

NHS-HE crossover copyright queries: guidance for higher education and NHS library staff

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Please note that this document is intended for guidance only and is not a substitute for either the CLA Licence or UK copyright legislation. If you have any queries or suggestions for improving the guidance, please contact Helen.Bingham@hee.nhs.uk

The Higher Education CLA Licence

The Higher Education CLA Licence is used by the majority of universities in the UK. The Licence treats each university as a *separate* organisation i.e. the licensed individuals are the staff and students of a specific university. Basic information about the Licence is [here](#). The 'Check Permissions' tool on this page allows staff to find out how different formats of the content may be used e.g. copied, scanned. You will need to select the Higher Education Licence option from the drop down list on the search result screen.

The NHS CLA Licences

The NHS in England, Wales, Scotland and Northern Ireland each has its own CLA Licence, however each Licence covers *all* the NHS organisations in that country, treating them as a single entity i.e. the licensed users include everyone who works for the NHS in that country. Information about the NHS CLA licences is available [here](#). The 'Check Permissions' tool on this page allows staff to find out how different formats of the content may be used e.g. copied, scanned. You will need to select the Public Sector Licence option from the drop down list on the search result screen.

CLA Licences and 'crossover'

In general, individuals may only make/share copies with others covered by the same licence as them – whether university or NHS – from originals they own. In higher education, this means owned by the individual university; in the NHS, this means owned by any NHS organisation in England.

So in general, university staff and students may only make/share copies under their university's CLA Licence, with others covered by that university's CLA Licence, from originals owned by that university.

Similarly, NHS staff in England, including library staff, may only make/share copies under the terms of the NHS CLA Licence, with others covered by that Licence, from originals owned by/subscribed to by the NHS in England.

However, the NHS CLA licences have some additional features to help with NHS-HE crossover scenarios:

A. University libraries which have a contract or service level agreement (SLA) to provide library services to the NHS

The staff of these university libraries may make/share copies under the terms of the NHS CLA Licence for NHS staff covered by the contract or SLA agreement, from originals owned by the NHS or by the university.

B. University students on NHS placement and university staff working for the NHS

University students on NHS placement and university staff engaged on NHS business are covered by the NHS CLA Licence and may make/share and receive copies under that Licence, from NHS-owned originals whilst on placement/engaged in NHS work.

C. University and NHS in England staff working together on ‘collaboration projects’

The CLA NHS in England Licence enables NHS and university staff collaborating on specific projects to share copies relating to that project with each other, whether obtained from NHS or university-owned originals, or supplied by an NHS library. The CLA should be notified (cs@cla.co.uk) when a new collaboration partnership commences, so that they can confirm that both parties have a Licence, and help us monitor uptake of the collaboration clause in our Licence.

UK Copyright Legislation and ‘Library Privilege’

Under UK copyright legislation, any publicly accessible library may make single ‘Library Privilege’ copies on behalf of the users of other not-for-profit libraries, provided the requester has supplied a declaration to confirm:

- that they have not previously been supplied with a copy
- that the copy is required for non-commercial research or private study
- that they won’t supply the copy to anyone else
- that as far as they know, no one else is going to be asking for the same copy for the same purpose at the same time

These declarations do not need to be signed but should be written and recorded. A ‘tick box’ confirmation on an online request form, or confirmation by email are acceptable.

Copies may be supplied digitally, from printed or electronic originals. Only a single copy of one article from an issue of a journal, or a “reasonable” proportion of any other published work is allowed.

The permission for not-for-profit libraries to share Library Privilege copies, in print or electronic format, cannot be limited by publisher or supplier contract.

However, never assume that university libraries will supply Library Privilege copies to NHS libraries, unless they are members of a reciprocal scheme where this has been agreed.

Publisher licences

NHS libraries generally do not need to refer separately to publishers’ and suppliers’ licences. The CLA acts on behalf of publishers, and the CLA Check Permissions Tool covers copying permissions relating to both digital and print originals, of all items with an ISSN or ISBN. The standard NHS licence for electronic resources states that CLA Licences and UK copyright legislation should prevail, and as above, copyright legislation allows not-for-profit libraries to supply each other with Library Privilege copies from any copyright work.

For university libraries, publisher licences may prevail. These typically define who may have full access and who may have walk-in access, and whether walk-in access is restricted to viewing or allows fair dealing copying.

