INTELLECTUAL PROPERTY AND COPYRIGHT

CONVERSATION CARDS

SCHOOLS

**CONTENTS**

FACILITATOR GUIDE 4

Key messages 4

How to use the cards 4

SCENARIO ONE 5

Question Card 5

SCENARIO ONE 6

Response Card 6

SCENARIO TWO 7

Question Card 7

SCENARIO TWO 8

Response Card 8

SCENARIO THREE 9

Question Card 9

SCENARIO THREE 10

Response Card 10

SCENARIO FOUR 11

Question Card 11

SCENARIO FOUR 12

Response Card 12

SCENARIO FIVE 13

Question Card 13

SCENARIO FIVE 14

Response Card 14

SCENARIO SIX 15

Question Card 15

SCENARIO SIX 16

Response Card 16

# FACILITATOR GUIDE

The conversation cards have been designed to promote behaviour consistent with the Department’s Intellectual Property and Copyright Policy (IP policy).

The cards can be used in a workshop format or during team meetings to prompt discussion about what a good practice response to various scenarios might look like.

While there are a number of relevant IP principles to consider for each scenario, there are no perfect answers. Learning occurs when participants discuss and debate different ways to respond, so this should be encouraged.

Links to all policies and guidelines referenced in the cards can be found in the [Intellectual Property and Copyright Policy](https://edugate.eduweb.vic.gov.au/edrms/collaboration/ISP/Intranet_linked_docs/Intellectual%20Property%20and%20Copyright%20Policy.docx)

## Key messages

* The IP policy sets out a principles-based approach to intellectual property management. These cards present an abbreviated version of the policy principles. All Departmental staff, including school staff, should familiarise themselves with the principles, as fully defined in the policy.
* In situations where you are unsure how the principles apply, seek advice from your manager or the Copyright Officer at copyright@edumail.vic.gov.au

## How to use the cards

The conversation cards describe six scenarios.

For each scenario, there is a question card and a response card.

1. Divide participants into small groups and allocate each a scenario.
2. Ask participants to discuss possible answers to the questions for their scenario.
3. At the end of the discussion, invite each group to share their answers with the larger group.
4. Once participants have shared their answers, share the good practice approach on the response card for the scenario.
5. Discuss any difference or similarities between the group’s answers and the good practice response. Remember there is no perfect response – there will sometimes be grey areas that require discussion with a manager or experts in the Department such as legal, integrity, procurement, copyright and human resources.

# SCENARIO ONE

## Question Card

Leon is on a one-year teaching contract at a school currently implementing a new assessment tool.

Independently, Leon is creating a suite of resources to help teachers using the assessment tool. He hopes to promote and sell his resources to schools and teachers’ associations when his contract with the school expires.

Who holds copyright or other IP rights in the assessment tool, e.g. is it Leon, the Department, or a third party?

Who holds copyright or other IP rights in the suite of resources?

Which of the intellectual property (IP) policy principles are relevant to this scenario?

| **Principle #** | **Principle**  |
| --- | --- |
| **Principle 1** | The Department makes its IP available with the fewest possible restrictions |
| **Principle 2** | The Department owns IP created by its employees in the course of their work |
| **Principle 3** | At the Department we manage IP belonging to others appropriately |
| **Principle 4** | IP is managed in procurement, contracts, and shared funding agreements |
| **Principle 5** | The Department does not ordinarily commercialise its IP |
| **Principle 6** | Employees must not commercialise the Department’s IP for their own purposes |
| **Principle 7** | IP is identified and recorded appropriately |

# SCENARIO ONE

## Response Card

**Who holds copyright or other IP rights in the assessment tool, e.g. is it Leon, the Department, or a third party?**

* Generally, rights belong to the creator, which may be the Department or a third party (not specified in this scenario).
* Creators may assign ownership or grant rights to others and these arrangements should be set out in agreements. **IP Principles 3 and 4**

**Who holds copyright or other IP rights in the suite of resources?**

* IP created in the course of our employment is owned by the Department (for the State) and may not be commercialised for personal gain. **IP Principles 2 and 6**
* To what extent is ‘independent’ creation possible if creation is dependent on employment? In addition to IP considerations, Leon will need to consider departmental policies covering conflict of interest, other employment, and the use of confidential or commercial information.

