

Copyright Policy

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CONSULTATION AND DISTRIBUTION RECORD	
Contributing Author / Authors	<ul style="list-style-type: none"> A. Minns, Head of Evidence
Consultation Process / Stakeholders:	<ul style="list-style-type: none"> HR Forum Information Governance Committee
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CHANGE RECORD			
Date	Author	Change	Version No.
Sept 2016	A Minns	Updated who can copy under new licence	1.2
Sept 2016	A Minns	Updated hyperlinks	1.2
Sept 2016	A Minns	Added definitions section	1.2
Sept 2016	A Minns	New section on partners	1.2
Oct 2017	A Minns	Director updated	1.3
Oct 2017	A Minns	Dates of licence 2017-18	1.3
Oct 2017	A Minns	Update to financial implications : Copyright Clearance Centre	1.3
Oct 2017	A Minns	Electronic use – updated	1.3
Oct 2017	A Minns	Update to FAQs to include app use/development	1.3
May 2018	A Minns	Policy has been reviewed against the GDPR. Change to page 10. External form that collect name & contact details in line with GDPR requirements.	1.0
Oct 2018	A Minns	Removal of internal hyperlinks to comply with move to public website	1.0
Oct 2018	A Minns	Dates of licence 2018-19 and authorised persons list updated. References Added.	1.4
Oct 2019	A Minns	Dates of licence updated, 2019-22	1.5
Dec 2019	A Minns	New section: Take Down Notice	1.0
Dec 2019	A Minns	Updated Section – Infringement	1.1
Dec 2019	A Minns	Roles and responsibilities – added Director of Communications role	1.0
December 2022	A Minns	Admin updates including App Governance group	6.0
December 2022	A Minns	Update to licence details	

1. **INTRODUCTION**

This policy sets out how NHS Lanarkshire manages copyright compliance across the board, implications for practice, guides for staff and procedures for dealing with infringements.

2. **AIM, PURPOSE AND OUTCOMES**

The purpose of this policy is to provide a guide to the copyright position of NHS Scotland and how that will be applied within NHS Lanarkshire. It will also outline the responsibilities of managers, team leaders and employees within copyright.

This policy will discuss how copyright relates to NHS staff, users, patients and third parties working and using the services of NHS Lanarkshire. It will outline where information can be found for what is and isn't allowed. ALL guides/forms/copy of the licence for copyright are available on the **copyright page on the internal NHS Lanarkshire website, FirstPort.**

This policy will outline:-

- National copyright position
- NHS Lanarkshire position
- Guidance on: -
 - Print resources
 - Electronic resources
 - Clinical tools and measurements
 - Online resources
 - Exceptions
 - Infringement
 - Sharing NHS Lanarkshire copyrighted material with third parties
 - Further Information

Copyright is a legal term that ensures the work of all parties are protected when re-used. NHS Lanarkshire takes seriously the enforcement of copyright to ensure our own and 3rd party rights are not infringed. All users of this policy should note that the existence of the NHS/CLA licence and the existence of any additional electronic/paper licences does not give freedom to copy and use all copyrighted material without the need for additional permission. The licence gives permission to copy all materials that are **owned by NHS Scotland** and covered by the licence. This could be print documents, video, audio or other digital material. There are however exclusions. You can use the CLA online tool to search for excluded works [here](#) as well as find further information on the **NHS Licence**.

All other materials such as You Tube videos, Google images, much of the material on the internet, clinical guidelines and protocols, patient information leaflets, magazines/papers

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and other materials outside the NHS may be covered by copyright and you must seek 3rd party permission as required.

3. **SCOPE**

3.1 **Who is the Policy intended to Benefit or Affect?**

This policy is intended for all staff, partner agencies, members of the public, students and any others that use NHS Lanarkshire libraries and/or resources that are copyrighted throughout the board. It should also be used by staff seeking permission from external copyright holders.

- **Definitions**

‘Licensee’ - the Licensee for the purposes of this document means NHS Lanarkshire.
‘Third parties’ – any group/organisation/individual not working in NHS Lanarkshire with which we seek permission to use copyrighted material e.g. local authorities/ private organisations, charity groups.

