Item 9

For Approval

GLASGOW KELVIN COLLEGE

BOARD OF MANAGEMENT MEETING OF 14 MARCH 2022

COPYRIGHT POLICY

REPORT BY DIRECTOR OF CORPORATE SERVICES

1. Introduction

This report has been written to provide members of the Board of Management with an update in relation to the College's Copyright Policy.

2. Review of Copyright Policy and Associated Licensing

Alan Rae, the sector Copyright expert was asked to review the Copyright Policy and associated licensing and advise accordingly. As members are aware, the College has not had a high volume of students attending the College during the pandemic and, as such, a reduction in associated licensing fees was previously sought to ensure a financial saving for the College. Work in relation to this matter is ongoing. This matter has now also been picked up by Colleges Scotland; Glasgow Kelvin College has already actioned this.

The amended and revised Copyright policy is attached as per Appendix 1. Members will note that many of the aspects of the original are retained but this has had a re-write to bring it up to date. The College's Senior Management Team and relevant staff members have looked at this in detail and are content with this policy.

3. Resource Implications

Substantial savings have been made in relation to licensing requirements. There are therefore no resource implications.

4. Equalities

There are no equality implications arising as a consequence of the re-drafting of the Copyright Policy.

5. Risk and Assurance

This report seeks to provide members with assurance that compliance with the Copyright, Designs and Patents Act 1988 is given due care and attention to mitigate risks of fines. The roll out of this updated Copyright Policy will be done in a considered manner across the student and staff population of the College.

6. Data Protection

There are no directed data protection implications arising as a consequence of anything contained within this report.

7. Recommendations

It is recommended that members:

i) note the content of this report and appendix;
ii) approve the Copyright Policy contained in the appendix of this report; and
iii) note that the Director of Corporate Services will ensure that appropriate licenses are in place to meet College requirements and that the updated Copyright Policy is rolled out in an appropriate manner to all staff and students.

8. Further Information

Further information can be obtained from Lisa Clark, Director of Corporate Services - lisaclark@glasgowkelvin.ac.uk

Lisa Clark
Glasgow Kelvin College
March 2022

Appendix 1

Copyright Policy

Document Control Information	
Reviewed by the Strategic Management Team:	March 2022
Date of Next Review:	March 2025
Approved by the Board of Management:	14 March 2022 - TBC

The Board of Management (or any person/group with delegated authority from the Board) reserves the right to amend this document at any time should the need arise following consultation with employee representatives. This Policy has been subject to an Equality Impact Assessment, which is published on our website: https://www.glasgowkelvin.ac.uk/equality-diversity/

The objective of this policy is to clarify responsibilities for supporting and demonstrating best practice in creating, managing and using copyright material in all aspects of curricular and non-curricular operations in Glasgow Kelvin College. The policy applies to staff, learners, visitors and partners.

1 General Policy Statement

1.1 The Board of Management of Glasgow Kelvin College (the College) respects the copyright of those who create original works used in the College for teaching, learning, marketing and advertising purposes. Such works include, but are not limited to original literary, dramatic, music, artistic, choreographic, sound recordings, broadcasts, film, computer software, databases and electronic material. Publishers of works also have a copyright in the typographical arrangement of their publications.

1.2 This Policy, and related guidance documents, applies to all contracted staff of the College, both full-time and part-time; to all learners currently enrolled at the College and to all third parties including consultants, photographers, programmers and designers. These third parties are contracted by the College to supply resources and services for teaching learning, advertising and marketing purposes.

1.3 This Policy applies to all third party works as listed in 1.1 in both print and digital format and in all methods of delivery used for reference to or distribution of the works. Delivery methods include the Internet, the College Intranet, The College Virtual Learning Environment (VLE), Social Media and distribution devices include personal computers, laptops, tablets and mobile (smart)phones.

1.4 Staff, learners and partners of the College will not create, distribute, store or make available to the public any unauthorized or unlicensed copies of copyright works by means of the College's systems, equipment or storage media. Such systems include the internet, the College's VLE and the College's internal computer system.

1.5 Staff, learners and partners of the College will not assist with or participate in any known infringement of third party copyright works by means of a peer-to-peer network using the College's systems, hardware or storage media.

1.6 Infringement of unauthorised and/or unlicensed third party works includes uploading, storing or making available to the public those works by using the College's systems, equipment or storage media. To avoid any doubt, this clause also includes computer software licensed to the College.

2 Respect for Copyright

The College, in setting out this Policy, states that:

2.1 The College recognises The Copyright Designs and Patents Act of 1988 (as amended) (the 1988 Act) as the principal legislation applying to copyright in the United Kingdom. It is noted that copyright legislation is not a devolved responsibility.

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2.2 The College is fully committed to the principle of copyright protection for content produced by creators, rights holders and their representatives.

2.3 The College will take all appropriate measures to ensure that staff, learners and partners comply with all appropriate and relevant copyright legislation and all copyright licences held by the College.

2.4 The College recognises that legal and moral rights attach to works created and licensed by third parties.

2.5 The College recognises that creators and licensors are entitled to reasonable protection of their rights.

2.6 The College recognises that creators and licensors may be entitled to reasonable payment for the use of their works by the College as a corporate entity, by College staff, by enrolled learners and by partners creating resources for teaching, learning, marketing and advertising purposes.

2.7 The College will keep College staff, learners and partners informed of all aspects of relevant copyright laws and of all licensing agreements to which the College subscribes.

2.8 The College recognises that any infringement of third party copyright content by staff, learners or partners may expose the College, as a corporate entity, and the individual(s) responsible for the infringement, to potential legal action, claims for damages and loss of reputation.

