**COVID-19 School Lockdown – Copyright Guidance**

**UPDATED COVID-19 COPYRIGHT INFORMATION FOR SCHOOLS – 9 July 2021 – *This guidance will continue to be reviewed and updated so please check back from time to time***

**PLEASE IGNORE PREVIOUS INFORMATION SHEETS AND ADVICE ON THIS TOPIC**

**Please note the guidance in this information sheet is in response to the COVID-19 crisis only and should only be followed when a state and/or school goes into lockdown, or a student is forced to self-isolate, and remote learning is required.**

**Once normal teaching has resumed at the end of the lockdown period, or the relevant student has returned to school, schools should archive or disable access to copies of materials made to support student learning during the COVID-19 lockdown and/or isolation period from digital teaching environments (**[DTE](https://smartcopying.edu.au/glossary/digital-teaching-environment-dte/)**) and other online platforms.**

**Introduction**

This information sheet provides copyright guidance for schools to enable teachers to continue to teach their students remotely if their state and/or schools goes into lockdown due to an outbreak of COVID-19, or a student is forced to self-isolate.

This update is confined to distance education for the purposes of school closures and student self-isolation due to COVID-19. It covers the situation where materials that were going to be used in class now need to be made available by teachers through distance learning (online).

It does not cover other new, non-educational uses of material. In those situations, our existing information sheets apply and you can [contact the NCU](https://smartcopying.edu.au/contact-us/) for separate advice.

**The most important point for teachers to understand is this: schools are not clearly permitted to use digital technologies to provide remote teaching and learning support to Australian students in all circumstances.  However, if you follow the recommended steps set out in this information sheet, the risk that your school is infringing copyright may be reduced (if not eliminated completely).  Whether you are prepared to take on the risk of possibly infringing copyright, or authorising the infringement of copyright, is a matter for each school and its administering body.**

**By issuing these guidelines, the National Copyright Unit is not authorising any of the activities referred to below. Schools and administering bodies must make their own assessment as to whether the activities are permitted, or if it is unclear, whether they are prepared to take on the risks in the circumstances.**

Some of the copyright issues set out in this information sheet are complex, and for almost all questions we are receiving from teachers there are no ‘black and white’ answers.  Despite this, we have tried to provide some practical guidance. We are hopeful that copyright owners and licensing organisations will likewise take a pragmatic and common-sense approach to these issues.

The Commonwealth Government is aware of the legal limitations and uncertainties for delivering remote and online learning, and that legal changes are needed to allow schools to more flexibly deliver remote and online learning.  The School sector welcomed the fact that Minister Fletcher wrote to copyright collecting societies in 2020 to seek their forbearance during the unprecedented times of home learning in 2020, to provide schools with some reassurance about these legal risks.

The School sector was advised that although the Government sought agreement for regulatory forbearance, it recognised the need to give longer term certainty to the education sector and stated it will be [pressing ahead with reform of the Copyright Act](https://www.communications.gov.au/departmental-news/copyright-access-reforms) as soon as the opportunity arises.

Unfortunately these legislative changes that will enable teachers to confidently use copyright materials to provide remote learning have not yet been introduced.  Until that time, schools need to adopt a risk management approach to these issues, as there is no clear legal capacity to use copyright materials in all circumstances when teaching via remote means.

If you are unsure about how you can use copyright materials to support your students’ learning during COVID-19, please [contact the NCU](https://smartcopying.edu.au/contact-us/).

