

POLICY AND PROCEDURES

Computer Software: Licensing and Use

This policy is important to:

- All Staff
- All Students

POLICY NUMBER:	POI120314003
DATE APPROVED:	24 February 2012
POLICY CATEGORY:	General (Information and Support Services)
POLICY OWNER:	Pro Vice-Chancellor and Chief Information Officer

1. CONTEXT

Victoria University ITS provides a software acquisition service in order to obtain the best possible software solutions for the University.

The unauthorised duplication of copyrighted computer software violates the law and is contrary to the University's standards of conduct and business practice.

On 1st January 2005 the Australian Copyright Act was amended with regard to software use. As a result the use of unlicensed software by businesses is now a criminal offence carrying major penalties and potential gaol terms. Employees, senior managers and the University all risk criminal charges for illegal software use.

Penalties may include:

Individuals: An individual found guilty of an infringement of copyright may be sentenced to a maximum of 5 years imprisonment and fined up to \$93,500

Companies: A Company convicted of an infringement of copyright may be fined up to \$467,500.

The Information Technology Services (ITS) Department has the following objectives when sourcing and providing computer software throughout Victoria University.

- To ensure that all software used is legally acquired and used
- To procure and provide the software that University clients require
- To obtain the most cost effective software licences
- To provide an ITS budget for all Standard software
- To manage a user pays principle applying to all non-Standard software
- To ensure that staff are correctly informed about software usage obligations and licensing issues.

2. DEFINITIONS

- 2.1 **Non-standard Software:** This includes all software used by specific departments, faculties and cost-centre's, which cannot be justified as part of the University IT infrastructure. Licences are held by individual users.
- 2.2 **Standard Software:** This includes;
- 2.2.1 Software provided by ITS as part of its Standard Operating Environment (SOE). For details of this see [ITS Desktop Management](#) web site.
 - 2.2.2 Administrative software as required by staff to perform their duties.
 - 2.2.3 Recommended software: Software for which Victoria University or one or more of its sectors holds a site, restricted site or bulk license.
- 2.3 **MOE Managed Operating Environment**
The MOE is designed to manage a large number of desktops and notebooks. Primarily used to action imaging, maintenance, patches and repairs from one central location. Predominantly used to create a standard image for deployment across Victoria University which delivers standardisation and effective troubleshooting.

3. STATEMENT OF POLICY

3.1 CODE OF ETHICS

- 3.1.1 The University neither permits nor tolerates the making or use of unauthorised software copies within the University under any circumstances
- 3.1.2 The University will provide sufficient quantities of legitimately acquired Standard software to meet justifiable client software needs for standard computing hardware. See POI100721000 - Standardisation of Computer Software and Hardware
- 3.1.3 The University will comply with all licensing terms and conditions regulating the use of any software it acquires. All staff and students will comply with these requirements. It is important to note that when Victoria University purchases a software licence it does not then own the software, but only the licence to use the software.
- 3.1.4 Victoria University will enforce stringent controls to prevent any unauthorised copying or use of computer software or the making or use of unauthorised copies of computer software. These will include operating effective measures to verify compliance with pertinent standards and initiating appropriate disciplinary action for any violation of these standards.
- 3.1.5 The University will take steps to inform all staff and students of their legal responsibilities in relation to software.

3.2 LICENSING AND USE

- 3.2.1 Victoria University is required to refer to a variety of sources for acquiring and making legal use of computer software. Legitimate sources include and should not be restricted to commercial acquisitions. Software acquired may also be of a non-commercial nature such as public domain software, shareware software or freeware software, so long as the stipulated usage and licensing requirements of the copyright owner are met. See [Appendix 1](#)