**IP policy principles most relevant to this scenario:**

| **Principle #** | **Principle**  |
| --- | --- |
| **Principle 2** | The Department owns IP created by its employees in the course of their work |
| **Principle 3** | At the Department we manage IP belonging to others appropriately |
| **Principle 4** | IP is managed in procurement, contracts, and shared funding agreements |
| **Principle 6** | Employees must not commercialise the Department’s IP for their own purposes |

# SCENARIO TWO

## Question Card

Aisha is part of a regional Student Support Services (SSS) team which is creating local resources for a wellbeing initiative being rolled out by the Department.

The primary content of the Department’s wellbeing initiative was procured from an external provider.

The resources Aisha’s team has created build on the procured content, as well as incorporating text, photographs and other material from internal and external sources.

Aisha’s team’s resources will be shared on the Department's website.

Who holds copyright in the procured content (i.e. the Department or a third party)?

What might inform or restrict public release of the team’s materials?

Which of the intellectual property (IP) policy principles are relevant to this scenario?

| **Principle #** | **Principle**  |
| --- | --- |
| **Principle 1** | The Department makes its IP available with the fewest possible restrictions |
| **Principle 2** | The Department owns IP created by its employees in the course of their work |
| **Principle 3** | At the Department we manage IP belonging to others appropriately |
| **Principle 4** | IP is managed in procurement, contracts, and shared funding agreements |
| **Principle 5** | The Department does not ordinarily commercialise its IP |
| **Principle 6** | Employees must not commercialise the Department’s IP for their own purposes |
| **Principle 7** | IP is identified and recorded appropriately |

# SCENARIO TWO

## Response Card

**Who holds copyright in the procured content?**

* Rights may be held by the Department and/or a third party. Ownership and use should be set out in an agreement. **IP Principles 2 and 4**

**What might inform or restrict the public release of the team’s materials?**

* IP Policy informs how our copyright material is released. For example, releasing our material with the fewest possible restrictions, such as under a Creative Commons licence. **IP Principle 1**
* Copyright law restricts what third-party content Aisha’s team may be able to include in the materials. **IP Principle 3**
* The need to acquire permissions or licences may limit releasing externally sourced content on the public website. **IP Principle 3**
* Absence of records detailing ownership and permitted uses may limit release of internally sourced content such as photographs. **IP Principle 7**

**IP policy principles most relevant to this scenario:**

| **Principle #** | **Principle**  |
| --- | --- |
| **Principle 1** | The Department makes its IP available with the fewest possible restrictions |
| **Principle 2** | The Department owns IP created by its employees in the course of their work |
| **Principle 3** | At the Department we manage IP belonging to others appropriately |
| **Principle 4** | IP is managed in procurement, contracts, and shared funding agreements |
| **Principle 7** | IP is identified and recorded appropriately |

# SCENARIO THREE

## Question Card

Ryan is re-developing his school’s website to celebrate the school’s centenary. He wants to include recent and historical photographs of staff and students, as well as reproductions of students’ artworks.

What copyright or IP issues should Ryan address before uploading this material to the school’s public website?

What other issues may he need to address?

