

## **LAKE HOUSE TRUST COPYRIGHT AND INTELLECTUAL PROPERTY POLICY**

### **1.0 PURPOSE**

This document describes the policy and procedures Lake House Arts follows in responding to notifications of alleged copyright infringements on the Lake House Arts network.

### **2.0 SCOPE**

This policy applies to those who use Lake House Arts network to share files, including (but are not limited to) Lake House Arts faculty and visiting faculty, staff, students, guests or agents of the administration, external individuals and organizations accessing network services via Lake House Arts computing facilities.

### **3.0 PRINCIPLES**

Upon formal notification or due to detection, Lake House Arts's Computing and Information Services will take all necessary means, including but not limited to temporary disconnection from internet access, to stop illegal sharing of copyrighted material on its network by identified users.

#### **3.1 What is copyright?**

The term 'copyright' refers to the exclusive rights given to owners of original works under the Copyright Act 1994. The Act allows copyright owners to control certain activities relating to the use and dissemination of their works.

Copyright protects the particular manner in which an idea is expressed or information is conveyed. It can't protect mere information, ideas, schemes or methods that can be expressed in other ways.

The Intellectual Property Office of New Zealand (IPONZ) also has information on copyright protection: [Visit the IPONZ website\(external link\)](#)

#### **Works that qualify for copyright protection**

For a work or type of material to qualify for copyright protection, 4 conditions must generally be met:

1. It must fall within one of the categories or subject matter in which copyright can exist.
2. It must be original.
3. The nationality of the author, or the origin of the work, must be one that qualifies for protection.
4. Certain works must be fixed either in writing or some other material form.

Copyright may exist in original works of the following types or categories:

Literary works: Written works such as novels, poems, articles, notes and song lyrics; computer programs; tables; and compilations, including compilations of works and compilations of data.

Dramatic works: Including works of dance or mime and scenarios or scripts for films and plays.

Artistic works: Graphical works such as paintings, drawings, plans and maps, irrespective of artistic "quality" or merit; photographs, sculptures and models; buildings and models of buildings; and works of artistic craftsmanship that must have some artistic quality or level of skill.

Musical works: Musical scores or arrangements, but not accompanying lyrics or dances, which could be separately protected as a literary or dramatic work.

Sound recordings: Recordings or fixation of sounds or literary, dramatic or musical works from which sounds can be reproduced. A recording is protected separately from any copyright that may exist in the work recorded.

Films: Recordings in any media from which moving images can be produced by any means, which includes video cassettes (such VHS or BETA recordings), celluloid prints, digital versatile disk (DVDs) recordings, video compact disk (VCD) recordings and films stored on other types of computer disks. The images in a film are protected separately from any copyright there may be in the script or accompanying sound recording.

Communication works: communications works are transmissions of sounds, visual images or other information, or a combination of those, for reception by the public. Communications works can include broadcasts or cable programmes. Copyright protects communications works independently of any copyright in the content transmitted.

Typographical arrangements of published editions: The typeset or image of the published edition of the whole or part of a literary, dramatic or published work, which may or may not itself be protected by copyright. Copyright in a typographical arrangement exists independently of copyright in the published work.

### **Works not protected by copyright**

Copyright protection does not apply to certain government works such as:

- Parliamentary bills
- acts of Parliament
- regulations
- bylaws
- Parliamentary debates
- select committee reports
- court and tribunal judgments
- reports of royal commissions, commissions of inquiry, ministerial inquiries or statutory inquiries.

However, it is possible that reprints or publications of this material by non-governmental parties could give rise to copyright.

### **Exclusive rights given by copyright**

Under the Act, the owner of copyright in a work has the "exclusive right" to do certain "restricted acts" in relation to the work. These include:

- copying the work
- publishing, issuing or selling copies of the work to the public
- the right to perform the work in public
- playing the work in public
- showing the work in public
- making an adaptation of the work or doing any of the above activities in relation to an adaptation
- communicating the work to the public
- authorising any other person to do any of the restricted activities listed above.

### **How long copyright protection lasts**

Copyright protection only applies to a work for a limited period of time. This varies depending on the category of the copyright work.

Type of work	How long copyright lasts	When copyright starts
Literary, dramatic, musical or artistic works	50 years	from the end of the calendar year in which the author dies.
Artistic works industrially applied	16 years	from the time the work is industrially applied
Works of artistic craftsmanship industrially applied	25 years	from the time the work is industrially applied
Sound recordings and films	50 years	from the end of the calendar year in which the sound recording or film was made or made available to the public, whichever is later
Broadcasts and cable programmes	50 years	from the end of the calendar year in which the broadcast is made, or the cable programme is included in a cable programme service
Typographical arrangement of published editions	25 years	from the end of the calendar year in which the edition was first published
Communication works	50 years	from the end of the calendar year in which the broadcast communication work is made, or the cable programme is included in a cable programme service.

Once copyright in a work expires, the works falls into the "public domain" and can be freely used.

### Exceptions to copyright

There are some exceptions to the rights in the Act. These "permitted acts" reflect instances where Parliament has determined the wider public interest, or the interests of particular groups, makes it necessary to restrict or limit the rights granted to copyright owners.

