**UNIVERSITY OF LEEDS**

**DIGITAL ASSETS RE-USE POLICY**

**DRAFT FOR CONSULTATION**

|  |  |  |  |
| --- | --- | --- | --- |
| Date: | 5 February 2021 | Consultation deadline: | 26 February |
| Title of Item: | Digital assets re-use policy | | |
| Author: | Neil Morris | | |
| Sponsor: | Neil Morris | | |

|  |
| --- |
| Executive summary and purpose of paper: (*200 words max*) |
| Feedback from staff over the last few years has indicated that there is a need for a clearer position on how digital assets will be used. This paper describes a draft policy position for discussion and agreement, before formal approval. |
| Action required: |
| Feedback on the draft policy should be sent to [digitaltransformation@leeds.ac.uk](mailto:digitaltransformation@leeds.ac.uk) by 26 February 2021 |
| At which Committee(s) (if any) has this paper been considered previously? |
| This draft policy has been created following consultation by SUMS Consulting with key university stakeholders |
| Next Steps: (outline what will happen next/who will action items and timescales? |
| 1. Consultation with key stakeholders and Campus Trade Unions 2. Committee endorsement followed by UEG and Senate approval. |

**UNIVERSITY OF LEEDS**

**DIGITAL ASSETS RE-USE POLICY**

**DRAFT FOR DISCUSSION**

**Background**

1. The University’s digital transformation strategy includes ambitions to grow the use of blended and fully online education available to current, and new students, building on our strong foundations.
2. Traditionally academics have created learning resources through solo effort, and in many cases will continue to do so. However, it is increasingly common for resources to be created through a team approach, where academic experts work with learning designers, educational technologists and video production teams.
3. Many academic colleagues have created digital content for use in online education, and have signed ‘contributor release forms’ to signify how the content will be used. This has normally described one or more use cases for the content (e.g. Minerva for blended learning and FutureLearn for online course), and staff have generally agreed to these use cases without concern.
4. However, there have been occasions where staff have expressed concern about the use, re-use and re-purposing of digital content created for educational purposes, particularly where elements of content have been used in other online courses, and where these may be generating income for the University[[1]](#footnote-2).
5. Co-creation, sharing and re-use of digital content is also increasing in other areas, including from research projects and other activities.
6. A clear policy position is required in order that all staff creating new digital content are clear about how and where this content can and will be used.
7. In general, there are three elements to the policy position that need to be clear: (i) **Ownership**; (ii) **Authorship**; (iii) **Usage**.
8. A consultation process has taken place led by SUMS Consulting involving a range of university stakeholders – a briefing note provided by SUMS is included in **Appendix 2**.

**Current policy on Intellectual Property**

1. The University’s Intellectual Property Policy[[2]](#footnote-3) states that as a general principle the University of Leedsowns all outputs created when staff are in paid work. This arises from UK copyright law, in which it is clear that the employer owns the copyright of works created by staff in employment.
2. The Policy also grants staff freedom to disseminate some IP independently of the University, subject to certain conditions. For example, the University does not make any claim over income received through the publication of a book or article. However, the Policy is clearer in relation to Research outputs than it is for Teaching content, and it pre-dates the recent growth in digital content.
3. The University has a further policy on Open Educational Resources (OER)[[3]](#footnote-4) which permits and encourages staff to publish educational materials as open resources, for use inside and outside the University. Use of OER can improve the experience of Leeds students and contribute to the greater public good, and protects the rights of staff in published content.
4. The OER policy is underpinned by intellectual property licences (e.g. Creative Commons[[4]](#footnote-5)) that permit use or re-purposing (reuse, revision, remixing, redistribution) by others. Although these Creative Commons licences are international standards they are not well used or well understood at Leeds.