Which of the intellectual property (IP) policy principles are relevant to this scenario?

| **Principle #** | **Principle**  |
| --- | --- |
| **Principle 1** | The Department makes its IP available with the fewest possible restrictions |
| **Principle 2** | The Department owns IP created by its employees in the course of their work |
| **Principle 3** | At the Department we manage IP belonging to others appropriately |
| **Principle 4** | IP is managed in procurement, contracts, and shared funding agreements |
| **Principle 5** | The Department does not ordinarily commercialise its IP |
| **Principle 6** | Employees must not commercialise the Department’s IP for their own purposes |
| **Principle 7** | IP is identified and recorded appropriately |

# SCENARIO THREE

## Response Card

**What copyright or IP issues should Ryan address before uploading this material to the school’s public website?**

* Can Ryan establish when each photograph was taken and if the Department holds copyright? Some photographs may be out of copyright (e.g. if taken before 1955). **IP Principle 3**
* Permission may be required for use of photographs still in copyright. **IP Principle 3**
* Students hold IP rights in their own creations and permission or consent may need to be obtained before public release. **IP Principle 3**
* Photographers and students may wish to be attributed. Creators have moral rights, including the right to be identified as the creator of their work. **IP Principle 3**

**What other issues may Ryan need to address?**

* Images and identification of students may present issues related to duty of care and privacy. Images of students are often unsuitable for release under Creative Commons licences. **IP Principles 1 and 3**
* The availability of records on copyright ownership, licences, and consents to use students’ images may vary. **IP Principles 4 and 7**

**IP policy principles most relevant to this scenario:**

| **Principle #** | **Principle**  |
| --- | --- |
| **Principle 1** | The Department makes its IP available with the fewest possible restrictions |
| **Principle 3** | At the Department we manage IP belonging to others appropriately |
| **Principle 4** | IP is managed in procurement, contracts, and shared funding agreements |
| **Principle 7** | IP is identified and recorded appropriately |

# SCENARIO FOUR

## Question Card

Eveline is a primary school teacher. She is also active on social media, often commenting on what inspires her as a teacher.

Eveline regularly posts photos of colourful classroom decorations and teaching resources she creates, which she makes available for others to purchase.

Describe any IP and other issues Eveline may need to consider.

Which of the intellectual property (IP) policy principles are relevant to this scenario?

| **Principle #** | **Principle**  |
| --- | --- |
| **Principle 1** | The Department makes its IP available with the fewest possible restrictions |
| **Principle 2** | The Department owns IP created by its employees in the course of their work |
| **Principle 3** | At the Department we manage IP belonging to others appropriately |
| **Principle 4** | IP is managed in procurement, contracts, and shared funding agreements |
| **Principle 5** | The Department does not ordinarily commercialise its IP |
| **Principle 6** | Employees must not commercialise the Department’s IP for their own purposes |
| **Principle 7** | IP is identified and recorded appropriately |

# SCENARIO FOUR

## Response Card

**Describe any IP and other issues Eveline may need to consider**

* If Eveline’s materials include third-party content copied under the terms of the Department’s copyright licences, she is unlikely to be able to release them publicly. Generally, the Department’s copyright licences do not cover public release of material copied under them, and commercial uses are not permitted. **IP Principle 3**
* IP produced by teachers in the course of their work belongs to the Department. It must not be used for personal profit. **IP Principles 2 and 6**
* The IP principles do not exhaust all policy, legal and integrity issues to be considered in this scenario. Eveline also needs to consider:
	+ duty of care and privacy issues (if her photographs contain images of students)
	+ Social Media Guidelines (media activities when employed by the Department)
	+ Other Employment Policy and conflict of interest (commercial opportunities gained in the course of work). **IP Principle 7**

**IP policy principles most relevant to this scenario:**

| **Principle #** | **Principle**  |
| --- | --- |
| **Principle 2** | The Department owns IP created by its employees in the course of their work |
| **Principle 3** | At the Department we manage IP belonging to others appropriately |
| **Principle 6** | Employees must not commercialise the Department’s IP for their own purposes |
| **Principle 7** | IP is identified and recorded appropriately |

# SCENARIO FIVE

## Question Card

Amal is a teacher with a particular interest in theatre. He created and directed a production for the whole school community. It was highly popular and, after it featured in a local news story, other schools asked if they could perform the play.