2.9 The College recognises the terms and conditions of the Collective Management Organisations (CMOs) to which it subscribes. These CMOs are mandated by creators and publishers to licence the rights attached to their works to permit copying, scanning and any other appropriate use of the content that is covered by the licences.

(See Appendix 1 of this document for the list of Collective Management Organisations)

3 Responsibilities

3.1 College Management

3.1.1 College managers will familiarise themselves with the College's Copyright Policy and maintain their own knowledge of copyright legislation and licensing related to their areas of responsibility

3.1.2 College managers will ensure that relevant staff are made aware of the College's Copyright Policy and will provide, or arrange, appropriate information and CPD to staff on the topics of copyright law, copyright licensing and best practice when using third party content

3.1.3 College managers will ensure that learners are made aware of the College's Copyright Policy as part of the student induction process.

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3.1.4 College managers will ensure that new members of staff are made aware of the College's Copyright Policy as part of the staff induction process.

3.1.5 College managers will ensure that all relevant partners, consultants and advisors are made aware of the College's Copyright Policy as part of the procurement and appointment process before any work is created in partnership with these partners. Please also refer to sections 4.3 and 4.4 of this Policy.

3.1.6 College managers will ensure that the College Copyright Policy and guidance notes are kept current and that all updates are communicated to staff, learners and partners as soon as possible.

3.1.7 An appropriate College manager will be appointed to take responsibility for the management of the College Copyright Policy, updating guidance notes and all relevant copyright licences to which the College subscribes.

3.1.8 College managers will ensure that all necessary support will be given to staff to assist them in the compliance of copyright rules and regulations that affect their areas of responsibility.

3.2 Members of staff and partners

3.2.1 Individual members of staff and partners will take responsibility, in association with College managers, to keep current their own copyright and licensing knowledge, as these affect their work.

3.2.2 Individual members of staff and partners will take responsibility for complying with relevant copyright legislation and licences.

3.2.3 It is the responsibility of all staff and partners to ensure that any third party material they wish to copy, scan, upload or distribute either internally or externally, has been cleared by licence, permission from the rights holder, or is subject to an exception as indicated by the 1988 Act.

3.2.4 Staff and partners will take responsibility for their own copyright actions. They are not permitted to delegate this responsibility to a colleague without either the colleague's consent or understanding.

3.3 Learners

3.3.1 Learners, in association with their course tutors, will take responsibility for the use of content that is protected by copyright legislation and copyright licences to which the College subscribes.

3.3.2 Learners will work within the scope of the guidance accompanying this policy.

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4 Ownership of Copyright

4.1 Staff

4.1.1 Unless there is an agreement to the contrary, and which is preferably agreed prior to commencement of the creation of an original work, all copyright in works created by a member of staff in the course of their employment, will belong to the College.

4.1.2 Unless there is an agreement to the contrary, members of staff may not assign or licence the copyright of any work they, or their colleagues have created in the course of their employment at The College, to a third party without the express consent of the College.

4.2 Learners

4.2.1 Unless there is an agreement to the contrary, the copyright of all original works created by learners in the course of their studies, while attending the College, will belong to the learner.

4.2.2 If the College wishes to use original works created by learners during the course of their studies – photographs, designs, film, broadcasts, choreographed pieces, sound recordings etc for the purposes of promotion, exemplar, advertising etc, then the College must seek the learner's permission and enter into an agreement with the learner for the use of the works.

4.2.3 If the College employs a learner on a work contract, then the terms and conditions of an employment contract with the College will apply to the learner in regard to the College copyright policy.

4.3 Partners

4.3.1 The College will ensure that all agreements with partners who are not employees or learners of the College, contain relevant and appropriate terms and conditions relating to the ownership management and exploitation of any copyright created by original works that are produced in the course of the contract.

4.4 Authorship

4.4.1 The College will ensure that all agreements with third parties contain relevant and appropriate terms and conditions relating to the ownership, management and exploitation of copyright created by original works produced as an outcome of the agreement.

4.4.2 Third parties include, but are not limited to, other educational establishments, private companies, local authorities, voluntary organisations and funding bodies.

4.4.3 The works created by such collaborations will be teaching and learning resources and promotional materials for advertising and marketing purposes.

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4.4.4 The College, in agreement with third party collaborators will distinguish between co-author (no distinction of contribution to the works) agreements and joint author (separate works designed to be used in conjunction) agreements.

5 Compliance

5.1 Any activities or materials that do not comply with the terms of this policy are subject to immediate removal, termination and/or sanction.

5.2 Staff or learners who purposely do not comply with this policy may be subject to disciplinary action relevant to the circumstances of the infringement. Such disciplinary action may include suspension or dismissal.

5.3 Partners who fail to comply with this policy and cause infringement may be subject to immediate suspension of their contract pending an enquiry into the non-compliance.

5.4 The College will operate a “notice and takedown” process when any online service operated by the College is charged with alleged copyright infringement by the rights holders of works contained in that online service. Online services are, but not limited to, the College website and any Social Media accounts operated by the College.

5.5 A “notice and takedown” process allows rights holders and their representatives to ask for content to be removed from an infringing online service.

5.6 The College will implement the “notice and takedown” process when the rightsholders are able to provide evidence of identity and ownership of the works in question.

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Appendix 1 – List of Copyright Licences

Copyright Licensing Agency (CLA)

Educational Recording Agency (ERA)

NLA Media Access

PRS for Music

Phonographic Performance Licence (PPL)

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