3.2 **Who are the Stakeholders?**

All Staff
Students
Partner agencies i.e. North and South Lanarkshire Council, UWS, Universities etc.
Anyone living or working in Lanarkshire using NHS Knowledge Services
Other NHS Boards

NHS Lanarkshire takes care to ensure your personal information is only accessible to authorised people. Our staff have a legal and contractual duty to keep personal health information secure, and confidential. In order to find out more about current data protection legislation and how we process your information, please visit the Data Protection Notice on our website at www.nhs.uk or ask a member of staff for a copy of our Data Protection Notice.

4. **PRINCIPAL CONTENT**

- **National Position**

A new licence was negotiated with the CLA and came into force from March 2022. This licence outlines the set of rules governing the application of copyright within the NHS, hereto referred as the NHS/CLA copyright licence. The licence runs from 2022-2027.

- **What is covered by Copyright?**

Copyright protects all literary (printed material), dramatic, musical and artistic works such as films, sound recordings, book layouts, and broadcasts. Copyright is automatic, you may see a © symbol but this doesn't need to be present on the documentation or

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electronic resource for copyright to apply. Copyright applies whether the material is in printed form or electronic. Specific guidance on:-

- print documents and making copies
- guidance on using electronic material and making copies of electronic information particularly from the internet
- CLA/NHS Copyright Licence

can be found on Firstport within the Evidence ; Knowledge Services page.

The licence for NHS Lanarkshire runs from April 2022-March 2027. A short summary of the main points is given here. This is not exhaustive and further clarification should be sought from the [copyright champion](#) within the board and also from the supporting documents.

- NHS Staff should first try to obtain a copy of any article or online resource, please check the [Knowledge Network](#)
- Items not available online can be ordered through [Knowledge Services](#)
- For items covered by the licence, you may request or copy up to a single chapter of a book, or up to two articles from a periodical, or up to 5% of the publication, whichever is the greater. You can copy multiple articles from a themed journal issue and use items for journal clubs.
- If the NHS Scotland owns a print version of an item, you may obtain a photocopy or scanned copy for personal use within the limits above even if not covered by the licence.
- Who is entitled to make copies? Taken from the licence:-

‘Authorised Persons:

for Paper Copies:

- (a) employees of the Licensee, workers consultants and contractors engaged by the Licensee;
- (b) members of the public known as “non-executive members” who sit on a Designated Committee of an NHS organisation when acting in connection with the activities of the Designated Committee;
- (c) employees and workers of any HEI or FEI who are on temporary or permanent placement with the Licensee but only whilst, and to the extent, that they are engaged in the business of the Licensee or in providing such consultancy services to it;
- (d) employees and workers of any Library Service Provider while providing library services to the Licensee;
- (e) workers employed by local authorities or Integration Joint Boards who are

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engaged performing NHSS activities but only whilst, and to the extent that, they are engaged on such activities; and
(f)) students of any HEI or FEI who are on temporary or permanent placement with the Licensee for training and/or receiving instruction as part of their course of study at their Further or Higher Education Institution, but only whilst, and to the extent that, they are engaged in such training and/or receiving such instruction; and

for Digital Copies:

(g) those individuals in (i) above who are permitted by the Licensee to have access to the Licensee's Secure Network whose identity is authenticated at the time of login and periodically thereafter consistent with current best practice and whose conduct is subject to regulation by the Licensee; where 'workers' has the meaning given to it by the Employment Rights Act 1996 and 'consultants' means individuals providing consultancy services to the Licensee. The term 'consultants' shall also include those members of a Designated Committee (not otherwise being an Authorised Person) when acting in connection with the activities of the Designated Committee;

- Infringement

NHS Lanarkshire is committed to ensuring that it uses all material within the law. We will ensure that, where possible, appropriate permission is sought and rights owners are properly acknowledged. It is the responsibility of the department using the copyrighted material to ensure they have the appropriate permission in place before use. Permissions gained should be recorded by local teams/departments and kept for the duration of the licence period. Dept. heads must ensure they re-apply for the licence once the agreed licence period is up.

