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Copyright Anxiety and Legal Chill in Higher Education: A Comparison of Canada and the United Kingdom

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Abstract

This study builds upon and extends previous research into the phenomenon of copyright anxiety, initially measured through the Copyright Anxiety Scale (CAS) developed by Wakaruk et al. (2021). The primary aims were to explore levels of copyright anxiety within the higher education sectors of the United Kingdom and Canada, and to examine whether copyright law and how it is perceived in these sectors inhibits innovative research and teaching practices. Using an adapted version of the copyright anxiety scale survey, we collected responses from over 500 participants in the United Kingdom and Canada during the summer of 2023. Additionally, we conducted seven focus groups with 32 individuals over the same period to gain deeper insights into the phenomenon and inform potential interventions.

Our findings indicate that those working in higher education are more worried about copyright than those outside the sector. Copyright concerns can cause significant anxiety and emotional labor, which may lead to a legal chill that hampers teaching, research, and the provision of library programs and services. For example, academics may use less appropriate materials due to copyright concerns, negatively affecting pedagogical impact. Librarians, often acting as copyright advisors, may experience heightened anxiety, leading them to provide more risk-averse guidance to users and decision-makers. Future publications from this research will further develop a coding frame and explore options for mitigating copyright anxiety and chill in this sector.

Keywords: copyright, copyright anxiety, copyright chill, Copyright Anxiety Scale, copyright law, librarianship, libraries, higher education

Copyright Anxiety and Legal Chill in Higher Education: A Comparison of Canada and the United Kingdom

Introduction and Research Questions

This research builds on and extends a previous study into the phenomenon of copyright anxiety, the result of which was a survey to measure this objectively, called the Copyright Anxiety Scale (CAS; Wakaruk et al., 2021). The current study aimed to further explore levels of copyright anxiety, comparing the higher education sectors in the United Kingdom and Canada, and to examine whether copyright law and its interpretation “chills” innovative research and teaching practice. By undertaking a country comparison, we investigated the extent to which copyright anxiety and chill differ as a phenomenon in the United Kingdom and Canada. Our research questions were:

- Is copyright anxiety an observable phenomenon in the Canadian and United Kingdom higher education sectors, and if so, how is it experienced?
- Are there differences in copyright anxiety levels based on professional identity?
- Are there differences in copyright anxiety levels based on geographic location?
- What interventions could help alleviate copyright anxiety in the higher education sector?

A comparison study between the Canadian and U.K. higher education sectors was chosen because of the relevant similarities in the countries’ legal systems and the differences in litigation and collective licensing norms. Both countries use a common law system shaped by Commonwealth history, in which the law is derived primarily from case law (court decisions).¹ In addition, copyright legislation in both countries includes a fair dealing provision, which is a statutory exception to infringement that supports the use of copyright-protected works in certain contexts, without the need for a license or other permissions from the rights holder. In contrast, litigation activity and educational licensing practices in the two countries differ in significant ways. Higher education institutions in the United Kingdom make extensive use of a collective rights management organization for blanket permission to reproduce literary works, via the Copyright Licensing Agency. While Canada also has a copyright management organization for literary works that offers a blanket license agreement, Access Copyright, multiple Supreme Court of Canada decisions (including a case brought against York University by Access Copyright) have informed a widespread rejection of collective licensing for educational reproduction rights in higher education.² Currently, most Canadian universities and colleges comply with copyright law through direct licensing with rightsholders or their agents (e.g., via library license agreements), the use of openly licensed content, and statutory exceptions to infringement including fair dealing (Graham & Winter, 2021).

The study used an adapted version of the CAS. Over 500 respondents from Canada and the United Kingdom completed the adapted survey during the summer of 2023. In addition, we undertook seven focus groups with 32 individuals to understand the phenomenon better and to explore what interventions might help alleviate copyright anxiety and prevent chill.

¹ This is in contrast to the European civil law system, where the content of the law is primarily codified in the legislation.

² For information about relevant Supreme Court of Canada decisions, see Geist, M. (2013), *The Copyright Pentology: How the Supreme Court of Canada Shook the Foundations of Canadian Copyright Law*, University of Ottawa Press, <https://ruor.uottawa.ca/items/68a79a00-dbbc-4fdc-baa7-fb92e5d2057a>; and Sheppard, A., (2021, August 26) “Fairness and Balance: The Supreme Court of Canada Decision in Access Copyright v. York University,” *The Quad*, <https://www.ualberta.ca/en/the-quad/2021/08/fairness-and-balance-the-supreme-court-of-canada-decision-in-access-copyright-york-university.html>

In this paper we provide a literature review and then focus on findings from the survey. We then report on two aspects of the focus group data to discuss how copyright anxiety is experienced in higher education and the types of activities that are impacted. It is anticipated that further publications will follow, given the extent and richness of the data we have collected.

Literature Review

Similar to the survey instrument, this review builds on the base literature review in this area of work (Wakaruk et al., 2021), which guided the development of the CAS using earlier work to measure the theory and phenomena of “library anxiety” (Bostick, 1992) as well as the Depression Anxiety Stress Scale (Lovibond & Lovibond, 1996). The previous study surveyed members of the public in Canada and the United States; however, the findings were clear. Wakaruk et al. (2021), in their conclusions, stated:

It is clear from the survey response data that copyright anxiety is a real phenomenon for many and has practical consequences that can impede creativity and potentially legitimate forms of sharing content. Given that more than a quarter of respondents indicated that they had abandoned projects due to copyright-related anxiety, it is fair to say that the phenomenon is in fact prevalent. (p. 19)

Anxiety about copyright has been documented in the literature in several previous studies, many of which have focused on the experiences of librarians (Benson, 2019; Nillson, 2016; Secker & Morrison, 2016). Secker and Morrison (2017) found that librarians experienced copyright as a “problem” in their professional lives. Their research carried out focus groups with 21 librarians in the United Kingdom and noted the emotional response to copyright that led some librarians to try and avoid this type of work. Subsequent research has explored the value of games and play to mitigate against copyright confusion and the anxiety that it causes (Secker & Morrison, 2022, p. 111–112). Meanwhile, Benson and Ocepek (2023, p. 167) reported on the experiences of information science students to copyright education, finding that “students feel more confident and have a better grasp on where to find reliable copyright information when they have taken a copyright-intensive course.”

However, removing all anxiety may be impossible, due to the nature of copyright queries. As Sinnreich (2019) highlighted, the “architecture” of intellectual property law means that norms and behaviors sit on top of an inverted pyramid of legal authority so the majority of those involved in activities that copyright regulates are unsure of whether what they are doing is permitted. As a result, they fear that they are likely doing something wrong. Hobbs et al. (2007, p. 14), reporting on research with media literacy educators, said many felt “trapped” by copyright, leading to cognitive dissonance when it came to understanding the issues. Wakaruk et al. (2021, p. 2) defined copyright chill as when “the sharing and reuse of original creative works and the creation of new works can be hampered by a lack of understanding and an abundance of nervousness about the interpretation of copyright law.” Writing about copyright and cultural heritage, Pittman (2020) noted that “copyright overreach” had a chilling effect on the use of public domain works for legitimate uses, due to unclear or confusing copyright statements.

While the chilling effect doctrine described in academic legal literature is not new, Penney (2022) recently advanced a social conformity theory of chilling effects that considers the potential impact of related behaviors. He observed that chilled behavior “helps foster the production of more conforming speech and activities, which will almost always be more consistent with, and

conforming to, existing power structures in society” (p. 1526). Such power relations are clearly at play when considering the impact of copyright law on libraries, which was described as having “negative effect” on libraries in a review of empirical evidence related to copyright exceptions (Meletti, 2021, p. 23).

