

Copyright Guide for publishing your Creative Work on Figshare

Creative works on Figshare

You are responsible for ensuring you have all the copyright rights to publish your Creative work on Figshare. This includes the rights to publish any accompanying material that supports your creative work such as: music composed by others, reviews, programs, catalogues and photos showing identifiable images of others or their artworks.

Who owns the copyright in your Creative work?

Griffith HDR Candidates own the copyright in the original works they create. Whilst [Griffith's IP Policy](#) confirms that Griffith owns the copyright and other IP in what staff create, this is not always applied to Creative Works. When staff create Creative Works in their own time, not using Griffith resources and outside their employment contracts, those staff will often own the copyright in their Creative Works.

Some researchers sign agreements when receiving grants or commissions that hand over (assign) the copyright to another person or organisation. In such instances, permission from the new copyright owner is required to publish.

However, you will not own the copyright in individual material whose copyright belongs to others you include in your creative work or in any material that accompanies your creative work. For example:

- If you perform music and/or lyrics written by someone else
- If people performed music or acted for your creative work, you will not own the copyright in their performance.
- If you took a photo of an artwork whose copyright belongs to another, then you partly own the copyright in the photo (as the photographer) but you will not own the copyright of the underlying artwork (which is part of the photo).
- If your work appears in a catalogue or program created by another, you will not own the copyright in the catalogue or images of other people or artworks in the catalogue.
- If you include music from elsewhere in your film, you will not own the copyright in that music.
- If you build your game or animation using software you did not create, you will not own the copyright in that underlying software.

Can you publish your Creative Work?

You may publish your creative work on Figshare only if you have the copyright rights to publish all copyright material belonging to others that you included in your work. Generally, this requires getting [written permission](#) from the copyright owners to publish their work. Note, you should reference any copyright material belonging to others that you use. Also you need [permission](#) from those whose image or voice you used (see below).

If you don't have the required copyright rights and any required [permission](#) (from those whose image or voice you used) to publish, then you must [redact](#) the relevant material prior to publication. If you are unable to redact the relevant material, then you may not publish your creative work and/or the material that accompanies it on Figshare.

Can you publish music?

Researchers may wish to publish on Figshare recordings of their musical performances or compositions, or videos containing recorded music.

A single music recording can contain copyright in each of the following:

1. the notation (including notation in a new edition of an out-of-copyright work)
2. the lyrics
3. the performance; and
4. the recording.

So, if for example, you performed a piece of music, you will need permission from the composer, the lyricist, and the recorder of the music to publish your performance on Figshare.

Do you also need consent from participants to publish?

Yes. If you took photos, audio, or filmed the voice or image of others for your creative work or accompanying material, you will need [written permission](#) from any person who is identifiable to publish on Figshare.

If you do not have the required permissions to publish, then you must redact the relevant material prior to publication. If you are unable to redact the relevant material, then you may not publish this.

Including material with a Creative Commons or open licence

Many images and pieces of music or videos on the internet have Creative Commons licences attached. This means that you can include this material in your creative work and then publish it without needing [permission](#). You may even include material with a NON-COMMERCIAL Creative Commons licence. However, you may not adapt and publish works with a NO DERIVATIVES licence without getting [written permission](#) from the copyright owner.

When using software to create your animation or game, consider using software with a suitable open licence where you will not need [permission](#). If you use software that has a commercial licence, you will need to check that the licence permits publication.

Including out of Copyright material

You may include out-of-copyright material in your creative work and publish this without [permission](#).

Examples of an out-of-copyright work:

- Where the painter or sculptor of the artwork died before 1 January 1955.
- A photo taken before 1 January 1955

- Using sheet music for your performance where the composer and lyricist died before 1 Jan 1955 (and the edition of this sheet music used was published more than 25 years ago).

Check out the [Copyright Duration guide](#) or contact the [Information Policy Officer](#) for advice.

Note that some galleries that provide photos of artworks that are out of copyright, claim copyright in their reproduction. In these instances, you may need [permission](#) or even pay a fee to the gallery to include such photos in your creative work for publication. Contact the [Information Policy Officer](#) for advice.

Can you include images and other copyright material under “Fair Use”?

No. “Fair Use” is permitted under American copyright law. Many artworks and pieces of music are published in America on websites such as Wikipedia under “Fair Use”. But as your creative work will be published in Australia on Figshare, you may not include material under “Fair Use”.

Can you include material you are using for parody or satire or criticism or review in your creative work for publication?

The ‘Australian Copyright Act’ permits a “fair dealing” of a copyright work for parody or satire or criticism or review. Criticism or review may only apply if you actively critique or analyse the material in your creative work, and not if you use it for decorative purposes or as an illustrative example (such as of an artist’s or period’s general style).

What constitutes a “fair dealing” depends on a variety of factors including the commercial availability of the material you wish to use. Contact the [Information Policy Officer](#) for advice.

Can you publish a “sample” of your commissioned work or part of a copyright work?

When you create a commissioned creative work (such as a musical work) sometimes you will continue to own the copyright in the work you create, and sometimes you will hand over (assign) the copyright to the person or organisation that has commissioned the work. It all depends on the agreement you sign. If you own the copyright then you have the right to publish your entire work or a “sample” of your work on Figshare or elsewhere (though if your musical work is performed, you will need [permission](#) from each of the performers to publish their performance).

If you don’t own the copyright in material you are including in your creative work or accompanying material, you may publish on Figshare an “insubstantial” portion of this material without [permission](#). Whether the “sample” or part you intend to publish is “insubstantial” will depend on both the particulars of this portion and the nature and size of the overall work. Small amounts of music or film can be considered substantial. Photos (and images from films) are complete copyright works, so part of a photo is often considered substantial. Contact the [Information Policy Officer](#) for advice.

Can you adapt material created by others and include this in your creative work for publication?

When adapting material and including a “substantial portion” of this material in your adaptation for publication on Figshare, you must get permission from the copyright owner. If you draw an image using another’s artwork and your work looks “substantially” similar to this original artwork, you will need permission. Note, this is different from your work simply being “inspired” by another work. Also, what is deemed “substantial” can vary across mediums. For example, even a bar of music can be considered “substantial”. Contact the [Information Policy Officer](#) for advice.

In addition, you need permission if your adaptation could adversely affect the reputation of the creator of the work you are adapting (though Australian Copyright law permits a “Fair Dealing” for “parody” or “satire” as outlined above).

However, you don’t need permission to adapt if the material is out of copyright, has a Creative Commons licence or other open licence that permits adaptation and publication.

Need help?

Contact the [Information Policy Officer](#) for advice.