

Design Right and Copyright of Teaching & Learning Materials: Policy on ownership and use

This Policy statement was approved by Senate at its meeting on the 9th July 2002

Context

1. The University is facing an increasingly competitive and global market place for new courses and students. New modes of teaching are introducing electronic and web based course materials and there is a growing trend towards team-based design, development and delivery of new courses. A growing number of courses are being designed to meet the needs of specific sectors, and trends towards distance learning are bringing new opportunities for partnership with publishing companies and other third parties. These trends have meant that the University needs to have in place a clear policy statement on copyright of teaching and learning materials to be able to respond to opportunities where these arise, to protect its own interests, as well as the interests of its staff. Where opportunities for commercial investment provide revenue, the University would wish this to be used both to reward staff, and to invest in the University to support new developments in teaching and learning.

2. This document sets out the University's policy in relation to the ownership of copyright and design rights of teaching and learning materials and training materials. It is an addition to, and therefore does not replace the University's current policy on Intellectual Property dated 1994 which is available on

Policy

3. The primary aim of this policy is to enable the University to protect its own, and its staff's interests for example in

- the design and development of team-based, mixed mode courses
- courses where there is potential for securing third party sponsorship/investment
- full-cost income generating Continuing Professional Development (CPD) courses

For the purposes of this policy, however, these examples are to be regarded as illustrative so as to enable the University to take advantage of future opportunities that may arise.

4. It is not the intention of this policy to restrict or in anyway inhibit the ability of staff to engage in normal scholarly publication, nor to lay claim to any personal revenue a member of staff may accrue from such activity, providing this does not compromise the University's own position or conflict with this, or any other policy that the University may have in force.

5. The policy will apply to new courses and new course developments and will not be applied retrospectively without agreement of all parties concerned.

6. In this document 'Staff ' means all persons employed by the University on both academic and non academic grades including former members of staff. In the case of teaching staff who are on contingent

contracts, the University will specifically address the ownership of copyright and clarify the respective rights of the University and the teacher for future use of the teaching material, within the contract.

7. Teaching Materials are defined as any materials, whether in written, recorded or other electronic form including web-based material, computer programs, computer based learning material and databases, produced by one or more members of staff in the course of their duties for use in or connection with a degree programme module or other course offered by the University. Textbooks, or other materials produced for publication that are not related to a particular course offered at Newcastle University, are excluded from the definition of Teaching Materials except where a member of staff has been specifically asked to write the material for a specific course. Personal lecture notes and other materials that are not routinely made available to students are also excluded from the definition of Teaching Materials.

8. The Copyright, Designs and Patent Act 1988 states that ownership of copyright and design rights vest in the employing organisation when a 'work' [ie anything that is the subject of copyright protection, including computer software] is made by an employee in the course of his or her employment subject to any agreement to the contrary. Therefore subject only to any existing third party copyright, in material incorporated into Teaching Materials, the copyright and design rights in all Teaching Materials belongs to the University. The University respects the moral rights of its employees including the right to be identified as author of the Teaching Materials, and will ensure that the author's contribution to the work is credited where appropriate,

9. The University recommends that, as a matter of good practice, all Teaching Materials should carry a standard copyright and authorship statement as follows © *University of Newcastle upon Tyne 2001, J A Smith, Author*

10. The University reserves the right to enter into commercial agreements with external third parties, to publish Teaching Materials either in paper, electronic or via other means. This will be in consultation with the members of staff responsible for their preparation and appropriate senior staff in the Faculty.

11. The sale or distribution of these Teaching Materials by the University, to people other than students or staff registered on University courses, or their presentation in a form substantially different from that originally produced, may only take place after reasonable consultation with the member or members of staff responsible for their preparation, where such members of staff can be identified. If a member of staff cannot be identified then the University shall consult the appropriate senior staff in the Faculty.

12. In the event of any commercial agreement members of staff will, when requested by the University, do whatever is reasonable to enable the University to exercise its legal rights over such Teaching Materials.

13. The University will grant a personal licence to staff to use teaching material for which he/she is the sole author for the purposes of teaching outside the university or in future employment, providing that such material does not form part of any team-based course material, or material in which the University has a reasonable commercial interest. This licence is deemed to have been granted unless the University has indicated otherwise in writing. In the event that the member of staff wishes to use such material for commercial purposes the formal agreement of the University must be obtained.

14. The University will consider requests from members of staff for a licence to use extracts from team-based course material, or material in which the University has a commercial interest, in their teaching outside the University or in future employment, providing that such use does not conflict with the University's own interests or competitive position.

