Copyright Complaints and Takedown Procedure

Related Policy

Copyright Policy

Responsible Officer

Deputy Vice-Chancellor (Students and Education)

Approved by

Deputy Vice-Chancellor (Students and Education)

Approved and commenced

August, 2015

Review by

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Responsible Organisational Unit

Tasmanian Institute of Learning and Teaching

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1 Objective

The Copyright Complaints and Takedown Procedure is to be followed when the University receives notice or is made aware of suspected copyright breaches.

2 Scope

The Copyright Complaints and Takedown Procedure applies to all members of the University Community and anyone exercising an exclusive right of a Third Party Copyright holder on behalf of or in connection with the University.

3 Procedure

3.1 Alleged copyright breaches

The most common ways the University may become aware of suspected copyright breaches are:

- Notification by third parties claiming ownership of copyright material hosted or made available by or on behalf of the University;
- Internal or external audit of the University's ICT Facilities and Infrastructure; or
- A report or complaint lodged by a University Community member.

3.1.1 Allegations of research misconduct

Complaints that include suspected or alleged breaches of the Australian Code for the Responsible Conduct of Research or research misconduct will be referred to the designated person under the Managing Allegations of Research Misconduct Procedure for assessment and investigation in accordance with that Procedure.

3.2 Takedown notices

The Copyright Officer (as the Designated Representative) may receive a notification from an External Party claiming that the University’s ICT Facilities or Infrastructure are being used to Cache, transmit, route or provide connection to infringing copyright material. The notification may include a request for the allegedly infringing material to be removed immediately from the University’s ICT Facilities or Infrastructure. Notices claiming copyright infringement or Takedown notices may be lodged via the University Copyright Infringement Notification Form.

http://www.utas.edu.au/copyright/forms/copyright-infringement-notification-form

When a notification is received the Copyright Officer must:

- Immediately notify the Chief Information Officer and General Counsel with the details of the alleged infringement;
- Immediately organise expeditious removal of or disable access to (takedown); the copyright material specified in the notice; and
- Inform the claimant that the takedown has occurred.
Copyright Complaints and Takedown Procedure

The University will take action to expeditiously remove or disable access to copyright material which is the subject of a copyright breach allegation, prior to assessing its position and deciding whether to challenge the allegation. However, such action does not imply any acceptance that material held on the University’s ICT Facilities or Infrastructure (or otherwise) does indeed breach the copyright of another party.

The Copyright Officer will investigate all claims alleging copyright infringement received via the copyright infringement notification form with cooperation and support from the Chief Information Officer and General Counsel.

If the Copyright Officer determines, on advice from General Counsel, that there is unlikely to be a basis to the claim that the University’s ICT Facilities or Infrastructure has been used to Cache, Transmit, Route or provide connection to copyright material in a way that breaches copyright, the Copyright Officer may request the Chief Information Officer to restore or enable access to the copyright material in question.

The Copyright Officer may request the Chief Information Officer to remove or disable access to copyright material permanently where it is found that the University’s ICT Facilities or Infrastructure have been used to illegitimately Cache, transmit, route or provide connection to that copyright material. The Copyright Officer will then notify the claimant and General Counsel of the action taken.

3.3 Reporting of alleged copyright breaches where a Takedown notice is not used

University Community members must ensure they manage their use of copyright materials in accordance with legislative and policy requirements. Reports or notifications of alleged copyright breaches which occur through the use of ICT Services and Facilities will be dealt with in accordance with these procedures and the **ICT Services and Facilities Use Policy**.

University staff have an obligation to report suspected or potential compliance failures to their line manager/supervisor or the relevant Organisational Unit Head. Where a suspected copyright breach does not involve a breach of the **ICT Services and Facilities Use Policy** it must be reported to either:

- the Organisational Unit Head under whose authority and control the suspected copyright breach took place; or
- the University Copyright Officer.

