



 **turnitin[®]UK**

PLAGIARISM DETECTION SERVICE UK Copyright Factsheet

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About this Briefing Paper

This briefing paper has been constructed to explain the use of the Turnitin UK system in relation to copyright legislation in the UK.

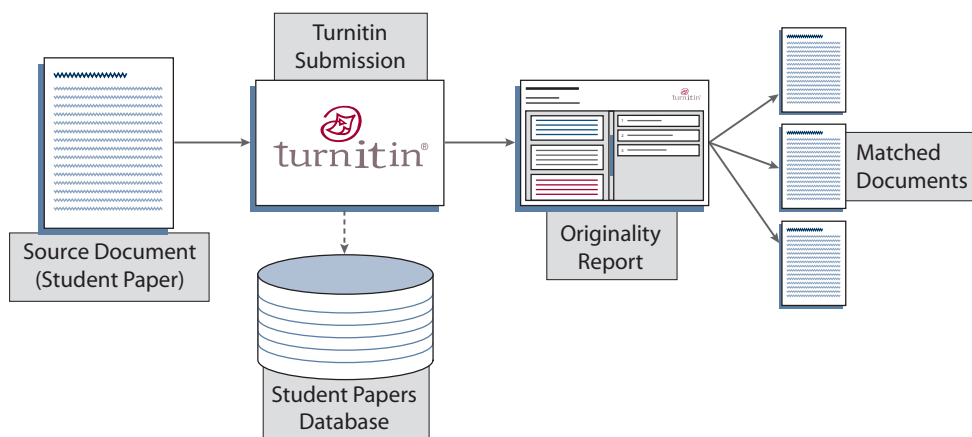
The paper is broken down into two sections;

1. Copyright and Turnitin UK - an explanation of the issues related to the use of Turnitin UK
2. Suggested Approach - a suggested approach for institutions, an example clause for use in student contracts and an explanation of this clause for students.

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Any institution seeking clarification or advice may contact Mark Pearce of Dickinson Dees LLP (mark.pearce@dickinson-dees.com).

How does the Turnitin UK Service work?



I. Copyright and Turnitin UK

What is copyright?

- » Copyright subsists automatically in any original literary or graphic work.
- » The first owner of copyright in a work will be the author unless it is produced in the course of employment (in which case the first owner will be the employer) unless it has been assigned to the institution. Some institutions have clauses in their student contracts assigning copyright in student work to the institution.
- » Students are not employees so copyright will belong to the student or it is assigned in writing to another party.
- » Copyright will only subsist where the author is a qualifying person for the purposes of copyright law.
- » A work will qualify by reference to the author where the author is a British Citizen or an individual domiciled or resident in the United Kingdom or if the author is a citizen of or subject of a country whose systems qualify by reason of international conventions. These conventions now cover the majority of countries in the world.
- » It is likely that the vast majority of students submitting works to Turnitin UK through British education establishments will either be British Citizens or resident in the UK at the time that the work is produced.
- » We assume for the purposes of the remainder of this briefing paper that all or the vast majority of submitted work will be copyright works.

What is copyright infringement?

- » Copyright is infringed by the reproduction of a work without express or implied permission from the copyright owner (known in law as a licence).

Does copyright law apply to Turnitin UK?

- » Yes, reproduction can be in any form and the electronic reproduction of a copyright work amounts to reproduction for the purposes of copyright law.
- » A work is substantially reproduced when a copy is placed in the Turnitin UK database, it is further copied when a user of the Turnitin UK system views the paper (or originality report based on the paper) as part of the assessment process. It may also be copied in the event that it is matched with another paper in the Turnitin UK system and the institution (the student's tutor) agrees to a request for access from a third party who then views it.
- » The same reproduction process is also present in email, Content Management Systems, Learning Management Systems and file systems
- » Storing work in any of these systems for later reproduction would require an express or implied licence from the copyright owner.
- » There are two purposes for which we need a licence to reproduce student submissions;
 1. To reproduce that work to assess it for originality.
 2. To retain a copy of that work and compare it at a later date with future submissions.
- » In practice Turnitin UK does not reproduce stored works when analysing new submissions. "Hash" codes are calculated for each work, which characterise that work. It is the hash code for the earlier work which is compared to that of the new work. Only if the hash code analysis suggests matching text will the actual works be compared which may mean the reproduction of the original work requiring a licence.
- » A licence can be (and in the majority of cases is) limited to certain purposes. So, for instance, a licence could be granted to reproduce a work submitted to Turnitin UK for the purposes of accessing it for originality checking without giving any broader rights for reproduction.

