

Office of the Director of Public Prosecutions
Intellectual Property

1. Introduction

- 1.1. The Intellectual Property (IP) of the Office of the Director of Public Prosecutions (ODPP) is a significant asset to be managed with all due care, skill and diligence in accordance with the Intellectual Property Management Framework for the NSW Public Sector and the Best Practice Guide.
- 1.2. The object of this policy is to provide a better practice management system for the creation, use, sharing, protection and commercialisation of IP held by the ODPP in support of the ODPP's principal functions and responsibilities as set out in the Director of Public Prosecutions Act 1986.
- 1.3. The ODPP acquires IP during its everyday functions of prosecuting and it must be protected to allow the NSW Government through the ODPP exclusive legal rights over its property. With the exception of copyright IP must be formerly registered to gain legal ownership. The most common protections of IP include patent rights, trademarks, copyright and registered designs.

2. Interpretation

- 2.1. IP is a generic term for the rights which the law accords for the protection of creative effort and for the protection of the economic investment in creative effort. The term intellectual property covers:
 - Copyright and related rights, including moral rights in relation to manuals, publications, educational resources, databases, digitalised material (including CD-ROM products) software, archives, and manuscripts.
 - Patents covering the invention of new processes and
 - Trade secrets and confidential information.
- 2.2. Copyright is governed by the Copyright Act 1968 (Cth). Copyright protection arises automatically for the originality of the author. Copyright is infringed whenever the work is reproduced, disseminated, sold etc without the consent of the copyright's owner.
- 2.3. Moral rights are rights personal to the creators of certain copyright material, regardless of who owns the copyright for other purposes.

3. Ownership of Intellectual Property

- 3.1 The NSW Government through the ODPP owns all IP created by ODPP staff in the course of their employment unless agreed otherwise.
- 3.2 Moral rights automatically belong to the creator of IP unless agreed otherwise. The author of any work must be identified as the person responsible for that work and can object to any derogatory use of their work.
- 3.3 The ODPP should seek to own all IP by contractors under a service agreement or the ODPP may license the IP from the contractor.
- 3.4 ODPP copyright will extend to all published work. ODPP copyright will be infringed if the work is reproduced, disseminated or sold without the consent of the ODPP
- 3.5 A right to be named as an author in the publication of a work created in the course of ODPP employment arises for all publications.

4. IP Management Procedures

- 4.1 The ODPP IP needs protection as rights can be breached. The ODPP IP policy and procedures are linked to the Fraud and Anti Corruption Plan and are in addition to the measures outlined in that policy document.

Intellectual Property – Security

Intellectual property rights may not be identified, or may be breached

Control measures	Action	Responsibility	Timing	Status
1. Policy and procedures in existence 2. Regular monitoring and review 3. Managers to advise of new IP to be included in the IP Register 4. Staff awareness	Regular policy and procedures promotion by Managers	IM&T Steering Committee	Ongoing	

- 4.2 The ODPP IP policy and procedures are linked to the Risk Management Action Plan, and are in addition to the measures outlined in that policy document.

Issue	Action Proposed	Officer responsible	Original Risk Rating	Current Status
Intellectual Property	Review the policy and procedures on a monthly basis Monitor compliance	I M& T Steering Committee		

- 4.3 The Director of Public Prosecutions will report on the outcome of meeting objectives of the ODPP IP Policy in the Director of Public Prosecution's Annual Reports.

4.4 Plan:

Goal	Strategy	Indicators
1.Train Staff	Annual training for managers to identify the creation and ownership, use and protection of ODPP IP and of third party IP Annual training for managers as to moral rights Initial training for new staff The IM&T Steering Committee with consult with Learning and Development in relation to the required training	
2. Publish Policy	Policy available on the intranet and a summary on the website. Risk measures to be incorporated into the Fraud and Anti Corruption Risk Assessment Plan	
3. Responsible Management of IP	Managing IP rights and managing infringement is assigned to the Deputy Solicitor (Legal) and the IM&T Steering Committee	

4. Register of IP	<p>A Register of Significant ODPP IP to be kept and reviewed by the IM&T Steering Committee</p> <p>Each Manager to advise the Deputy Solicitor (Legal) and the IM&T Steering Committee of</p> <ul style="list-style-type: none"> i) the creation of significant IP. ii) the intended use of IP iii) any agreements entered into with third parties and iv) any additional protections required. 	
5.Third Party IP rights	Corporate Services must consider IP issues before tenders and bids are called for and before contractors or consultants are engaged	
6. Breach Protocol	In the event of any notified breach of IP the IM&T Steering Committee must comply with the protocols set out in the Management of Conduct and Performance policy.	
7. Review	The IM&T steering Committee will review the IP Register as required and consider commercialisation regularly	
8. Commercialisation	Commercialisation of ODPP IP will only occur after advice from appropriate bodies and approval by the Director and the IM&T Steering Committee.	
9. Publications	All ODPP publications shall disclose a copyright statement and disclaimer if required.	
10. Reporting	The IM& T Steering Committee will report as required to the Executive Management Committee on any significant IP issues.	

6. Utilisation of IP – Monitoring and Protecting

- 6.1 Commercialisation is a peripheral activity to the functions of the ODPP. A decision about commercialising ODPP IP should be based on a consideration of the ODPP's core functions and the IP concerned.
- 6.2 All queries in relation to IP must be sent to the Deputy Solicitor (Legal) who with the IM&T Steering Committee may seek advice from the Crown Solicitor's office or other relevant source experienced in the area of intellectual property.

7. Outcomes

- 7.1 The objective of this Policy is:
- To establish, maintain and review the ODPP IP management system.
 - To establish and protect ODPP IP rights and
 - To utilise the ODPP IP to enhance public service goals.
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