

Working with volunteers: Copyright considerations



Photo: Microsoft Library

The contents of this guide are based on the opinion of Naomi Korn Associates and resources produced by Naomi Korn Associates for Museum Development Yorkshire. It is believed to accurate at the time in which it was created (May 2021).

The contents should not be considered legal advice. If such legal advice is required, the opinion of a suitably qualified legal professional should be sought.

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Who is this guide for?

The information in this guide is for any person or department working in a heritage organisation who is responsible for **managing or supervising volunteers**. Sometimes the responsibility might be split between different staff and departments, depending on the volunteer role. In the case of volunteer-run organisations, all volunteers may share these responsibilities.

What is copyright?

Copyright protects creators who make original works. This allows creators and copyright owners to decide how their work is used, including who can make copies of it and re-use it. Copyright typically lasts the creator's lifetime plus 70 years after the end of the year they die, or if the creator is unknown, the date of creation plus 70 years.

Copyright needs to be considered from both an owner and user perspective. A heritage organisation can exploit the copyright that it owns, for example by licensing out its images, but it needs to ensure it does not infringe others' copyright when making use of their material, particularly if photographs are taken of works which are in-copyright or taken by people who are not members of staff. Volunteers are not members of staff, and therefore volunteers will own the copyright in anything they produce.



Photo: Microsoft Library

Why is this information useful?

A good understanding of legal rights and responsibilities around copyright is integral to managing many volunteer roles.

Some roles may involve **volunteers creating copyright works**. This will depend on the volunteer role in your organisation. Volunteers may be writing blogs, creating catalogue records, taking photographs, making short films for marketing and social media, and recording interviews for exhibitions and events. In organisations that are fully volunteer-run, day-to-day administrative outputs such as writing emails and reports are also protected by copyright. Your organisation may wish to use these in exhibitions, catalogue records, social media posts and on your organisation's website. In these cases, it is important to know who owns the copyright and how to get the rights needed.

Some roles may also involve **volunteers using copyright works created by others**, such as copying artworks for exhibition literature, adding images to your organisation's website and photocopying material for members of the public in the search room. In these cases, it is important to make sure volunteers are aware of copyright limitations and exceptions so they do not accidentally infringe copyright when copying and using third-party works.



Photo: RODNAE Productions on Pexels

Copyright exceptions reminder:

The exceptions to copyright outlined in the Copyright, Designs and Patents Act 1988, enable the use of copyright protected works without the need to seek permission from the rights holder. They are important in helping to achieve the balance between rights holders exclusive rights, whilst enabling the use of copyright works to support specific public interest activities, such as education, culture and personal uses. Find further guidance on exceptions to copyright via the [Heritage Digital website](#).

Volunteers and ownership of copyright

Under UK copyright law, an employer owns the copyright in works created by their employees as part of their work. This is, in part, because employees are paid for their work – for example, with wages and other benefits such as sick pay and pension contributions. Since volunteers do not have the same rights as employees, the organisation for whom they volunteer will not automatically own the copyright in their copyright. This means that if heritage organisations wish to use content produced by volunteers, they need to request a licence from the volunteer or alternatively, an assignment of copyright, through a “deed of copyright assignment”. **Find a reusable template Deed of Assignment of Copyright for Volunteers at the bottom of this guidance.**

Copyright assignment reminder:

‘**Assignment**’ in England and Wales, ‘**Assignation**’ in Scotland means that the copyright is transferred from one person to another. An assignment **MUST** be in writing to take legal effect.

Copyright licence reminder:

A ‘**licence**’ is a formal authority to do something that would otherwise be unlawful. In this context, it refers to a licence by the owner of the copyright to copy, adapt, etc., content or technology even though copyright law prohibits such copying without authorisation. Unlike assignment, the owner of the copyright remains its owner and, depending on the terms of the licence, may be able to continue to do what they like with the copyright.

Deed of copyright assignment:

Because volunteers do not have an employee-employer relationship, a deed of copyright assignment should be used to transfer copyright from the volunteer to your organisation, trustees or a third party.

Assignment versus licences

If a volunteer is not sure about assigning their copyright, sit down with them and discuss what the assignment means and how it benefits their contributions to the organisation. You may wish to add extra clauses to the volunteer agreement or deed of copyright assignment to benefit the volunteer. For example, your organisation could include a clause to grant the volunteer a licence to use their work too, without having to ask your organisation for permission.

