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Copyright and Data

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Australian Code for the Responsible Conduct of Research 2007

- guides institutions and researchers in responsible research practices and promotes integrity in research for researchers
- Part A – “Principles and Practices to Encourage Responsible Research Conduct” – provides advice for institutions and researchers on:
 - how to manage research data and materials
 - how to publish and disseminate research findings, including proper attribution of authorship,
- written specifically for universities and other public sector research institutions, but **all** organisations involved in research will be encouraged to incorporate it as far as possible in their operating environments
- compliance with the *Code* is a prerequisite for National Health and Medical Research Council funding.





Part A: Principles and Practices to Encourage Responsible Research Conduct

■ **1. General Principles of Responsible Research**

- Good governance and management requires each institution to have a clear policy on collaborative research projects with other organisations, with arrangements agreed before a project begins – on IP, authorship and publication, ownership of data

■ **2. Management of Research Data and Primary Materials**

- Policies are required that address the ownership of research materials and data, their storage, their retention beyond the end of the project, and appropriate access to them by the research community
- Identify ownership of research data and primary materials: each institution must have a policy on the ownership of research materials and data during and following the research project
- “As a general rule, the most satisfactory arrangement will be that the materials and data retained at the end of a project are the property of the institution that hosted the project, another institution with an interest in the research or a central repository”





Part A: Principles and Practices to Encourage Responsible Research Conduct

- **4. Publication and Dissemination of Research Findings**
 - Responsibilities of institutions include:
 - maintaining a policy that protects the intellectual property rights of the institution, the researcher, research trainees and sponsors of the research
 - ensuring that the sponsors understand the importance of publication in research and do not delay publication beyond the time needed to protect intellectual property and other relevant interests
 - ensuring that researchers are aware of contractual arrangements that restrict, delay or limit publication.
 - Responsibilities of researchers include:
 - disseminating research findings – a full account of their research should be disseminated as broadly as possible
 - taking into account any restrictions relating to IP or culturally sensitive data when publishing
 - citing the work of other authors fully and accurately





Part A: Principles and Practices to Encourage Responsible Research Conduct

■ **5. Authorship**

- Authors and institutions must follow practices to ensure there is
 - correct attribution of all genuine authors
 - no false attribution of those who are not genuinely authors

■ **8. Collaborative Research Across Institutions**

- Raises specific issues, such as sharing IP... commercialising research outcomes
- Institutions are responsible for establishing collaboration agreements (in writing) with their research partners – must cover IP, confidentiality and copyright issues....





Part A: Principles and Practices to Encourage Responsible Research Conduct

- Code principles and practices lead to questions about:
 - **Ownership** of research data/publication
 - What do we mean by “owner”? What is it they “own”? Is it the owner of the equipment used to collect/store the data? Is there a copyright work? Or is it a confidential (but not copyright-protected) collection of information?
 - Identifying the owner: the individual researcher, their institution, another institution, publisher, a commercialisation entity...?
 - **Attribution** of authorship
 - question of correct attribution of all authors, but avoiding falsely attributing those who are not real authors
 - **Dissemination** of research findings
 - who has the right to publish, reproduce, distribute, make available on a website?





Part A: Principles and Practices to Encourage Responsible Research Conduct

- Much research data and publications will be protected by copyright
- Copyright applies to:
 - Literary works – includes “tables” and “compilations” in symbols, words or figures and computer programs
 - Artistic works – e.g. diagrams, plans, images
 - Cinematograph films – video, multimedia
- There must be a “work” in the categories listed in the *Copyright Act*





Part A: Principles and Practices to Encourage Responsible Research Conduct

- A dataset/database can be protected by copyright as an original literary work (table/compilation) provided it:
 - supplies “**intelligible information**”
 - is **not copied** AND
 - is produced by the application of **independent intellectual effort** by the author/s – which may involve the exercise of skill, judgment, knowledge, creativity or labour in selecting, presenting or arranging the information.
- Copyright applies not to the facts or information in itself, but to the particular way the facts or information are presented in the dataset or database
- Note also that there will usually be copyright in the computer program that stores or interrogates the dataset/database





Part A: Principles and Practices to Encourage Responsible Research Conduct

- For data in digital form, the most important rights are:
 - to reproduce (copy) the work, including producing a digital version from the hard copy and a hard copy from the digital version;
 - to publish it, by distributing copies to the general public;
 - to communicate it electronically to the public, such as by making it available for download from a website or distributing the digital file;
 - to adapt it by converting it from one version to another, for example by translating a computer program from one computer language to another;
 - to ensure that electronic rights information associated with a copyright work (that identifies the author, copyright owner or terms of use) is not removed or altered; and
 - to prevent circumvention of technological protection measures (which can take the form of equipment or software, such as encryption) designed to control access to or copying of the copyright works to which they are applied.