In general terms, an infringement of copyright means that the rights of the copyright owner have been assumed without their knowledge and / or permission thereby infringing their rights. A permitted act is a legal way of working with copyright material without the need for further permission, license or infringing a work. Permitted acts include Fair Dealing this is described as:-

Making a copy of an insubstantial amount for the purpose of:

- Non-commercial research or private study, including text and data analysis for non-commercial research purposes
- Review – this allows for quotation of a work in order to review it, the amount in the quote should only be the least amount needed for the purpose of the quote, and should be fully attributed to the author(s) of the work. Note the work quoted need not be the work under review.
- News – the reporting of not the copying of
- Caricature, parody or pastiche

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- Access (for those with any kind of disability which makes it hard for them to access the work, previously this applied to only literary works, but can now be applied to any)
- Library privilege, which (amongst other things) allows for a certain amount of copying to be made on behalf of patrons. Your local librarian will be able to help you with this exception if required.

Within Copyright legislation there are 2 types of infringement:

PRIMARY INFRINGEMENT: the direct act of infringing copyright which includes:

- Duplication of the work
- Issuing duplicates of the work
- Renting or loaning the work to the public
- Communicating the work to the public

SECONDARY INFRINGEMENT:

- Providing the means to make infringing copies,
- Importing infringing copies (from other jurisdictions)
- Possession of or dealings with infringing copies.

While rare, either type of infringement could result in criminal and or civil proceedings against the individual and/or the organisation. Any employee breaching copyright may also be subject to procedures as set out in '[Effective management of employee conduct policy](#)'. Staff are expected to ensure that the material they use is used in line with the law on copyright and the procedures set out in this policy.

Take-Down Notice

If a Copyright owner thinks that their work has been infringed, the first step will be to issue a take-down notice. The take-down notice can apply to either online or offline (print) works. The following procedures are split as follows:

1. The first is the process to follow if an individual within a board wants to issue a takedown notice to an individual external to the board they are in/external 3rd party.
2. The second is the procedure to follow should a takedown notice be received in NHS Lanarkshire from an individual or organisation/3rd party external to the board.

If there are cases where a potential infringement has been identified within the board, this should be dealt with through internal processes, though note, the Copyright Champion or enquiry service can be contacted for support, it should be noted that this does not constitute legal advice.

A take-down notice should be treated as a complaint, and the material should, as much as possible be withdrawn, or removed until the complaint is upheld or otherwise. For online

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material this is in accordance with the Electronic Commerce (EC Directive) Regulations 2002, Clauses 17-19.

The board will ensure that:-

- The notice and takedown protocol, and further instructions are published prominently on the NHS Board website.
- Instructions will also be available internally for NHS staff outlining appropriate action required along with the templates required.

The NHS Copyright Champion has the authority to remove content in response to an infringement query.

Investigating breaches

Breaches will be investigated by the local teams and departments where the breach has occurred with support and advice from the [Copyright Champion](#) if required. Copyright breaches will be formally recorded on Datix. Those completing the investigations should ensure:

- That any possible infringements are acknowledged and formally investigated;
- Material will, as far as possible, be removed from public display (websites if electronic) until the investigation is completed;
- That rights holders are kept informed about the progress of any internal investigation and that they receive a prompt response in writing. See below for further guidance
- The result of any investigation will be recorded on Datix and reported via the Information Governance Committee.
- NHS Lanarkshire will pursue any infringements of its own Intellectual Property Rights, where appropriate. All copyright breaches of unauthorised use of NHS Lanarkshire material will be recorded on Datix as will the resulting investigation of the breaching party.

Process 1:- NHS Lanarkshire material breached by 3rd party

If you believe that NHS Lanarkshire's copyright/intellectual property has been infringed, follow the procedure below:

1. Does the work in question belong to your board? Note, although you or others may be the authors, the copyright owner of your work product is your employer, and this policy and process applies in this situation. If you own the copyright independently of NHS Lanarkshire, this policy and actions within may not be relevant. Make sure that you have relevant supporting evidence.

