

Palgrave Macmillan Journals – Permissions Policy

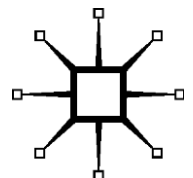
Authors are responsible for obtaining, and, if necessary, paying for permission from copyright holders for reproducing [through any medium of communication] those illustrations, tables, figures or quotations previously published elsewhere in their articles.

- Whilst we are not able to give you legal advice (you should always seek your own independent legal advice if you require it), we have collected information to give more guidance around copyright and permissions requirements and we hope that you find this information helpful. Please note that Palgrave Macmillan does not take any responsibility for the content found on websites which we have provided links to. The information provided here is about copyright; please note that other legal issues may arise from the way in which you use material in your manuscript. These other issues might include, but are not limited to, libel and privacy.
- It is very likely that you will need to seek permission to reproduce 3rd party material unless you are using items that are:
 - not subject to copyright (e.g. where the term of copyright has expired)
 - covered by a copyright exception (please see our requirements in respect of use of material under copyright exceptions under the [Copyright Exceptions](#) section)
 - or obtained from places that set out their terms and conditions for re-use without requiring you to apply to them for permission (e.g. a valid creative commons license, the UK's Government's 'Open Government License' or website terms and conditions)
- Permissions clearance is notoriously time consuming and can also be expensive
- Where permission is sought, it can be very hard to negotiate the range of rights that we require (please see our [required rights table](#)) in order to make publication of your work viable (rights holders often place restrictions on print runs or term of publication that simply don't work for modern academic publishing)
- Given the above, please don't make any firm commitments in respect of accepting permissions licenses or making payments without checking first that the license sufficiently covers our intended use of the material

We therefore strongly recommend that you avoid using copyright material reproduced from 3rd parties wherever possible unless the

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items are out of copyright or you are able to do so under an applicable copyright exception.

Seeking and Obtaining Permissions

Please use the [Journals Permissions Request Letter](#) [MS Word, 31KB] to request material use from rights holders, since this makes clear the terms we require. We advise that you use our [Journals Permissions Tracker](#) [MS Word, 54KB] to record third party material used and licences received. We ask that you submit all letters of request and letters granting permission, along with a completed Permissions Checklist or Tracker with your final manuscript submission.

Locating Rights Holders

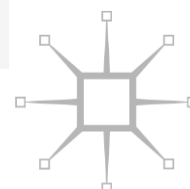
Identifying the rights holder for a piece of work you wish to re-use can be tricky. In general you should start with the original publisher of the piece. Do bear in mind that multiple publishers may need to be approached to put together all the rights you need (for example one publisher may hold US rights and another British and Commonwealth etc.). Some rights holders are represented by Collecting societies and these can also be useful places to start when seeking permissions clearance, for example:

- The Copyright Clearance Center www.copyright.com
 - The Design and Artists Copyright Society <http://www.dacs.org.uk>
 - The Artist's Right's Society <http://www.arsny.com>
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Required rights

When applying for permission please use our [Journals Permissions Request Letter](#) [MS Word, 31KB]. This letter requests all of the rights that we require in order to include third party copyright content in your article. Please do use our template letter rather than your own alternative to ensure that all of the relevant rights are requested. When you receive permission from the rights holder, ensure that the grantor has actually granted you all of the rights requested. The following checklist details the minimum, acceptable terms of use for 3rd party material contained within your work.

Restriction	Expected	Acceptable
Article	Article	
Derivative Works	'this and all derivative works'	This work only.
Media/formats	'all media and formats'	Print and all digital formats.
Languages	English Language	
Territories	World	World (you may need to secure permission from multiple rights holders in order to get world coverage).
Print Run restrictions	No limit on print or e, instead try for 'lifetime of the article'	Discuss any restrictions with your editorial contact
Term/ Duration	No limit, instead try for 'lifetime of	It is unlikely that any restrictions will be acceptable but you can discuss with



	article'	your editorial contact
Other Restrictions	None	Discuss any restrictions with your editorial contact (it is possible that some minor restrictions that don't materially affect our ability to sell your article, may be acceptable.)

All the items in the 'expected' column are included in our [Journals Permissions Request Letter](#) [MS Word, 31KB] , but we may be able to accept a less broad grant, as indicated in the 'acceptable' column. If the rights granted are insufficient, and cannot be negotiated, we will be unable to include the 3rd party material in your work. In such circumstances we will discuss the available options with you.