Few empirical studies, however, exist that examine copyright anxiety and chill amongst higher education staff more broadly. One earlier study of copyright chill among communications researchers found that “nearly a third avoided research subjects or questions and a full fifth abandoned research already under way because of copyright concerns” (Aufderheide, 2020, p. 3). Similarly, almost 20 years ago Hobbs et al. (2007) reported on the pedagogical costs of “copyright confusion,” meaning teaching materials were less effective and there could be the perpetuation of misinformation. In summary, there is growing evidence that working with copyright can cause anxiety and that this may be having a “chilling” effect on how individuals interpret and exercise rights made available to them under the law. This new research looks to contribute to the evidence base by specifically examining the impact that copyright anxiety is having on the higher education sector.

Methodology

The original CAS was created to explore copyright anxiety as a phenomenon across a broad population. The current study focused on people working in higher education in both Canada and the United Kingdom. The preambles and survey instruments used in the current study and described below are provided in Appendix 1.

One of our first tasks was to review and modify the existing scale to better fit the reality of this narrower population. Five of the existing Likert-style (agreement response) scale items were modified to focus on experiences in the workplace. An additional Likert-style scale item was added to assess participants’ confidence with senior managers’ understanding of copyright in their home institution.

Two new write-in response categories were created: one to learn more about the type of formal copyright instruction a participant had completed and another to gauge participants’ knowledge of fair dealing in an institutional context. The write-in responses were then assessed and categorized by at least two of the three primary research team members. The responses related to copyright instruction were coded to distinguish between for-credit instruction other than legal qualification, workshop or other professional development (both internal and external to the participants’ home institution), and legal qualifications. The write-in responses related to fair-dealing knowledge asked participants to explain why they selected “true” or “false” to a scenario-based statement related to fair dealing for an educational purpose. Participants’ explanations about their assessment of whether or not the scenario was fair dealing were then coded to determine their level of knowledge (as described in the Descriptive Statistics section of this paper).

Demographic categories specific to professional roles and academic disciplines were structured to best group similar categories of work while also respecting the different conventions within higher education in the two countries.

In addition to adapting the survey instrument to be more appropriate for use in higher education, focus groups were added as a data collection method. Focus group data allowed for triangulation with the write-in survey responses and also provided more information about the scenarios

participants described as hampering or preventing their work in higher education. This decision was made, in part, in response to the original study’s observation that more scenario-based information would be needed in order to assess whether or not participants were experiencing copyright (or legal) chill.

The survey preamble for participants was also modified to represent the application of copyright in a higher education setting, with different versions prepared for participants from both the United Kingdom and Canada. The Canadian preamble and survey were then translated into French.

Once a final draft of the scale had been agreed upon, research ethics approval was sought and received from both the University of Oxford and the University of Alberta. In addition, an application for an internal research grant from the University of Oxford was submitted and awarded. This funding was used to schedule a short research “retreat” and to employ a research assistant to help with statistical analysis.

The survey was run in Canada between June 28 and August 11, 2023, and in the United Kingdom between June 30 and August 18, 2023. Invitations to participate in the survey were distributed on various professional and institutional listservs. Survey responses were anonymous. If a participant indicated that they had been hampered or prevented by copyright in the workplace, then they were invited to join a focus group via a separate form. Thus, participants’ original survey responses were treated separately from any focus group contributions. This process resulted in 509 usable and anonymous survey responses and seven focus groups (five in the United Kingdom and two in Canada) with a total of 33 participants, as described in other sections of this paper. Survey responses were stripped of geographical information below the country level and focus group data was anonymized before data was shared amongst the core research team for comparative analysis.

Results: Descriptive Statistics

Of the 509 usable survey responses, just over half (258) were from respondents in the United Kingdom, with the remainder from Canada (251). Respondents were more likely to self-identify as female (332) than male (121), with a minority preferring not to say which gender they identify with (37) only 19 choosing to provide a write-in alternate response, such as nonbinary, nonconforming, agender, or transgender. Most respondents were between the ages of 35 and 54 (303, or 60%).

While the majority of respondents work in libraries (292, or 57%), only 34 of these respondents identified themselves as something other than a librarian (e.g., library technician or assistant or copyright specialist, based on an optional write-in response). Respondents who work as academic staff or faculty members provided 112, or 22%, of responses and 86, or 17%, were employed in management, administrative, or other professional positions.

Frequency tabulations for all survey questions [can be found here](#).

Comparative Statistics: 2019 and 2023

Three of the survey questions that indicate a state of copyright anxiety were included in both the current study and the original 2019 CAS study, where respondents were drawn from the general population (not higher education) in the United States and Canada (Wakaruk et al., 2021). The number and percentage of respondents agreeing or strongly agreeing with these statements is provided in Table 1. These results show that, compared with the general population, those working in higher education are more likely to be confused trying to navigate copyright and to worry that

they do not know enough about copyright. However, respondents working in higher education are also more likely to feel safe using copyright-protected materials for which they do not hold the rights.

Table 1
Respondents that Agree or Strongly Agree With Statements About Copyright Anxiety

	Percentage 2019, general population (U.S. and Canada)	Percentage, 2023, higher education (U.K. and Canada)
I get confused trying to navigate copyright issues.	34.6	55.0 (U.K.) 46.4 (Canada)
I do not feel safe using copyright-protected materials that I do not hold the rights for.	50.9	29.7 (U.K.) 39.5 (Canada)
I worry I do not know enough about copyright.	48	59.7 (U.K.) 52.0 (Canada)

In addition, 25% of respondents working in higher education in both the United Kingdom and Canada said they had avoided or not completed activities or projects in the workplace because of copyright issues. A slightly different, broader version of this question was asked of respondents in 2019, not limited to workplace activities, and the corresponding figure was higher, at 37%. The reverse is true when respondents were asked if they could describe a time that concerns about copyright hampered or prevented them from doing something; again, only the current study focused on workplace activities. For this question, those working in higher education were more likely to report hampering due to copyright, with 39% of Canadian respondents and 50% of U.K. respondents replying in the affirmative. In comparison, 28% of 2019 respondents said they could describe a time when concerns about copyright hampered or prevented them from doing something.

Cross-tabulations were completed to help us better understand correlations between anxiety, knowledge, and the use of content perceived to be protected by copyright. Some of these cross-tabulations are the same as those compiled in 2019, while others are novel to the current project.

A hesitancy to ask for help with copyright appeared to be associated with confusion about copyright amongst the respondents to the 2019 study. They also worried about not knowing enough about copyright (Wakaruk et al., 2021). This was slightly more pronounced in the current study, which looked specifically at respondents who work in higher education. For example, respondents who reported feeling hesitant to ask for help with copyright questions were more likely to feel confused about copyright. This was true for 61.3% of the respondents who reported feeling hesitant to ask for help in the 2019 study and 72.2% of respondents in the current study. Similarly, respondents who reported feeling hesitant to ask for help with copyright questions were more likely to report that they worry they do not know enough about copyright. This was true for 73.0% of those who reported feeling hesitant to ask for help in the 2019 study and 78.5% in the current study. It would seem, then, that the people who might benefit the most from copyright support are unlikely to ask for help.

