

# Developing Practical Methods of Assessing and Handling Legal Issues

Developing Lifelong Learner Record Systems  
and ePortfolios in FE and HE: Planning for,  
and Coping with, Legal Issues.

# Learning to live with the law

- Losing the FE/HE culture of 'amateurism'
  - Successful LLR/ePortfolio projects require a professional attitude towards legal issues
  - Failing to provide that professionalism is tantamount to maladministration - misuse of public funds.
  - It is thus an institutional management issue.
- Basic legal knowledge is now an essential skill for staff working in these areas.
  - What legal issues may arise? Do we have a process for that? Do we need expert advice?
- But 'staying legal' is often not rocket science
  - e.g. DP/FOI compliance is generally good in HE/FE

# Legal Processes for Projects I

- Preliminary (or bid) stage
  - Legal issues essential part of project risk assessment
  - Identify legal issues
  - Indicate how those issues might be addressed
  - Ensure appropriate time/financial costs allocated
  - Include legal planning in project timetable/milestones
  - If part of JISC Programme, this allows Programme managers to plan for early legal support of projects
    - Guidance documentation, Seminars/workshops, Identification and sharing of good practice.

# Legal Processes for Projects II

- Start of a project
  - Consortium Agreement (or Project Plan)
    - Principal actors and term of agreement
    - Obligations of principal actors
    - Administrative framework of consortium
    - Entry and departure of principal actors
    - IPRs (background and foreground) & exploitation
    - Liability and warranties
    - Exit strategy
  - Ensure team understand what the CA means!

# Legal Processes for Projects III

- Project lifetime – development and audit
  - Review of legal risks and project responses
    - Awareness of changes to legal environment
  - Documentation of processes, decisions and outcomes
    - BRB/WWW scenarios
  - Continuing training, esp. where staff turnover
    - KMS issues
  - Dialogue with institution and with partners

# Legal Processes for Projects IV

- As projects enter new phases or end.
  - Appropriate to engage in a legal health check
    - Ensure documentation, both administrative & explanatory, is complete and appropriate
    - Complete (or retrofit) and sign off on rights management register, as necessary
    - Ensure that project partners are briefed on legal issues relating to exit strategy
    - If project is continuing, check whether partner agreements automatically continue, or need renewing.

# Planning and Oversight

- Identification of legal issues is essential to support appropriate risk analysis and action
  - Adequate time and resources early in project lifecycle
  - Clearly documented rationales for institutional policy.
- Guidelines, protocols and procedures are valuable only if both understood and used.
  - Identification of person/persons with responsibility for development, training and implementation of policy.
- Legal issues will change over time, policies & practices must adapt to these changes

# External Factors

- What is likely to be needed at a national level:
  - Wider engagement of educational community in discussion/development processes
    - Many eyeballs strategy
  - Clearer vision of appropriate future uses and development of systems
    - Development of acceptable use protocols
  - Clearer strategy for interoperability of systems
    - Technical and administrative understandings
  - Understanding of the bigger picture
    - Globalisation of education.

# Conclusions

- Developments in Lifelong Learning/ePortfolio research promise valuable pedagogic & administrative returns
- Our goal as educators should be to ensure that these are not jeopardised by poor practice
- We have provided an overview of some basic issues, and outlined measures to ensure good practice
- We would welcome your feedback - questions, advice and information - to advance JISC's work in this area.

Thank you for your attendance and participation.