Where material is being used under a Creative Commons license, we cannot accept versions with the NC (re-use restricted to non-commercial purposes) or Share Alike (re-use must be on same terms as granted) suffixes and you must ensure derivatives are permitted if the content is being adapted.

Acknowledgement

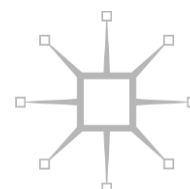
Permission grantors usually detail the exact wording to be used (and often its placement as well). You should follow their instructions precisely. Include this information on your [Journals Permissions Tracker](#) [MS Word, 54KB] and send the completed version to your editorial contact with your final manuscript. Please note that it is our requirement that items being used under copyright exceptions are accompanied by a full acknowledgement to the original source.

Your Own Previously Published Work

If you wish to reproduce material that you have previously published, unless you have specifically retained the right to do so in any publication agreement that you signed at the time, it is highly likely that you will need to obtain the consent of the work's original publisher to reproduce their work elsewhere. The terms and conditions that publishers apply to such re-use varies considerably. We are only able to include an author's previously published work **IF** the terms and conditions of re-use are in line with the **Required Rights**. Any limitations or restrictions imposed by an original publisher of content may affect our ability to sell the whole work. For this reason we ask that you clarify with any previous publishers under what conditions any previously published material can be used, and that this is discussed with your editorial contact at the earliest possible stage in the process. (If original publisher is reluctant to grant the necessary rights, options might include substantially re-writing the content or in the worst case having to drop it altogether). If you do clear the Required Rights we will need you to supply a copy of the original publisher's grant of permission that we can attach to your author contract/contributor agreement. Note that some publishers, particularly of journals, have 'retained rights' policies that set out what authors can do with work that they have published with them without a formal permissions request needing to be made. In such cases, again provided that the Required Rights are granted, you can provide a copy of the relevant retained rights notice (in lieu of a formal permissions grant).

Copyright Exceptions (e.g. Fair Use and Fair Dealing)

Most copyright laws contain some exceptions that permit certain types of limited re-use of copyright material without the need to seek permission of the rights holder.



In the United States the copyright exception is known as the doctrine of 'Fair Use' and it is codified in section 107 of the Copyright Law of the United States.

In the UK, copyright exceptions are sometimes referred to as 'fair dealing' as some exceptions only apply to the extent that the amount being taken is 'fair'. The exception most likely to be used in the context of an academic publication is the copyright exception available for the purposes of Criticism and Review (to which fair dealing applies).

Our requirement is that authors of Palgrave Macmillan publications may only include items in their manuscript under a copyright exception (regardless of the place of publication) if:

- The item has been previously published
- It has been properly acknowledged
- It is used within the context of criticism and review (not simply illustrative)
- Use of the 3rd party material is restricted to the minimum amount necessary to demonstrate the point being made and does not take the 'heart of' or 'essence' of the original creator's work.
- The author is satisfied that the use is 'fair' (see British Academy Guidelines and information from Stanford University site below, fairness should be judged in accordance with UK *and* US standards)
- The use does not infringe the original creator's moral rights

For more information about Copyright Exceptions, please see the following resources:

UK

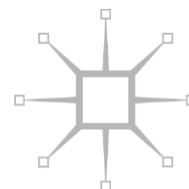
- Intellectual Property Office website
<http://www.ipo.gov.uk/types/copy/c-other/c-exception.htm>
- Joint Guidelines on Copyright and Academic Research - Guidelines for researchers and publishers in the Humanities and Social Sciences (section 14.1-5 and 14.7)
<http://www.britac.ac.uk/policy/joint-copyright-guide.cfm>

US

- The US Copyright Office's Factsheet on Fair Use
<http://www.copyright.gov/fls/fl102.html>
- Stanford University Copyright and Fair Use website
http://fairuse.stanford.edu/Copyright_and_Fair_Use_Overview/chapter9/index.html

The Public Domain - Available for Free vs. Freely Available

There are many misconceptions about what constitutes 'The Public Domain'. Essentially the only items that fall in the Public Domain are those for which copyright has expired. (Works *created* by the US Government may also be considered public domain but some works *owned* by the US Government are still subject to copyright and either way the US Government requires specific forms of acknowledgement when using its work - see [Government Content](#) section). Some content may have gone into the Public Domain in the US because of a failure to register it; however such works are very likely to have protection



outside of the United States, and use of them in your manuscript without relevant permission would therefore still be problematic. Just because something is available freely either in the physical or digital space, it does not mean it is 'Public Domain' or not subject to copyright.