**Proposed Principles**

1. Where academic staff members create digital resources of their own accord within their academic unit, the current policy will remain unchanged:
   1. As the assets are created in paid employment, the University has **Ownership** of the assets under copyright law. However, the University has decided not to make any claim over income directly received by staff from certain academic publications, for example income received through the publication of a book or article. Further information is available in the Intellectual Property Policy.
   2. Academic staff members express their intellectual ideas in digital assets and have moral rights of **Authorship**. They have the rights to be identified as the author of a piece of work and to maintain the integrity of that work (to object to derogatory treatment of the work).
   3. The staff members who produce the resource will be able to decide how it is made available to their students within the University.
   4. An academic staff member may opt to release assets to the public as Open Educational Resources (OER), within the terms of the OER policy. This is encouraged under the OER Policy, but there is no obligation on staff to openly release assets. A Creative Commons licence is a simple mechanism that staff can use to state the University's ownership, assert the academic authorship, and grant permissions to others for **Reuse**.
   5. The University may request to use digital resources produced by staff by solo effort in other contexts (e.g. paid online courses). In this situation, the principles in paragraph 14 will apply.
2. Additional principles should apply to digital assets created when they have been specifically commissioned by or coordinated with a service beyond the staff member’s academic unit (for instance the Digital Education Service, or by any other Services or Faculties):
   1. The University as employer has paid for the academic staff time and other professional staff time to create an asset, therefore the University is the copyright **Owner.**
   2. Academic staff members express their intellectual ideas in digital assets and have moral rights of **Authorship**. They have the rights to be identified as the author of a piece of work and to maintain the integrity of that work (to object to derogatory treatment of the work). They should not give up these rights.
   3. In law, the University as the copyright owner can determine the **Usage** of an asset. The commissioning or coordinating Service or Faculty will be able to use and publish the specific assets, for instance in a paid online course.
   4. Academic staff build assets via a progression of ideas throughout their career, and it is common practice to reuse earlier work at later employers. The University and academic staff members will **both have permission to reuse assets**, while the staff member is employed and also after the employment relationship has finished.
   5. The University is committed to open education for global and community public benefit, and will make assets available as Open Educational Resources under a Creative Commons licence which provides clarity on the usage rights for the University, the academic staff member, and third-parties.
   6. Rights rest where they are in UK law; no party gives up their rights; additional rights are granted.

**Proposed approach**

1. Where academic staff members create resources of their own accord within their academic unit, the approach will remain unchanged:
   1. In the case of education, assets are uploaded to Minerva (or other digital education systems) for the benefit of students on a particular course, and by default are available only to that group.
   2. If a staff member wishes the asset to be made available more broadly they can choose to release it as an Open Educational Resource. This is done by adding a short statement to the work which:
      1. States the University’s copyright,
      2. Asserts the individual’s rights as the author,
      3. Provides a link to a Creative Commons licence which explains terms under which the material can be reproduced, reused and adapted.

The resource is then published in the University’s multimedia repository (VideoLeeds[[5]](#footnote-6)) and/or a suitable disciplinary repository.

* 1. In the case of digital content created for other purposes, resources can be published on internal and external sites in line with existing policies and guidance. Use of Creative Commons licences is recommended.

1. **From the time that this policy is approved**, for all digital content commissioned by or created in co-ordination with a service beyond the immediate academic unit of the member of staff (e.g. with the involvement of the Digital Education Service, other Services or Faculties), or where the University wishes to reuse a digital resource created by a member of staff through solo effort, the following process will be followed:
   1. Academic staff will sign a release form that (i) acknowledges that the University owns the copyright of the content in line with UK law; (ii) asserts the Authorship of the digital assets by the named academic; (iii) determines how the University and the staff member can use the content.
   2. There is a general expectation that academic staff will agree at this stage:
      1. To the publication of the asset for commercial and non-commercial purposes by the University (for instance YouTube videos, online courses, CPD courses, or within fully online education accredited provision),
      2. To licence the asset as an Open Educational Resource for use by third-parties, for non-commercial purposes.
   3. In addition, academic staff may or may not choose to:
      1. Licence the asset as an Open Educational Resource for use by third-parties, for commercial purposes,
      2. Permit the adaption of resources (remixing, transforming, and building upon the material). Staff are encouraged to permit adaption of resources, but in some subject disciplines there may be academic reasons why a piece of material should remain an integral whole.
   4. A Creative Commons licence will be attached to the assets which governs their use by third parties, and this will be displayed wherever practically possible.
   5. At some later point an opportunity for reuse for a different purpose may be identified. There are two scenarios:
      1. *The new usage is covered by the release form initially agreed:* Authors will be provided with preview access through the QA process prior to publication for new purposes, and will have the opportunity to raise concerns about usage of content or provide updates if they wish. If an author has left the university an attempt will still be made to contact them. If there is no response within ten days, usage will continue as if no concern was raised.
      2. *The new usage exceeds the permissions given on the release form*: the author will be contacted about the proposed re-use or adaption. An updated release form will be sought from the author before publication.
   6. Where agreement cannot be reached between the author and the team the matter shall be escalated to the relevant Head of School in the first instance.
2. A number of scenarios to illustrate these principles and approach are provided in **Appendix 1**.

