**Podcasts – Using – What am I allowed to do? (TAFE)**

Teachers and students might use [podcasts](https://smartcopying.edu.au/glossary/podcast/) as part of classroom activities, for homework or for general TAFE activities (eg updating students on TAFE events).

Teachers might use [podcasts](https://smartcopying.edu.au/glossary/podcast/) to:

* provide foreign language lessons to students
* as part of revision and homework tasks
* facilitate self-paced and distance learning or
* assist students with reading difficulties or other disabilities.

Students might use [podcasts](https://smartcopying.edu.au/glossary/podcast/):

* as part of an assignment or
* to present news, interviews or other content.

These activities will require playing, uploading and/or [copying](https://smartcopying.edu.au/glossary/copy/) the [podcast](https://smartcopying.edu.au/glossary/podcast/). This information sheet covers the playing, [copying](https://smartcopying.edu.au/glossary/copy/) and uploading of publicly available [podcasts](https://smartcopying.edu.au/glossary/podcast/) in TAFEs. For more information on creating [podcasts](https://smartcopying.edu.au/glossary/podcast/) in TAFEs, see [Podcasts – Creating (TAFE)](https://smartcopying.edu.au/podcasts-creating-tafe/).

**What is a podcast?**

A “podcast” is a digital media file. It usually comprises visual and audio copyright material, including pictures, film and [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/).

[Podcasts](https://smartcopying.edu.au/glossary/podcast/) can be downloaded to devices such as laptops, tablets or mobile phones. Once downloaded, users can view/listen to a [podcast](https://smartcopying.edu.au/glossary/podcast/) wherever and whenever they choose.

**Teachers using podcasts**

There are different rules for teachers using [podcasts](https://smartcopying.edu.au/glossary/podcast/), depending on whether the teacher is simply playing a [podcast](https://smartcopying.edu.au/glossary/podcast/) or is [copying](https://smartcopying.edu.au/glossary/copy/) and/or uploading it. If [copying](https://smartcopying.edu.au/glossary/copy/)/uploading teachers also need to consider whether or not the [podcast](https://smartcopying.edu.au/glossary/podcast/) is of a program that was broadcast on free-to-air radio or television.

**Playing podcasts in class**

Teachers may be able to rely on the exception in section 28 of the Copyright Act if they want to play a [podcast](https://smartcopying.edu.au/glossary/podcast/) to their class (includes distance education classes). This includes:

* playing a [podcast](https://smartcopying.edu.au/glossary/podcast/) using a DVD player, or electronic device in the classroom or from an online website (eg ABC iView or YouTube)
* using an electronic delivery system to transmit a [podcast](https://smartcopying.edu.au/glossary/podcast/) from a central DVD player in the library to a monitor in the classroom
* using virtual classroom software to show a [podcast](https://smartcopying.edu.au/glossary/podcast/), to external students
* playing a [podcast](https://smartcopying.edu.au/glossary/podcast/) in a virtual class over Skype, Google Hangouts or other online communication platforms and
* playing a [podcast](https://smartcopying.edu.au/glossary/podcast/) from a content or learning management system (such as Moodle or ClickView) in class.

Sometimes, to play a [podcast](https://smartcopying.edu.au/glossary/podcast/) to your class you may need to first upload that [podcast](https://smartcopying.edu.au/glossary/podcast/) to your TAFE’s [digital teaching environment (DTE)](https://smartcopying.edu.au/glossary/glossary/digital-teaching-environment-%28dte%29). This is fine under section 28, however, as soon as the lesson is over, you must remove the podcast from the [DTE](https://smartcopying.edu.au/glossary/glossary/digital-teaching-environment-%28dte%29).

For more information, see [Performance and Communication of Copyright Material in TAFE Classes](https://smartcopying.edu.au/performance-and-communication-of-copyright-material-in-tafe-classes/)

**Programs that have been broadcast on free-to-air radio or television**

Teachers at WA TAFEs or at Bradfield Senior College in NSW can [copy](https://smartcopying.edu.au/glossary/glossary/copy) and/or [communicate](https://smartcopying.edu.au/glossary/glossary/communicate) [podcasts](https://smartcopying.edu.au/glossary/podcast/) of programs that have been previously broadcast on free-to-air radio or television and made available on the broadcaster’s website (eg an episode of a Radio National program made available as a podcast on the ABC’s website) under the [Statutory Broadcast Licence](https://smartcopying.edu.au/guidelines/education-licences/statutory-broadcast-licence/), provided it is being done for an [educational purpose](https://smartcopying.edu.au/glossary/glossary/educational-purpose).

For all other TAFE institutes, see [Use of Television Programs and Film by TAFE Institutes Without a Statutory Broadcast Licence](https://smartcopying.edu.au/use-of-television-programs-and-film-by-tafe-institutes-without-a-statutory-broadcast-licence/).