Amal’s school principal wants to make the play available to everyone and plans to have the play’s script and production design notes uploaded to the school’s website.

What does the principal need to consider before releasing the play on the school website?

Which of the intellectual property (IP) policy principles are relevant to this scenario?

| **Principle #** | **Principle**  |
| --- | --- |
| **Principle 1** | The Department makes its IP available with the fewest possible restrictions |
| **Principle 2** | The Department owns IP created by its employees in the course of their work |
| **Principle 3** | At the Department we manage IP belonging to others appropriately |
| **Principle 4** | IP is managed in procurement, contracts, and shared funding agreements |
| **Principle 5** | The Department does not ordinarily commercialise its IP |
| **Principle 6** | Employees must not commercialise the Department’s IP for their own purposes |
| **Principle 7** | IP is identified and recorded appropriately |

# SCENARIO FIVE

## Response Card

**What does the principal need to consider before releasing the play on the school website?**

* If the play is a remix/adaption rather than an original work, additional copyright permissions may be required. **IP Principle 3**
* If Amal created the play in the course of his work for the Department, the Department will own the IP. **IP Principle 2**
* Releasing the play, if rights have been established, allows other schools to benefit (e.g. under a Creative Commons licence). **IP Principles 1 and 5**

**IP policy principles most relevant to this scenario:**

| **Principle #** | **Principle**  |
| --- | --- |
| **Principle 1** | The Department makes its IP available with the fewest possible restrictions |
| **Principle 2** | The Department owns IP created by its employees in the course of their work |
| **Principle 3** | At the Department we manage IP belonging to others appropriately |
| **Principle 5** | The Department does not ordinarily commercialise its IP |

# SCENARIO SIX

## Question Card

Thilini is a leading teacher working in a specialist education program. She has been invited to present on her work at a conference and the school’s principal has approved her participation.

Thilini’s slide show includes images from a variety of sources and two short YouTube clips. The conference organisers have requested that participants’ presentations are made available on the conference website following the event.

What should Thilini consider before presenting the slide show at the conference and allowing it to be uploaded to the conference website?

Which of the intellectual property (IP) policy principles are relevant to this scenario?

| **Principle #** | **Principle**  |
| --- | --- |
| **Principle 1** | The Department makes its IP available with the fewest possible restrictions |
| **Principle 2** | The Department owns IP created by its employees in the course of their work |
| **Principle 3** | At the Department we manage IP belonging to others appropriately |
| **Principle 4** | IP is managed in procurement, contracts, and shared funding agreements |
| **Principle 5** | The Department does not ordinarily commercialise its IP |
| **Principle 6** | Employees must not commercialise the Department’s IP for their own purposes |
| **Principle 7** | IP is identified and recorded appropriately |

# SCENARIO SIX

## Response Card

**What should Thilini consider before presenting the slide show at the conference and allowing it to be uploaded to the conference website?**

* Have records been kept of the images’ sources so their ownership and terms of use can be checked? **IP Principle 7**
* Are the sourced images permitted to be communicated to the public in this way? **IP Principle 3**
* Does YouTube’s terms of service permit this use? **IP Principle 3**
* Have the creators of the two YouTube clips indicated how their material may be used? **IP Principle 3**
* Are there provisions or exceptions in Australian copyright law that may permit using YouTube clips or sourced images in this way? **IP Principle 3**
* The Department encourages teachers to share original material they have created in the course of their work (e.g. under a Creative Commons licence). **IP Principles 1 and 2**

**IP policy principles most relevant to this scenario:**

| **Principle #** | **Principle**  |
| --- | --- |
| **Principle 1** | The Department makes its IP available with the fewest possible restrictions |
| **Principle 2** | The Department owns IP created by its employees in the course of their work |
| **Principle 3** | At the Department we manage IP belonging to others appropriately |
| **Principle 6** | Employees must not commercialise the Department’s IP for their own purposes |
| **Principle 7** | IP is identified and recorded appropriately |