In addition, it is unclear whether the completion of formal instruction (as the question was worded in 2019) or formal training or education (as the question was worded in the current study) related to copyright correlates in a meaningful way with being worried about not knowing enough about copyright. That is, of the respondents who claimed to have completed formal instruction, training, or education, 49.5% in the current study and 47.2% in the 2019 study also reported, separately, that they

are worried that they do not know enough about copyright. In comparison, of those respondents who claimed to not have completed formal instruction, training, or education, 63.1% in the current study and 52.9% in the 2019 study reported feeling worried that they did not know enough about copyright.

Interestingly, while the percentage of respondents in the 2019 study who expressed confusion trying to navigate copyright issues was almost the same regardless of whether or not they had completed formal copyright instruction, a slightly higher percentage of respondents in the current study were more likely to agree with the statement about confusion if they had not completed formal education or training. That is, of the respondents who reported the completion of formal instruction, training, or education, 33% of respondents in 2019 and 45.4% of respondents in the current study agreed or strongly agreed with the statement about confusion. In comparison, of those respondents who did not complete formal instruction, training, or education, 35% of respondents in 2019 and 57.2% in the current study agreed with the statement about confusion. Those working in higher education were more likely to agree with the statement about confusion overall than respondents from the general population.

In the current study, there was almost no difference in the percentage of respondents who said they had avoided or not completed a project due to copyright when cross-tabulated with whether they had (25.6%) or had not (24.6%) completed education or training related to copyright. This variance was more pronounced in the 2019 study, with roughly half of respondents who reported having formal instruction claiming that they had avoided or not completed activities because of copyright issues, compared with 30% for those who reported no formal instruction.

While the majority of respondents in the current study (299, or 58.7%) reported that they have good access to instructions or policies for using copyright-protected materials, the 80 respondents that did not were more likely to agree with the statement that they did not feel safe using copyright-protected material for which they do not hold the rights (47 out of 80, or 58.8%) compared to 81 out of 229 (35.4%).

Like the original study, there were few statistically significant variations in response by gender. However, of the 121 respondents who identified as men, 33 (or 27.3%) agreed that they are comfortable performing actions that might be copyright infringement, compared to 37 of the 332 respondents (11.1%) who identified as women. Of the 37 respondents who preferred not to answer the demographic question about gender, only 7 (or 18.9%) agreed that they are comfortable performing actions that they think might be copyright infringement.

Comparative Statistics: United Kingdom and Canada

Sixteen of the statements included in the survey were answered using typical Likert-style response categories (e.g., strongly agree, agree, disagree, strongly disagree). For ease of analysis, similar categories of responses were combined and then analyzed. Combining “strongly agree” and “agree” categories and also “strongly disagree” and “disagree” categories resulted in variations approaching the 11% mark between the two countries for responses to five of the 16 questions. These differences seem to indicate a slightly higher level of copyright anxiety amongst U.K. respondents.³

For example, 12% more U.K. respondents disagreed with the statement about feeling comfortable performing actions that might be copyright infringement, and 10% more U.K. respondents agreed that they did not feel safe using copyright-protected materials for which they do not hold the rights.

³ This contrasts with responses about general anxiety in respondents’ professional lives, with a slightly higher percentage of respondents in Canada agreeing that they often feel anxious in their professional lives (35%) compared to respondents in the UK (30%).



U.K. respondents were also more likely to be worried about the amount of copyright infringement that goes on at their institution, less likely to agree that they could identify exceptions to copyright infringement, and less likely to feel confident that the senior managers or leadership team at their institution understood legal issues related to copyright (a difference of 9% in all three cases). The only statement with a Likert-style response that resulted in a variation greater than 12% when broken down by geography was the statement related to the ease of finding information about copyright. A full 70% of respondents living in Canada agreed that it was easy to find information about copyright, while 50% of respondents living in the United Kingdom agreed with this statement.

Table 2
Responses as a Percentage of Total Regional Responses, United Kingdom and Canada⁴

	United Kingdom	Canada
I am familiar with copyright legislation and/or copyright case law. <i>Agree or Strongly Agree.</i>	73.3	75.7
I can identify exceptions to copyright infringement. <i>Agree or Strongly Agree.</i>	60.9	70.5
I frequently have concerns about copyright. <i>Agree or Strongly Agree.</i>	55.4	51.8
I get confused trying to navigate copyright issues. <i>Agree or Strongly Agree.</i>	46.6	55.0
I am comfortable performing actions that I think might be copyright infringement. <i>Disagree or Strongly Disagree.</i>	67.8	56.2
I am confident that the original materials I create are protected by copyright. <i>Agree or Strongly Agree.</i>	54.3	61.0
I feel hesitant to ask for help with copyright issues. <i>Agree or Strongly Agree.</i>	16.7	14.3
I have access to good instructions and/or policies for using copyright-protected materials. <i>Agree or Strongly Agree.</i>	52.3	65.3
It is easy for me to get help or find information about copyright. <i>Agree or Strongly Agree.</i>	50.0	70.1
I feel hesitant to ask for help with copyright issues. <i>Agree or Strongly Agree.</i>	16.7	14.3
I worry about the consequences of copyright infringement. <i>Agree or Strongly Agree.</i>	53.5	46.2
I am confident that elected policymakers (e.g., Members of Parliament) understand legal issues related to copyright. <i>Agree or Strongly Agree.</i>	3.98	3.88
I am confident that the senior managers/leadership team at my institution understand legal issues related to copyright. <i>Agree or Strongly Agree.</i>	26.0	34.7
I am worried about the amount of copyright infringement that goes on at my institution. <i>Agree or Strongly Agree.</i>	29.5	21.1
I worry I do not know enough about copyright. <i>Agree or Strongly Agree.</i>	59.7	51.8

A number of observations can be drawn from the results in Table 2, including the following:

- Even though respondents’ confidence in their familiarity of copyright law is almost the

same, more Canadian respondents felt confident that they could identify exceptions to infringement.

- Even though respondents claimed almost no difference between feeling hesitant to ask for help, more Canadian respondents said it was easy for them to get help or find information.
- Respondents in the United Kingdom were slightly more likely to say they worried they did not know enough about copyright, and significantly more Canadian respondents claimed to get confused trying to navigate copyright issues. This suggests that although a higher percentage of Canadian respondents said they felt confused, fewer seem to be worried about it.
- When it comes to confidence in decision-makers’ ability to understand copyright, a very low and almost identical percentage in both countries said they are confident in elected officials’ level of copyright literacy, but more Canadian respondents said they are confident in their senior managers or leadership team.
- Overall, Canadians appeared to be more confident in their abilities but also more confused than their U.K. colleagues.

Survey questions with write-in responses also highlighted variations between respondents in the United Kingdom and Canada. For example, as noted earlier, respondents were asked to answer a true/false question about fair dealing and then provide an explanation for their answer. These explanatory write-in responses were then assessed and categorized. Based on this analysis, a higher percentage of respondents from Canada appear to understand fair dealing (163 of 273, or 60%), compared to U.K. respondents (110 of 273, or 40%).

Write-In Responses

The current study included a follow-up, optional write-in response category if the respondent indicated that they had completed formal instruction or training related to copyright. The derived categories based on these responses, as described earlier, were then used in a number of cross-tabulations. The results indicate that there is a definite, positive correlation between the completion of copyright training or education and a write-in response that conveys an understanding of fair dealing. For example, respondents who completed internal or external copyright workshops (including webinars, conference sessions, or parts of a certificate program) were two to three times more likely to understand fair dealing, compared to those whose responses indicated a lack of knowledge about fair dealing. This ratio increased to five times more likely if coursework toward a legal qualification was cited as the source of the copyright literacy instruction, but the sample size for this group of respondents was low. (That is, 12 respondents with a legal qualification provided a write-in response that could be assessed, and 10 of these responses conveyed an understanding of fair dealing.)