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2. Is your work covered by copyright? Although copyright is applied at the moment of creation, not every work meets the requirements to be covered by copyright. It must be:- original, fixed, a literary, dramatic, musical or artistic work, and created and/or published in the UK.
3. Specify why you believe that an infringement has occurred, and that fair dealing does not apply (see above). Also, determine if permission would have been granted if requested, and what if any parameters you would have applied to that permission, e.g. they can continue to use but must assert that NHS Lanarkshire is the owner, and you are the author.
4. Identify who the take-down notice needs to be sent to.
5. Do you need to add any more information on the action they, or you, can take in order to be to ensure compliance with legislation?

Please consult your Copyright Champion for further advice and guidance on the next steps detailed below:-

6. A standard letter (detailed below) will be sent, preferably as an attachment by email, setting a clear (realistic) date by which you expect to receive a response.
7. The letter will be sent in your name and you will be copied into the letter and email sent.
8. Should that date in the letter be eclipsed, the Copyright Champion will contact you to discuss escalation.
9. Should your take down notice be upheld, keep a note of this outcome.

Template 1: Take Down Notice

Dear

I am writing to make you aware that the following work belonging to NHS Lanarkshire has been foundstate details.

We have no record of any written permission or license granted to allow for your use of this material in this way.

*Please can you take down or remove this work from **organisation and location e.g. website** unless you have any evidence to the contrary.*

Please can you acknowledge your receipt of this Take Down notice and confirm that you have taken the action requested.

*If you wish to apply for permission or license to use this work then please **contact.....***

Regards

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Process 2: Possible breach of another parties' copyright by NHS Lanarkshire

The board has a clearly identified contact for the receipt of complaints of this nature. On receipt of a complaint of this nature the Board will:

1. Acknowledge receipt of the complaint by email (see template 2 below)

Template Letter 2: Acknowledgement

Dear X,

I am writing to acknowledge receipt of your complaint regarding XXX. As far as possible, we have removed the relevant material pending an investigation and verification of the complaint. In the event that the complaint is upheld, NHS Lanarkshire will comply fully with your request and the content will be permanently removed

2. Engage at the earliest stage with both the Head of Communications and the Copyright Champion.
3. Seek to verify the identity and authority of the complainant
4. As far as possible, remove/limit access to the item that is subject to complaint
5. Record complaint in Datix - local department where breach occurs is required to do this
6. When the authenticity of the complaint and complainant has been verified then the board will:
 - a. Identify the depositor of the alleged infringing material and advise them of the nature of the complaint;
 - b. Provide notification of complaint to depositor using Template Letter 3.

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Template Letter 3: Notification

To:....

From: **Copyright Champion**

Reference: *(Item details)*

*I am writing to advise you that we (the board) have received a complaint regarding content that you deposited in The nature of the complaint is detailed below. **On receipt of this complaint, we have suspended access to the material until an investigation has been complete.** Please respond regarding this complaint within 30 days of the date of this communication either accepting or refuting the complaint. If you are refuting the complaint, please provide evidence that the alleged infringing material is legitimate /has existing permission. If you fail to respond to this communication within 30 days, I will assume that you accept the actions we have taken to address the complaint.*

....THE NATURE OF THE COMPLAINT.....

*(Information that identified the alleged infringing content, the nature of the complaint, **and the applicable law**).*

7. If a depositor fails to refute the complaint within 30 days of notification, the complaint will be as upheld.

Use of NHS material outside NHS Lanarkshire

Departments and creators of material should ensure that the appropriate **copyright statement** is included on all material created in NHS Lanarkshire, particularly when sharing with others. There are three statements to choose from depending on the scope of sharing and the limits authors may want to attach to material. Local authors are responsible for ensuring they consider and add the appropriate permission to any material they create. The statements approved for use can be found **on the copyright page FirstPort**. Advice on use of these statements can be sought from the communications department and/or the copyright champion.

Giving permission to use NHS Lanarkshire copyrighted material to 3rd parties.