**Next steps**

1. Feedback will be sought on the proposed principles described in this document via a consultation process.
2. A final version of this document will be provided to the University Executive Group and the Senate for consideration.

**Consultation timeline and process**

|  |  |  |  |
| --- | --- | --- | --- |
| Meeting / Activity  *(completed activities shaded in grey)* | Papers issued | Meeting date / activity due date | Purpose |
| Consultation / feedback – stakeholder engagement | | | |
| SUMS Consulting internal stakeholder engagement | 6 January | 13 January | To review and feedback on principles |
| HR impact assessment | 7 January | 13 January | Assess people and change impacts to inform HR considerations and consultation approach |
| Weekly Joint Meeting – UoL and TUs (HRTU) | 18 January | 20 January | Introduce approach and draft principles /policy |
| Campus Trade Unions consultation with members. | February | 26 February | To seek feedback and comments |
| General staff consultation via Inside Track article, feedback sought via email | February | 26 February | To seek feedback and comments |
| Heads of School consultation via MS Teams | February | 26 February | To seek feedback and comments |
| Endorsement/approval through committee structures | | | |
| Joint Committee of UCU and the University | 1 March | 8 March | To seek endorsement |
| Digital Education Committee | 11 March | 18 March | To seek endorsement |
| Taught Student Education Board | 14 April | 28 April | To seek endorsement |
| UEG | 29 April | 13 May | To seek approval |
| Senate | 23 June | 7 July | To seek approval |

**APPENDIX 1: Examples to illustrate proposed principles and approach**

**Scenario 1: A member of staff opts to openly release an asset they created through their sole effort (as per current OER policy)**

Dr Jill Grieve creates a deck of slides with audio narration and uploads it to Minerva for the benefit of her students on an undergraduate history course. The slides discuss the fascist movement in the UK during the 1930s. Through her participation in a scholarly mailing list Dr Grieve is aware that this resource would be useful to lecturers internationally.

Dr Grieve considers how she would like this resource to be reused. She is happy for it to be copied and reused as a whole work, for commercial or non-commercial purposes, as long as she is attributed as the author. However, she is concerned that sections of the resource could be taken out of context and misused by extremists, and so decides that the work should not be modified or adapted.

Dr Grieve inputs her views on reuse via the Licence Chooser[[6]](#footnote-7) on the Creative Commons website, which recommends the Creative Commons Attribution No Derivatives (CC BY-ND) licence. She attaches the following statement to the work:

*© University of Leeds. The rights of Dr Jill Grieve to be identified as an author of this work has been asserted by them in accordance with the Copyright, Designs and Patents Act 1988. This work is made available for reuse under the terms of the* [*Attribution-NoDerivatives 4.0 International (CC BY-ND 4.0)*](https://creativecommons.org/licenses/by-nd/4.0/) *Creative Commons licence.*

Dr Grieve publishes the recording on VideoLeeds and circulates a link to academics at other universities via a mailing list.

**Scenario 2: Digital content is created with effort from DES, a licence is applied permitting flexible reuse**

**Digital Content produced involving author**: Professor Sue Jones works with video specialists in the Digital Education Service to create an asset for Economics MSc teaching. This is a talking head video, for use in blended learning materials in Minerva.