It’s important to note that the variance between respondents who conveyed an understanding of fair dealing and those who did not was much lower for those who reported that they had no copyright training or education (that is, of 186 respondents who reported “no training” and provided a write-in response that could be assessed, 100 provided a response that conveyed knowledge of fair dealing and 86 did not).

In addition, a breakdown by the respondents’ professional roles indicates that nearly 60% of librarians and other library staff appear to understand fair dealing (171 of 292, or 58.6%), which is a slightly higher percentage than administrative, management, and other professional staff (47 of 86, or 54.7%), and also higher than academic staff (48 of 122, or 42.9%), or learning technologists and IT staff (6 of 17, or 35.3%). This seems to correlate with responses to the statement about frequently

⁴ The variances between select data points were provided on slide 10 of the presentation by Wakaruk et al. (2024).



having concerns about copyright, a statement that respondents who work in administrative, management or other professional roles were slightly more likely to agree with (59.3%) than respondents who self-identified as academic (51.8%) or library staff (53.4%).

Respondents in the current study who claimed that copyright concerns either caused them to avoid projects or hampered or prevented them from completing projects in the workplace were asked to describe a time when this happened. This resulted in 204 usable write-in responses. Of these scenarios, 79 (38.7%) were concerning the use of course materials, 34 (or 16.7%) related to library digital services, and 43 (21.1%) related to library services more broadly. Twenty-one responses (10.3%) described activities related to research activities, and six (or 2.9%) described activities related to community or professional engagement.

Two of the team members then read through all 204 scenarios and coded them for potential impact in the workplace. The results of this analysis are provided in Table 3. In some cases, scenarios were coded with more than one type of impact.

Table 3
Impact of Scenarios Associated With Hampering or Avoidance of Activities Due to Copyright Concerns

Type of Impact (number of scenarios, in descending order)	Typical Scenarios
First choice of content was not used (79)	<ul style="list-style-type: none">- Not using preferred images in a class because they were not openly licensed.- Creating new images for distribution on the Internet instead of navigating copyright considerations for preferred images.- Finding the terms of use to not be supportive and had to assign alternate readings.- Avoiding using third-party content in a publication because obtaining permission seemed onerous.
Restricted access to materials (e.g., research, archival, museums, etc.) (33)	<ul style="list-style-type: none">- Restricting access to digitized content even though it was unclear whether that was required by law.- Having difficulty to assess actual risk involved with sharing archival materials and erred on the side of caution.- Being unable to disseminate a journal article with students as an academic author because the publishing agreement doesn't allow for this activity.
Compliance anxiety or potential legal chill ⁵ (22)	<ul style="list-style-type: none">- Determining what is appropriate for distribution in the classroom.- Including third-party content in a manuscript being submitted for publication.
Copyright chill (no indication of anxiety) (21)	<ul style="list-style-type: none">- Abandoning digitization projects because of the work involved with clearing copyright.- Not using images of book covers for educational purposes.
Copyright anxiety or chill (18)	<ul style="list-style-type: none">- University council disagreeing with the librarian's assessment of risk.- Administrators not "backing up" educators' or librarians' decisions related to copyright.

⁵ The phrasing "potential legal chill" is describes when the legal defensibility of the reported use cannot be determined without further investigation. In all cases legal chill seemed very likely.

Delay in the process (18)	<ul style="list-style-type: none">- Waiting for rightsholders or their agents to provide clearance information and/or permission to use a work for educational or research purposes.- Having difficulty determining who the rightsholder might be for a work.
Copyright anxiety (no indication of legal chill) (9)	<ul style="list-style-type: none">- Finding the terms of use or copyright statements to be unclear.
Contract overrides statutory rights (7) ⁶	<ul style="list-style-type: none">- Depositing published research in an institutional repository after the author has transferred rights to a for-profit publisher.

Results: Focus Group Data

In this next section, we present a selection of the findings from the focus groups. Five focus groups were carried out in the United Kingdom and two in Canada, with a total of 33 participants (see methodology). We focus on the findings from two key questions, namely, how is copyright anxiety experienced by professionals in higher education, and what is the impact that it has on their work?

How is copyright anxiety experienced?

During the focus groups, participants were asked to describe specific incidents and encounters with copyright in their professional lives. The majority of participants were librarians, although some lecturers, learning designers, and learning technologists also took part in the focus groups. Some of the ways in which copyright anxiety is experienced may be related specifically to the role of "copyright advisor" that many librarians, either by choice or through work assignment, often take on. In analyzing our data, we found that the experience of dealing with copyright could be categorized into five main areas:

- Feeling frustrated
- Feeling uncomfortable about needing to act as a gatekeeper
- Feeling uncomfortable with uncertainty
- Feeling inadequate or not having the authority often ascribed to lawyers, which could be likened to "imposter syndrome"
- Feeling it is a constant challenge, even when one has gained lots of experience

The following section will discuss in more detail.

Feeling frustration

Copyright anxiety is quite a strong term, and for many participants it was clear from the comments that the overwhelming emotion they experienced when dealing with copyright was frustration with either the nature of copyright law, with colleagues whom they might be trying to advise, or with the community they were trying to serve. As one participant said:

It can be quite frustrating at times. ... Every time I have a situation like that, [it] makes me want to hide under my desk. (U.K. Focus Group 4)

Librarians acting as copyright advisors often experienced frustration, particularly when trying to advise academic colleagues whom they feel might not be engaging with them:

⁶ Only one of the respondents who provided a scenario describing a contract override situation was from the UK.



The hearsay thing that comes up a lot amongst academics is “fair use.” And that frustrates me knowing they obviously don’t read anything I put out, don’t come to any of the sessions, don’t watch any of the videos, and they just keep talking about fair use for education to do anything they like basically. (U.K. Focus Group 2)

Some staff were frustrated because they felt their academic colleagues really “ought to know better,” whereas another found copyright itself frustrating. Talking about contract override, one said:

It’s not accessing different content. It’s just using the content differently and something in my contract is saying no, you can’t do that, and so I get very frustrated because I feel like you’ve already licensed the content to us and this is just a method of scholarship, so I want to go ahead and do it, but I feel like I can’t say that because I probably legally can’t. (Canadian Focus Group 1)

Feel uncomfortable with role as gatekeeper

This frustration seems to be largely related to the position in which librarians or copyright advisors find themselves, where they are expected to act as a form of gatekeeper. Librarians are often seen as the experts in copyright, but the compliance aspects of the role leaves many of them feeling uncomfortable:

In certainly all of the institutions I’ve worked in, the library and the librarians were seen as being the experts on copyright. ... I’ve worked in a few now, and it’s always been a library role really to sit with copyright and do that almost policing. (U.K. Focus Group 1)

Another said:

So this has put me in the position—and this is just the most recent example—of being the copyright police. Which fills me with frustration and anxiety. Nobody likes to be the single person on campus who is ruining everybody else’s party. (Canadian Focus Group 2)

Many librarians were keen to develop good relationships with their colleagues in academic departments (or with students), but this was often stressful if they felt colleagues were not following the advice about copyright. Additionally, having to tell academics or students they couldn’t use materials as they had originally planned was clearly something that caused many librarians a lot of stress. One respondent spoke about a time they were asked for advice about a student-led performance that included music and film clips. However, it was a public performance, and no licenses had been obtained: “That was really difficult because we essentially had to say 3 hours before the concert, ‘I’m really sorry.’ This was a public performance as well. ... So it kind of ruined what they were aiming to do” (U.K. Focus Group 4). It was also common for librarians to have to tell academics to remove content from the Virtual Learning Environment and how: “I feel like it’s like telling people off. Ohh, you don’t wanna do it” (U.K. Focus Group 4).

