

Dissemination of Teaching Materials and ‘University Policy on Intellectual Property’

Recently a colleague was surprised to find that his lecture notes, assignments, assignment solutions and some old examinations from a unit he taught last semester could be found on a European website (www.studocu.com) that provided open access to a global collection of lecture materials. The colleague had posted this material on the ‘Learning Management System’ at UWA with the understanding that it would be disseminated only to the UWA students enrolled in the UWA unit he taught. Apparently someone had downloaded this material and uploaded it to the European website claiming they owned the copyright to the material. When asked to take the material down the owners of the website questioned why UWA would want the material taken down, and have not removed it. The colleague then requested that UWA legal services issue a “take-down notice” to the website. Our colleague is yet to receive a formal reply to his request beyond a passing comment from a senior member of University management that they had been advised it was not possible to do anything about this. It may be worthwhile for academics to check which of their teaching materials are available on this site. At a minimum if you have posted any solutions to any assessment tasks on LMS, your students could already have them. Members should be aware that anything made available to students could be posted on such websites and be available to all. In particular, any material made available to students electronically via LMS could be uploaded in this way.

The UWA policy regarding ownership and use of teaching materials at UWA (UP07/49) states:

1.1 *The University owns Intellectual Property created by a University Staff Member pursuant to a contract of service to the University excluding Teaching Materials and Scholarly Works.*

And

4.1 *A University Staff Member grants to the University an irrevocable, perpetual, non-exclusive, royalty-free licence to publish, reproduce and communicate Teaching Material and Scholarly Works for the purposes of teaching, learning and research.*

4.2 *A University Staff member is required to comply with the University’s licence to teaching Material and Scholarly Works and to comply with directions regarding the storage, archiving and recording of same.*

The Policy defines Teaching Materials and Scholarly Works as follows:

Scholarly Works means copyright works created by a University Staff Member during the term of a contract of service with the University that are intended for academic credit in any medium but excludes Teaching materials:

Teaching Material means copyright works created in any medium (other than a Computer Program) by a University Staff Member under a contract of service to the University to instruct or assist in instruction in a University course, subject or unit.

The discovery of such websites raises a number of questions and concerns;

The University claims a license to use our teaching materials in any way it sees fit but does not seem to acknowledge any responsibility to protect them from being copied by others.

It is common for teaching materials to contain material for which the staff member does not own the copyright e.g. figures from a text book, short sections from other copyright material used under “Fair use” procedures, sensitive images such as those cadavers used in teaching anatomy, images of patients for medical teaching etc.

But what happens when our lectures move outside the University? Is there potential for charges of copyright violation for the use of others’ material and who bears the responsibility if such proves to be the case? UWAASA members have received contradictory replies to this question. Restricted circulation of such material in a local situation within the institution would seem to be quite different from it being circulated freely internationally. If the material has been distributed by a third-party is the third-party responsible for a breach of copyright or is it the originator of the material?

It is also common in some disciplines for the works of others to be critiqued, or for the actions of companies or public figures to be discussed in lecture materials. Where distribution of these materials is limited to the students in a particular unit internally the situation is quite different from this material being widely distributed. Who would bear the brunt of a libel action, the person that uploaded the material or the creator?

A related concern is that much of what academics lecture on comes from their own work, much of it as yet unpublished; writing a lecture, delivering it and discussing it in tutorials is an excellent way of honing one’s ideas or finding holes in one’s research findings or arguments. If, however, this material is widely disseminated, others may appropriate it before its originator has a chance to develop it to his or her satisfaction for publication. Will a publisher accept material for publication when it has already been published on a file-sharing site such as studocu?

If a staff member sets an assignment which is similar to one used previously and a solution has been posted for this original version and a student copies that solution is it academic dishonesty? It would appear that staff members should assume any worked solutions provided are potentially available to all students in their classes for perpetuity. If the institution does not prevent distribution of such material do we have to rewrite all of our assessment tasks every year? Will that be considered in work-load models?

Staff members in the Centre for Education Futures have been advised of the situation with www.studocu.com and similar websites and that the most likely “uploader” was a UWA student and they seem totally uninterested in trying to prevent this. For example security features could be added to pdf files to prevent them being opened after a certain date or when a student downloads the file from LMS it could be watermarked with the student’s ID number.

In the course of exploring these issues a colleague discovered that all UWA iLectures that have been recorded since 2012 are available without restriction to the whole world if you know where to look. Several years ago the University issued a directive that all lectures presented in Lecture-capture enabled Central Venues were to be automatically recorded as

iLectures. The policy governing these recordings was passed by Academic Council and is covered by Policy UP10/9. This policy states:

1.2.5 Captured lectures are available to students through the LMS via a block or URLs embedded within the pedagogical design

As such, only students enrolled or staff involved in a particular unit have access to the recorded lecture. However this “backdoor” permits the recordings of all iLectures that have ever been recorded at UWA to be accessed directly by anyone without a login via a direct link to the recording software rather than through LMS as intended.

The expected norm is that students can only “stream” the recorded content unless the lecturer permits downloading. The backdoor access gives either option.

The policy also states:

1.2.6 Teaching staff can delete captured lectures post processing, or choose not to enable captured lectures within the LMS.

However the mechanism for doing this is not obvious. The instructions on how to delete the recordings seem to have been lost from the UWA website and for the “old-timers” that remember the link the only lectures listed are pre 2016. As all lectures in Central venues are recorded by default and staff cannot delete the recording themselves even if you do not include the LCS link in LMS anyone in the world can still view and download their lecture, or in fact upload it to studocu.

Direct access to the iLectures presents all the issues and problems described above with the added dimension of slander as well as libel. Interestingly in the case of iLecture recording the University claims the copyright as they have made the recording. This was brought to the attention of the relevant parties in late-May. We understand the University is moving towards closing the iLecture backdoor but we are yet to see it happen. As of the time of writing this backdoor is still open.

The UWAASA Committee is very interested on your view on these matters. Please email your thoughts to UWAASA uwaasa@uwa.edu.au or speak to one of the Committee members.