**Author release form:** Professor Jones completes a release form as follows:

|  |  |  |
| --- | --- | --- |
| **Title -** title of digital resource | Please insert | *Advanced Econometrics*  *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* |
| **Ownership** - © University of Leeds | Please tick: | [  ] |
| **Authorship** - the academic author(s) asserting their moral rights | Please insert  name(s): | *Prof Sue Jones*  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |
| **Usage** - for commercial and non-commercial purposes by the University of Leeds | Please tick: | [  ] |
| **Share** - sharing with third-parties for their non-commercial use | Please tick: | [  ] |
| **Share** - sharing with third-parties for their commercial use | Please tick: | [  ] |
| **Adapt** - remix, transform, and build upon the material for any purpose | Please tick: | [  ] |

The video is deposited in an internal repository, with metadata derived from the form.

**Licence statement:** When the video is displayed to students it carries a statement that protects Prof Jones’ moral rights and the University’s copyright, while also allowing reuse and adaption by third-parties:

*© University of Leeds. The rights of Professor Sue Jones to be identified as an author of this work has been asserted by them in accordance with the Copyright, Designs and Patents Act 1988. This work is made available for reuse under the terms of the* [*Attribution-ShareAlike 4.0 International (CC BY-SA 4.0)*](https://creativecommons.org/licenses/by-sa/4.0/)*Creative Commons licence.*

**Proposed new usage of digital content**: At a later point academic colleagues of Prof Jones are working with DES to create a fully online MSc course in FutureLearn. They propose to take parts of the talking head video, combine it with a new animation by DES and publish it within the online course.

**Steps involved**: No further direct interaction is required with Prof Jones. However, all authors are given preview access to all digital content on online courses prior to publication as part of the QA process, and can raise questions or concerns at that point. Prof Jones points out a small change in her field since the recording was made, as a result 20 seconds of the video are removed.

**Scenario 3: Digital content is created with efforts from DES, limits on adaption are applied**

**Digital Content produced involving author**: Professor Xavier Fernandez works with DES, creating a talking head video on climate change for use in a new paid online course.

**Author release form**: Prof Fernandez is concerned that he does not want extracts of material presented in a different context without his approval (e.g. by climate change deniers). He completes the form as follows:

|  |  |  |
| --- | --- | --- |
| **Title -** title of digital resource | Please insert | *Carbon Capture Technologies*  *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* |
| **Ownership** - © University of Leeds | Please tick: | [  ] |
| **Authorship** - the academic author(s) asserting their moral rights | Please insert  name(s): | *Prof Xavier Fernandez*  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |
| **Usage** - for commercial and non-commercial purposes by the University of Leeds | Please tick: | [  ] |
| **Share** - sharing with third-parties for their non-commercial use | Please tick: | [  ] |
| **Share** - sharing with third-parties for their commercial use | Please tick: | [  ] |
| **Adapt** - remix, transform, and build upon the material for any purpose | Please tick: | [ ] *No – must not be adapted* |

The video is deposited in an internal repository, with metadata derived from the form.

**Licence statement:** When the video is displayed to students in the paid online course the platform states that Prof Fernandez’s moral rights and the University’s copyright are both protected. Additionally, when the video is shared by Digital Education Services in an Open Education Repository to the general public, any third party will be able to use and publish the asset but not for commercial purposes and without adaption:

*© University of Leeds. The rights of Professor Xavier Fernandez to be identified as an author of this work has been asserted by them in accordance with the Copyright, Designs and Patents Act 1988. This work is made available for reuse under the terms of the* [*Attribution-NoDerivatives 4.0 International (CC BY-ND 4.0)*](https://creativecommons.org/licenses/by-nd/4.0/) *Creative Commons licence.*

**Proposed new usage of digital content**: At a later point colleagues in Professor Fernandez’ school are working with DES to create a paid short CPD course in Coursera. They propose to interleave Professor Fernandez’s words with new diagrams created by the Digital Education Service to illustrate the points made.

**Steps involved**: Digital Education Service contact Prof Fernandez and request that his video content be combined with new illustration, describing the proposed usage.

**Outcome:** Prof Fernandez agrees for his video content to be used in this way (confirming electronically via updated release form), and content is published in the online course.

**Scenario 4: Disagreement about commercial usage of digital content**

**Digital Content produced involving author**: Professor Simon Simons works with DES to create a talking head video, for use in undergraduate blended learning in Minerva.