In these scenarios, compliance or being expected to act as the “copyright police” was mentioned frequently. Many participants felt this role of gatekeeper could impact their ongoing relationships with their communities. Participants believed that academic staff may not come to them for advice in future, if they got “told off” or prevented from carrying out activities, such in the examples above.

Feel uncomfortable with uncertainty

Anyone who works with copyright in higher education knows that the interpretation of related legal provisions is often case-specific and does not lend itself to bright-line legal tests. Fair dealing

is also similarly constructed, relying on interpretation. For many people working with copyright, the uncertainty is clearly something that contributes to their anxiety. Many respondents felt the “gray areas” in copyright were problematic. As one said:

It’s not always what I find to be a useful approach when you really just need to know if something is going to get you and the university and the instructor in trouble, and because there are so many gray areas in the copyright guidelines, we have some times where things exceed in one direction or another. (Canadian Focus Group 1)

Another mentioned how the uncertainty led to risk-averse decision-making: “It is basically left to us and our decisions, and we tend to take a more conservative approach and more risk-averse approach. So we’re not using those things for fear of sort of doing wrong with them” (U.K. Focus Group 2).

Some of the activities that librarians get involved in, for example, digitizing collections, clearly led to anxiety, particularly when determining whether a work was in copyright or not. But some participants talked about the anxiety around advising academics and PhD students who were sharing research outputs such as theses on open access:

Recently it’s reared its head again in that many of the module teams and some of the PhD students wish to have their work more openly available. And we’re just trying to figure things out at the moment, see whether it really is a viable thing for us to do. ... And we don’t have the funds to clear rights for that kind of thing. (U.K. Focus Group 3)

Feeling inadequate or feeling imposter syndrome (I am not a lawyer)

Many of our respondents, again typically librarians, reported that they often felt like they didn’t have enough knowledge to make judgments about copyright. Some specifically said they had no legal training, but even when they had quite extensive knowledge of copyright, there was a sense that they might be getting it wrong. This could be likened to imposter syndrome. Many librarians end up advising about copyright because no one else in the institution took responsibility. As one respondent said:

I slid into this role somewhat. I would say my knowledge is probably on a par with a decent paralegal. At this point, some years into the role, but again the comfort, the lack of confidence, I perhaps have been expressing and the knowledge that I have on copyright may have an effect on my ability to interact with these situations as well. (U.K. Focus Group 2)

Comparing themselves with lawyers was relatively common, and some participants mentioned feeling uncomfortable about being seen as a copyright expert and “intimidated”:

So it’s up to me and my coworker to make the best judgment call we can based on precedent and what the guidelines are telling us, but they don’t always cover all situations, and that can be tricky because neither she nor I are lawyers and we’re not librarians, and we have copyright knowledge but only to a point, and when things drift beyond that point, it can be intimidating to provide a response in a 48[-hour] period when you’re just not sure. (Canadian Focus Group 1)

Some librarians spoke of “not being qualified in copyright” and how this could reduce their confidence when providing information, given that they are not able to provide legal advice. This type of scenario caused them considerable anxiety when guiding others:

I’ve done a lot of reading around it. It doesn’t make sense to me, to be quite frank. I’m not a copyright expert, so that’s the type of anxieties I get, because I have to advise the student as

to how it can be used and how they can use it in their thesis. (U.K. Focus Group 6)

In many universities, copyright training and advice lies within the library, but this can sometimes be because no one else in the university wants to deal with it. For example, Schmidt and English (2015) found 81% of librarians in their survey dealt with copyright queries in their professional lives. Some respondents were dedicated copyright advisors, whereas others were not. In our study, in cases where an institution did not have a dedicated copyright advisor, this appears to have led to additional anxiety:

It's probably just my anxieties about not feeling equipped enough as a service, whereas other university libraries or universities seem to have dedicated teams and individuals with copyright in their job title, whereas I'm not really sure if we have that. (U.K. Focus Group 2)

Feeling it is a constant challenge

Finally, we were interested to see in the focus group data the belief that copyright remained a source of anxiety even when staff were experienced in dealing with queries. Colleagues in both Canada and the United Kingdom expressed this point: "I feel just as fearful about copyright and giving advice on copyright to the faculty I work with as I was on the first day I started on the job, as a new grad" (Canadian Focus Group 2). Another said,

I don't know whether it's reassuring or not to say that things haven't changed over the past few years or not. It's nice to know that in my early career I was not the only one coming to terms with copyright, and it's interesting to see, especially with people in more senior positions ... how they interact with people in their institution. (U.K. Focus Group 1)

Activities That Cause Legal Chill and Copyright Anxiety

In this next section we look at the type of activities in higher education that cause copyright anxiety and chill (as described in the literature review of this paper), and we see many parallels with the survey data presented in Table 3. From analyzing the focus group data, we see there are three clear areas of university activities that are impacted:

- teaching and learning
- the research process
- a variety of library services

We discuss each of these in turn to explore how copyright anxiety and legal chill manifest themselves and impact the efforts of library staff and academics in higher education. What is clear is that in all three areas, important activities are being hampered sometimes due to legitimate concerns about copyright, but sometimes due to an overly cautious and risk-averse approach to managing copyright, which suggests copyright chill.

Teaching and learning activities

Almost all participants in the focus groups talked about copyright anxiety hampering teaching and learning activities. There were a range of scenarios that were described, but one of the most cited was being unable to share relevant content with students or facing restrictions in students getting access to library resources. Related to this was that teaching decisions were impacted, either because content had to be substituted or because teaching and learning activities had to be amended. We saw in the focus group data that teaching was impacted for some students more than others, such as for those studying film or art history, where copyright issues were more apparent.

Consequently, some students spend more time learning about copyright and third-party copyright issues. Respondents noted that this was more common with PhD students. Finally, it was reported that students may put themselves at risk if legitimate resources aren't available and they search for content that may be shared without authorization. We will discuss each of these points in more detail in the following section.

Relevant content can't be shared with students or access is restricted due to copyright concerns

Respondents spoke about how copyright can lead to situations where students cannot be given access to content they need for teaching and learning purposes. This happens for a variety of reasons, most notably when libraries cannot provide students with a specific resource, either because the license is too expensive or not suitable for multi-users or the content is hard to find or access for some reason. This issue particularly came to light during the COVID-19 pandemic. One respondent said:

It often happens where we can't get hold of an ebook. We can't negotiate access with one of our providers. ... It's too expensive, like really expensive. ... In the meantime, we can arrange a chapter to be scanned. ... So there is a massive issue with that in terms of not being able to provide students with the resources that they need. (U.K. Focus Group 4)

Another told us:

We had an academic in environmental science who wanted to use a title on his reading list, and it was very difficult to get hold of this particular title. It wasn't available as an ebook. It's non-U.K. published. (U.K. Focus Group 6)

Sometimes content cannot be used because there is no authorization from the copyright owner:

So they have produced a textbook that they wanted to use as the basis for a MOOC [massive open online course] that I was the learning designer on. And basically they weren't providing any of the agreements between themselves and the publisher. ... And basically the project ended up being put on the back burner and that academic also left that project as well. (U.K. Focus Group 4)

And copyright can even be a concern with content that belongs to students:

What we're keen for them to be really is an exemplar collection that students can use to see some really strong dissertations, to really support their own learning in how they want to structure and write a dissertation of be it quantitative, be it qualitative, be it quite an artistic one. So without having those available, then they're almost really starting from scratch, which is quite a shame given that we've had them before. It would have a knock-on impact on student experience and potentially on their own progression. (U.K. Focus Group 1)

Teaching decisions impacted

The focus groups revealed how copyright concerns could impact teaching decisions. This was most common when content couldn't be provided to students, so the teaching would have to be changed in some way, for example in performing arts:

There was a management thing saying, "No, equity have said that it's against the performance rights," and we'd have to pay performance fees if we showed these materials. Therefore we can't show them. So I think we ended up just talking around them showing images. We worked around it, we came up with different learning outcomes, but they were defined by what we could show them. (U.K. Focus Group 2)

And in some disciplines, respondents reported that finding appropriate images might be limited:

And a lot of the copyright-free imagery around Indigenous peoples is quite stereotypical of

what an Indigenous person is, and even so, like if we're talking about, say, decolonizing a course, it's like it's not only representation, but it's there. You know, has the consent of these people to be photographed been obtained? And the project didn't have the budget to buy an extensive image library for that course. So I had to get really creative. (U.K. Focus Group 4)

While having to change teaching was often frustrating, this was not always a negative thing: Many of us have over the last 20 years become increasingly aware of copyright, and that has meant that we've been able to perhaps switch focus and do things differently or encourage the training of students to work with original data. I'm involved very much in the production of original data and would much rather that. (U.K. Focus Group 6)

Students spend more time learning about copyright and third-party copyright issues

Some staff we interviewed were concerned that copyright impacted teaching because it meant time had to be spent focusing on how to clear third-party copyright. This was particularly the case with PhD students, whose theses are now routinely made available on open access:

So when I was delivering training to students to tell them about the clearance for third-party copyright and their thesis, ... I would make it clear to them that you really need to factor in between 3 and 6 months, sometimes even longer, for the whole business of rights clearance. And very often it's a hard slog. You have to show your due diligence, you have to do your investigation. (U.K. Focus Group 3)

Another said, "The onus is on the student because we realized we didn't have the resources to be able to go through every single thesis" (U.K. Focus Group 3).

Copyright is also an issue that causes anxiety as technology evolves, and one PhD supervisor talked about concerns advising students about copyright and the use of generative AI:

I have a PhD student who has a huge amount of anxiety about the writing and research process, partially driven by copyright issues. And I understand they're starting to explore ChatGPT not as a way to generate writing, but to try out test out ideas and test out different structures, different kinds of outlines, and I have absolutely no understanding of how intellectual property works with artificial intelligence and copyright. (U.K. Focus Group 6)

Students put themselves at risk because legitimate resources aren't available

Some respondents expressed concerns that in cases where copyright meant resources couldn't be made available to students, those students might be seeking out less legitimate resources to use instead. For example:

So if I can just add further concern or area of anxiety is what students do in terms of resources that they are using for their research. If they can't easily access things through the official routes and are using things like SciHub ... and it's then what the knock-on implications are for the rest of us. (U.K. Focus Group 6)

Sometimes anxiety about copyright was caused by the stories that students might tell staff such as this respondent, who said, "And then you hear horror stories like well, I copy books all the time, and you're like, please don't" (U.K. Focus Group 4).

Copyright affects some students more

Finally, what was clear in the data was that copyright affected students in particular disciplines more than others. An earlier example talked about performing arts, and this was mentioned again:

One of the issues there has been showing students examples of theatrical performances,

sharing them online and that sort of thing. So there was a project early on that was almost completely derailed by not having permissions to show recordings of performances, theatrical performances to other ... students, to the students at my end. (U.K. Focus Group 2)

Film studies was another discipline that could be negatively impacted by copyright, but one where staff (usually library staff) were concerned that students might not learn enough about copyright while in education. This could potentially put them at risk of inadvertently infringing copyright in the workplace:

So this really puts the students at great risk ... and once they are out of the edit suite and that is of great concern to me because most of them have absolutely no idea of the complexities of third-party copyright, they're usually 21 and 22, a lot of them are overseas students as well. So they don't understand the complexities of copyright. ... So this is quite worrying. (U.K. Focus Group 6)

Impact on research projects and processes

During the focus groups, many respondents described situations related to research projects and processes that were being hampered by copyright concerns. This included a book publishing project where the author found it easier to change the book's focus instead of dealing with the copyright issues associated with the images they wanted to use in the original manuscript. Copyright anxiety and chill also led to delays in making research outputs available while checks were undertaken or time was spent clearing copyright, even in scenarios where exceptions to infringement may have supported the use of the work. There were also instances when images had to be removed from research outputs due to high cost of license fees or when content was redacted. It was relatively common for images to be redacted from theses where library staff were unsure about copyright. Finally, respondents talked about the "permissions culture" in book publishing, which meant paying high fees or even employing researchers to investigate copyright status and permissions.

Research projects hampered or blocked

During the focus groups, respondents told us how copyright concerns clearly impact the research process, including what content might be made available in digitized format:

But what I learned from it was just how complicated it was, and it's a paper trail, and I think as a result of that, future digitization projects were put on hold or we decided against them because it was just too labor intensive to do. (U.K. Focus Group 3)

In this instance, talking of research, a respondent suggested copyright anxiety is leading to chill: I mean, there's probably two sides. It's probably a lot of people not using content that they probably could because they don't want to take on any risk, which means it's stifling research, innovation and kind of creative use of things. (U.K. Focus Group 2)

Librarians reported being heavily involved in the process, helping to advise on copyright issues but sometimes acting as a gatekeeper as discussed earlier:

I mean as far as possible, we try to help. If it's a researcher coming to us and wanting to publish, we try and help them with the copyright clearance, although the onus is on them to do it. And when it comes to orphaned works, it's the same thing with risk. If we're using something internally, we take on that risk and we're able to manage that quite well, but when it's work for a researcher, we sort of have to say, you know, we can't advise you. (U.K. Focus Group 2)

One respondent, an academic, was adamant that copyright affected their research significantly: Copyright issues affect how and what I can research and where I can publish. Funding often isn't available for licensing fees and photography fees, and with this shift to the new requirements for mandatory Open Access publication, there's a hugely expensive black hole between the provision for APC's article processing fees and the enormous additional cost, not image supply. (U.K. Focus Group 6)

The individual also described how they couldn't publish the research they wanted to: One example the [LIBRARY] has one of the earliest images that was printed in color with lithography. ... I wanted to reproduce it and the photography, and licensing fees were extortionate. I had no pot of funding for that so I couldn't publish that discussion because the data for my argument is visual. (U.K. Focus Group 6)

Another explained how copyright also led to delays in making content available: "The delay we're facing at the moment is really that we're thinking how do we actually tackle this and avoid it. ... Do we just remove it completely?" (U.K. Focus Group 1). In other instances, copyright concerns led participants to remove or redact content from online resources. For example, one respondent told us:

When I was doing my PhD I started in 2008, back when a lot of collections were starting to move things online. I finished in 2013, so online collections are still a bit new, and my advisor and university weren't in a position to know how or to advise about copyright issues, and I couldn't deposit my PhD thesis online which caused a bit of admin issue because the cost of copyright from the [MUSEUM] alone would have been something like £40,000 or £50,000 because they, [at] that point they considered PhD deposits in institutional repositories as Open Access online publications. (U.K. Focus Group 6)