Is there a licence to reproduce the submissions made to Turnitin UK?

- » Yes, if clear communication about full usage is provided to the copyright holder - see below.
- » A licence to reproduce a copyright work can be expressed or implied.
- » An express licence can be recorded in writing or agreed orally.
- » It is clear that where a copyright owner provides a copy of their work to a third party knowing that that third party will reproduce it for a specific purpose then the copyright holder provides that work with an implied licence to use it for that purpose.
- » An implied licence cannot go beyond what would reasonably have been understood between the parties. When a student submits work to iParadigms through the Turnitin UK site they do so knowing that it will be analysed for originality and therefore, there is an implied licence from the student to reproduce that work for that purpose.
- » If the student is aware that the work will be copied and retained on a database and, later, further reproduced to assess work submitted at a later date then there will also be an implied licence for this reproduction.
- » Where a work is submitted by a tutor there will be an implied licence where it was clear to the student when submitting their work that it would then be submitted (or might be submitted) to Turnitin UK.
- » If it was made clear to the student at the time of submission that the work submitted to the tutor would be held on a database and reproduced at a later date for comparing later submitted works from this or another institution there will also be an implied licence to reproduce the work for this purpose.

2. Suggested Approach

In order that communication is clear and to prevent any implied licence being open to argument it is preferable to obtain an express licence from students whose works may be submitted to Turnitin UK (or any other similar system).

The easiest way to do this is to add a clause to the institution's agreement with the student.

Frequently student contracts incorporate the terms contained in the Student Handbook. One approach would be to incorporate a clause in the Student Handbook.

Please note: The question of the incorporation of terms in student contracts should be given careful consideration. This is an issue for each university or institution and this guidance should not be taken as a substitute for an institution's own legal advice.

2.1 Example Student Contract - Copyright Clause

1. We may make and may authorise third parties to make copies of any work submitted by you for assessment but only for the following purposes:
 - i. assessment of your work;
 - ii. comparison with databases of earlier answers or works or other previously available works to confirm your work is original; and
 - iii. addition to databases of works used to ensure that future works submitted at this institution and others do not contain content from your work.
2. We will not make any more copies than are necessary for these purposes, will only use copies made for these purposes and will only retain such copies as remain necessary for those purposes. Where copies are made and retained for the purposes identified in clauses 1-ii and 1-iii above, we shall ensure that no personal data is made available to any third party.

Available in Microsoft Word format at:

[http://www.northumbrialearning.co.uk/documents/
ExampleStudentContract-CopyrightClause.doc](http://www.northumbrialearning.co.uk/documents/ExampleStudentContract-CopyrightClause.doc)

2.2 Student Contract - Guidance Note

When you submit work to us for assessment it may be necessary for us to make or allow third parties to make copies. Clause [X --- *Please insert clause* --- X] of the [X --- *Please insert Student Contract reference* --- X] gives us permission to do this subject to restrictions. There are three reasons this may be necessary.

First, in order to allow assessment of your work it may be necessary to copy it. This may be the case when external examiners are involved, when a piece of work is to be assessed by more than one assessor/examiner or if the assessor needs to mark the work and we need to keep a clean copy.

The second and third reasons that we will make copies of your submitted work are both related to originality. In order to protect our students against unfair competition we need to ensure that our students are not submitting work which has copied or plagiarised other work or which is not substantially their own work. This can be done by making an electronic copy and comparing it with a database of earlier works and other works available from various sources. A copy made for this purpose, from this or from another institution, will only be made if that comparison alerts us, or another institution, to the need to consider the work more closely.

We reserve the right to provide copies of your work to other institutions in order to verify the originality of your work and others.

Before a copy of your work is made a request to view the work must have been received and agreed through the Turnitin UK system by a designated representative of this institution (normally your tutor for the original submission). The designated representative can refuse to honour any request made in this way in which case no copy is made.

The databases that allow us to check for originality only function well if those databases are well maintained and current. We may provide a copy of your work to the third party providers who maintain such databases.

Available in Microsoft Word format at:

<http://www.northumbrialearning.co.uk/documents/StudentContract-GuidanceNote.doc>

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