Many copyright holders choose to license their copyright free of charge, subject to specific terms and conditions. If you wish to use in-copyright material which has been made 'publicly available', regardless of whether it has been made available free of charge, you should always seek the rights-holder's permission to re-use it. Often rights-holders will list re-use terms and conditions on their websites or in other communications they make available (this would include creative commons licenses), so it is always worth checking these prior to making a formal application, as such terms and conditions will constitute their permission. Always take a print-out/screen shot of such T&C, date them, and keep them in your files as a permanent record of the terms under which you used the material. **Do be certain that the license/T&C you are relying on comes from the rights-holder or someone authorised to act on their behalf. There are many examples on the internet, especially on wikis, of people uploading copyright infringing items; and then applying free re-use licenses that they are not entitled to grant.**

For more information about the Public Domain, please see the following resources:

US

- The Public Domain Sherpa Website gives some useful pointers <http://www.publicdomainsherpa.com>
- Stanford University Copyright and Fair Use Overview, Chapter 8 [http://fairuse.stanford.edu/Copyright and Fair Use Overview/chapter8/index.html](http://fairuse.stanford.edu/Copyright%20and%20Fair%20Use%20Overview/chapter8/index.html)

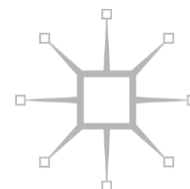
These are US websites but many of the myths they dispel are equally applicable globally.

Works of Art

Copyright applies to Works of Art including; photographs, paintings, illustrations, maps, sculptures, pieces of artistic craftsmanship and architecture, amongst others.

Do be aware that the copyright holder of an artwork *image* may be a person other than the artwork's creator, so even if the underlying work is out of copyright, the image of the work, that we will need to use to reproduce in the article is likely to be in copyright. You can produce your own image of the out of copyright work if you have access to the original and wouldn't be in breach of any terms and conditions that apply to those gaining access to the work (owners of the physical work e.g. museums, galleries, archives etc. may limit access to it or apply terms and conditions that prevent others from making reproductions at their premises since they will want to license use of their own images of the work). Care should be taken to ensure image rights are secured from the appropriate source.

Many artworks are available on wikis, where people have made unauthorised uploads and then applied a creative commons or other license. You should have a good faith belief that the person who has uploaded the image is the rights holder or is authorised to act on behalf of the rights holder before using an image on such terms.



Take care when using photographic images containing other copyright works or people. If other copyright works are not incidental to the image, then permission to re-use those underlying copyrights may be required (see link to istock wiki below). Where people are featured, you need to ensure that an individual's privacy or publicity rights are not being infringed. It is likely that you will need to secure model release for those featured in the image (see WIPO advice below).

For more information about Copyright in Artistic Works, please see the following resources:

UK

- Intellectual Property Office website
<http://www.ipo.gov.uk/types/copy/c-applies/c-artisticworks.htm>
- Designers and Artists Copyright Society website (see factsheets available in the Knowledge Base section)
<http://www.dacs.org.uk/knowledge-base>

US

- The US Copyright Office's Document 'Copyright Registration for Works of the Visual Arts' contains some useful information:
<http://www.copyright.gov/circs/circ40.pdf>
- Some information is available from the Artist's Rights Society
<http://www.arsny.com/other.html>

General

- WIPO gives the following helpful information in respect of photography
http://www.wipo.int/sme/en/documents/ip_photography.htm
- Istock provides a technical wiki where people have uploaded copyright information they have identified in respect of particular artworks, it is especially helpful for identifying information about sculpture and architectural works
http://www.istockphoto.com/tutorial_copyright_list.php

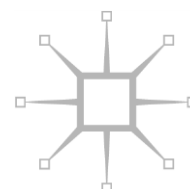
Data and Databases

Generally it is the selection and arrangement of databases that are protected by copyright; the contents of a database may also attract protection if such content is sufficiently substantial. In addition the contents of a database may be protected by database right. The fair dealing exception for criticism and review that applies to copyright, is not applicable to database right, so if you want to re-use something protected by database right you will need to seek permission to do so from the rights holder.

