



Copyright Notice: digital images, photographs and the internet

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What is a Copyright Notice?

Copyright Notices are published by the Intellectual Property Office to help explain specific areas of copyright in the UK. This notice is aimed at small businesses and individuals who may wish to use digital or photographic images on the web. It also provides advice for people who may find their own images being used online.

This notice is not meant as a substitute for legal advice on particular cases, but it can help readers gauge the possible consequences of a particular course of action. It is not a conclusive view of the law – only a decision of the court can deal with that.

Copyright in images and photographs

The basics

In short, most images and photos are likely to be protected by copyright. This means that a user will usually need the permission of the copyright owner(s) if they want to copy the image or share it on the internet.

References to “images” in this Copyright Notice include:

- digital photos taken on mobile phones and digital cameras;
- images that were first generated on photographic film and any digital images created from them; and
- images such as diagrams and illustrations.

Please note that some of the issues raised in this Copyright Notice will only apply to photos.

Who owns copyright in an image?

The person who creates an image (“the creator”), such as somebody who takes a photo, will generally be the owner of the original copyright. However, if it was created as part of the creator’s job, the employer will generally own the copyright.

A creator can license the work directly themselves. They can also “assign” (transfer) the copyright to another person or allow that other person to license the work on their behalf. Licensing is giving another person or organisation permission to use a work such as an image, often in return for payment and/or on certain conditions.

What if there is more than one copyright owner?

An image might have multiple copyright owners if there was more than one creator. An example might be a cartoon created by a number of artists and illustrators, who then license use to a website owner. Images on the web may also be in a “chain”. For example, if you wanted to use image ‘A’ which also contains image ‘B’, then you would need permission from both owners of image ‘A’ and ‘B’.

Simply creating copies of an image won’t create a new copyright in the new item, but when an analogue image is digitised lawfully (that is, with permission from the copyright owner), then in principle a new copyright could be created if there was sufficient skill and creativity to alter the analogue image enough for it to be a new and original work. Opinions differ on how much of a change would be needed. Generally speaking, if you are just making minor changes, then the only copyright would still be that which belongs to the person who created the original image.

Some images which appear on the internet are controlled by picture libraries which either own the copyright in the images or have the copyright owners’ permission to sell rights to use the images. The picture libraries sometimes restrict how the copies of the photos are used as part of their contract terms when they allow people to use the images. The restrictions may not arise out of copyright law: an image library can set terms and conditions of use in respect of images it supplies, including ones which are out of copyright, through a contract.

How long does copyright in images or photos last?

The length of the copyright period will depend on when the image was created. Generally speaking, copyright in images lasts for the life of the creator plus 70 years from the end of the calendar year of their death. That means that images less than 70 years old are still in copyright, and older ones may well be, depending on when the creator died.

For old images or photos, you may never be entirely sure if something is in copyright, but knowing the age of the photo will be a good guide to make an educated guess whether the photo is likely to be protected by copyright. There may be material in the image which helps to date it. For instance, a photo of a particular brand of motorcar may be evidence that the photograph could have been taken after the first year of manufacture.

Also, in the case of an old image where copyright appears to have expired in the UK, you will need to find out whether the image was in copyright elsewhere in the EU on 1 July 1995. If it was, the standard copyright period is the life of the creator plus 70 years from the end of the calendar year of their death (regardless of whether it was protected under historic UK copyright law).

Is permission always required to copy or use an image?

Sometimes permission is not required to copy the image. For example, if:

- the user of the image also created it and owns the copyright in the image;
- the image is used for specific acts permitted by law (“permitted acts”) in respect of which people can use copyright works without permission from the copyright owner, such as for private study or non-commercial research; or
- the image is no longer in copyright.

If permission is required to use an image, permission will need to be obtained from all the copyright owners, whether it is a single image with numerous creators, a licensed image, or an image of other copyright works, for example. The key point is that using an image requires obtaining permission from the owners of **all** the rights in that image. Sometimes there will be one person or organisation that can authorise permission for all the rights in that image; in other cases separate permission may be needed from several individual rights owners.

What if I do not know who the copyright owner is?

Copyright does not disappear simply because the owner cannot be found. In a work where the copyright owner is not known or cannot be located, permission to use the work cannot be obtained. These are known as orphan works, and under the current law these cannot be copied. A forthcoming change in the law will allow people to buy licences to use these works in some circumstances.

Even if there is no evidence of an owner, any unauthorised use of the photo without permission would be an infringement of copyright.

What if there is no © (copyright) symbol, year or name with the image?

The copyright symbol does not have to be present for copyright to exist, so just because there is no name or copyright symbol associated with a photo or image does not mean the copyright has expired.

Sometimes uploading and downloading of digital images causes the associated metadata (which can give details of the copyright owner) to be removed accidentally. Deliberate removal of metadata that identifies the copyright owner may be unlawful.

Is there any way I can be completely safe when I use an image from the internet?

Almost any image on the internet is likely to be protected by copyright, so it is only safe to use it if there is specific permission to do so through a licence or in the terms and conditions of the website supplying the image (assuming it is the copyright owner's website or another website which has the copyright owner's permission to allow other people to use an image). The use of licensed images ought to be much safer than using unlicensed images.

What are the consequences of copyright infringement?

When someone infringes copyright, there are various courses of action which could be taken by the individual or organisation which owns the copyright. The user of the image may be asked to purchase a licence, and a commercial arrangement might be reached after which no further action is taken. However, legal action might be taken by bringing a claim in court which could result in having to go to court for a hearing.

Court cases can be expensive, as they may result in the user of the image paying the cost to use the photo, legal costs of themselves and the copyright owner and possibly other financial compensation for copyright infringement. This could amount to more than the cost of a licence to use the image. Further, the user of the infringing copy could also be asked to take down the image from websites as well, for example.