Redacting content was particularly common when making content available on open access and was mentioned also by respondents who worked in libraries:

It seems such a shame, especially with PhDs where you have so many redactions and you think is there a way around this? Is there something we can do to make them available and not not get us into trouble in the process of doing it? (U.K. Focus Group 3)

Another stated:

And then when they're going to use it on our repository, it becomes a massive problem for me. But we do redacting now, I will be honest and I've lent very heavily on redacting if we can't get the corporate permissions. (U.K. Focus Group 6)

Finally some respondents sometimes got involved in the copyright clearance process, which many found to be a lengthy and protracted process that hampered their research:

Who was the owner? There's so much confusion about it, and one of the things that I learned firsthand about copyright clearance is how lengthy and protracted a process it is and how complicated it is. So if you contact publishers, for example, like Publisher X, you could be waiting up to 3 or 6 months before you get clearance. (U.K. Focus Group 3)

Library services

During the focus groups, many librarians talked about instances where their own services were hampered due to copyright concerns. As discussed previously, there were many instances of collections not being digitized due to rights clearances issues. But some services, such as document delivery or interlibrary supply/loan were curtailed or limited due to copyright concerns. Respondents seemed to have greater confidence dealing with copyright issues in print collections but greater

concerns dealing with audiovisual works. As one respondent told us, talking about images and film: That's one where it's almost an avoidance. By just thinking this is just gonna be too difficult. Too complicated. What we're going to do is just strip all that material off. (U.K. Focus Group 1)

Another said:

The main issue [is] in some disciplines and particularly for disciplines like [art history] where you have to rely on a lot of image content where the law isn't as helpful. It can be difficult. So I think for me, the levels of anxiety I would have would be much greater if we were an art history specialist or a music specialist. (U.K. Focus Group 6)

Summary of findings from Focus Groups

The focus group data supports but also illuminates findings from the survey. In this paper we have concentrated on how copyright anxiety manifests itself and three areas of activities in higher education that are impacted by it: teaching and learning, the research process, and library services. What we see is considerable levels of copyright anxiety, particularly amongst librarians, who often sit at the "front line" dealing with copyright queries. However, researchers and lecturers have their activities curtailed either by genuine copyright issues or by a risk-averse approach to managing copyright in their institution that leads to legal chill. Further data was collected in the focus groups to inform how we might mitigate copyright anxiety and chill. However, in this paper, we have just started to document the picture emerging from the survey and focus groups and to see where similarities might lie in the United Kingdom and Canada.

Discussion

The findings from this research, shared above, make it clear that copyright anxiety is an observable phenomenon in both the United Kingdom and Canadian higher education sector (see Limitations, below). For example, respondents from the current 2023 study were more likely to agree with the statement about copyright confusion (55.0% in the United Kingdom; 46.4% in Canada) than respondents from the general population surveyed in 2019 (34.6% from the United States and Canada).

Furthermore, almost half of survey respondents in the current study claimed their work was hampered or prevented by copyright concerns. Of those respondents, almost half described an instance where their first choice of content could not be used as planned for activities as part of their teaching and research duties. In many cases, this resulted in the use of content with lower pedagogical or research value. When similar scenarios were described in focus groups, the existence of legal chill in at least some of these instances seemed likely. It's worth noting that this is one of multiple topic areas where the focus group data corroborated the survey data.

Both the survey and focus group data from 2023 highlighted more similarities than differences around how copyright anxiety is experienced in higher education in the United Kingdom and Canada. However, the survey data indicates pronounced differences between the two countries in at least two areas: a) confidence in finding help with or information about copyright; and b) demonstrated knowledge about applying the fair dealing exception in the workplace. In both cases, Canadian respondents were roughly 20% more likely to exhibit confidence and knowledge in these areas.

These findings are especially interesting given that Canada's statutory fair dealing provision is less descriptive and more open to interpretation than the one in the United Kingdom. The interpre-

tive, scenario-based nature of fair dealing is also likely to be contributing to the frustration and uncertainty reported in the focus groups, with participants from both countries describing emotional responses while relaying scenarios that involved fair dealing. Multiple Canadian focus group participants linked both copyright anxiety and chill scenarios related to fair dealing (and in some cases, beyond) to the decade-long court case brought by Access Copyright against York University, an educational institution largely understood to represent practices typical at most postsecondary institutions across the country.⁷ This court case brought institutional fair dealing guidelines into sharp focus in that country, which is a markedly different cultural norm than that of the United Kingdom, where institutions rely on mandated agreements with a collective rights organization to reduce the likelihood of similar litigation being filed against institutions for practices typical to higher education. The absence of recent litigation in the United Kingdom, and the broad acceptance of collective management of copyright in educational institutions, might have resulted in a lower perceived need for copyright literacy skills in the U.K. higher education sector.

Copyright chill was also implied or directly noted by multiple Canadian focus group participants when discussing contract override scenarios (an unprompted topic area). This topic was also noted in write-in survey responses that expanded on scenarios where copyright prevented or hampered respondents' work. It is interesting that Canadian librarians were six times more likely than their U.K. colleagues to describe such a scenario, albeit the sample size is small. One wonders if both the more litigious and thus chilling Canadian landscape and the introduction of a statutory exception to contract override in the United Kingdom in 2014⁸ might be linked to these observations.

This discussion is intentionally brief, given plans to continue working with the dataset introduced in the current paper, as described below.

Limitations

This research had limitations, namely that the recruitment method, common with most surveys focused on people based in higher education, relied on self-selecting respondents. The survey was entitled a "copyright anxiety" study, which may mean respondents were predisposed to experience copyright anxiety or to have a strong opinion on the topic. Similarly, focus group participants were recruited from the survey and, again, this may have predisposed respondents with a strong view on the topic. However, participants in the earlier study (Wakaruk et al., 2021) were solicited and remunerated members of the general public, and while they did report lower levels of copyright confusion than those in this study, those levels were only 12–20% lower than those in higher education (see Table 1).

We also noted that librarians were overrepresented in both the survey and the focus groups, which could suggest that copyright concerns impact this community more significantly or could be a result of the recruitment method. Further research in this area could be useful.

Conclusion and Further Research

In conclusion, comparing the survey data from our current study to the previous study (Wakaruk et al., 2021) indicates that those working in higher education are more likely to be worried about copyright than those working outside of higher education. Meanwhile, our focus group data suggests that navigating copyright issues is associated with anxiety and emotional labor, which can result in legal chill that hampers or prevents the work of those in higher education. It is also clear from both the survey and the focus groups that copyright concerns prevent academics, researchers, librarians, and library staff from completing aspects of their work. We found that both teaching and research suffer when academics cannot use the best materials available to them. Copyright concerns meant that less-appropriate materials were used in many of the scenarios described by respondents. Focus group data shows copyright concerns are negatively affecting pedagogical impact. For example, some types of teaching have to be changed, and the burden is greater on instructors in some subject areas. Librarians often act as copyright advisors for their institution, and the focus group findings suggest that acting as a gatekeeper causes them particular anxiety and consequently is likely to mean they give more risk-averse advice to their communities, which can result in legal chill.

This paper provides insight into our survey data and select aspects of the focus group data. Further analysis is underway, and future publications are planned to explore why copyright anxiety might exist and what we can do about it to better prepare the higher education community. For example, we plan to use a coding frame, developed from the focus group data and corroborated by the survey data, to inform recommendations that will support educational practices. This research has also highlighted a potential gap between current practices in higher education and the broader scope of defensible activities, which might be supported by current limitations and exceptions available in the Copyright Acts in both the United Kingdom and Canada. We hope to use this data to provide analysis and recommendations that will support the mitigation of copyright anxiety and alleviate copyright chill in teaching and research activities in higher education. This will likely include deeper analysis around any correlations between professional identity and copyright anxiety or chill. And finally, we hope that the data presented here and in future publications will support advocacy efforts that serve the interests of libraries as well as academic institutions more broadly.