15. Where software forms part or all of Teaching Materials as defined above, this policy shall apply. All software should be adequately documented, and providing this has been done, and a copy of the source code is deposited in the University, an author is under no obligation after leaving the University for maintenance or updating of the software.

16. A member of staff who is the identifiable author of Teaching Materials shall have the right to seek permission to acquire copyright in his or her Teaching Materials if the University no longer wishes to offer the degree programme, module or other course.

17. The University will consider from authors of Teaching Materials, proposals to publish for sale and distribution parts of current Teaching Materials. The University first reserves its own right to publish or sell the Teaching Materials, but may agree to assign the copyright to the member(s) of staff. In reaching a decision the University will take into account the importance of the material to the University's own degree programmes, modules and courses and the impact of the proposed commercial arrangements on the University's competitive position.

Revenue generated from sale and distribution of Teaching Material

18. For the purpose of revenue sharing under this policy Revenue shall be deemed to be the net profit after all direct and indirect costs relating to preparation and commercialisation of the material have been deducted.

19. Revenue above an agreed threshold will be shared on a 50:50 basis between the authors who developed the material, and the Faculties, where it would be used for the purpose of further development of learning and teaching. Revenue below this threshold will be distributed between authors.

20. In the event of dispute over the interpretation or application of this policy, a process will be established by the Registrar to settle the dispute. If no agreement is reached then the matter will be referred back to the Registrar who will be the final arbitrator.

Frequently Asked Questions

If I write, or am asked to write a textbook or wish to publish an academic book will I have to consult the University or seek its agreement before entering into a contract with a publisher?

Not unless you had been asked, or had agreed to write the book as part of a team-based or commercial course offered by the University. You should note, however that there is a growing national concern about publisher's exploitation of academic staff in publishing contracts. The University will be monitoring any national developments and will be considering how best to support academic staff in dealing with publishers. It is a matter of concern for the University that its staff should be protected from any unreasonable third party contracts.

Will this policy affect teaching material that I have developed in my previous employment?

No, this policy will only apply to copyright in Teaching Material that you develop during your employment at Newcastle University.

The University employs me on short term contracts to teach a specific subject that I have knowledge and expertise in. I bring my own material and develop and use it to teach the course. I would like to be able to use this material in other places that I teach in. Won't this policy prevent this?

In general the University has no wish to restrict any of its staff from using Teaching Material outside the University, providing such use does not compromise the University's own competitive position. Both the University, and member of staff's own rights, can be protected if staff follow the good practice guidance of ensuring that all Teaching Material developed at Newcastle carries a copyright and authorship statement. Part-time staff, including those paid by the teaching contact hour on a contingent basis, who are engaged to deliver teaching on a specific topic/course, will have appropriate arrangements specified in their contracts.

Won't this policy stop me from using other people's materials in my handouts because if I did the University could claim ownership of the material?

No, the University's position is quite clear. The policy only relates to materials developed by staff during their employment at Newcastle University. Material produced by others, irrespective of whether it carries a copyright statement or not, is outside this policy. All staff should take care however to ensure that they do not infringe the copyright of third parties in their teaching or other activities.

What happens if I move to another University. Will this policy restrict me from using material I have developed whilst at Newcastle?

In general the University has no wish to restrict any of its staff from using most teaching material in future employment providing such use does not compromise the University's own competitive position and does not conflict with any commercial arrangements the University has entered into. For the most part the reuse of handouts and other personal teaching materials by staff in future employment is not an issue, but the University would expect that existing copyright statements are retained. This will be transient, as staff will be continuing to update and develop teaching material in their new institution. Once the material is rewritten Newcastle would have no further claim on the material. If a member of staff wishes to make use of any team based material, or material governed through any commercial agreement, the formal agreement of the University will be required.

What if I have been specifically commissioned to develop teaching or training materials for an outside organisation. How will this policy affect this?

Such work would be governed by a contract. If you are undertaking this work through the University, it will be governed by a contract with the client organisation which will set out the rights and obligations of both parties and address the issue of ownership. All such contracts must be negotiated and formally

agreed by the University and would therefore fall outside this policy. If you are undertaking this work in a private capacity then it will fall under the University's policy on Outside Professional Work.

The Policy states that material not routinely handed out to students is excluded from the definition of Teaching Materials. Does this definition also exclude web based materials for example associated with using Blackboard that are made available to students as 'extension' material as opposed to essential material?

The Policy focuses on material written specifically for a course and/or for routine use by students in connection with a course. The ownership of copyright in other material that falls outside the definition but which is made available to students via the web as 'background, ' additional' or 'non- essential' material, will be unchanged.