

CONVERSATION CARDS
Intellectual Property and Copyright
SCHOOLS

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](#)

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 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

IP policy principles most relevant to this scenario

Principle 2	<p>The Department owns IP created by its employees in the course of their work</p> <ul style="list-style-type: none"> <input type="checkbox"/> Material produced by employees in the course of their work will belong to their employer unless this arrangement is varied in an agreement.
Principle 3	<p>At the Department we manage IP belonging to others appropriately</p> <ul style="list-style-type: none"> <input type="checkbox"/> If IP in the assessment tool does not belong to the Department, it must be used according to agreed terms with the IP owner.
Principle 4	<p>IP is managed in procurement, contracts, and shared funding agreements</p> <ul style="list-style-type: none"> <input type="checkbox"/> Ownership and uses of IP in the assessment tool should be addressed in any agreement.
Principle 6	<p>Employees must not commercialise the Department's IP for their own purposes</p>

Who holds copyright or other IP rights in the assessment tool?

- 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.

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 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

IP policy principles most relevant to this scenario

Principle 1	<p>The Department makes its IP available with the fewest possible restrictions</p> <ul style="list-style-type: none"> <input type="checkbox"/> In most cases, Department-created materials should be released with few restrictions, e.g. under a Creative Commons licence, however public release of third-party content requires the owner's permission.
Principle 2	<p>The Department owns IP created by its employees in the course of their work</p> <ul style="list-style-type: none"> <input type="checkbox"/> Aisha and her team created the materials in the course of their work.
Principle 3	<p>At the Department we manage IP belonging to others appropriately</p> <ul style="list-style-type: none"> <input type="checkbox"/> Aisha's team needs to check ownership of the external content to establish if it can be released on the public website. Internally sourced content with uncertain ownership should also be checked.
Principle 4	<p>IP is managed in procurement, contracts, and shared funding agreements</p> <ul style="list-style-type: none"> <input type="checkbox"/> Agreements with third parties should set out ownership and terms of use for any IP that is part of the agreement.
Principle 7	<p>IP is identified and recorded appropriately</p> <ul style="list-style-type: none"> <input type="checkbox"/> Identifying and recording IP ownership and terms of use supports confident risk management.

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**

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 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

IP policy principles most relevant to this scenario

Principle 1	The Department makes its IP available with the fewest possible restrictions <input type="checkbox"/> Much of our copyright material is suitable for broad release. Reasons to restrict release include privacy and public safety.
Principle 3	At the Department we manage IP belonging to others appropriately <input type="checkbox"/> Permission to use copyright material may need to be sought from creators.
Principle 4	IP is managed in procurement, contracts, and shared funding agreements <input type="checkbox"/> Agreements with photographers and other creators should make clear what uses of IP are permitted and what credits are required.
Principle 7	IP is identified and recorded appropriately <input type="checkbox"/> Identifying and recording IP ownership and terms of use increases our capacity to use and share existing material with confidence.

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**

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 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

IP policy principles most relevant to this scenario

Principle 2	<p>The Department owns IP created by its employees in the course of their work</p> <ul style="list-style-type: none"> <input type="checkbox"/> Teaching resources and other IP created by staff in the course of their work belong to the Department (for the State).
Principle 3	<p>At the Department we manage IP belonging to others appropriately</p> <ul style="list-style-type: none"> <input type="checkbox"/> Eveline's materials may include third-party content copied under the terms of the Department's copyright licences. Generally, this material should not be released to the public.
Principle 6	<p>Employees must not commercialise the Department's IP for their own purposes</p> <ul style="list-style-type: none"> <input type="checkbox"/> Teaching resources produced in government schools must not be commercialised for private benefit.
Principle 7	<p>IP is identified and recorded appropriately</p> <ul style="list-style-type: none"> <input type="checkbox"/> Good record keeping about the context in which IP is developed helps us understand in what capacity the work was made.

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**

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 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

IP policy principles most relevant to this scenario

Principle 1	<p>The Department makes its IP available with the fewest possible restrictions</p> <ul style="list-style-type: none"> <input type="checkbox"/> Where possible, we release IP with few restrictions. But there are other licences and options that may better suit specific circumstance.
Principle 2	<p>The Department owns IP created by its employees in the course of their work</p> <ul style="list-style-type: none"> <input type="checkbox"/> Any IP created by Amal in the course of his work for the Department is owned by the Department (for the State).
Principle 3	<p>At the Department we manage IP belonging to others appropriately</p> <ul style="list-style-type: none"> <input type="checkbox"/> Materials created in schools may include third-party content copied under the Department's copyright licences. Generally, this material should not be released to the public.
Principle 5	<p>The Department does not ordinarily commercialise its IP</p> <ul style="list-style-type: none"> <input type="checkbox"/> No fee should be charged to other schools for use of the play.

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

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 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 departmental 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

IP policy principles most relevant to this scenario

Principle 1	<p>The Department makes its IP available with the fewest possible restrictions</p> <ul style="list-style-type: none"> <input type="checkbox"/> Templates for slide show presentations are available on the intranet. They include a Creative Commons licence by default.
Principle 2	<p>The Department owns IP created by its employees in the course of their work</p> <ul style="list-style-type: none"> <input type="checkbox"/> Thilini is presenting material created by the Department that should be made clear in the material and presentation.
Principle 3	<p>At the Department we manage IP belonging to others appropriately</p> <ul style="list-style-type: none"> <input type="checkbox"/> Always check the terms of use for all third-party content before communicating it to the public (i.e. at a conference or on a website).
Principle 6	<p>Employees must not commercialise the Department's IP for their own purposes</p> <ul style="list-style-type: none"> <input type="checkbox"/> Thilini should not receive payment when she is presenting material created in the course of her work for the Department.
Principle 7	<p>IP is identified and recorded appropriately</p> <ul style="list-style-type: none"> <input type="checkbox"/> Identifying and recording IP ownership and terms of use increases our capacity to use and share existing material with confidence.

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

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