



To Penguin authors

Copyright and the use of other people's material

As you know, the question of plagiarism and unfair use of other people's copyrighted material has become a controversial issue in New Zealand publishing in recent years. There've been controversies in the media, and books have been withdrawn from sale. As your publisher, we ask you to take special care in this area.

The development of content in digital form over the years has made it very much easier to copy other people's work and pass it off as your own. Google, for example, enables you to cut and paste from the world's vast literary resources straight into your own work. If you do this in a sloppy way without following correct practice you might end up with pieces of other people's copyrighted material sitting in your own book unacknowledged.

At the same time, of course, it is very much easier to detect the use of such plagiarised material by the use of that very same Google that may have caused the problem in the first place.

You should be very clear that it is your responsibility as the author of your work not to transgress other people's copyright in any way and to deliver to your publisher a manuscript which is entirely your own work. If you do use other people's material you must formally acknowledge it and seek permission for its use if necessary.

The question of copyright is covered in detail in your Penguin contract, which contains the following:

The Proprietor hereby warrants to the Publishers and their licensees that they have full power to make this agreement, that the Work or any alteration is original work and is in no way whatever an infringement of any existing copyright, that it contains no false representation and nothing libellous or defamatory or other unlawful matter, that all statements contained therein purporting to be facts are true, and the Proprietor further represents and warrants that any recipe or formula contained in the Work is not injurious to the user.

If it is the Publishers' belief on reasonable grounds that the Work does infringe any existing copyright or that it contains libellous or defamatory or other unlawful matter, the Publishers may decline to publish the Work and the Proprietor shall return to the Publishers any royalty advances paid to that date and reimburse the Publishers for any costs incurred in preparing the Work for publication.

As you can see, this is formally expressed, and very clear. In fact the second paragraph permits the publisher to decline to publish your book if it infringes anyone else's copyright.

We ask you to follow these steps:

- When you copy from other books, magazines or internet sites during your research stages, clearly identify the full source of the quotation at the top of the quote. If necessary, save the extract in a different typeface or colour. Set up a system which makes it absolutely clear that these are not your own words. Some writers make sure that all quoted material in their notes is actually handwritten on paper, to avoid any confusion.
- If you quote directly from another person's work you must use formal citation standards, acknowledging the author, the title and the publisher.
- What you can use from someone's copyright work depends on a number of factors, including the substantiality of what you are using. If what you are quoting is a substantial piece of the work (in terms of the quality or what you are copying, rather than the quantity) you should seek the permission of the rights holder. Generally, a sentence or a phrase needn't be cleared – but a whole paragraph should at least be referenced, and depending on the context permission sought. The law is not specific in this area and caution should be used at all times.
- You may also need to negotiate a payment with the copyright holder for this use.
- If your quotation is from a poem or song, even the use of just a few words will require the writer's permission. And a warning: permission to use even a few words from an American popular song often comes at a very high cost.
- The rules for quoting from the internet are no different. Net content is covered by copyright. The exception, of course, is Wikipedia, which makes material freely available. But if you quote direct from Wikipedia, and we wouldn't recommend this anyway, you should still acknowledge it.
- As I said, it is your responsibility to do this, not your publisher's. However, your Penguin editor may be able to assist you in suggesting ways of making contact with the writer. If the original author is a New Zealander, for example, the Society of Authors may be able to help. Or your publisher may know the name of the literary agent who represents the author.
- In New Zealand copyright in a literary work lasts for 50 years after the death of the author before it passes into the public domain. In Australia, the European Union and the United States it is 70 years.
- If the quoted work was published overseas, or if the work was published a long time ago but is still within copyright, it can be very difficult to track down the copyright source. But you must make genuine attempts to do so and to be able to

produce evidence that you have tried. Consult your Penguin publisher about this.

- Don't leave it too late. Clearing permission should be an ongoing process from the beginning. If you delay too long there may not be time to track down the original source before your own book goes into production. Publishers do not appreciate being asked for urgent permission clearance in a rush at the very last minute.

Insufficient attribution is a very serious issue and, as you may have noticed from recent headlines, the consequences can be dire. As your publishers we ask you to be careful and to follow the above procedures.