Upon receiving a report of an alleged copyright breach the Organisational Unit Head must work in cooperation with the Copyright Officer to investigate and respond to the incident. Obtaining facts related to the incident may involve the Organisational Unit Head organising interviews with University Community members and obtaining advice from Governance and Legal. The Organisational Unit Head must also notify the Chief Information Officer if it is considered likely that the suspected copyright breach did in fact involve the use of ICT Services and Facilities.

If after investigation the Organisational Unit Head or Copyright Officer determines that an act of non-compliance in relation to copyright has occurred within their unit they shall notify the parties involved in writing and direct remedial action to be taken.

Remedial action by the Organisational Unit Head or Copyright Officer may include a direction:
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- to remove, confiscate, takedown, or destroy the copyright material in question;
- for the copyright material not to be used by the University for any purpose; or
- to initiate disciplinary action under the University of Tasmania Staff Agreement or provisions of Ordinance 9 – Student Discipline.

An Organisational Unit Head shall notify the Copyright Officer of any remedial action undertaken in relation to non compliance involving a copyright matter. Similarly, the Copyright Officer shall notify the relevant Organisational Unit Head of any remedial action undertaken in relation to non compliance involving a copyright matter.

### 3.4 Responsibilities

The responsibilities of the Copyright Officer are provided in the Copyright Policy. Further to those provisions the Copyright Officer is authorised to follow up all instances of alleged copyright infringement to ensure appropriate investigation and remedial action is undertaken. If an Organisational Unit head does not within 10 working days provide adequate notification as to the status of an investigation or it is deemed that remedial action is not adequate, the Copyright Officer may notify the Vice Chancellor to have the matter addressed.

### 4 Definitions and Acronyms

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<thead>
<tr>
<th>Term/Acronym</th>
<th>Definition</th>
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<tr>
<td>Cache</td>
<td>The reproduction of copyright material on a system or network controlled or operated by or for a carriage service provider in response to an action by a user in order to facilitate efficient access to that material by that user or other users (Section 116AB, Copyright Act).</td>
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<td>Copyright Act</td>
<td>The Copyright Act 1968 (Cth).</td>
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<td>Copyright Material</td>
<td>Includes literary, dramatic, musical or artistic works or sound recordings, cinematograph films, broadcasts or published editions as defined in the Copyright Act.</td>
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<tr>
<td>Designated Representative</td>
<td>The person designated to receive notices and notifications under the Copyright Policy for the University.</td>
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<tr>
<td>ICT Facilities</td>
<td>All computers, terminals, telephones, end host devices, licences, centrally managed data, computing laboratories, video conference rooms, and software owned or leased by the University.</td>
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<tr>
<td>ICT Infrastructure</td>
<td>All electronic communication devices, networks, data storage, hardware, and network connections to external resources such as AARNet and the Internet.</td>
</tr>
<tr>
<td>ICT Services</td>
<td>All systems supporting interaction, information provision, information storage, or communications provision and the ICT Facilities on which they operate.</td>
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Organisational Unit | College, Faculty, School, Centre, University Institute, other University Entity, Division, Section or University Business Enterprise.
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Organisational Unit Head | The Head of a College, Faculty, School, Centre, University Institute, other University Entity, Division, Section or University Business Enterprise. This can also include an authorised delegate.
Student | A person who is for the time being enrolled as a student of the University including a candidate undertaking a higher degree by research.
Third Party | Copyright not held or licenced by the University of Tasmania.
Copyright University | The University of Tasmania.
University Community | All University employees, students, associates and controlled entities including any person participating in authorised University business or activities.

5 Supporting Documentation

- Copyright Policy
- Ordinance 9 – Student Discipline
- University of Tasmania Staff Agreement
- ICT Services and Facilities Use Policy
- Legal Compliance Policy
- Copyright Notice of Infringement Form (Takedown Form)
- Managing Allegations of Research Misconduct Procedure

6 Versioning

| Current Version | Version 1 – Copyright Procedure; approved August, 2015. |