**Author release form:** Professor Simons completes the form as follows:

|  |  |  |
| --- | --- | --- |
| **Title -** title of digital resource | Please insert | *Peri-urban settlements*  *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* |
| **Ownership** - © University of Leeds | Please tick: | [  ] |
| **Authorship** - the academic author(s) asserting their moral rights | Please insert  name(s): | *Prof Simon Simons*  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |
| **Usage** - for commercial and non-commercial purposes by the University of Leeds | Please tick: | [ ] *No – must not be used commercially* |
| **Share** - sharing with third-parties for their non-commercial use | Please tick: | [  ] |
| **Share** - sharing with third-parties for their commercial use | Please tick: | [ ] *No – must not be used commercially* |
| **Adapt** - remix, transform, and build upon the material for any purpose | Please tick: | [ ] *No – must not be adapted* |

The video is deposited in an internal repository, with metadata derived from the form.

**Licence statement**: When the video is displayed to students it has a licence statement according to Prof Simons views:

*© University of Leeds. The rights of Professor Simon Simons to be identified as an author of this work has been asserted by them in accordance with the Copyright, Designs and Patents Act 1988. This work is made available for reuse under the terms of the* [*Attribution-NonCommercial-NoDerivatives 4.0 International (CC BY-NC-ND 4.0)*](https://creativecommons.org/licenses/by-nc-nd/4.0/) *Creative Commons licence.*

**Proposed new usage of digital content**: At a later point there is a proposal for parts of the talking head video to be combined with an animation by the Digital Education Service and published in a paid online course on FutureLearn.

**Steps involved**: Digital Education Service contact Prof Simons and request that his video content be combined with animation – showing him the proposed usage – and describe purpose of including video in a paid course.

**Outcome:** Prof Simons agrees for his recording to be combined with animation when shown the video in the context of the animation, but refuses for his content to be used for commercial purposes. Given that the digital content was produced by Prof Simons during paid employment, the University overrules the refusal and publishes the content in a commercial online course. The internally held metadata is updated indicating that the recording can be used for commercial purposes. The licence statement used on external publication remains unchanged; it remains the case that third-parties beyond the University can use the recording for non-commercial purposes only.

**Scenario 5: Assets created containing restricted content from external sources**

**Digital content produced**: Dr Shinobu Kanzaki works with DES to create a video on water purification for use in undergraduate blended learning in Minerva. The video uses technical diagrams supplied to Leeds by Arcadia Water, a commercial water supplier. By agreement with Arcadia Water these illustrations can only be used internally within the University.

**Author release form:** Dr Kanzaki completes the form as follows:

|  |  |  |
| --- | --- | --- |
| **Title -** title of digital resource | Please insert | *Water purification case study*  *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* |
| **Ownership** - © University of Leeds | Please tick: | [ ] *In part only - Includes diagrams © Arcadia Water, used by agreement* |
| **Authorship** - the academic author(s) asserting their moral rights | Please insert  name(s): | *Dr Shinobu Kanzaki* **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |
| **Usage** - for commercial and non-commercial purposes by the University of Leeds | Please tick: | [ ] *No – must not be used commercially* |
| **Share** - sharing with third-parties for their non-commercial use | Please tick: | [ ] *No - cannot be shared* |
| **Share** - sharing with third-parties for their commercial use | Please tick: | [ ] *No - cannot be shared or used commercially* |
| **Adapt** - remix, transform, and build upon the material for any purpose | Please tick: | [ ] *No – must not be adapted* |

**Copyright statement:** When the video is displayed to students it carries a statement:

*© University of Leeds. The rights of Dr Shinobu Kanzaki to be identified as an author of this work has been asserted by them in accordance with the Copyright, Designs and Patents Act 1988. This work contains elements © Arcadia Water used by agreement with Arcadia Water. It may only be used internally within the University of Leeds.*

**Proposed new usage of digital content**: no further use is proposed.

**Scenario 6: Assets created in a specific context**

**Digital Content produced involving author**: Professor Yaniv Oliver works with DES to create a video for use in Minerva. The video provides commentary on the UK’s trade.

