\) Regulations](#). Such works include course materials and research falling outside the definition of 'scholarly work' in these regulations.
- 2.12 Works in which the University owns copyright must display an appropriate statement of copyright ownership (refer to the [University Copyright Website](#) or seek advice from the [University Copyright Adviser](#)).
- 2.13 Responsibility for granting copyright permission on behalf of the University or authorising a particular use of a University-owned copyright work is set out in the [University delegation of authority for signing agreements](#) in Australia. Responsibility for granting permission in other locations will vary.
- 2.14 Staff and students are responsible for obtaining authorisation where rights in any University-owned copyright work are to be transferred or licensed to any person or entity not affiliated with the University or to the public generally, such as through the application of a [creative commons licence](#).
- 2.15 Where a delegate has authorised a particular use or granted copyright permission for the use of University-owned copyright work, this authorisation must be documented in writing and retained in a way that ensures the University can readily access that documentation for record-keeping purposes and that the University can expeditiously assert its rights or entitlements under the permission agreement.
- 2.16 Staff and students should seek advice from the [University Copyright Adviser](#) prior to sharing or uploading University-owned copyright works on social media platforms, as the terms of these services often include implied licences.

3. Managing copyright infringements

- 3.1 Using copyright works without permission (copyright infringements) may result in legal consequences, including direct requests to remove infringing material, civil and criminal penalties.
- 3.2 Where a staff member or student believes the task they are about to perform will infringe copyright, whether it relates to third-party works or the University's own intellectual property, they must:
- suspend that task;
 - **staff:** seek advice from the [University Copyright Adviser](#), the [Office of the General Counsel](#) or the relevant senior manager (Divisional Director, Dean, Head of Department/School, Centre Director, etc);
 - **students:** seek advice from their supervisor, unit or course coordinator, or the [University Copyright Adviser](#).
- 3.3 Staff who are supervising, instructing or directing other staff or students in a task involving the copying or communication of third-party or University-owned copyright works must ensure those staff and students are aware of copyright compliance requirements in relation to research and learning activities and the rules governing the use of Monash University intellectual property under the [Monash University \(Vice-Chancellor\) Regulations](#), and know where to seek further advice and information.

- 3.4 A staff member who makes reasonable efforts to inform those staff and students about copyright compliance requirements and to have them comply, will not be held responsible for copyright breaches made intentionally or inadvertently by staff and students under their direction.

Copyright infringements in Australia

- 3.5 In Australia, the Copyright Act 1968 (Cth) requires service providers who are transmitting, caching, hosting and linking to third-party copyright material, to act expeditiously to disable or remove access to copyright material that is infringing or that is likely to infringe copyright. The IT Security and Risk Group Manager investigates all copyright infringements in consultation with the Office of the General Counsel and the University Copyright Adviser.
- 3.6 If a copyright infringement notice (known as a 'takedown notice') is received by staff or students, they must forward the notice to copyright_infringements@monash.edu as soon as possible. This email account is provided on the University's website as the contact point for internal and external complaints about copyright infringement.
- 3.7 The University will ensure prompt action and cooperation of staff in response to a takedown notice, including:
- 3.7.1 removing the material while an investigation takes place;
 - 3.7.2 informing faculties, central divisions and Local Copyright Coordinators where a takedown notice has been received;
 - 3.7.3 advising the person who uploaded the material, where identifiable, that the material has been removed and they can within three months, give a counter-notice to the designated representative disputing the claims in the takedown notice; and
 - 3.7.4 keeping records of takedown notices and action taken in response, copies of material taken down and details of staff or students involved, including whether that person is a repeat infringer.
- 3.8 Material will only be restored if:
- 3.8.1 written proof of copyright permission or a relevant licence is provided;
 - 3.8.2 a counter-notice that satisfies the University that the material does not infringe copyright is provided; or
 - 3.8.3 the Office of General Counsel otherwise determines no copyright infringement has taken place.
- 3.9 All staff and students must keep appropriate records of material in relation to which a takedown notice is received and of action taken, including related copyright permissions and licences, in accordance with the University's [Recordkeeping Policy](#) and [Recordkeeping Retention and Disposal of University Records Procedures Australia only](#).

Copyright infringements in other locations

- 3.10 In other jurisdictions where the University has a presence, different procedures for dealing with copyright infringements apply. If staff or students are notified that they have infringed copyright outside Australia, they should immediately seek advice from the [University Copyright Adviser](#) or [Office of the General Counsel](#).

4. Breach

- 4.1 The University treats breaches of procedures seriously and encourages reporting of concerns about non-compliance. Compliance with policies and procedures is generally a requirement under the University's Enterprise Agreement, staff contracts of employment, and agreements made by students during enrolment. A breach of this policy may lead to disciplinary action.
- 4.2 A breach of this procedure which uses the Monash network will be treated as a breach of the [Information Technology Acceptable Use Policy](#) (section 2) and may lead to disciplinary action under that policy. Such action, especially for repeat infringements, may include suspension or termination of Monash network access or accounts.

DEFINITIONS

Other authorised users	<p>Any person who has been authorised by the University to access any Monash IT system or IT facility, including but not limited to:</p> <ul style="list-style-type: none"> • staff of any entity/company in which Monash has an interest; • staff of any entity/company /organisation with which Monash is pursuing a joint venture; • consultants; • visitors; • affiliates or adjunct appointees; • collaborative researchers; and • alumni.
-------------------------------	--

Commercial licence	A written commercial agreement between the University and the copyright owner (e.g. publisher/software company) setting out the terms under which the product/material may be used and the terms of remuneration. Commercial licences usually pertain to multiple items of copyright material that have been packaged together as a commercial product, e.g. online journal databases or software.
Communication	As defined in the Australian Copyright Act 1968 (Cth), is the electronic transmission of copyright material (e.g. by email), or by making the material available online (e.g. on Learning Management Systems, intranets, websites).
Copyright permission/licence	A written authorisation from the copyright owner/s for the use of their material. The use of copyright material under this permission or licence must comply with the terms set out in the permission.
Counter notice	A notice sent by the person who has uploaded material that is the subject of an infringement notice, explaining why the material is not infringing and why it should not be taken down.

GOVERNANCE

Parent policy	Copyright Compliance Policy
Related legislation	Copyright Act 1968 (Cth) Copyright Act 1978 (South Africa) Copyright Act 1987 (Malaysia) Copyright Law of the People's Republic of China 2010 Copyright Act 1957 (India) Law No. 633 of April 22, 1941, for the Protection of Copyright and Neighbouring Rights Italy (amended May 26, 1997) Copyright Regulations 2017 Monash University Statute Monash University (Vice-Chancellor) Regulations Part 7 of the Monash University (Council) Regulations
Category	Academic
Approval	Academic Board 20 November 2019 MEETING NUMBER 8/2019 / AGENDA ITEM 12.1
Endorsement	Learning and Teaching Committee 28 October 2019 MEETING NUMBER 8/2019 / AGENDA ITEM 12.1
Procedure owner	University Copyright Compliance Officer
Date effective	22 November 2019
Review date	22 November 2022
Version	2.0
Content enquiries	university.copyright@monash.edu