Please be aware that large proprietary databases sold under license are likely to be protected by database right and will be accompanied by strict licensing terms which govern re-use. If you are using data from such databases please check the licensing terms which may apply in each case.

For more information about Data and Database Right, please see the following resources:

- Intellectual Property Office website
<http://www.ipo.gov.uk/types/copy/c-otherprotect/c-otherprotect-faq/c-otherprotect-faq-database.htm>



- Joint Guidelines on Copyright and Academic Research - Guidelines for researchers and publishers in the Humanities and Social Sciences (section 14)
<http://www.britac.ac.uk/policy/copyright-guideines/part1.cfm#sec14>
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Interviews

Copyright exists in both the words spoken (copyright belongs to the speaker) and any recording of them (copyright belongs to the person recording or transcribing), and in the UK, moral rights for both parties will also subsist. Appropriate permissions should therefore be sought to reproduce any interviews or speech in the same way as you would obtain permission to use literary or artistic works.

When conducting interviews it is wise to ensure that participants understand the reason that the interview is being conducted and what the outcomes of such research might be (e.g. publication) in order that they can give their informed consent (written or verbal) to the interview. In order to include material from interviews you have conducted in your manuscript, you should satisfy yourself that the person being interviewed was capable of giving their informed consent (e.g. not minors, mentally incapacitated etc.) and that you have respected any obligations entered into as a result of the interviewee's participation, e.g. anonymity, 'off the record' comments etc. We will require your confirmation that any interviews you have conducted that feature in your manuscript comply with the above requirements. We can supply an Interview Agreement document for you to use with Interviewees if needed.

For more information about Copyright in Speech and Interviews, please see the following resources:

- The Oral History Society has useful information on its ethics pages
<http://www.ohs.org.uk/ethics/index.php>
-

Government Content

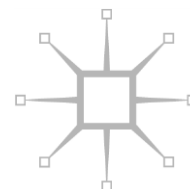
Content produced by National Governments will be subject to the national copyright law of that country. In the UK, content produced by Government ministers and employees of the Crown (civil servants) in the course of their duties falls under Crown Copyright (n.b. this does not extend to Local Government). Most items protected by Crown Copyright can be reproduced under the Open Government License operated by the Office for Public Sector Information (see below).

Works *created* by the US Government are not protected by copyright. However there are specific requirements in respect to how US Government content is acknowledged The US Copyright Office Copyright Basics Circular gives examples (see box below). Do note that some works *owned* by the US Government are still subject to copyright; the Public Domain Sherpa Website gives some useful pointers on this (see below).

For more information about Government Copyright, please see the following resources:

UK

- Joint Guidelines on Copyright and Academic Research - Guidelines for researchers and publishers in the Humanities and Social Sciences (section 9)
<http://www.britac.ac.uk/policy/copyright-guideines/part1.cfm#sec9>



- The Open Government License can be found here:
<http://www.nationalarchives.gov.uk/doc/open-government-licence/>

US

- The US Copyright Office's Copyright Basics Circular1, page 5
<http://www.copyright.gov/circs/circ01.pdf>
- Public Domain Sherpa Website
<http://www.publicdomainsherpa.com/us-government-works.html>

Unpublished, Anonymous and Orphan Works

Unpublished works often have different periods of copyright protection than published works and this will vary by jurisdiction (see below for more info). Unpublished works are not subject to fair dealing for the purposes of criticism and review under UK law since they have not 'been made available to the public'. Therefore permission will be required from the rights-holder for re-use unless the content is out of copyright.

There is currently no legislation in either the UK or the US to cover use of works for which a copyright holder cannot be found or identified (so called orphan works) and being unable to locate a rights holder is not a defence against copyright infringement. UK law does allow for some re-use in cases where the rights holder is anonymous. The Joint Copyright Guidelines from the British Academy and The Publishers Association (see below) has further advice on this.

For more information about Unpublished and/or Orphan Works please see the following resources:

UK

- Joint Guidelines on Copyright and Academic Research - Guidelines for researchers and publishers in the Humanities and Social Sciences, Duration of copyright in unpublished works, section 4.3
<http://www.britac.ac.uk/policy/copyright-guideines/part1.cfm#sec4>
- Orphan Work, section 8
<http://www.britac.ac.uk/policy/copyright-guideines/part1.cfm#sec8>

US

- The copyright law of the United States, section 302
<http://www.copyright.gov/title17/92chap3.html#302>