**Author release form:** Professor Oliver is concerned that while valid at time of recording the material may date. He completes the form as follows:

|  |  |  |
| --- | --- | --- |
| **Title -** title of digital resource | Please insert | *UK-EU agricultural trade*  *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* |
| **Ownership** - © University of Leeds | Please tick: | [  ] |
| **Authorship** - the academic author(s) asserting their moral rights | Please insert  name(s): | *Professor Yaniv Oliver* **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |
| **Usage** - for commercial and non-commercial purposes by the University of Leeds | Please tick: | [  ] |
| **Share** - sharing with third-parties for their non-commercial use | Please tick: | [  ] |
| **Share** - sharing with third-parties for their commercial use | Please tick: | [  ] |
| **Adapt** - remix, transform, and build upon the material for any purpose | Please tick: | [ ] *No – must not be adapted* |

**Licence statement**: When the video is displayed to students it has a licence statement according to Prof Olivers’ views:

*© University of Leeds. The rights of Professor Yaniv Oliver* *to be identified as an author of this work has been asserted by them in accordance with the Copyright, Designs and Patents Act 1988. This work is made available for reuse under the terms of the* [*Attribution-NoDerivatives 4.0 International (CC BY-NC-ND 4.0)*](https://creativecommons.org/licenses/by-nd/4.0/) *Creative Commons licence.*

**Proposed new usage of digital content**: At a later point there is a proposal for a new short course on International Trade in FutureLearn. Professor Oliver’s video is identified in a search of assets. Prof Oliver is asked whether an extract of his video can be edited into a new video.

**Outcome:** Prof Simons says that the context of Britain’s international trade has changed following Brexit and his original remarks are no longer valid. The video is not used. The metadata associated with the video is updated to flag that the content is dated and invalid.

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**APPENDIX 2**

# Re-purposing of digital education content: briefing note

**Contents**

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**Context and background**

*The case for change*

Some University of Leeds academic staff have developed substantial experience creating digital content for online courses, often in conjunction with DES. Digital content created includes online modules, Professional Learning courses for partner organisations, and over 80 free online courses on the FutureLearn platform.

As the amount of course content has increased, the University has identified a number of issues relating to the reuse of resources beyond their initial use, and the Intellectual Property (IP) in these resources. Resources are often developed for an initial non-commercial purpose, but uncertainty in the current policy inhibits exploitation of any commercial opportunities that later arise.

The University operates a clear IP Policy which states that as a general principle the University of Leeds owns all outputs created when staff are in paid work. The Policy also grants staff freedom to disseminate some IP independently of the university, subject to certain conditions. For example, the University does not make any claim over income received through the publication of a book or article. However, the Policy is clearer in relation to Research outputs than it is for Teaching content, and it pre-dates the recent growth in digital education resources.

The need for a robust approach to defining ownership of digital assets, and processes for the re-use, re- purposing and commercialisation of content is considered critical. SUMS Consulting have been asked to support the University in the development of the policy. SUMS have interviewed 6 experienced academic stakeholders at Leeds, a member of the university’s legal team, and the DES team. We have also conducted desk research into the academic literature on this topic and identified some relevant best practice elsewhere. In addition, we have also had an initial informal conversation with Leeds UCU representatives.

**Views at Leeds**

*Scepticism and concern but not opposition*

Amongst the academic staff interviewed at Leeds, there was deep scepticism about the reuse of educational materials, including concerns around ownership, autonomy, trust, centralisation and control. The academic staff interviewed were very sceptical of change, but they were not opposing change. There were statements such as *“I personally want this to work, but I’m representing the concerns I know my colleagues hold”* and *“how this is handled will set the tone for all future digital developments”.*

There was more concern about what might happen in theory than what had already happened in practice. Some examples were given of how material at Leeds had already been successfully reused, to the satisfaction of all.

Concerns raised about the reuse of educational materials included:

* People care about their personal reputations and take steps to curate these materials. Academic staff see the context in which educational material appears as important. They want to know where their teaching materials will appear, and they don’t want to be taken by surprise.
* Lecturers want to be recognised and attributed as the author of a piece of work, and to be treated with professional respect and courtesy as authors. Rarely, a lecturer might be uncomfortable with their work being reused for a new purpose that does not meet their values.
* There is some material which staff do not wish to be made public, but which they may use when teaching in a closed environment (e.g. unpublished research, or research in internationally-sensitive areas).