**Part 1 – Some general principles to guide all remote teaching during a school closure or student self-isolation**

Here are general principles to assist you in preparing remote lessons for students:

1. Where possible, use the many free legal sources of content for students to access without teachers needing to make copies for, or send copies to, students. For example, if a music teacher needs students to listen to a particular song, consider whether it is available for students to access themselves legally via services such as Spotify or YouTube? If you want students to listen to a news item, consider whether it is available for students to view on a catch-up TV service such as ABC iView that students can access themselves? If so, use those freely available sources.
2. If students need to read or view content that is available on the internet, send students an email or document with links to those resources rather than sending students actual copies of the resources (i.e. in word or PDF form) or making copies for them. Where possible, students should use their home internet connection to access research reports, newspaper articles or instructional videos from the actual websites where these resources appear (rather than a teacher making a [copy](https://smartcopying.edu.au/glossary/copy/) of these resources and sending them to students).
3. Consider the many subscription services that students can access from home. For example, if the school has a subscription to services such as Hot Maths or Reading Eggs, students should be able to access those resources by logging in from home (rather than teachers [copying](https://smartcopying.edu.au/glossary/copy/) the content for students).
4. If the above options are not possible or suitable, you may be able to provide copies of copyright materials to students (e.g. via a [DTE](https://smartcopying.edu.au/glossary/digital-teaching-environment-dte/)), however different rules apply depending on the type of material you are using as part of your teaching. Some guidance on the different types of material are set out below.
5. If you are teaching remotely and need to use copyright material in your lessons (either held via a video conferencing platform such as Zoom or recorded for students to watch later), there is no clear permission in the Copyright Act that allows you to do so. However, you can take the following steps which may lower (if not in some cases eliminate) the risk of copyright infringement:
   * + 1. ensure that you only use copyright material where it is for the [*educational purposes*](https://smartcopying.edu.au/glossary/educational-purpose/) of the school or for the purposes of [*educational instruction*](https://smartcopying.edu.au/glossary/educational-instruction/)
       2. only use a small amount of copyright material (i.e. extracts) not the whole of a work, video or song etc
       3. ensure the lesson or any recording is only made available to those students who need it as part of their studies (e.g. via a username and password in a closed environment not on an open internet page) rather than making it available to the whole school
       4. instruct students, where possible, to only watch the lesson or recording when physically located in their homes, not in a community space or their parent’s workplace
       5. make the lesson or recording “view only”, so that no further copies can be made or downloaded
       6. only make recordings available for the period of time for which they are needed
       7. archive or disable access by students to recordings once they are no longer needed (e.g. when normal teaching resumes).

**Part 2 – FAQs**

1. **Can I hold a virtual class/lesson for students to watch in real-time (ie live rather than pre-recorded) in which copyright material is used?**

Teachers are allowed to use all forms of copyright material when they are teaching in a physical classroom. However, such uses are not clearly permitted in a virtual class/lesson in all circumstances.

If you need to teach remotely using copyright material in your lessons, you can take the following steps when holding a virtual class/lesson which may lower (if not in some cases eliminate) the risk that you are infringing copyright:

* 1. ensure that you only use copyright material where it is for the [*educational purposes*](https://smartcopying.edu.au/glossary/educational-purpose/) of the school or for the purposes of [*educational instruction*](https://smartcopying.edu.au/glossary/educational-instruction/)
  2. only use a small amount of copyright material (i.e. extracts) not the whole of a work, video or song etc
  3. ensure the lesson or any recording is only made available to those students who need it as part of their studies (e.g. via a username and password in a closed environment not on an open internet page) rather than making it available to the whole school
  4. instruct students, where possible, to only watch the lesson or recording when physically located in their homes, not at a community space or their parents’ workplace
  5. make the lesson or recording “view only”, so that no further copies can be made or downloaded
  6. only make recordings available for the period of time for which they are needed
  7. archive or disable access by students to recordings once they are no longer needed (e.g. when normal teaching resumes).

1. **Can I record classes/lessons in which copyright material is used for students to access on-demand?**

Teachers are allowed to use all forms of copyright material when they are teaching in a physical classroom. However, there is no clear ability to make a recording of a lesson when copyright materials are used.

If you need to make a recording of a class/lesson for students to access later on-demand due to a period of lockdown or self-isolation, you can take the same steps as set out above for a virtual class/lesson (see FAQ 1) which may lower (if not in some cases eliminate) the risk of copyright infringement.

