

# Template Notice and Take Down Policy and Procedures

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## JISC Content

**This template 'Notice and Take Down Policy and Procedure'<sup>1</sup> should be used to ensure that you can manage operationally and in accordance with your internal governance framework, the removal of content from your website. This policy and procedure maybe brought to bear in instances of potential infringements of rights, as part of your risk management procedures.**

*Please note that only some of the statements below, as indicated, should be posted on your website, whilst the other statements need to be incorporated and adopted internally.*

<sup>1</sup> Based on a template created by the JISC funded Web2Rights Project [www.web2rights.org.uk](http://www.web2rights.org.uk)

## 1. Take down policy: general instructions for internal use only (not for posting on the website)

It is recommended that it is the policy of XXXX to immediately suspend access to content that is subject to complaint while that complaint is verified. This is also in accordance with the Electronic Commerce (EC Directive) Regulations 2002, Clauses 17-19.

Although all efforts have been made to ensure that material that infringes the law will not be present on XXXX's website, the risk cannot be entirely eliminated. A variety of measures should be taken to minimise and manage risk including the publication and implementation of a 'notice and takedown' policy.

The 'notice and takedown' policy will be published prominently on XXX's website and service. It will provide clear instructions on how to make a complaint (see below) to your organisation if a copyright infringement is alleged to have taken place. These instructions will include:

- Contact details for the officer responsible for administering complaints
- A template for notifying XXXX of the complaint and associated guidelines (below)

## 2. Take down notice (to be mounted on website)

### TAKE DOWN NOTICE

In the event that you are the owner of the copyright in any of the material on this website and do not consent to the use of your material in accordance with the terms and conditions of use of this website, please contact us providing the information requested below and we will withdraw your material from our website forthwith on receipt of your written objection and proof of ownership of the aforementioned material.

In order to process your complaint, please provide the information required using the following template.

This template should be used to document your complaint. This should then be sent to the to the Complaints Officer at the following email address: [Please Insert Email Address]

Your complaint will be acknowledged within [X] working days of receipt.

To: XXX (+ email address)

From: [Name, address, telephone number and email address of complainant.

Reference: [Title and unique identifier to which complaint refers] (subject of complaint).

1) Infringement of copyright/author's rights/related rights.

a) The following material is protected in the UK, Europe and in South America by intellectual property law.

i) [Describe the protected material in as much detail as possible so that the specific content, edition and format may be readily identified. Indicate the category for protection under intellectual property law [e.g. original literary, dramatic or musical work, software]. Specify exactly the extent of use, e.g. by quoting text that has been reproduced] [The Protected Material].

b)

i) I/we own or am authorised to represent the owner of intellectual property rights in the protected material.

ii) I am the creator of and thus have moral rights in the protected material.

c) I/we hereby give notice of:

i) Unauthorised use by reason of reproduction and/or making available the protected material; and/or

ii) Breach of the moral right of [paternity/integrity/right not to have my work subjected to derogatory treatment].

2) A complaint on grounds other than copyright and/or related rights.

a) [Specify the nature of the complaint e.g. defamation, breach of confidence, data protection.]

b) [Specify the law that is alleged to have been infringed].

c) [Describe the infringing content in as much detail as possible e.g. by quoting or otherwise identifying the specific content].

d) [Explain the nature of the infringement with regard to the applicable law, e.g. that an individual may reliably be identified and thus data protection legislation has been breached]

3) I/we hereby request, with reference to the subject of this complaint, you/your organisation:

a) Remove it from the website; and

i) Cease further use of the material; and

ii) Withdraw from circulation any materials that include it.

4) I/we request that you notify me/us when you have complied with my/our request in section 3 above.

5) I/we attach/direct you to the following additional information which supports my complaint:[proof of ownership, etc]

6) In relation to my/our complaint, I/we also inform you [any other relevant information including e.g. other steps taken to protect my rights].

7) The information contained in this notice is accurate and I believe, with good faith, that the publication, distribution and reproduction of the material described in section 1 is not authorised by the rightsholder, the rightsholder's agent or the law and/or infringes the law as described in section 2 above.

8) This notice is given to you without prejudice to any other communication or correspondence relating to the protected rights or any other right.

CONTACT INFORMATION:

Name:

Address:

Telephone number:

Email address:

If you require any assistance completing this Template, please contact XXXX at: [XXXX Insert email address]

## 3. Notice and take down procedure

**[THIS IS THE ACTION THAT XXXX NEEDS TO TAKE ON RECEIPT OF THE COMPLAINT FOR INTERNAL USE ONLY (NOT TO BE POSTED ON WEBSITE)]**

The {insert job title} has the authority to remove content from the service. On receipt of a notice of complaint regarding content, the officer responsible for administering complaints will:

1. Acknowledge receipt of the complaint by email:

*Dear X, I am writing to acknowledge receipt of your complaint regarding content of an item in..... I have suspended access to the item pending verification of the complaint. In the event that I verify your complaint, I will comply fully with your request.*

2. Remove the item that is subject to complaint
3. Refer the complaint to a Legal Advisor for comment and advice
4. Seek to verify the identity and authority of the complainant (e.g. if this is a complaint regarding infringement of copyright, that the complaint has been made by the person named as complainant and that the named person is either the rights holder or rights holder's agent).
5. When the complaints officer has verified the authenticity of the complaint and authority of the complainant and the Legal Advisor has advised that the complaint is ostensibly legitimate, the complaints officer will:
  - Identify the depositor of the alleged infringing material and, using a standard form, advise her of the nature of the complaint;

*Notification of complaint: advice to depositor*

*To:*

*From: Complaints Officer*

*Reference: {Item details}*

*I am writing to advise you that I have received a complaint regarding content that you deposited in..... The nature of the complaint is detailed below. On receipt of this complaint, I suspended access to the material. I have also contacted our users that have downloaded the material and instructed them to cease use of it. Please respond to me regarding this complaint with 30 days of the date of this communication either accepting or refuting the complaint. If the latter, please provide an argument and supporting evidence that the alleged infringing material is legitimate. If you fail to respond to this communication within 30 days, I will assume that you accept the actions we have taken to address the complaint.*

*THE NATURE OF THE COMPLAINT*

*[information that identifies the alleged infringing content, the nature of the complaint, and the applicable law].*

6. If a depositor fails to refute a complaint within 30 days of notification, the complaint will be taken as upheld.

### **Refuting the complaint**

Content that is subject to complaint will not be made available again until the depositor has proven to the satisfaction of the Legal Advisor that it does not breach any law

Staff will require a description of the content that is subject to complaint.

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