If volunteers do not want to transfer their copyright at all, an agreement could be made for your organisation to licence the work from the volunteer instead. If a licence is used, the agreement should be written in a way that lets both the volunteer and your organisation use the copyright work in a meaningful way, and that both parties understand and are happy with how the work will be used.

For example the licence should be non-exclusive, and not stop the volunteer from using their work in the way they would like. Ideally the licence term should last for the full term of copyright, rather than a shorter set period, so as to avoid the time and resource needed to renew licences at a later date.

Importance of crediting volunteers

As well as copyright, creators have 'moral rights' connected to the works they have created. These rights relate to the creator's honour or reputation. The most important moral right related to volunteer work is the right to be named as the creator of the work (called the paternity right).

Unlike copyright, moral rights cannot be assigned to another person or organisation, but they can be waived. This means that even when the copyright has been assigned to your organisation, volunteers keep their moral rights unless you ask them to waive them, which is not recommended. Where possible, you can agree to include the volunteers' name alongside their works if they consent to this. This is a great way to acknowledge the volunteers' valuable contributions to your organisation. The protection of such rights might be of particular importance to volunteers who provide creations that are deeply personal to them and/ or their heritage. If you are utilising volunteer content that is particularly sensitive or if the volunteers are vulnerable people the way in which you protect their moral rights is especially important during the process of co-curation.

Volunteers, copyright and governance

If your organisation is a **legally incorporated body**, such as a charitable trust, copyright can be assigned to the organisation itself. If your organisation is **unincorporated and run by volunteers and/or trustees** copyright will need to be assigned to a person, or group of people. Those involved will need to discuss a mechanism through which they grant each other permissions to reproduce any content that is created, or consider appointing a third party, for example one Trustee, who can hold any copyright for them on their behalf.

Creating policies and processes around volunteer copyright assignments or licences will help volunteers understand their rights whilst ensuring organisations can fully utilise their volunteers' output

Where volunteer roles need to be compliant with the law, your organisation should **introduce or update policies and processes** to make sure that your organisation is acting legally and responsibly. These should include processes around use of others copyright works, data protection and other legal compliance issues.

Copyright checklist when working with volunteers

1. Ensure you are aware of the copyright legislation as it relates to your organisation and its volunteers.
2. Familiarise yourself with your organisation's governance and whether your organisation can own rights.
3. Audit your volunteer roles to assess which ones involve creating and/or using copyright works.
4. Secure your ability to reuse what your volunteers have produced through deed of copyright assignments or copyright licences.
5. Provide volunteers with relevant training to carry out their roles legally and effectively.
6. Monitor volunteers to make sure they are confident in their roles. Ask for feedback and provide support and/or make changes to roles where needed.

Where can I find out more?



Photo: Microsoft Library

Heritage Digital

<http://heritage-digital.org/>

Intellectual Property Office (IPO) copyright resources

<https://www.gov.uk/topic/intellectual-property/copyright>

Naomi Korn Associates copyright and data protection resources

<https://naomikorn.com/resources/>

Naomi Korn Associates blog posts and news updates about compliance issues

<https://naomikorn.com/news/>

Deed of Assignment of Copyright (Volunteers)

Volunteers like you help **<Your organisation name here>** further our learning & access programmes and work towards creating new resources. In order for your Work to be used fully for **<Your organisation name here>** purposes, we ask you to sign this deed of assignment.

'Work' is defined as anything you create or invent during your time as a volunteer at **<Your organisation name here>**, including any work you created or invented **<Your organisation name here>** before signing this deed.

I hereby fully and permanently transfer to the Trustees of **<Your organisation name here>** all copyright and rights in the nature of copyright in my Work. I understand I may still make use of such Work for my own non-commercial research or private study. In addition, I consent for my Work to be edited, adapted or altered by **<Your organisation name here>** and I understand that **<Your organisation name here>** may not always be able to credit me in any reproductions or use of the Work.

This agreement shall be governed by and is subject to English and Welsh law and the parties agree to accept the exclusive jurisdiction of the Courts of England and Wales.

I have read and understood the terms of this Deed of Assignment

Dated

Volunteer signature

Full Name (please print)

Address

Postcode

Signed as a Deed in the presence of (witness)

Witness signature

Full Name (please print)

*The personal data on this form will be used by **<Your organisation name here>** for the sole purpose of managing copyright. It will not be passed to a third party without your permission. All data will be held in strict compliance under the UK General Data Protection Regulation and the Data Protection Act 2018.*