



Managing intellectual property and resources

Various aspects of public sector work require the use of intellectual property. So, it is important to understand what the term covers and your responsibilities relating to these assets.

Introduction

Just as the tangible assets of a public sector organisation should be appropriately identified, protected and maintained, so too should the intangible assets (things you cannot hold in your hand), including Intellectual Property (IP). However, managing and accounting for IP can be difficult and complex compared to physical assets.

As a public sector employee, you must carefully manage the IP your organisation has allocated for you to use. Remember, like other property, IP can be bought, sold, licensed, lost or stolen.

What is intellectual property?

IP covers the wide range of intangible property that results from the creative and intellectual effort of individuals and organisations. IP includes:

- ▼ inventions
- ▼ literary and artistic works
- ▼ computer programs
- ▼ databases
- ▼ broadcasts, films and sound recordings
- ▼ plant varieties, and
- ▼ trademarks and designs.

Public sector organisations deal with many different kinds of IP, for example:

- ▼ scientific research
- ▼ information technology solutions
- ▼ information datasets such as global information systems (GIS)
- ▼ databases and mailing lists, and
- ▼ social research.

Most organisations will also work with property covered by copyright and trademarks (branding and logos), and some with patents, designs and plant breeders' rights.

Public sector organisations must be aware of their rights and obligations under IP laws – including copyright, trademarks and moral rights – to ensure they both protect government interests and avoid infringing the rights of others.

Copyright

As a public sector employee, you should be mindful that copyright applies to various formats, from printed material to contributions to websites (user-generated content).

Unless a specific arrangement has been made, the copyright in materials created by public sector employees in the course of their employment is owned by the Crown (think of this as meaning 'the government'). Note that copyright ownership rests with the Crown, not with individual organisations or employees.

You have a responsibility to act in accordance with your organisation's policy for management of intellectual property. As a minimum, your organisation must:

- ▼ comply with the Copyright Act 1968
- ▼ manage the administration and licensing of Crown copyright as per the [Crown copyright: guidelines for administration](#)
- ▼ display the [Tasmanian Government Copyright and Disclaimer Notices](#)
- ▼ ensure all copyright works are managed and used with intellectual property rights in mind, and
- ▼ ensure all agreements for the procurement of communications goods and services consider intellectual property rights where required, such as:
 - ▽ design work
 - ▽ copywriting
 - ▽ multimedia production
 - ▽ research, and
 - ▽ photography services

If in doubt, speak with your manager, who may need to get advice from Crown Law.

Images

Images such as photographs and graphics are widely used in communications materials to enhance a message or the 'look and feel' of a publication, report, video or website. This also includes logo and other branding assets.

Legal requirements relating to 'copyright' and 'moral rights', and policy requirements relating to information privacy, must be considered when obtaining and using images.

Your organisation will have policies and procedures in place regarding the use of images, including logos and photos taken at public events. Make sure you understand your responsibilities.

Social media

If you contribute to any social media pages managed by your organisation or any other public sector organisation, your posts and comments – including photos, graphics and videos – should:

- ▼ keep your personal information private
- ▼ protect you against unwanted contact
- ▼ build positive digital reputations, and
- ▼ model respectful communication and online etiquette.

Misuse of intellectual property and resources

Misuse of IP poses a number of risks to public sector organisations. These include:

- ▼ failure to protect the integrity and accuracy of government information, which can lead to false information being disseminated to the public
- ▼ failure to adequately protect confidential information so that other parties may use it inappropriately, and
- ▼ organisations infringing on the IP of others and exposing the government to litigation.



CASE STUDY

In 2004, Victoria University of Technology (VUT) sought to take control of a system and software invented by two academics employed by the university.

The Victorian Supreme Court found that the university had not had a properly constituted policy on IP that could be regarded as binding on employees. In the absence of a policy, the university could not claim ownership of the IP, as the court deemed it to have been invented outside the scope of the academics' employment.

However, the court found that the academics had a duty to inform the university of their research and that the university was entitled to a share of the profits. The judgement ordered VUT to pay the academics' legal costs and to reimburse them for relinquishing their shares of the IP to the university, at cost of approximately \$2 million.

In January 2005, the company associated with the system and software launched a \$48 million claim against VUT for loss of business.

With thanks to Victoria University of Technology v Wilson & Ors 2004 [decision](#)¹

If these risks are not managed effectively, conflicts and liabilities may have to be resolved in court. This is financially costly, and can also cost time and delay important processes.

If a public sector employee has been found to have deliberately misused IP, they may be disciplined, dismissed or even face criminal charges.

Seek advice

Managing IP can be difficult and complex and the risks are high from legal and financial perspectives. If you have any concerns or doubts, speak to your manager.

¹ <https://jade.io/j/?a=outline&id=75689>



The Commission can help

We are available to provide support and assistance with identifying, reporting, investigating, managing and preventing misconduct: prevention@integrity.tas.gov.au or 1300 720 289.

For more Misconduct Prevention resources go to www.integrity.tas.gov.au/resources