Any material/website designed to be used with patients outside NHS Lanarkshire must also have the following legal disclaimer attached to it before it can be used by 3rd parties with permission:-

'NHS Lanarkshire makes no warranty or representation that any part of the above stated material is accurate, complete, current or useable for any clinical or other purpose, and shall have no liability in respect of its use. Should you require permission for the use of this material for a different purpose, a new request must be made to the owner.' Local authors should then add in their own contact details.

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This statement was supplied to GG&C Health Board from the Central Legal Office and adapted with permission.

Partners

NHS Lanarkshire can give a copy of the material it owns to third parties involved in NHS work. However, the receiving group and/or organisation must hold their own licence to receive this privilege. For example, if you work with a local authority on a joint NHS project, the local authority must hold its own licence to receive copies of copyrighted NHS material. If the local authority doesn't hold its own licence, this person would not be entitled to receive copies from the NHS.

Exceptions

There are exceptions under the law which allows individual users the right to make limited copies of work the NHS does not own the copyright, for a limited number of reasons. Details of exceptions can be found at [this link](#).

Access [this site](#) for all updated guides to the copyright law from the Intellectual Property Office

Help and Support

The copyright champion for NHS Lanarkshire can be contacted at:-

libraries@lanarkshire.scot.nhs.uk - state copyright within subject of message

A copy of the NHS Lanarkshire publication scheme can be requested by contacting the communications department.

A standard form (found on copyright page of Firstport) should be sent to anyone outside NHS Lanarkshire, seeking to use our material and send to the local author/department for authorisation with a final copy also being sent to the copyright champion. Requestors have the right to withdraw their request and have personal data removed. All requests for this should go through the [copyright champion](#). NHS Lanarkshire take care to ensure your personal information is only accessible to authorised people. Our staff have a legal and contractual duty to keep personal health information secure, and confidential. In order to find out more about current data protection legislation and how we process your information, please visit the Data Protection Notice on our website at www.nhslanarkshire.scot or ask a member of staff for a copy of our Data Protection Notice.

An internal copyright permission request form should be completed by staff when seeking permission to use non-NHS Lanarkshire material

There is a separate policy for Intellectual property which can be found on the public website.

5. ROLES AND RESPONSIBILITIES

Information Governance Committee – all copyright breaches that have been recorded on Datix will be reported via the Information Governance Committee. This is to provide assurance to NHS Lanarkshire that appropriate control measures and remedial actions have been taken to prevent re-occurrence. Approval of copyright policy.

Copyright Champion – to offer advice and support to staff, departments and board on copyright matters. To report copyright related Datix breaches to the Information Governance Committee where appropriate. To help departments seek permission to use 3rd party materials.

Department Managers/Teams – to initiate and complete investigation of local copyright breaches and ensure any remedial actions are taken to prevent re-occurrence. To ensure that all 3rd party materials are used correctly, the correct licence has been applied for and if required, paid in full.

Senior Knowledge Services Staff – to contribute to the content of policy and to advise staff of copyright policy.

Knowledge Services Staff – to answer all queries sent into the copyright permission service.

Head of Evidence – to liaise with national groups on changes to copyright law as they affect NHS Lanarkshire staff. Advise NHS Lanarkshire of any changes within copyright. Manage database of copyright requests received from NHS Lanarkshire staff.

Director of Communications – Advice/acknowledgement of investigations of possible breaches with copyright champion

NHS Lanarkshire staff – to observe copyright law, using this policy and supporting documents and seeking clarification where needed. To report any copyright breaches as required on Datix.

6. RESOURCE IMPLICATIONS

Education/training

Staff will require to be updated on any changes to copyright as it affects their daily work

Development of further policies and/or procedures outlining actions and limitations, particularly with material not covered by the licence will need to be developed and approved by the board.

All information and supporting documents relating to copyright will be uploaded to the copyright page of FirstPort.

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Staff time

Knowledge staff will be required to maintain copyright permission service which will impact on daily work - this is demand driven and will vary throughout the year. A report once a year on the activity within this area will be given Information Governance committee as required.

Recording of copyright breaches on Datix – All staff

Copyright Champion - Representation on Information Governance Committee, supporting/ advising on potential investigations.

