

# **SAMPLE LIBRARY**

# **COPYRIGHT POLICY**

**First Edition**

**Produced by the Standing Committee on Copyright of the  
Library and Information Association  
of New Zealand Aotearoa  
Te Rau Herenga o Aotearoa**

**Edited by Tony Millett**

**[tony.millett@xtra.co.nz](mailto:tony.millett@xtra.co.nz)**

**May 2011**

## INTRODUCTION

The Copyright (Infringing File Sharing) Amendment Act 2011 inserts into the Copyright Act 1994 (sections 122A-122U) an infringing file sharing regime, which provides copyright owners with a special process for taking enforcement action against people who infringe copyright through file sharing. It is a process of escalating infringement notices sent by IPAPs (Internet protocol address providers), at the instigation of copyright owners, to IPAP account holders who are alleged to have repeatedly infringed copyright through file sharing.

“File sharing” is defined in section 122A(1) as “where –

- (a) material is uploaded via, or downloaded from, the Internet using an application or network that enables the simultaneous sharing of materials between multiple users; and
- (b) uploading and downloading may, but need not, occur at the same time”.

Account holders, defined in section 122A(1) as meaning, in relation to an IPAP or Internet protocol address provider, “a person who has an account with the IPAP”, includes libraries and their parent organisations. Account holders have the right to challenge any of the infringement notices (detection notice, warning notice, enforcement notice) sent to them by an IPAP, but must do so within 14 days of the date of the infringement notice.

The infringing file sharing regime also includes involvement of the Copyright Tribunal, which can award compensation of up to \$15,000 if a breach of copyright is substantiated, and of the District Court, which can order suspension by an IPAP of the account holder’s Internet account for up to six months.

Libraries are affected by the infringing file sharing regime as IPAP account holders.

Libraries or their parent organisations may receive infringement notices from their IPAP, and if so are required to take action – to challenge the infringement notices, and to investigate and attempt to stop any substantiated copyright infringement.

The infringing file sharing regime raises a number of problems for organisations such as libraries:

- An account holder (an organisation that has an account with an IPAP) is not the same as a user (a person who uses the Internet services made available by an account holder). An account holder such as a library, university or school may have many thousands of users.
- In a library situation, alleged repeat infringements may apply, not to multiple instances by one user, but to single instances by a number of different users.
- Account holders such as libraries may not be able to identify alleged copyright infringers, particularly if the alleged repeat infringements took place on public-access Internet computers, either because the library does not require users to authenticate, or because records of use are kept for only a very short time or not at all.

Nevertheless, libraries have an obligation to take all reasonable and practicable steps to minimise copyright infringement in their institutions, whether by their own staff or by library users, and whether on staff computers or on public Internet-access computers. Libraries must also be able, if required, to demonstrate to copyright owners, the Copyright Tribunal or District Court that they have done so.

LIANZA recommends that libraries should have a copyright policy that sets out procedures for dealing with alleged copyright infringement.

The following sample policy is intended to provide guidance for libraries on what their copyright policy should include. The sample policy should be tailored by libraries to express what their policies and procedures actually are. Libraries may wish to check with their institutions' managers and/or legal advisers, to ensure that the policy is acceptable.

Further information is given in section 22 of LIANZA's *The Copyright Act 1994 and Amendments: Guidelines for Librarians* which is on the LIANZA copyright webpage at <http://www.lianza.org.nz/resources/copyright>.

## Copyright statement

This work is licensed under the Creative Commons Attribution-Share Alike 3.0 New Zealand License. To view a copy of this license, visit <http://creativecommons.org/licenses/by-sa/3.0/nz/>.

### ATTRIBUTION-SHARE ALIKE (BY-SA)



#### You are free:

- **to Share** — to copy, distribute and transmit the work
- **to Remix** — to adapt the work

#### under the following conditions:

- **Attribution.** You must attribute the work in the manner specified by the author or licensor (but not in any way that suggests that they endorse you or your use of the work).
- **Share Alike.** If you alter, transform, or build upon this work, you may distribute the resulting work only under the same or similar license to this one.
- For any reuse or distribution, you must make clear to others the license terms of this work. The best way to do this is with a link to this web page.
- Any of the above conditions can be waived if you get permission from the copyright holder.
- Nothing in this license impairs or restricts the author's moral rights.