- 3.2.2 As a part of the MOE build process standard set of software will be loaded on every PC purchased. The [ITS Desktop Management](#) web site gives details. Standard administrative software will be provided as required for staff members to perform their duties.
 - 3.2.3 Organisational units or individual staff requiring software should check with the ITS Acquisitions Unit (Ext 2348) to see if the software they require is available on licence from the University. Also see [ITS Software](#) web site, Information page
 - 3.2.4 The University expects that organisational units will ensure that all software used is legally licensed. ITS will assist this process through software audits, reporting and monitoring of purchases made through ITS.
 - 3.2.5 Where organisational units purchase software directly from suppliers, the heads of the units are responsible for ensuring that an accurate register of the software licenses is maintained and must be able to produce compliance information showing actual use against licenses held, in the event of an audit. This register must be forwarded to the ITS Acquisitions Unit quarterly to ensure that the central VU Software Registry remains current.
 - 3.2.6 Software master media must be securely stored in order to avoid theft and/or unauthorised use or copying.
 - 3.2.7 ITS staff will only install software which can be shown to be licensed.
 - 3.2.8 Work at Home rights are available for University staff members. These rights permit the use of application and system products on a personally owned computer for work-related purposes only. University staff must agree to the terms and conditions of the agreement. The conditions of such use are subject to change. Please see the ITS website, [Work at Home Licensing](#) for current information.
- 3.3 **IT IS ILLEGAL**
- 3.3.1 To copy software or its accompanying documentation without permission or licence from the copyright owner.
 - 3.3.2 To loan software in order that a copy be made or to copy software while it is on loan – including an individual to a friend or colleague. The loaning of software does not exonerate the owner of the software from the conditions of the licence
 - 3.3.3 To knowingly distribute or possess unauthorised software.
 - 3.3.4 To run purchased software covered by copyright on two or more computers unless the licence agreement specifically allows it.
 - 3.3.5 To infringe the laws against unauthorised software copying because a superior, colleague or friend compels it.

4. PROCEDURES

- 4.1 Information about the purchase of software may be obtained from [ITS Service Desk](#)
- 4.2 [Software Compliance and Order Form](#) is available on-line.
- 4.3 For information about software for home use please see [Work-at-home Licensing](#) information

5. POLICY ADVISOR

Manuel Bervanakis – Manager IS Service Quality

6. RELATED POLICIES AND LEGISLATION

6.1 Related Policies

Standardisation of Computer Software and Hardware (POI040809001)
Appropriate Use of ICT (POI110603001)
ITS Staff Audit Authorities Policy (POI110330003)
Staff Code of Conduct (POH110829000)
Disposal and Cleansing of IT Equipment Policy (POI110607002)
High Level Information Security Policy (POI110817000)

All University policies are recorded in the [Central Policy Register](#), and a list of all existing IT Policy related documents (i.e. ITu, ITi, ITg and ITo) are published on the [ITS Policies Web Page](#)

6.2 Relevant Legislation

The Copyright Act 1968
Copyright Amendment Act 2006

6.3 Acknowledgement

Business Software Association of Australia
<http://www.bsaa.com.au>

7. CONSULTATION AND ACCOUNTABILITIES

7.1 Consultation

7.1.1 Information Knowledge Management Committee (IKMC)
7.1.2 University wide consultation
7.1.3 Approval by Vice Chancellor

7.2 Accountabilities

7.2.1 RESPONSIBILITY

Pro Vice-Chancellor & Chief Information Officer, for the management of this policy.

7.2.2 IMPLEMENTATION PLAN

All new staff and students will be made aware of this policy through induction programs for staff and in the Student User Guide. The requirements of this policy will be reinforced whenever software is requested and installed.

7.2.3 TRAINING PLAN

Information will be given to staff and students. Information will be available on the ITS web site.

7.2.4 COMPLIANCE

A software compliance form will be completed before any software can be installed. No unlicensed software will be installed.

Staff users of University information technology resources found to have violated this policy will be subject to disciplinary action, and may be subject to legal action.

Students found to have violated this policy will be subject to disciplinary action, and may be subject to legal action.

Other users, such as consultants, who have violated this policy, will be subject to appropriate action up to and including legal charges.

7.2.5 EFFECTIVENESS OF THIS POLICY

There will be periodic checks to ensure that this policy is being adhered to.

8. FORMS

8.1 [Software Compliance and Order](#) Form

9. APPENDICES

Appendix 1 Copyright information

APPENDIX 1

COPYRIGHT INFORMATION

CRIMINAL PENALTIES FOR ILLEGAL SOFTWARE USE

The Copyright Act makes use of unlicensed software by businesses a criminal offence carrying major penalties and potentially gaol terms.

It's important that you take note of Victoria University Policies regarding software use. You should also take note that employees, senior management and the company all risk criminal charges for illegal software use.