If using [podcasts](https://smartcopying.edu.au/glossary/podcast/) under the [Statutory Broadcast Licence](https://smartcopying.edu.au/guidelines/education-licences/statutory-broadcast-licence/), teachers should make sure the [podcast](https://smartcopying.edu.au/glossary/podcast/) can only be accessed by staff and students.

**Programs that have not been broadcast on free-to-air radio or television**

If a [podcast](https://smartcopying.edu.au/glossary/podcast/) is made available on the internet and is not of a program that has been previously broadcast on free-to-air radio or television, you still may be able to [copy](https://smartcopying.edu.au/glossary/glossary/copy)and [communicate](https://smartcopying.edu.au/glossary/glossary/communicate) it. It will depend on whether:

* a copyright exception applies, such as [fair dealing](https://smartcopying.edu.au/guidelines/copyright-basics/copyright-exceptions/), [flexible dealing](https://smartcopying.edu.au/flexible-dealing/), [disability access exceptions](https://smartcopying.edu.au/guidelines/library-exam-and-disability-copying/disability-access-exceptions/) or another statutory exception or
* the copyright owner has given permission.

It is important to note that broadcasters often upload content (eg on their website), which was not previously broadcast on free-to-air radio or television. For example:

* podcasts not previously broadcast by ABC that are uploaded to their website will list the date of upload, but there will be no broadcast details:



* by contrast, [podcasts](https://smartcopying.edu.au/glossary/podcast/) that were broadcast on ABC that are now available on their website, will list the original broadcast date and time at the end of the webpage where the [podcast](https://smartcopying.edu.au/glossary/podcast/) has been uploaded:



You should always check whether or not the [podcast](https://smartcopying.edu.au/glossary/podcast/) was previously broadcast. If yes, you may be able to rely on the [Statutory Broadcast Licence](https://smartcopying.edu.au/guidelines/education-licences/statutory-broadcast-licence/) (WA TAFE institutes and Bradfield College in NSW only).  If no, you are only able to [copy](https://smartcopying.edu.au/glossary/copy/) and [communicate](https://smartcopying.edu.au/glossary/communicate/) if you can rely on one of the copyright exceptions apply or you have permission.

**Does a statutory exception apply?**

**Fair dealing**

If a [fair dealing](https://smartcopying.edu.au/glossary/fair-dealing/) exception applies, teachers will be able to [copy](https://smartcopying.edu.au/glossary/glossary/copy)and/or [communicate](https://smartcopying.edu.au/glossary/glossary/communicate) a [podcast](https://smartcopying.edu.au/glossary/podcast/) without the permission of the copyright owner.

The [fair dealing](https://smartcopying.edu.au/glossary/fair-dealing/) exceptions most relevant to teachers are:

* criticism or review – eg including a short extract of a podcast as part of a review for a relevant topic.
* [parody](https://smartcopying.edu.au/glossary/parody/) or [satire](https://smartcopying.edu.au/glossary/satire/) – eg using part of a [podcast](https://smartcopying.edu.au/glossary/podcast/) to make an engaging [parody](https://smartcopying.edu.au/glossary/parody/) for students.

Remember, that to rely on a [fair dealing](https://smartcopying.edu.au/glossary/fair-dealing/) exception the portion of the [podcast](https://smartcopying.edu.au/glossary/podcast/) used must be reasonable having regard to the purpose of the use. Otherwise, the use might not be ‘fair’.

For more information, see [Students and Copyright](https://smartcopying.edu.au/students-and-copyright/)

**Flexible dealing**

Under the [flexible dealing](https://smartcopying.edu.au/flexible-dealing/) exception, teachers can [copy](https://smartcopying.edu.au/glossary/glossary/copy) and/or [communicate](https://smartcopying.edu.au/glossary/glossary/communicate) [podcasts](https://smartcopying.edu.au/glossary/podcast/) for non-commercial teaching purposes if the use is not covered by another exception or statutory or voluntary licence.

To determine if material can be included in a [podcast,](https://smartcopying.edu.au/glossary/podcast/) teachers must assess whether:

* the proposed [copying](https://smartcopying.edu.au/glossary/glossary/copy)and/or [communicating](https://smartcopying.edu.au/glossary/glossary/communicate) is for a specific instructional purpose and
* the use isn’t ‘unreasonable’.

For more information, see [Flexible Dealing](https://smartcopying.edu.au/flexible-dealing/).

**Other exceptions**

Teachers may be use [podcasts](https://smartcopying.edu.au/glossary/podcast/) under other exceptions in specific circumstances including:

* using and modifying [podcasts](https://smartcopying.edu.au/glossary/podcast/) for students with a learning disability, see [Disability Access Exceptions](https://smartcopying.edu.au/guidelines/library-exam-and-disability-copying/disability-access-exceptions/) or
* using [podcasts](https://smartcopying.edu.au/glossary/podcast/) in exams, see [Copying for exams: What am I allowed to do?](https://smartcopying.edu.au/copying-for-exams-what-am-i-allowed-to-do-2/).