Where you are making a recording of a lesson, we also recommend that you add the following notice at the beginning of the recording:

*This video recording/recording has been made available to you in accordance with the educational use provisions in the Copyright Act for you to view only. No further copies or sharing of the video recording/recording should be made outside the class as the material in the recording may be the subject of copyright protection. Do not remove this notice [insert date recording was made available to students to access].*

If including a notice in this way is not practical, it would be a good idea to email students (or put a notice in school blogs or on other communication platforms) reminding students that remote lessons are being provided to them as part of their school’s response to COVID-19, and that they must not make any further copies of any of the content provided to them, including sharing with friends, via social media, or uploading to the internet.

1. **Can I read stories to my students as part of a virtual or recorded class/lesson?**

There is no clear permission in the Copyright Act that allows you to read stories to your students as part of a virtual or recorded class/lesson.  There may be a lower risk of copyright infringement (or possibly no risk at all) if you only read a small extract (i.e. less than 10%) of the story to your students and you take the same steps as set out above for a virtual class/lesson (see FAQ 1).  However, you cannot read a whole story to your students unless the book is not [commercially available](https://smartcopying.edu.au/glossary/commercially-available/) to purchase or all the students in the class own a [copy](https://smartcopying.edu.au/glossary/copy/) of the book.

*Please note that while there was a Storytime Agreement that provided some comfort that the reading of stories to students as part of a virtual or recorded class/lesson could take place last year, that Storytime Agreement has expired.*

1. **What copyright materials can I upload to my school’s**[**DTE**](https://smartcopying.edu.au/glossary/digital-teaching-environment-dte/) **for students to access?**

Please note that different rules apply depending on the type of material you are using as part of your teaching. If any of these materials are to be used as part of a virtual or recorded lesson, then please read the following guidance together with the guidance above about virtual and recorded classes/lessons (see FAQs 1, 2 and 3).

**Materials from textbooks and resources**

It is usually possible to upload a small extract of a textbook or resource (i.e. less than 10% or a chapter) to a [DTE](https://smartcopying.edu.au/glossary/digital-teaching-environment-dte/) for the educational purposes of the school or as part of [educational instruction](https://smartcopying.edu.au/glossary/educational-instruction/) provided the following steps are taken to protect the copyright in those resources:

* 1. ensure that only those students that need to view the material can access it (eg upload it to a password protected [DTE](https://smartcopying.edu.au/glossary/digital-teaching-environment-dte/) or other closed class online learning space such as a closed Facebook group) rather than all students enrolled at the school
  2. ensure no further copies/downloads of the material can be made
  3. only make the materials available for the time needed for the course of study
  4. archive or disable access by students to the materials once it is no longer needed by the students.

Where you wish to use more than a small extract, or several small extracts, this may only be possible where the school, or parents on behalf of their students, have purchased the textbook or paid subscription to the educational materials for each student in the class (and you take the above steps to protect the copyright in those resources).

For any copies made, we also recommend that you include this notice on the copies where practical:

*This material has been made available to you in accordance with the educational use provisions in the Copyright Act for you to view only. No further copies or sharing of the material should be made outside the class as the material in the recording may be the subject of copyright protection. Do not remove this notice [insert date recording was made available to students to access].*

**Print sheet music**

Yes. Under the schools [AMCOS Licence](https://smartcopying.edu.au/guidelines/education-licences/schools-amcos-licence/), teachers can make as many digital copies of sheet music as they need. They can then upload copies of sheet music to a password protected [DTE](https://smartcopying.edu.au/glossary/digital-teaching-environment-dte/) and/or email PDF versions of digital sheet music to students. Teachers can also make digital copies of print sheet music (eg scan to digital form). Just note, there are some restrictions in relation to [Grand Rights Works](https://smartcopying.edu.au/glossary/grand-right-works/) and [Choral Works](https://smartcopying.edu.au/glossary/choral-work/).