Deliberate infringement of copyright on a commercial scale may also lead to a criminal prosecution.

Even in situations where people may think their copyright infringement will not be detected, they run the risk of being discovered and consequently being pursued through the courts.

Examples

I want to use my own images on the internet

If you have created the images yourself, you are generally free to use them as you wish.

However, there are some instances where you may not do what you like which include situations where:

- you are working for a business or individual, and create images during the course of your employment;
- you take a photo that has as its main subject a work that is protected by copyright (for example, taking a photo of a painting at a modern art gallery) – this would result in your photo itself being an infringement of copyright; or
- you have agreed in writing that the copyright in images you have created will belong to someone else.

I want to take photos on my smartphone and upload them to the web

If someone takes a photo, copyright can exist in that photo. However, people taking photos on their smartphone and uploading them to the internet on social media sites should be careful when they take photos of copyright works (such as paintings) when they are the main subject of the photo.

If someone takes a photo of a work in copyright (such as a painting by an artist that is still alive), and it is the main focus of the image, using that photo on the web would be an infringement of copyright. In other words, people are allowed to take a photo of a room of paintings, but would need to be careful about copyright infringement if taking photos of specific paintings.

Taking a photo of something that is not covered by copyright is not an infringement of copyright – for example, taking photos of animals, people or landscapes.

I want to use images sent to me by a friend or family member

You need to treat these images as you would any other images where you know the copyright owner and would need to ask for permission, unless the copyright has expired in all aspects of the image.

For example, photographs taken by a relative from a recent family event would need permission from the creator to use online.

I want to use images I found on the web

Images that have been found on the web may be used in the following situations:

- you know the copyright term has expired in all aspects of the image;
- you have permission from the copyright owner for exactly what you want to do with it (for example, distribute to others) – this may be in the form of something like a Creative Commons licence or a licence you purchase from a picture library; or
- you use the images for specific [permitted acts](#).

I want to use images on my own personal website or for an online school project

Permission is required because you are displaying the photos in public – but there may be more photos available for you to use without payment. The permission may have been pre-arranged for some images by a picture library clearing them with the rights holder as a licence to you.

I want to use images I found on the web on a commercial website

If you are using an image commercially, you will need to seek permission before you do so. There are licences which you can obtain to use images for commercial purposes, such as advertising your business on a website, and usually you will have to pay a higher fee than for non-commercial use. Be aware that some Creative Commons licences are for non-commercial use only, so it is important to check the licence terms if using Creative Commons-licensed material.

I want to link to images I found online

Sharing or posting a simple web link to images posted publicly online by the copyright owner is usually not restricted by copyright.

The Court of Justice of the European Union has ruled that internet users should be free to share links to material, for example photos or videos, providing the material itself has been published freely online with the permission of the rights holder. The right to share links however doesn't go as far as allowing users to share links that are designed to circumvent paywalls or other subscription only services.

Copying images and then hosting them on another website however will usually amount to copyright infringement. You should ask permission from the copyright owner before using images in this way.

You may also infringe copyright if you use image tags to insert images hosted elsewhere into your webpage (even without copying and hosting the images yourself). This is more likely if the original images are posted behind a pay wall or in some other restricted access environment such as a private forum. Examples of activities in this vein that may require permission include blogging other people's images or using aggregator services which embed images into new web pages.

I want to use photos taken for me by a professional photographer

Where you commission a professional to take photographs on your behalf, for example wedding photographs, the copyright will usually remain with the photographer. This means that you need to get the photographer's permission before printing further copies of the images, sharing them with your friends or family, or undertaking other acts restricted by copyright such as posting the images to social media sites.

Most photographers will include licence terms setting out exactly what use you may make of images in their contract with you. If you have specific uses in mind, you should ensure these are discussed before contracts are settled. You could also agree with the photographer that the copyright will be assigned to you – this would be done by having a written and signed contract with the photographer saying you had bought the copyright from them.

Where a photograph is commissioned for private and domestic purposes, the commissioner does have a right that the photographs will not be issued to the public without their permission. This means that, although a wedding photographer may own the copyright in images of your wedding, they should not post them on their own website for advertising purposes without your permission.

I want to stop other people using photos that I uploaded on a social media website

When you join a social media website you should check that website's terms and conditions to ensure that they are not allowing the website operator to do something with your photographs that you do not want. Their terms and conditions may allow them to make your images available for others to use, without your prior permission or notice.

If people are already using your photos and you agreed to a condition that waived or re-assigned your copyright you can ask the website operator to take the photographs off the site but they may not agree to do so. In this case, this would not stop people who are already using your images from continuing to use them. If this were to happen to you, you may also want to consider what rights you may have under other areas of law (for example, privacy or defamation).

I want to stop someone using the image I created in a way I do not approve of or have not approved

When people use your images with your permission, they should use them respectfully. If you have 'asserted' your 'moral right' to be credited for creating the photo, then that user should acknowledge you as the creator.

"Moral rights" are known in law as a right which gives you the right to be identified as the creator of the work. It also gives you the right to object if people use your work and change it in a way that you consider negative to your reputation (known as "derogatory treatment"). For example, you could object if you have taken a high quality photo and it was modified in such a way which led people to believe that you couldn't take good quality photos.

In the UK, it is necessary for you to tell people who reproduce your work that you wish to be credited for your work (known as "assertion"). This is often done by written contract. You can also waive your moral rights which means you won't be able to take legal action to object to the derogatory treatment of your work.

For further information about Copyright Notices, email copyrightnotices@ipo.gov.uk.

To ask for a Copyright Notice on another topic please complete the [online form](#).