Why are these issues so difficult? Digital transformation is bringing structural changes in education:

* Traditional undergraduate and postgraduate teaching is largely seen as an individual activity. Academics are assessed as individuals through student feedback, workload models are organised on this basis, career progression is considered individually.
* It is common for digital teaching to be more of a team activity. Providers of online learning tend to develop digital educational materials as a team. Academic subject matter experts work with professional technologists and learning designers.

Academic staff find navigating such structural change difficult. It can challenge their sense of identity as an academic. Staff need support through this process.

Staff were concerned when reuse was perceived to be imposed, without input from individual academics. Approaches which preserved the agency of academics were seen positively. There was also positivity about Open Educational Resources (OER), where staff choose to release resources for global reuse. This is seen as delivering a public good, in line with the university’s broad mission. Under an OER licence the original authors must always be attributed but do not need to be consulted.

**Good practice elsewhere**

*Share rights, establish trust*

In 2017 **Gadd and Weedon** studied the copyright policies at 81 UK universities to understand their position on ownership of digital education materials. They found that in post-92 universities, it was common for universities to assert they had full IPR on all e-learning materials. At Russell Group universities a shared approach, where staff and the university licensed rights to each other, was more common:

|  |  |
| --- | --- |
| Chart, bar chart  Description automatically generated | Gadd, E., Weedon, R. Copyright ownership of e-learning and teaching materials: Policy approaches taken by UK universities. *Educ Inf Technol* **22,**3231–3250 (2017). <https://doi.org/10.1007/s10639-017-9583-4> |

Russell Group institutions may adopt more liberal policies to help attract the best staff. Sharing rights can certainly facilitate good outcomes for both parties. For example, when an academic leaves, the university may wish to continue using material, and the staff member may want to use that material as the basis for teaching at a new institution.

The **University of Edinburgh** is a particular leader in digital education. They have established a [digital media repository](https://media.ed.ac.uk/) in which some content is released under open licence, while other content is restricted to specific class cohorts. Edinburgh updated their [open educational policies](https://open.ed.ac.uk/open-policy-for-learning-and-teaching/) in response to the pandemic. Edinburgh representatives emphasised that nobody loses rights under these policies, instead the policies facilitate sharing of rights.

The **TrustDR project** was funded by Jisc from 2005-2007. [Casey, Proven & Dripps](https://trustdr.digitalinsite.co.uk/) at the University of Ulster looked in detail at the process of creating institutional repositories for digital teaching materials, and the policies around these. They emphasised that repositories are successful where care is taken to establish trust between all parties.

**Key considerations**

*Ownership, authorship and usage*

To bring some clarity to the discussion, we propose answers to three distinct questions: who *owns* the materials created, who is their *author*, and who can *use* them?

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| **Ownership** | It is clear in UK law that **generally the employer** owns the copyright in works created by the employee. (There are some exceptions: note that in the case of lectures delivered live, lecturers may retain what are known as performer rights.) |
| **Authorship** | **Individual lecturers** have moral rights of authorship: the rights to be identified as the author of a piece of work and to object to derogatory treatment of the work. We propose that these rights should remain with the individual, the institution should not ask the individual to share these rights or transfer them to the employer. |
| **Usage** | We propose that **both institution and employee** should be able to use the work. To provide clarity that both parties can use the work, each party should provide royalty-free licences to each other upfront, when the material is created. |

**Recommendations**

*Agree licensing upfront, to preserve the rights of employer and employee*

1. The greatest benefit will come from reusing those materials which were originally created to a high standard. Such materials are typically co-created by both academic leads and DES staff, and intended for use in MOOCs, fully-online degrees, or professional learning courses. Reuse of these resources is also less contentious than reusing material created by individual academics. Confining a policy on reuse to these materials will maximise the chance of acceptance by staff.
2. Policies should maximise the agency of academic staff where possible, within the university’s legitimate interests. Consider promoting Open Educational Resources, allowing academics to opt-in to make material available for reuse, or choose from a set of appropriate licences.
3. Any change in policy should not be retrospective. Where the university puts significant effort into creating resources, e.g. through the work of DES, it should agree appropriate licensing with authors when these resources are first created. These licences should preserve rights of both the employer and employee.