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⁷ For more information about this case, see Supreme Court of Canada, (2021, July 30), *Case in Brief, York University v.*

Canadian Copyright Licensing Agency (Access Copyright), <https://scc-csc.ca/case-dossier/cb/2021/39222-eng.aspx>

⁸ For more information about the introduction of this exception to infringement in the United Kingdom, see UK Library and Archives Copyright Alliance (2019, January 4), *Protection of Copyright Exceptions from Override by Contract*, <https://uklaca.org/2019/01/04/protection-of-copyright-exceptions-from-override-by-contract/>

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Appendix 1

Copyright Anxiety Scale, Higher Education

Preamble and Copyright Anxiety Scale 2023: Canadian Version

Copyright law provides rights holders with control over the reproduction and re-use of literary, dramatic, musical, and artistic works (e.g., books, songs, paintings, memes, blog posts, etc.). For example, if you write an essay or poem then only you can make copies of and share that work (both commercially and non-commercially and via the media you choose).

In some cases, copyright law also provides users of copyright-protected works with limited rights for re-using these works (e.g., copying excerpts of a work for private study, research, or educational purposes). For example, if a lecturer copies and shares a chapter of a book with their students, this is likely to be allowable under a copyright exception.

Other uses of copyright-protected works without permission from the rights holder may infringe your copyright. For example, the commercial publication of your essay without your permission may be copyright infringement.

Thinking of your use of copyright-protected materials in your professional capacity, please indicate your agreement or disagreement with the following statements.

- 0 = I don't know
- 1 = Strongly Disagree
- 2 = Disagree
- 3 = Neither Agree nor Disagree
- 4 = Agree
- 5 = Strongly Agree

- 1. I am familiar with copyright legislation and/or copyright case law.
- 2. I can identify exceptions to copyright infringement.
- 3. I frequently have concerns about copyright.
- 4. I get confused trying to navigate copyright issues.
- 5. I am comfortable performing actions that I think might be copyright infringement.
- 6. I am confident that the materials I create are protected by copyright.
- 7. I do not feel safe using copyright-protected materials that I do not hold the rights for.
- 8. I worry that I do not know enough about copyright.
- 9. I have access to good instructions and/or policies for using copyright-protected materials.
- 10. It is easy for me to get help or find information about copyright.
- 11. I feel hesitant to ask for help with copyright issues.
- 12. I worry about the consequences of copyright infringement.

- 13. I am confident that elected officials (e.g., MPs) understand legal issues related to copyright.
 - 14. I am confident that the senior managers / leadership team at my institution understand legal issues related to copyright.
 - 15. I am worried about the amount of copyright infringement that goes on at my institution.
 - 16. I often feel anxious in my professional life.
 - 17. I have had formal training / education related to copyright.
- Yes / No

If you answered yes to the previous question, please describe the course(s) or session(s):

18. Please tell us whether you believe the following statement to be true or false:

Fair dealing always applies when the purpose of copying and sharing a copyright-protected work is for educational purposes.
True/False

Please explain your response to the previous question, in one or two sentences.

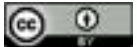
19. I have avoided activities or projects in the workplace because of copyright issues.
Yes / No

20. Can you describe a time that concerns about copyright hampered or prevented you from doing something as part of your work?
Yes / No

If you answered yes to one of the previous two questions, please describe the experience in one or two sentences.

If you would like to discuss this further as part of a virtual focus group (in English), please follow this link: <https://forms.gle/8X5mc9kzxYAL5z9t6>

21. Any additional comments you would like to share?



Demographic Information:

Age

- 18–24
- 25–34
- 35–44
- 45–54
- 55–64
- 65 years and over

Your professional role (please choose the answer that best describes your primary responsibilities):

- Academic staff / Faculty member
- Librarian
- IT Professional / Learning Technologist
- Administrative / Management / Other Professional

Your academic discipline (if applicable):

- Humanities
- Performing and Visual Arts
- Social Sciences
- Natural Sciences
- Computer Science
- Health Sciences and Medicine
- Law
- Business
- Engineering
- Not applicable

Your academic institution: _____.

Your gender identification:

- Male
- Female
- Nonbinary
- Trans
- Prefer not to say
- Other: _____

Preamble and Copyright Anxiety Scale 2023: UK Version

Copyright law provides rights holders with control over the reproduction and re-use of literary, dramatic, musical, and artistic works (e.g., books, songs, paintings, memes, blog posts, etc.). For example, if you write an essay or poem then only you can make copies of and share that work (both commercially and noncommercially and via the media you choose).

In some cases, copyright law also provides users of copyright-protected works with limited rights for re-using these works (e.g., copying excerpts of a work for private study, research, or educational purposes). For example, if a lecturer includes a copyright protected image in their teaching slides for the purposes of illustration this is likely to be allowable under a copyright exception.

Other uses of copyright-protected works without permission from the rights holder may be an infringement of copyright. For example, the commercial publication of your essay without your permission may be copyright infringement.

Thinking of your use of copyright-protected materials in your professional capacity, please indicate your agreement or disagreement with the following statements for questions 1 - 16.

- 0 = I don't know
1 = Strongly Disagree
2 = Disagree
3 = Neither Agree nor Disagree
4 = Agree
5 = Strongly Agree

1. I am familiar with copyright legislation and/or copyright case law.
2. I can identify exceptions to copyright infringement.
3. I frequently have concerns about copyright.
4. I get confused trying to navigate copyright issues.
5. I am comfortable performing actions that I think might be copyright infringement.
6. I am confident that the original materials I create are protected by copyright.
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8. I worry that I do not know enough about copyright.
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13. I am confident that elected officials understand legal issues related to copyright.
14. I am confident that the managers at my institution understand legal issues related to copyright.
15. I am worried about the amount of copyright infringement that goes on at my institution.
16. I often feel anxious in my professional life.



17. I have had formal training/education related to copyright. Yes / No

a. If yes, please describe the course or session:

18. Please tell us whether you believe the following statement to be true or false:

Fair dealing always applies when the purpose of copying and sharing a copyright-protected work is for educational purposes.” True/False

a. Please explain your response in one or two sentences

19. Can you describe a time that concerns about copyright hampered or prevented you from doing something as part of your work? Yes / No

a. Please describe the experience in one or two sentences.

20. I have avoided activities or projects in the workplace because of copyright issues. Yes / No

21. Any additional comments you would like to share?

22. Age: 18–24; 25–34; 35–44; 45–54; 55–64; 65 years and over

23. Professional role (please choose the answer that best describes your primary responsibilities):

- Academic staff / Faculty member
- Librarian
- IT Professional / Learning Technologist
- Administrative / Management / Other Professional
- Other:

24. Academic discipline [branching question based on answer to 23]:

- a. Humanities
- b. Performing and Visual Arts
- c. Social Sciences
- d. Natural Sciences
- e. Computer Science
- f. Health Sciences and Medicine
- g. Law
- h. Business
- i. Engineering
- j. Other: _____

25. Academic institution:

a. _____

26. Gender identification

- a. male
- b. female
- c. nonbinary
- d. trans
- e. other: _____
- f. prefer not to say