Penalties may include:

- **INDIVIDUALS:**
An individual found guilty of an infringement of copyright may be sentenced to a maximum of 5 years imprisonment and fined up to \$93,500.
- **COMPANIES:**
A company convicted of an infringement of copyright may be fined up to \$467,500.

Illegal software does not have to be sold for direct financial gain to constitute a criminal offence. Section 132 (1) (a) of the Copyright Act has been amended to make it a criminal offence if a person makes an infringing copy of software with the intention of obtaining a commercial advantage or profit and if the person knows or ought reasonably to know that the copy is infringing copyright.

Use of illegal software in a business or organisation can constitute a criminal offence as commercial advantage is inherent in using any software in a business or professional context and because commercial advantage has been derived from making an illegal copy of the software instead of buying a licence for it. The offences regime in Section 132 applies to all forms of activity referred to as business end-user piracy.

Further significant infringements of copyright, whether or not these have any direct or indirect financial gain, are also illegal. This covers situations such as large-scale piracy not in a commercial business and Internet piracy where illegal software may be distributed for free. Under sections 132 (5) (DB) and (5) (DC) of the Copyright Act it is a criminal offence if a person engages in infringement of copyright on a commercial scale and it has a substantial prejudicial impact on the copyright owner.

Importantly, it is a criminal offence if a person knows or "ought reasonably to know" that software is infringing copyright. Managers and officers of organisations would normally be expected to know what is happening in their organisation and so they (personally) and the organisation could be held liable even if they are unaware or not directly involved in piracy.

SHAREWARE / FREeware

All software is protected by copyright and so can only be used with the permission of the copyright owner.

In some cases, the copyright owner does not seek a licence fee for use of the software and agrees to "share it" with users for free, or for a small fee to cover administration - hence the names shareware and freeware.

Users of shareware and freeware obtain a licence to use the software on certain terms and conditions specified by the copyright owner. You should always check the terms and conditions applying before copying or using software as these vary from program to program.

FREeware

Usually this term applies to software which is distributed or made available free of charge. However, always check terms and conditions carefully. While free, there may be terms and conditions applying in relation to the number of copies that can be made, passing on to friends, altering the software, incorporating it into other software etc.

SHAREWARE

Shareware developers may request a small fee for use; ask for a donation to a charity; specify a trial period of use; and/or specify instructions for use and distribution.

It is important to note that freeware and shareware are copyright protected in the same way as other software, the difference being that the owners do not seek commercial licence fees or royalties.

There are other sources of software including open source programs. These are also protected by copyright in the same way as other software, but again the owners do not seek commercial licence fees or royalties.

You should always check the terms and conditions of use of all software including shareware, freeware and open source carefully.

This information is from the Business Software Alliance of Australia

<http://www.bsaaustralia.com.au/bsaaweb/main/index.php>

OPEN SOURCE SOFTWARE

Open source software is a type of computer software defined by several specific attributes that relate to its licensing and legal framework. Often it also involves a distinctive development and distribution model. At present the primary arbiter of what constitutes open source software is the Open Source Initiative. The Initiative sets out various rights and obligations for developers, distributors and users of OSS. These rules define the basic licence conditions under which software must be released to be considered "open source".

Information from the Australian Government Information Management Office

<http://www.finance.gov.au/e-government/infrastructure/open-source-software.html>

CREATIVE COMMONS LICENCES

Creative Commons licenses are copyright licenses which are designed to facilitate and encourage more versatility and flexibility in copyright usage. The scheme exists as a series of licenses that are customised to the specific needs an author may have. Creative Commons licenses may be tailored by the author to allow free distribution of their material on the basis of certain criteria such as acknowledgement of author and non commercial usage.

For more information see Creative Commons Australia

<http://www.creativecommons.org.au/>

"The current official version of this policy is maintained on the Victoria University Central Policy Register and downloading and printing of this policy will produce an uncontrolled copy which may not be current."

POLICY HISTORY

Version approval date	Summary of changes
24 February 2012 (POI120314003)	Amended via minor amendments
9 February 2009 (POI120314002)	Amended via review
14 April 2008 (POI120314001)	Amended via minor amendments
23 June 2006 (POI120314000)	Policy reviewed.
7 May 2003 (POI040809004)	Existing IT policy added to policy database.