See [Music Copyright Guide for Schools](https://smartcopying.edu.au/music-copyright-guide-for-schools/) for more information.

[**Sound Recordings**](https://smartcopying.edu.au/glossary/sound-recordings/)**, audiobooks and podcasts**

If your students need to listen to music, we encourage you to point them to [streaming](https://smartcopying.edu.au/glossary/streaming/) services such as Spotify, SoundCloud and Mixcloud. These services are free, and there are also paid premium services available.

Students can also use their own personal music accounts such as Apple Music or Google Play.

With regard to audiobooks, you can refer students to lending or subscription sites that offer audiobooks such as [Audible](https://www.audible.com.au/), [BorrowBox](https://www.borrowbox.com/), [CloudLibrary](https://ebook.yourcloudlibrary.com/library/yarra/Featured) or [Overdrive](https://www.overdrive.com/). For free audiobooks to stream or download, see the section below (‘Part 4: Free resources and subscriptions’).  If you wish to record yourself reading a book for students, see above (FAQ 3).

With regard to podcasts, we recommend you provide links to podcasts for students to access remotely. Some free education [podcast](https://smartcopying.edu.au/glossary/podcast/) examples are:

* [ABC Podcasts](https://www.abc.net.au/radio/podcasts/)
* [Google Podcasts](https://podcasts.google.com/)
* [Apple Podcasts](https://podcasts.apple.com/au/genre/podcasts/id26)
* [Kinderling (primary school).](https://www.kinderling.com.au/)

Uploading [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/), podcasts or [commercially available](https://smartcopying.edu.au/glossary/commercially-available/) audiobooks to a [DTE](https://smartcopying.edu.au/glossary/glossary/digital-teaching-environment-(dte)) for remote access outside of class is not expressly permitted under the Copyright Act. Please [contact the NCU](https://smartcopying.edu.au/contact-us/) for further advice.

For more information on how you can currently use music, [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) and podcasts, see [Music](https://smartcopying.edu.au/guidelines/music/) and the [Podcasts – Using](https://smartcopying.edu.au/podcasts-using/) information sheet.

[**Broadcast**](https://smartcopying.edu.au/glossary/broadcast/)**Radio and Television**

We encourage you to direct students and parents to programs streamed on ABC iView, SBS on demand and other free Australian catch up television services.

If your school subscribes to a [resource centre](https://smartcopying.edu.au/glossary/resource-centre/) such as Clickview or TV4Education, copying and/or communicating [copy](https://smartcopying.edu.au/glossary/copy/) programs to your students is allowed under the [Statutory Broadcast Licence](https://smartcopying.edu.au/glossary/statutory-broadcast-licence/). Where possible, we advise directing the students to the copied program to view only, rather than provide students with [copy](https://smartcopying.edu.au/glossary/copy/) programs to download and save.

If you are in a remote community or have poor network/bandwidth, you may wish to provide students with [copy](https://smartcopying.edu.au/glossary/copy/) programs [broadcast](https://smartcopying.edu.au/glossary/broadcast/) on Australian television on USB and/or DVD.

For more of what you can do with [copy](https://smartcopying.edu.au/glossary/copy/) television and radio programs [broadcast](https://smartcopying.edu.au/glossary/broadcast/) by Australian Broadcasters, see [Radio and Television Broadcasts](https://smartcopying.edu.au/guidelines/radio-and-television-broadcasts/).

**Films and Videos**

There are a number of educational resources available on free video sites such as YouTube or Vimeo. You can provide students with links to view the appropriate educational resource on these platforms from home. Please note that for many services, such as YouTube, the terms of use state that children must be 13 years or over, so parent or guardian supervision may be required.

Teachers and schools are encouraged to provide links to students and parents in their [DTE](https://smartcopying.edu.au/glossary/digital-teaching-environment-dte/)s rather than make and provide a [copy](https://smartcopying.edu.au/glossary/copy/) of films to students.