Permitted acts include:

- copying or using the work for the purposes of criticism, review, news reporting, research or private study
- limited copying or using the work for particular educational purposes
- limited copying or using the work by librarians or archivists in specific circumstances
- copying for certain activities by the Crown
- making a Braille copy of the work subject to certain conditions

- making a back-up copy of a computer program
- recording a television programme for the purpose of making a complaint or for "time shifting" purposes so that a programme can be watched at a more convenient time.
- copying a sound recording for the purpose of playing that sound recording on other devices owned by the owner of the sound recording, providing the conditions of section 81A are met (known as format shifting).

### **How to protect your copyright**

Under the Act, copyright protection happens automatically when any original work is created. You don't have to register the work as there is no formal system for the registration of copyright in New Zealand.

Although not required by law, it's a good idea to include a copyright statement on a work. This will let others know that the work is subject to copyright protection and that they cannot copy the work or deal with it in any other way restricted by copyright.

[Read more about ownership and protection on the IPONZ website\(external link\)](#)

### **Copyright licensing**

If a person wants to use a work in a way that may infringe the work's copyright, they need to ask the copyright owner for a licence to use that work unless one of the exceptions to copyright applies. If granted, the licence will usually specify the ways in which the work can be used and any fees that need to be paid to the copyright owner to use the work.

A copyright owner is under no obligation to grant a licence to use the work.

In New Zealand, there are a number of organisations representing copyright owners that can licence copyright works on their behalf.

[Licensing agencies on the IPONZ website\(external link\)](#)

### **New Zealand's Copyright Tribunal**

The Copyright Tribunal can hear disputes involving licences schemes offered by copyright management organisations providing the copying, performing and broadcasting of works.

Any person who believes the copyright management organisation has unreasonably refused to grant a licence for the copying, performing or broadcasting of a copyright work, or who believes the fees payable are unreasonable, can apply to the Tribunal. The Tribunal decides whether the applicant is entitled to a licence and on what terms.

The Copyright Tribunal may also determine claims of copyright infringement arising from illegal file sharing under sections 122A to 122U of the Copyright Act 1994.

To find out more please contact the Copyright Tribunal directly.

[Copyright Tribunal contact details on the Ministry of Justice website\(external link\)](#)

### **Moral rights protected by copyright**

Authors and directors have certain moral rights as well as the economic rights provided under the Act, which include:

- the right to be identified as the author of a work (the right of attribution)
- the right to object to derogatory treatment of the work (the right of integrity)
- the right not to have a work falsely attributed to them.

Moral rights cannot be assigned to another person except when the author dies.

### **Performers' rights**

Performers' rights are provided for in Part 9 of the Copyright Act 1994. The Act gives performers limited rights to control the exploitation of their performances where they haven't given consent.

[Read more about Performers' rights](#)

### 3.2 Example of Activities That Infringe Copyright Law

Following are some examples of copyright infringement that may be found in a Lake House Arts setting:

- Downloading and sharing MP3 files of music, videos, and games without permission of the copyright owner
- Using corporate logos without permission
- Placing an electronic copy of a standardized test on a department's web site without permission of the copyright owner
- Enhancing a departmental web site with music that is downloaded or artwork that is scanned from a book, all without attribution or permission of the copyright owners
- Scanning a photograph that has been published and using it without permission or attribution
- Placing a number of full-text articles on a course web page that is not password protected and allowing the web page to be accessible to anyone who can access the Internet
- Downloading licensed software from non-authorized sites without the permission of the copyright or license holder
- Making a movie file or a large segment of a movie available on a web site without permission of the copyright owner

### 4.0 PROCEDURES

- Notices of copyright infringement can be sent to [info@lakehousearts.org.nz](mailto:info@lakehousearts.org.nz).
- When Lake House Arts receives such a notice, staff will identify the individual responsible.
- If it is possible to determine the responsible party, that person is notified that they must remove the infringing material.
- In some cases, at the discretion of the Operations Manager, staff may take immediate action to remove infringing material.
- In addition, a staff member found violating this policy by not removing the content within 24 hours of the copyright infringement being identified may be subject to the disciplinary process pursuant to their employment agreement and must complete and provide to the Operations Manager, the form annexed at Schedule 1 to this Policy in which the staff member acknowledges that they have now read this Policy and agrees to abide by this Policy.
- If a responsible party is identified as having committed a second copyright infringement (for the purposes of this Policy, second copyright infringement means XXXX), the Operations Manager will be notified and may take additional action including but not limited to the disciplinary process pursuant to that party's employment contract or other disciplinary or legal action in the sole discretion of the Operations Manager.
- Tutors, students, artists, and participants in Lake House Arts activities and staff who are engaged in teaching and research functions are expected to understand and act in accordance with applicable copyright laws. Lake House Arts is obligated to exercise greater responsibility to address instances of repeated infringing activity by these individuals.

[KG Note: I suggest that we also create a link back to the form you have the artists sign before using the galleries and/or displaying their work. This will create a nice package so you can point the artists to the copyright policy and the form they must complete and return.]

**Final Version:**

**Last Reviewed and Revised:**

**Next Scheduled Review:**