

# Web2Rights

## Notice and Take Down Policy Template and Procedures

### Guidelines

A 'notice and takedown' policy should be developed with reference to the balance of risk between continued availability of content that infringes UK law and the damage that may result from wrongful takedown. Thus, a policy must balance time taken to verify a complaint against the potential damage of continued availability.

### Notice and Take Down Policy Template

It is recommended that it is the policy of [ADD THE NAME OF YOUR INSTITUTION AND/OR PROJECT HERE] immediately to suspend access to content that is subject to complaint while that complaint is verified. This is also in accordance with the Electronic Communications Act 2000.

Although all efforts have been made to ensure that material that infringes the law will not be present in [ADD DETAILS OF SERVICE/WEB2.0 APPLICATION HERE], 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 [ADD THE NAME OF YOUR INSTITUTION AND/OR PROJECT HERE] website and service. It will provide clear instructions on how to make a complaint (see below). These instructions will include:

- Contact details for the officer responsible for administering complaints
- A template for notifying [ADD THE NAME OF YOUR INSTITUTION AND/OR PROJECT HERE] of the complaint and associated guidelines (below)

*This template should be used to document your complaint which should then be addressed to the Complaints Officer at the following email address: XXXXX*

*During normal working hours (0900--1700h, Monday--Friday), receipt of your complaint will be acknowledged within 2 hours. Your complaint will be dealt with in the manner outlined in the 'notice and takedown' policy outlined on the website [link].*

*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 and Europe 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:*

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- 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:*

- 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:*

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:*

- Information about how to obtain help with completion of the template.

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

## Action to be taken on receipt of a complaint

The {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:

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*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 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