[NAME OF LIBRARY]

## LIBRARY COPYRIGHT POLICY

### General principles

1. The Library strongly supports the principles of copyright and the rights of copyright owners, and therefore takes all appropriate actions to ensure that copyright is not breached within the Library, either by staff or by users.
2. Library staff have a responsibility to investigate and stop any apparent breaches of copyright which they observe taking place on Library-supplied photocopiers, scanners, audio, video and DVD players, computers and other equipment.
3. The Library has a compliance programme in place, with regular checks being made that the conditions of the Copyright Act are being observed.
4. The Library has a responsibility to educate its staff and its users on copyright issues affecting them, including issues relating to copyright and the Internet.
5. The Library treats its staff and its users with respect, observes and preserves their privacy, and considers them to be innocent unless evidence proves otherwise.
6. The Library has an obligation to investigate and respond in a timely manner to charges of alleged copyright infringement sent to it by IPAPs (Internet protocol address providers) or copyright owners.
7. The Library has the right to challenge and dispute such charges.
8. The Library advises IPAPs or copyright owners if its systems do not enable it to identify individuals who have used Library computers on dates and times at which breaches of copyright have been alleged.
9. Restriction of access to the Internet or equipment within the Library is always seen as a last resort.

### Library staff

10. All Library staff receive instruction on copyright issues relating to libraries, based on publications listed on the LIANZA copyright website at <http://www.lianza.org.nz/resources/copyright>, and in particular LIANZA's *The Copyright Act 1994 and Amendments: Guidelines for Librarians*.
11. Queries regarding copyright which are not able to be answered by front-line staff are referred to a senior Library manager who has been designated with a special responsibility for copyright matters.
12. Library staff who observe an apparent breach of copyright in the Library either deal with it themselves in accordance with this Policy, or refer it to a senior Library Manager.

## **Library users**

13. Education on copyright issues relating to library users is provided as appropriate.
14. The Library posts warning notices about illegal copying, and the provisions of the Copyright Act relating to fair dealing, adjacent to its photocopiers, scanners and other Library-supplied equipment.
15. The Library posts warning notices regarding copying and downloading from the Internet adjacent to its public-access computers and on screen-savers.
16. Where possible, the Library blocks access to Internet sites the sole purpose of which is known to be to facilitate the illegal downloading of materials from the Internet.

## **Allegations of breaches of copyright**

17. If the Library receives notification from an IPAP or copyright owner that there has been an apparent breach of copyright on a library-owned computer, the Library investigates and takes appropriate action, as detailed below.

### **Staff computer**

18. If the alleged breach is identified as having taken place on a Library staff computer, and if the individual staff member can be identified, the facts of the case are ascertained. If the alleged breach is substantiated, the staff member is given additional instruction on copyright law in general and the current incident in particular, and warned that a repetition may result in disciplinary action being taken under the Library's employment contract with that staff member.
19. If the alleged incident is not substantiated, or if the individual staff member can not be identified, this is reported back to the IPAP or copyright owner.
20. At the same time, all Library staff are reminded of their obligation to comply with copyright law.

### **Public-access computer**

21. If the alleged breach is identified as having taken place on a Library-owned public-access computer, the Library attempts to identify the name and contact details of the person using the computer on the specified date and time.
22. If the person can be identified, the facts of the case are ascertained. If the alleged breach is substantiated, the person is given information on copyright law as this affects library users, and is warned that a repetition may result in the person being banned from using public-access Internet computers in the Library. If notification is received of a second apparent breach of copyright by the same person, and if that breach is substantiated, the person is given a second warning. If notification is received of a third apparent breach of copyright by the same person, and if that breach is substantiated, the person is told that s/he may not use Library-supplied public-access Internet computers in the Library, other than to access the Library Catalogue or Library-subscribed electronic resources, for a period of six months. If the person is a member of the Library, this information is noted on the person's Library record.

23. If it is not possible for the Library to identify the person using the public-access computer on the specified date and time, either because the Library does not require users to authenticate, or because records of use are kept for only a very short period or not at all, the Library reports back to the IPAP or copyright owner that the alleged breach has been investigated but that the alleged infringement can not be substantiated or infringer identified.

**Response to IPAP or copyright owner**

24. The Library always responds within 14 days to a detection notice, warning notice or enforcement notice received from an IPAP, giving details of the investigations undertaken and any actions taken. Copies of correspondence are kept for one year.
25. A copy of this Policy is provided on request as evidence that the Library is taking all actions within its power to comply with copyright law, and to attempt to ensure that breaches of copyright by either Library staff or Library users within the Library are minimised.

*Date*