Parents and students can also access subscription [streaming](https://smartcopying.edu.au/glossary/streaming/) services at home such as Netflix, Stan and Prime Video. Please note some of these services offer one month free trials.

Uploading a [film](https://smartcopying.edu.au/glossary/film/) to a [DTE](https://smartcopying.edu.au/glossary/glossary/digital-teaching-environment-(dte)) for remote access outside of class is not expressly permitted under the Copyright Act. Please [contact the NCU](https://smartcopying.edu.au/contact-us/) for further advice.  In addition, if a teacher needs to include [film](https://smartcopying.edu.au/glossary/film/) or video content in a remote lesson, this is not expressly permitted (see guidance above at FAQs 1 and 2).

For more information see

[Films and Video](https://smartcopying.edu.au/guidelines/films-and-videos/)

[Performance and communication of copyright material in class](https://smartcopying.edu.au/performance-and-communication-of-copyright-material-in-class/)

[Youtube – Using](https://smartcopying.edu.au/using-youtube/)

1. **Can I mail print resources to students?**

It is not always possible for students to access online content from home, whether this is due to bandwidth or not having access to the internet or a home device. In these circumstances, teachers and schools may need to provide students with hard copies of materials.

In these circumstances, the same rules apply in relation to uploading the materials to a DTE (see FAQ 4 above). In addition:

* you should send a cover letter with the resources that states the materials have been provided for the student’s educational use during the COVID-19 outbreak and no further copies should be made
* if the student doesn’t need to print or edit the resources on the USB or DVD, lock the USB or DVD so that resources can only be viewed and no further copies or downloads can be made.

For more information see [Statutory text and artistic works licence.](https://smartcopying.edu.au/guidelines/education-licences/the-statutory-text-and-artistic-works-licence/)

**Part 3 – Smartcopying tips for teachers and schools**

**Link**

Linking to content is not a copyright activity. This is because teachers are not actually ‘copying’ any material. Rather, teachers are providing students with a path to its location. Providing links to material is a great way for teachers to manage copyright.

**Limit**

Ensure access to material is limited to the relevant students only. Limiting access is important for cost and risk management. For example, if only a specific class needs access to material, limit access to those students rather than allowing the entire school to access.

**Label**

All material created and used for educational purposes should be properly attributed. Attributing is important to ensure we don’t pay [licence](https://smartcopying.edu.au/glossary/licence/) fees for material we already own or are allowed to use – eg school created content. For more information see [Labelling and Attributing](https://smartcopying.edu.au/labelling-and-attributing/).

**Use**[**Creative Commons (CC)**](https://smartcopying.edu.au/glossary/creative-commons-cc/)**Licensed Material and**[**Open Education Resources (OER)**](https://smartcopying.edu.au/glossary/open-education-resources-oer/)

Teachers and schools are encouraged to use [Creative Commons (CC)](https://smartcopying.edu.au/glossary/creative-commons-cc/) licensed material and [Open Education Resources (OER)](https://smartcopying.edu.au/glossary/open-education-resources-oer/). CC licensed material and OER are free to access, modify and share. For information on where to find CC and OER materials, see [Where to find CC licensed materia](https://smartcopying.edu.au/where-to-find-cc-licensed-material/)l and [Where to find OER materials.](https://smartcopying.edu.au/open-education-resources/where-to-find-oer-materials/)

**Archive material when it is no longer needed**

Archive material as soon as possible when it is no longer required to help manage copyright risk and costs.

Archiving involves moving the material into a closed area online where it can only be accessed by one person, such as the school librarian, ICT Manager or teacher who uploaded the material.

**Smartcopying Website**

Please check [COVID-19 Copyright Issues](https://smartcopying.edu.au/covid-19-copyright-issues/) for regular updates (including any updated versions of this information sheet) and resources that will help you during this time.

If you have any other questions or need additional guidance, please contact the NCU:

* Tel: 02 7814 3855
* Email: [smartcopying@det.nsw.edu.au](mailto:smartcopying@det.nsw.edu.au)