**Remote and digital learning – ‘day to day’ teaching and learning**

**UPDATED 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**

**Introduction**

This information sheet provides updated copyright guidance to all schools for the 2021 school year to manage the risk of copyright infringement as a result of digital uses of copyright materials.

If your school is currently in an area subject to COVID-19 related stay at home orders or ‘lockdown’, or one of your students has been ordered to self-isolate, please refer to the [COVID-19 School Lockdown – Copyright Guidance](https://smartcopying.edu.au/covid-19-school-lockdown-copyright-guidance/).

**Otherwise, 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. 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). However, the risk of copyright infringement through digital uses during normal teaching periods is higher than it is during ‘lockdown’. 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.**

Some of the copyright issues set out in this information sheet are complex.  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.

However, by issuing these guidelines, the National Copyright Unit (NCU) 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.

Schools are waiting on the Commonwealth Government to implement [planned changes to the Copyright Act 1968](https://www.communications.gov.au/departmental-news/copyright-access-reforms) that will enable teachers to confidently use copyright materials to provide remote learning. 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.

*Please note: schools should not assume that just because they were told they could continue to teach using copyright content with technologies such as Zoom during COVID-19 that these activities are generally permitted. In particular, there were some special copyright licences negotiated for the 2020 school year (such as the Storytime Agreement) in light of COVID-19 that permitted some of these teaching activities. These licences no longer apply.*

Setting out the detailed rules about all digital copyright uses is outside the scope of this information sheet. Rather, it focuses on digital uses that schools across Australia have commonly adopted during the transition to remote learning, and suggests which uses are not permitted, or are legally uncertain.

In many cases, there is no clear or ‘one size fits all’ answer to whether digital uses of copyright material are permitted. This information sheet provides general information only, and should not be considered to be legal advice regarding your specific questions. If you are unsure about how you can use copyright materials to support your students’ learning, please [contact the NCU](https://smartcopying.edu.au/contact-us/).

**Part 1 – Some general principles to guide all remote teaching**

Here are some 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 (ie 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 (eg 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. Note that in relation to [films](https://smartcopying.edu.au/glossary/film/), videos, [sounds recordings](https://smartcopying.edu.au/glossary/sound-recordings/), games and apps, the risk of copyright infringement is much higher when you are not in a period of “lockdown”.
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:
6. 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/)
7. only use a small amount of copyright material (ie extracts) not the whole of a [work](https://smartcopying.edu.au/glossary/works/), video or song etc
8. ensure the lesson or any recording is only made available to those students who need it as part of their studies (eg via a username and password in a closed environment not on an open internet page) rather than making it available to the whole school
9. 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
10. make the lesson or recording “view only”, so that no further copies can be made or downloaded
11. only make recordings available for the period of time for which they are needed
12. archive or disable access by students to recordings once they are no longer needed (eg when normal teaching resumes).

Note that in relation to films, videos, sounds recordings, games and apps, the risk of copyright infringement is much higher when you are not in a period of “lockdown”.

**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 (ie 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 (eg 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 (eg when normal teaching resumes).

Note that in relation to films, videos, sounds recordings, games and apps, the risk of copyright infringement is much higher when you are not in a period of “lockdown”.

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, 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.

Note that in relation to films, videos, sounds recordings, games and apps, the risk of copyright infringement is much higher when you are not in a period of “lockdown”.

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 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 (ie 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. **Can I use archived teaching recordings made during COVID-19 as learning resources in 2021?**

It depends. Teachers may be able to use these recordings in 2021 under other educational use provisions in the Copyright Act. This would need to be assessed on a case by case basis.

If a teacher wishes to use a specific recording(s) and is unsure, they should [contact the NCU](https://smartcopying.edu.au/contact-us/) and we can assess their particular case.

1. **Can I use social media platforms (such as Facebook or YouTube) to teach students?**

There is no general permission for schools to post copyright content on social media platforms such as Facebook or YouTube. Although there are some exceptions to this rule, in general copyright materials used for educational purposes should only be shared with staff and students of the school (via password protected access).

If you wish to use technologies such as Facebook Live or YouTube Live instead of services such as Zoom or Skype, then the answers provided for Zoom in this information sheet will apply to these types of uses (provided you have limited the audience in the ways discussed, ie to just teachers and students of the school).

For wider social media uses (eg posting content to a school Facebook page, class Facebook group or YouTube channel), this may be possible in very limited circumstances where there is a special educational need, and the content is removed at the end of the lesson. However, for the most part, you will not be permitted to post copyright [works](https://smartcopying.edu.au/glossary/works/) to publicly accessible websites. Further information is provided in this Smartcopying information sheet, [YouTube – Using](https://smartcopying.edu.au/using-youtube/).

Schools should [contact the NCU](https://smartcopying.edu.au/contact-us/) for advice before posting material publicly on social media.

1. **What copyright materials can I upload to my school’s 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 (ie 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 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 material 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].*

For further information on [copying](https://smartcopying.edu.au/glossary/copy/) and [communicating](https://smartcopying.edu.au/glossary/communicate/) [text](https://smartcopying.edu.au/glossary/text/) and [artistic works](https://smartcopying.edu.au/glossary/artistic-works/) to a [DTE](https://smartcopying.edu.au/glossary/digital-teaching-environment-dte/), see [Statutory Text and Artistic Works Licence](https://smartcopying.edu.au/guidelines/education-licences/the-statutory-text-and-artistic-works-licence/).

**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](https://smartcopying.edu.au/glossary/podcast/), 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-%28dte%29) for remote access outside of class is not expressly permitted under the Copyright Act and the risk of copyright infringement is much higher when you are not in a period of “lockdown”. 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](https://smartcopying.edu.au/glossary/streaming/) 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](https://smartcopying.edu.au/glossary/copy/) and/or [communicating](https://smartcopying.edu.au/glossary/communicate/) [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 for remote access outside of class is not expressly permitted under the Copyright Act and the risk of copyright infringement is much higher when you are not in a period of “lockdown”. 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 Videos](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 hardcopy 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 (including on USB and/or DVD).

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 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 it.

**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 Material](https://smartcopying.edu.au/where-to-find-cc-licensed-material/) 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.

What if I have other questions about digital uses?

You can contact the NCU directly for any copyright queries related to your school on telephone: 02 7814 3855 or email: smartcopying@det.nsw.edu.au.

The NCU also runs copyright training for teachers. You can sign up at [National Copyright Webinar Series](https://smartcopying.edu.au/national-copyright-seminar-series/).