

Position statement: Moral rights for staff and volunteers

July 2018

Moral rights were formally incorporated into Australian copyright law in 2000. Moral rights cover performers and authors (hereafter, “creators”) of literary, dramatic, musical or artistic works and cinematographic films (hereafter, “work”). In general, moral rights will last for 70 years following the creator’s death, or 70 years from the end of the calendar year for a published recording.

Moral rights are distinct from any rights bestowed by copyright: they are personal, non-economic rights that can only apply to the creator of a work. Moral rights cannot be assigned or given away, however it is possible to consent to an act that would otherwise infringe moral rights.

There are three moral rights: the right of attribution, the right against false attribution, and the right of integrity. The right of integrity includes any material alterations, or manipulation of the work that could affect the creator’s reputation, and for artistic works this includes exhibiting in public.

Principles

1. NSLA libraries support a balanced approach to copyright, which includes upholding both the legal and moral rights of copyright creators, as well as the rights of copyright users.
2. As an employer, NSLA libraries own the copyright in works that employees, and in most cases volunteers, create during the course of their employment, while moral rights remain with the individual creator.
3. NSLA libraries aim to ensure employees and volunteers understand the differences between copyright and moral rights, and how these are managed in practice within each library.
4. While NSLA libraries undertake best efforts to respect and identify the authorship of employees and volunteers, it is acknowledged that in some circumstances it is reasonable not to identify the creator of a work. However, individuals retain the right to request attribution.
5. The decision to attribute an employee is dependent upon the purpose and manner in which the work was created and was intended to be used; whether the work is considered substantial or requiring considerable creative effort; and practicality.
6. NSLA libraries may request that employees and volunteers consent, on an individual or general basis, to activities which would otherwise infringe their moral rights. Ideally consent is managed via employment contracts or volunteer agreements; it is generally given in advance but may sometimes occur in arrears.
7. Jurisdictions that are licensing works under Creative Commons Licence will be bound to attribute the creator of the work by default.
8. NSLA supports extending moral rights to Indigenous communities and acknowledge the right of attribution, or naming of the community connected, with Indigenous Cultural and Intellectual Property.

For more information on moral rights in Australia, go to:

https://www.copyright.org.au/acc_prod/ACC/Legal_Advice/Manage/Precedents/009_Moral_Rights.a_spx