Copyright enquiries and permissions to use NHS Lanarkshire copyrighted material from 3rd parties will be directed via communications department, local copyright holders and copyright champion.

Local departments/teams –keeping accurate records of permissions given and acting within limits of licences. Seeking advice from copyright champion as and when required.

Head of Evidence will be required to keep up-to-date with changes in law, complete relevant courses, sit on national groups and advise NHS Lanarkshire of any changes and how they may affect present working practices.

Financial

Charges to British Library and/or other parties for copyright cleared articles. These are met by NES with a limit of 2,000 articles for all of NHS Scotland.

Providing copies of NHS copyrighted material to other NHS Scotland boards

Individual organisations may charge for use of their copyrighted material – this will be passed back to the requesting department.

Costs linked to Copyright Clearance Centre through which many publishers manage their copyright permissions.

Posters updating copyright law are required to be displayed above all photocopiers/fax/scanners – as and when changes occur.

7. COMMUNICATION PLAN

The policy will be available on FirstPort and written copies of the policy will be available at the issue desk of all the libraries.

The Information Governance Committee will be made aware of this as the reporting group for copyright.

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This policy should also be listed in other appropriate policies as and when they are updated to ensure staff are referred back to additional policies that may be of use to them i.e. :-

- Management and exploitation of intellectual property and inventions
- Photography and Video Recordings of Patients for Clinical and Service Use
- Information Security Policy Internet Usage Policy
- Written Information Leaflets Policy
- Knowledge Services Borrowing Policy
- Home Working Policy
- NMAHP Clinical Documentation

The quality directorate, of which Knowledge Services is part, will also be made aware of the policy and its' implications for staff, dates for review and any issue that occur.

Communications dept will be employed to help with raising awareness of policy to staff and members of the public and any partner agencies

Copies of policy will be given to partner agencies such as University West of Scotland, NHS Education for Scotland (NES), Universities, North and South Lanarkshire Council as and when required.

Highlight copyright course on NES Knowledge Network to NHSL Staff

Highlighted within the PULSE

8. QUALITY IMPROVEMENT – Monitoring and Review

The policy will be reviewed every 3 years with the Information Governance Committee or when there are substantial; changes to the copyright law.

Feedback from stakeholders will be sought.

Copyright requests through the permission service will be monitored

9. EQUALITY AND DIVERSITY IMPACT ASSESSMENT

This policy meets NHS Lanarkshire's EQIA

(tick box)



10. Summary or Frequently Asked Questions (FAQs)

1. Does copyright apply to clipart?

Yes and No. Clipart can have different types of copyright. If you use to use Clipart online, you must ensure you have permission to use the image.

2. I see that the resource I want to use is free for educational/non-profit use – surely the NHS falls into this category and I can use without further permission?

No. The NHS is not deemed non-profit or educational within the law. We are treated the same as any commercial organisation and are held by the same laws and regulations.

3. I have found an image that is copyright free but it is asking for payment is this correct? Do I have to pay to use images?

Yes, in many cases you will have to pay, especially if this is a specialist image. Royalty free does not mean payment free. Many images online are purchased from specialist suppliers. Knowledge Services can help you find free images, but these are limited and in many cases, a small payment can get you high quality images you can use over and over again.

4. I am the author of an article in a journal, does that mean I don't need to seek permission to use it in a conference or a journal club.

Not necessarily. Some journals require you to waive your rights to copyright and you cannot use the article again without further permissions. Check with Knowledge Services for further help.

5. I want to develop an app and use a clinical tool within the software. Can I do this?

The Apps Governance Group is responsible for the governance of all Apps in Lanarkshire. Part of the approval process involves ensuring copyright in apps has been checked and signed off. In some cases this will involve payments to the publisher. This should be planned into project costs.

11. REFERENCES

- Copyright Licence 2022-27. NES Knowledge Services
- Copyright Licencing Agency, NHS Guide Scotland
- Naomi Korn, Guide to developing a copyright policy, online course
- Copyright Guide, Intellectual Property Office
- Investigating Copyright Breaches and Take-down Notice Procedure, NHS Copyright Champions

Uncontrolled when printed