Part A: Principles and Practices to Encourage Responsible Research Conduct

- Individual authors of copyright works also have additional rights known as moral rights which are personal to the author and cannot be assigned. These are the rights:
 - to be attributed (identified) as the author of the work, where reasonable;
 - to object to false attribution, that is to prevent someone else being wrongly identified as the author of the work; and
 - of integrity, that is to prevent derogatory treatment of the work that would prejudice the author's reputation.





Part A: Principles and Practices to Encourage Responsible Research Conduct

- To give effect to the Code's principles and practices in relation to copyright-protected data and research publications, it is necessary to understand:
 - How copyright ownership works;
 - Who has what rights – do you have the rights to be able to do what you want to with the data?
 - How to retain the rights you want/need and not to lose them through inadvertence or ignorance
 - The rights that you need to be able to pass on (grant) to others to be able to access, use, reuse the data
- Give effect to your institutional policy that implements the Code by developing/using simple, standardised protocols/licences that cover the typical activities in your research unit/institution/faculty





Part A: Principles and Practices to Encourage Responsible Research Conduct

- Manage the legal rights – particularly copyright – from the time (or, if possible, before) the work is created
- Develop/adopt simple, standardised procedures to manage copyright interests
- Don't use a “no rights” approach (including CC0) unless you are OK with an altered version of the work being distributed with your name attached or with someone else's name being attached to your work – NO RIGHTS means just that – no correct citation, no redress against inaccurate works being circulated under your name





Creative Commons Licences – now with direct injection into the digital file

- If you want to disseminate your copyright data with few restrictions – ok for it to be distributed, copied, reused etc – but still want it to be correctly attributed, consider using a CC licence (e.g. CC BY or CC BY-NC-ND)
 - distribute it yourself
 - require publisher to distribute it under this kind of licence (e.g. a clause in the publishing agreement – use a Licence to Publish rather than a full transfer/assignment of copyright)
 - deposit it into a repository under this kind of licence so the repository makes it available to users on this basis
- Use a CC licence without requiring attribution if it is not required or impracticable – but consider requiring no false attribution
- The Australian Bureau of Statistics has developed a CC licence injector which embeds the copyright licence information into the metadata of a digital object and directly into the digital object itself
 - For examples, see: <http://www.oaklaw.qut.edu.au/node/73>





FOR FURTHER INFORMATION

- Fitzgerald, A., Pappalardo, K. and Austin, A. (2008) *Practical Data Management: A Legal and Policy Guide*, OAK Law Project, <http://www.oaklaw.qut.edu.au/reports>
- Fitzgerald, A. and Pappalardo, K. (2007) *Building the Infrastructure for Data Access and Reuse in Collaborative Research: An Analysis of the Legal Context*, OAK Law Project, <http://www.oaklaw.qut.edu.au/reports>





Government Information Licensing Framework (GILF)

GILF comprises a simple open content licensing framework, designed to assist in the management of government intellectual property, and encourage the use of PSI through increased availability and accessibility.

GILF encourages custodians to think more broadly about the potential users of PSI and contains guidelines for agencies preparing information for publication or distribution. In turn, it enables customers to understand how they can re-use PSI in a legally appropriate way

<http://www.gilf.gov.au>



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GILF Licensing Review

A screenshot of the Queensland Government's Licensing Review website. The page has a teal header with the Queensland Government logo and the text 'Licensing Review'. The main content area is white with a light teal border. It features a 'Welcome to the Licensing Review' section with an introductory paragraph and a three-step process. Below this is a 'Commence a Review' section with a button, and an 'Upload a Saved Review' section with another button. The text is clear and professional, using bold for important instructions.

Queensland Government

Licensing Review

Welcome to the Licensing Review

The purpose of this review is to assist you to licence material under the Government Information Licensing Framework.

The review is divided into three steps:

1. Identifying the material you wish to license
2. Answering questions about the contents of the material
3. Determining the type of licence to apply to your material

The process will take a few minutes to complete, depending upon your answers to the questions. Help is available throughout the review by placing your cursor over the help icons. ?

Defined terms are in *italics*.

Before you begin, you should obtain any licences or agreements relating to the content of the material you wish to review. You may also wish to check for any legislative impact (eg. privacy) or administrative directions relevant to the publishing of the material.

Commence a Review

Click the button to start a new review.

Commence Review

Upload a Saved Review

Click the button if you are returning to continue a saved review.

Upload Saved Review

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GILF Licensing Review

Description

Please provide the following details about the *material* you wish to license:

Title *	<input type="text"/>	?
Creator *	<input type="text"/>	?
Publisher *	<input type="text"/>	?
Reviewer's name *	<input type="text"/>	?
Reviewer's contact details *	<input type="text"/>	?

* Required field


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GILF Licensing Review

Licence Selection - Original content in test

From the answers provided, you may license Original content in test in test under any of the following licences. 

Please select the licence you wish to apply to Original content in test.



Attribution  preferred.



Attribution | Non-Commercial



Attribution | Non-Commercial | No-Derivatives



Attribution | Non-Commercial | Share Alike



Attribution | Share Alike



Attribution | No-Derivatives



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