Some NHS-HE 'crossover' scenarios

Scenario	Position
University libraries with a contract or service level agreement to provide library services to NHS organisations	Staff of these libraries may make copies from their own stock for staff of the NHS organisation(s) covered by the contract or SLA, under the terms of the NHS CLA Licence.
University students on placement at NHS organisations	University students on placement may make/receive copies under the NHS CLA Licence from NHS-owned originals whilst they are on placement, and the HE CLA Licence from university-owned originals for the duration of their education programmes.
Individuals/teams of university staff working for the NHS	University staff who have a contract/honorary contract with an NHS organisation, or are supplying services to an NHS organisation under a service agreement, may make/receive copies under the NHS CLA Licence from NHS-owned originals whilst engaged in NHS work.
NHS staff undertaking university education programmes	NHS staff on university education programmes may make/receive copies under the NHS Licence from NHS-owned originals whilst in NHS employment, and under the HE CLA Licence from university-owned originals whilst on their education programme.
Individuals/teams of NHS staff working for a university	NHS staff who have a contract/honorary contract with a university, or are supplying services to a university under a service agreement, may make/receive copies under the HE CLA Licence from university-owned originals whilst engaged in university work.
University and NHS staff working collaboratively on projects	Staff working together on specific projects may share copies relating to that project with each other, whether obtained from NHS-owned originals or supplied by NHS library staff under the terms of the NHS in England Licence. Please let the CLA know (cs@cla.co.uk) when the collaboration commences.
University and NHS libraries operating within the same inter-library document supply schemes and networks	The scheme owner/coordinator should provide guidance on this. The CLA Licences allow cross sector sharing in the scenarios described above, but do not cover general cross-sector inter-library supply. If in doubt, rely on Library Privilege.

FAQs for university library staff

- Under what circumstances could we supply copies under the NHS CLA Licence?

You are covered by the NHS CLA Licence if there is an agreement in place for your library to provide services to one or more NHS organisations or staff groups. Across the country, many university-managed library services have contracts, service agreements or historical arrangements to provide library services, including document supply services, to NHS staff. In these circumstances, you may supply copies from your print or electronic university-owned stock to the NHS staff covered by your agreement under the terms of the NHS CLA Licence.

- How much copying is allowed under the NHS CLA Licence?

In a nutshell, up to two articles from a single issue of a journal (or several articles from an issue if on the same theme), or up to one chapter or 5% of a book (whichever is greater). Multiple copies and “copies of copies” are allowed for any NHS-related purpose, and there is no upper limit to the number of copies which may be made. This [poster](#) summarises copying permissions.

- I understand the NHS CLA Licence includes access to free copyright fee paid articles?

Yes, so if an NHS staff member asks for an article which cannot be sourced from your own stock or from within the NHS, and that article is required for sharing (so a Library Privilege copy is unacceptable) you may obtain the article without charge from one of the CLA’s suppliers of CFP articles – British Library, Royal Society of Medicine Library, or Reprints Desk.

FAQs for NHS library staff

- Does a copyright declaration need to be completed by the requester for items to be obtained by an NHS library from a university library?

Unless the university library has a contract or SLA to provide library services to one or more NHS organisations, and can therefore supply copies under the NHS CLA Licence, usually they would only be able to supply Library Privilege copies, so yes, in most instances a declaration would be needed. But do not assume university libraries will supply Library Privilege copies unless part of a scheme where this has been agreed.

- Can the NHS provide university libraries with electronic articles?

Yes, but only under Library Privilege: a copyright declaration will be required.

- When can we supply copies to university staff and libraries under the NHS CLA Licence?

You could supply a licenced copy to a university person contracted to do work for the NHS, or engaged with NHS colleagues on a collaboration project. You could also supply a licenced copy to a university library contracted to provide library services to one or more NHS organisations. However, you may only supply Library Privilege copies to other university libraries.

- If a student is on placement, can the NHS supply them with articles or do they have to request them from their university? What about NHS staff who are undertaking courses at university whilst continuing to work?

Students on placement are covered by the NHS CLA Licence, and so NHS libraries supply them with copies from NHS originals under the NHS Licence (if library policy permits this): they may also obtain copies from university originals under the HE Licence. Similarly, NHS staff on courses are covered by both the NHS and HE licences.

- Under the university CLA Licence can a chapter of a book be supplied to an NHS library?

Yes, under Library Privilege, if it can be regarded as a 'reasonable amount'. But as above, do not assume that universities will supply Library Privilege copies.