

Department of Education & Early Childhood Development: Intellectual Property Policy & Principles

Intellectual Property policy statement

The Department of Education and Early Childhood Development recognises that intellectual property (IP) is a valuable resource for the Government, Department, and the community. IP management focuses on meeting the objectives of the Government, the Department and the Victorian community in ensuring IP management is accepted as normal business practice.

This entails:

- Managing IP assets so as to achieve an appropriate return on investment for the State of Victoria and the Department.
- Managing IP assets in order to foster innovation, knowledge generation and the sharing of resources and ideas.
- Providing opportunities for private sector uptake and for commercialisation of Departmental IP assets where appropriate.
- Facilitating the use of IP that has a broader societal value, but which would otherwise remain within the Department.
- Respecting and acknowledging IP ownership at all times.

Rationale for IP management

Due to the nature of the business of the Department's staff create, use and control a considerable amount of IP. Some of this IP has value beyond the original reason for which it was produced. IP is a valuable resource that should be managed proactively.

Decision-makers need appropriate advice and all employees need to understand some key principles of IP management. Problems can result from a lack of knowledge about issues such as:

- Copyright ownership of IP produced by employees, contractors, students, volunteers and others.
- Recognition of moral rights of authorship and the distinction between moral rights and copyright.
- Processes for sharing our IP with others, in particular the granting of licences.
- Processes for using others' IP, including reproducing and communicating materials under statutory licences.
- The rationale and appropriate processes for managing opportunities to generate revenue from the Department's IP.

As with any other asset such as money or human resources, IP should be managed on a proactive rather than reactive basis, and should be managed in a way that is consistent with organisational goals as well as legislative and financial responsibilities.

Intellectual Property principles

General

IP forms part of the assets the Department generates or uses, and IP should be treated as an asset. Accountable IP management entails:

- Protecting the Department's IP
- Minimising IP-related risks.
- Identifying, managing, valuing and reporting IP.

- Managing IP effectively in commercial and partnership arrangements.
- Making consistent decisions on IP management issues.

Principle 1: Protect the Department's IP

Use copyright notices

- All material developed within or on behalf of the Department that is made publicly available should include or be linked to a copyright notice.

Register trademarks

- Consideration should be given to formally registering logos, symbols etc developed within or on behalf of the Department as trademarks.

Follow-up on breaches of Crown copyright

- Following up significant breaches of Crown copyright.

Principle 2: Minimise IP-related risks

Exercise care in licensing or assigning copyright

- IP should only be licensed or assigned to others if it is clear the State of Victoria (Department of Education and Early Childhood Development) has the right of title to that IP.
- Where IP rights are granted to an external party, there must be a formal legal agreement covering issues of use, risk and liabilities.
- All background (embedded) and third party IP contained in Departmental IP must be identified, and licences for its use obtained where appropriate.
- Deliberate and inadvertent copyright infringement should be avoided. Deliberate copyright infringement by staff will be treated seriously. All staff are expected to use their best efforts to prevent inadvertent copyright infringement in all forms of communication.
- Any staff member who becomes aware of the unauthorised use of Departmental IP must inform the Department's Copyright Officer.

Principle 3: Identifying, managing, valuing and reporting IP

Recognise the value and cost of IP

- IP which the Department owns has value, and like any asset, must be managed in accordance with that value.
- Using IP that is owned by others is generally at a cost to the Department which managers need to take into account in developing policies and programs or providing services.

Identify and report IP of significant value

- IP of significant value must be identified as such in the IP Register so that it can be reported in the Department's annual financial statements.

Maintain the Department's IP register

- The Department's IP Register is a mechanism for improving the management of IP assets. Staff are required to record items in the IP Register in accordance with the guidance contained in the *DEECD Guidelines for IP and Copyright Management*.

Principle 4: Manage IP effectively in commercial and partnership arrangements

Use appropriate contracts which address IP management issues.

- All contracts covering areas in which IP might be created should specifically address IP ownership issues.

Generate revenue from IP only where appropriate

- Revenue-raising by granting licences for the use of Departmental IP assets is only encouraged where this:
 - assists to offset the costs of acquiring and maintaining the asset; and
 - does not divert staff effort from their normal activities.

Principle 5: Make consistent decisions on IP management issues

Use guidelines and decision-support templates

- Staff should use the processes outlined in the *DEECD Guidelines for IP and Copyright Management* and related decision-support forms to assist with consistent decision-making on IP management issues.

Intellectual Property management responsibilities

The Department is responsible for providing guidance and support to enable managers and staff to manage IP assets produced by or on behalf of the Department.

IP management is supported in the Department by:

- Information Strategy Division, Strategy and Review Group:
 - co-ordinates the development of IP policy and ;
 - manages the statutory copying licences;
 - provides education and guidance for staff; and
 - co-ordinates the investigation of suspected infringements of the Department's IP.
- Legal Services Branch, Corporate Planning, Legal and Audit Division, provides:
 - assistance with contract clauses dealing with IP;
 - guidance on specific legal issues; and
 - a gateway to the expertise of the Victorian Government Legal Services Panel.