**Has the copyright owner given permission?**

There are three situations where you will have permission to [copy](https://smartcopying.edu.au/glossary/glossary/copy)and/or [communicate](https://smartcopying.edu.au/glossary/glossary/communicate) the [podcast](https://smartcopying.edu.au/glossary/podcast/):

* where the terms and conditions of use say that educational use is permitted
* where the material has been openly licensed (eg under [Creative Commons](https://smartcopying.edu.au/open-education/creative-commons)) or is in the public domain or
* where the teacher has received permission from the copyright owner to [copy](https://smartcopying.edu.au/glossary/glossary/copy)and/or [communicate](https://smartcopying.edu.au/glossary/glossary/communicate) the [podcast](https://smartcopying.edu.au/glossary/podcast/) (eg you may be able to get permission by asking the person or organisation listed at the ‘Contact Us’ section on the website).

Teachers should become familiar with websites that allow free educational use. They include:

* [CC Search website](https://ccsearch.creativecommons.org/)
* [Google (Advanced Search)](https://www.google.com/advanced_search?hl=en)
* [YouTube](https://www.youtube.com/) (using Creative Commons filter in search under ‘Features’) and
* [Wikimedia Commons](http://commons.wikimedia.org/wiki/Main_Page).

If a teacher is making a [podcast](https://smartcopying.edu.au/glossary/podcast/) available under a [statutory exception](https://smartcopying.edu.au/guidelines/copyright-basics/copyright-exceptions/) or with permission from the copyright owner, there may be limitations on how they can use it and how they should limit access to it (eg via password protected access).

**Students using podcasts made available on the internet**

If a [podcast](https://smartcopying.edu.au/glossary/podcast/) is made available on the internet (whether or not it has been previously broadcast on free-to-air radio or television), students can use it if:

* a [fair dealing](https://smartcopying.edu.au/guidelines/copyright-basics/copyright-exceptions/) exception applies or
* the copyright owner has given permission.

**Fair dealing**

If a [fair dealing](https://smartcopying.edu.au/glossary/fair-dealing/) exception applies, students will be able to use a [podcast](https://smartcopying.edu.au/glossary/podcast/) without the permission of the copyright owner.

The [fair dealing](https://smartcopying.edu.au/glossary/fair-dealing/) exceptions most relevant to students are:

* research or study – eg students downloading a [podcast](https://smartcopying.edu.au/glossary/podcast/) for their research and study
* criticism or review – eg students reviewing a [podcast](https://smartcopying.edu.au/glossary/podcast/) for an assignment. The source material, the author and copyright owner (if different) must be identified, and
* [parody](https://smartcopying.edu.au/glossary/parody/) or [satire](https://smartcopying.edu.au/glossary/satire/) – eg students using part of a [podcast](https://smartcopying.edu.au/glossary/podcast/) to include in a [parody](https://smartcopying.edu.au/glossary/parody/) or [satire](https://smartcopying.edu.au/glossary/satire/) (such as in another [podcast](https://smartcopying.edu.au/glossary/podcast/)).

Remember, that to rely on a [fair dealing](https://smartcopying.edu.au/glossary/fair-dealing/) exception the portion of the [podcast](https://smartcopying.edu.au/glossary/podcast/) used must be reasonable having regard to the purpose of the use. Otherwise, the use might not be ‘fair’.

For more information, see [Students and Copyright](https://smartcopying.edu.au/students-and-copyright/).

**Has the copyright owner given permission?**

There are three situations where you will have permission to use the [podcast](https://smartcopying.edu.au/glossary/podcast/):

* where the terms and conditions says that use for research and study is permitted
* where the material has been openly licensed (eg under [Creative Commons](https://smartcopying.edu.au/open-education/creative-commons)) or is in the public domain and
* where the student has received permission from the copyright owner to use the [podcast](https://smartcopying.edu.au/glossary/podcast/) (eg you may be able to get permission by asking the person or organisation listed at the ‘Contact Us’ section on the website).

Students should become familiar with websites that allow free educational use. They include:

* [CC Search website](https://ccsearch.creativecommons.org/)
* [Google (Advanced Search)](https://www.google.com/advanced_search?hl=en)
* [YouTube](https://www.youtube.com/) (using Creative Commons filter in search under ‘Features’ and
* [Wikimedia Commons](http://commons.wikimedia.org/wiki/Main_Page).

For further information see the [Smartcopying website](https://smartcopying.edu.au/) or contact your local copyright manager. You can also contact the National Copyright Unit on (02) 7814 3855 or by email at smartcopying@det.nsw.edu.au.