**Two options for licensing**

*Release content for all as open resources, or cross-license for employer and employee only*

Option 1: Apply the existing Open Educational Resources (OER) policy to resources co-created with DES

The University of Leeds has an existing [Open Educational Resources Policy](https://ses.leeds.ac.uk/download/96/open_educational_resources) which encourages staff to create openly-licensed educational materials. One quick and pragmatic solution is to use this existing OER policy to facilitate reuse*,* applying an existing open content licence to suitable resources. This would clearly set out the rights of both the institution and the individual, in a well understood form. The individual lecturers would retain the requirement to be attributed as the author of the work. Both the institution and the individual would have the ability to reuse materials, as would any other individual or institution.

The material with the greatest reuse value is that created to a high standard through team effort, with a lead academic supported by professionals from DES. Where the University’s services have put substantial effort into co-creating materials, it is reasonable that such material should be reused, in order to obtain maximum benefit. The university could set the expectation that all materials co-created with DES will be licensed with a pre-existing open content licence.

There are a large number of Creative Commons and related open content licences. The University should provide a limited subset of licences and then let the author of a work pick from amongst these. This should reduce confusion while also protecting the university’s interests. **The Creative Commons non-commercial licence should not be used**.

There may be a subset of resources which are too sensitive to be released under an open content licence, so some exceptions to the general policy may be needed.

Option 2: Create a new policy, with cross-licensing between employer and employee

It would be possible to develop a new shared ownership policy in which employees and the institution cross-licence rights to each other. The primary advantage of this is that the material would not need to be released to the whole world. This would preserve a commercial advantage for the university, and might cover a broader range of material.

Outputs from the conversations SUMS Consulting have held with Leeds stakeholders would form the foundation for the new policy. Conversations so far show that there is support for the idea of reuse, but substantial concern as to how it would work in practice. A policy which is co-developed, with active involvement from a range of staff, is most likely to contribute to successful long-term change. However previous experience with the lecture recording policy at Leeds was that policy formulation and consultation in this area was slow and contentious.

Adopting this option could put Leeds in a good long-term position with a sector-leading policy on reuse, but the time taken to consult staff and bring people on board would delay ambitions for digital transformation.

**Summary of options**

*Advantages and disadvantages*

| **Option** | **Advantages** | **Disadvantages** |
| --- | --- | --- |
| **Use existing OER policy only.**  **Apply a Creative Commons licence to all future materials co-created between academics and DES.**  **The employer, the employee, and anyone else, can use the work in future.** | * Quick and relatively uncontentious. This approach concentrates on the outcomes of digital transformation, rather than getting stuck in policy discussions. * OER are perceived as a public good in line with the University’s mission. * Clearly provides a balance between the rights of the employer and employee, using policies which are well-known and well-understood. | * Some resources may be too sensitive to release to the public. * Once a resource has been licensed it may be copied and reused elsewhere. These copies cannot be recalled, even if circumstances change. * If the resources for an entire course are released free of charge as OER, this might reduce enrolment on the equivalent paid course at Leeds. |
| **Create new policy on digital educational resources.**  **Employer and employee provide royalty-free licences to each other, without releasing rights to all.** | * A new policy, co-created with staff, could form part of a positive conversation about what digital transformation means for Leeds. | * The new policy may be perceived by staff as purely commercial, causing people to ask “what’s in it for me?” |

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1. Details about financial renumerations to Faculties, Schools and individuals from income generated from online learning are covered elsewhere. In general, income either flows directly to Faculties or Schools or is shared, and academic costs of time are covered. Faculties and Schools have local arrangements in place in terms of workload remission and/or individual renumeration. [↑](#footnote-ref-2)
2. http://www.leeds.ac.uk/secretariat/documents/ipr\_policy.pdf [↑](#footnote-ref-3)
3. https://ses.leeds.ac.uk/download/96/open\_educational\_resources [↑](#footnote-ref-4)
4. https://creativecommons.org/about/cclicenses/ [↑](#footnote-ref-5)
5. http://video.leeds.ac.uk [↑](#footnote-ref-6)
6. https://creativecommons.org/choose/ [↑](#footnote-ref-7)