

PROCEDURE FOR ACTIONING COPYRIGHT INFRINGEMENT ALLEGATIONS AND TAKE-DOWN NOTICES

OVERVIEW

The University does not condone copyright infringement. Under the *Copyright Act 1968*, service providers that act as intermediaries for the transmission, caching, hosting and linking to third-party copyright material may be protected from liability for copyright infringement provided that they take prompt action in response to notifications of infringement. This Procedure sets out the University's process for dealing with allegations of copyright infringement to promote a compliance culture as well as enable the University to be eligible for the safe harbour protections under the Copyright Act.

This procedure supports the [Copyright Compliance Policy](#) and should be read in conjunction with it.

DEFINITIONS

Infringement Allegation means an allegation that the University has infringed copyright.

Server Administrator means the University staff member or area responsible for the administration of a University server

Web Content Manager means the University staff member or area responsible for the administration of a University website

Take-Down Notice is an Infringement Allegation in respect of material transmitted by, stored on, cached in or linked from University IT, that is accompanied by a request for the removal of that material from University IT.

University IT has the same meaning as in the IT Acceptable Use and Security Policy

PROCEDURES

Receipt of Infringement Allegations and Take-Down Notices

1. All webpages on University servers must include the University's [Copyright statement](#) and [online Take-Down Notice Form](#). These are incorporated as part of the standard University webpage template.
2. The University's Copyright & Open Access Coordinator is the designated representative to receive Infringement Allegations and Take-Down Notices. If any member of the University community other than the Copyright & Open Access Coordinator receives an Infringement Allegation or Take-Down Notice, it must be immediately forwarded to the Copyright & Open Access Coordinator.

3. Infringement Allegations or Take-Down Notices are generally received from parties external to the University, however members of the University community also have a responsibility to notify the Copyright & Open Access Coordinator if they reasonably believe that University material or activity is in breach of a third party's copyright.

Dealing with Infringement Allegations

4. Upon receipt of an Infringement Allegation, the Copyright & Open Access Coordinator will investigate the allegation and respond to the complainant as appropriate.
 - i) If there has been copyright infringement by University personnel, the Copyright & Open Access Coordinator will notify the Head of School or Branch / Executive Manager who will determine any remedial or disciplinary action.
 - ii) If there has been copyright infringement by a student or other University IT user and such infringement is in breach of the University's IT Acceptable Use and Security Policy, the IT Acceptable Use Procedures will apply.
 - iii) If University personnel, student or other IT user continues to infringe copyright then the Copyright & Open Access Coordinator may class them as a repeat infringer and any decision under 4.i and 4.ii will be required to take into account the information for dealing with repeat infringers below.
 - iv) Records of Infringement Allegations and actions taken will be managed in accordance with the University Records Policy. If the infringement may amount to a significant breach of copyright by the University or indicates systemic non-compliance with the Copyright Act, the infringement will also be notified to the University Compliance Centre.

Identifying and dealing with repeat infringers

5. A repeat infringer will typically be a person with multiple Infringement Allegations received over a sustained period of time who continues to infringe despite warning. A variety of factors will be considered when classing a user as a repeat infringer, these will include but may not be limited to:
 - i) the number of Infringement Allegations received;
 - ii) the period of time over which the Infringement Allegations are received;
 - iii) if the material or activity in the Infringement Allegations are infringing or if a licence or exception could be relied upon;
 - iv) if it was reasonable for the person to know that the material or activity identified in the Infringement Allegation was likely to be infringing.
6. The person will be informed if they are classed as a repeat infringer and warned that any further infringements may result in them being suspended from University IT.
7. It will generally be considered appropriate to suspend a repeat infringer from University IT if they continue to infringe. The extent and period of the suspension may vary depending on the circumstances. Initial suspensions may limit internet access to University sites for a short period of time with restrictions and periods increasing if the person continues to infringe. Any decision made to suspend a person from University IT will be made in accordance with the University IT Acceptable Use and Security Policy and will follow any relevant procedures set out in the Student Misconduct Rules or University Enterprise Agreement.
8. Repeat infringers will be declassified as such by the Copyright & Open Access Coordinator if no further Infringement Allegations relating to them are received for a reasonable period of time.

Dealing with Take-Down Notices

9. To enable the University to be eligible for the safe harbour protections under the Copyright Act, the

University must expeditiously remove, or disable access to, the material specified in Take-Down Notices. Upon receipt of a Take-Down Notice, the Copyright & Open Access Coordinator will assess whether the University's use of the material is permitted under any statutory licences or exceptions. If the Copyright & Open Access Coordinator is not satisfied, the Copyright & Open Access Coordinator will forward the Take-Down Notice to the relevant Web Content Manager or Server Administrator and request that they:

- i) remove the relevant material from University IT by the close of the following business day;
- ii) where relevant, notify the person who originally requested that the material be placed on University IT about the Take-Down Notice, that the reported material has been removed, along with information about how to dispute the Take-Down Notice (it may not be possible to inform the original requestor if, for example, they no longer are employed by the University); and
- iii) e-mail the Copyright & Open Access Coordinator with confirmation that the above steps have been taken.

10. If the copyrighted material is not removed from University IT within the timeframe specified in 4.1, or if the Web Content Manager or Server Administrator could not be contacted, the Copyright & Open Access Coordinator will request the Manager, Online Services or Manager, Risk and Security to disable access to the relevant University website or server until the material is removed.

11. The Copyright & Open Access Coordinator will respond to the sender of the Take-Down Notice as necessary.

Disputing the Take-Down Notice

12. The person or area that originally arranged for the material to be placed on University IT may dispute the Take-Down Notice, by providing the Copyright & Open Access Coordinator with information as to why they believe the material does not infringe copyright.

13. If, upon review of the facts, the Copyright & Open Access Coordinator determines that the allegation of infringement can be opposed, the Copyright & Open Access Coordinator will liaise with the sender of the Take-Down Notice or issue a counter notice in the form prescribed by the Copyright Regulations. Until the dispute is resolved, the copyrighted material must not be made accessible on University IT.

14. If the Copyright & Open Access Coordinator determines that there was copyright infringement, the procedures under paragraphs 4.i-4.iv will apply.