

Take Down Policies

Like considering any insurance, thinking through a Take-Down policy raises worrying spectres of what *might* happen or alternatively can appear wildly over-cautious. However, it is advisable to consider possible risks and the likelihood of each risk occurring for any activity, in order to put in place sensible risk-management policies and procedures.

It is recommended to have a Take-Down policy for repository content (and in fact, all institutionally mediated web-based content, although this lies outside the remit of these pages). A Take-Down policy serves to try and minimise institutional risk from inappropriate material being made available through the repository. Note that this is risk management, not risk-proof. For repositories, like websites, other internet services, email, and traditional publishing, there are a lot of grey areas of legal responsibility which cannot be made entirely risk-free and so require risk-management.

Relationship to author-defined content

The accepted view is that repositories can act as a service for their institutional authors. Therefore, in the same way that institutions rarely police what content is provided by an author on other webpages, or preview and check published articles for legal difficulties, then repositories can provide a facility for authors to expose their own work on their own cognizance. This forms part of the concept of the Deposit Licence, in asking authors to accept copyright and content responsibility for the material that they deposit.

Part of the reason that this system is seen to work is that academic reputation is seen as a vital part of an author's career. Disseminating poor-quality, plagiarised, or offensive material is highly detrimental if not destructive for an academic's career and position and so checks and balances that have grown up in traditional publishing also apply to repository-based dissemination.

Complaints and risk

However, what happens if there is a problem - or more likely if there is perceived to be a problem by a reader? This problem may be quite genuine, or may be erroneous and it might take some time to decide which. If the repository administration receives a complaint that seems as though it may have a serious component or consequence, then it is important to know in advance what measures should be taken to handle the situation.

To mitigate risk, the generally held view is that a take-down policy should adopt a safety-first approach and have as a first action removal of the item, or at least removing it from public view. A more considered evaluation of possible copyright infringement or other legal difficulty can then be made, secure in the knowledge that the institution has at least made some immediate response, should the legal difficulty actually prove to have foundation. After consideration, where the process might take some time (maybe months) to resolve, the item can then be removed completely or re-exposed accordingly.

This approach attempts to deal with the risk posed by punitive damages being awarded if a problem developed into a case that went to court. If an eprint was exposed which caused some problem (which may be copyright, but may have some other problem - be libellous, plagiarised or legally offensive) then prompt action by the institution would demonstrate that some care and responsibility has been taken. If the eprint remains visible while the difficulty is identified and resolved, then if there is a problem this will have been compounded by its remaining visible throughout! A court may decide that this behaviour merits punishment in itself, quite apart from the original transgression.

Policy triggers

It is for each institution to decide on the potential severity of a reported problem and then whether or not to remove the record from view. A general approach of "safety-first" would seem to be sensible, although a policy which recommends responding to each and every complaint with removal of the article might mean that repository content could be removed for frivolous reasons. Differentiating between complaints which are frivolous and those which the potential to develop into serious situations requires careful and informed consideration. Given the difficulties of specifying what a potential problem may be, this generally means passing the complaint on to an appropriate person who is able to take responsibility for the decision.

However, general feed-back to RSP staff shows that complaints about repository content at any level are few and far between and RSP staff are not aware of any situation where such a take-down policy has been actioned, so a cautious approach may not cause any unnecessary action. Of course the working of the policy is something which the institution can monitor and amend in the light of experience over some time.

Policy process

In any case, it is useful to have a Take-Down policy which states what action should be taken, by who, and in what time-frame, to secure the situation. This might be something as simple as saying that any complaint will be passed on within "x" hours of receipt on a working day to be assessed by a nominated individual or role. Their assessment of the nature of the complaint and its possible consequences might then trigger the removal of the public full-text (or even in extreme cases, the metadata record itself) within, say, 24 hours or shorter. There would then need to be some defined process where the complaint could be properly assessed and an appropriate course of action taken.

It should be remembered that while it may be justified to remove the full-text item, the author concerned may well have a different view and would need to be informed as to the situation while the assessment process is carried out.

For any policy to work, then those affected by it must know about it and know how to get hold of guidance for its implementation. Depending on the efficiency of your institution's records management or on-line shared documentation system, it may be helpful to print off such guidance and the policy to have it available in a prominent folder on a shelf in the repository administrative office! Any individual or role identified within the policy would also need recognised duplication or other cover to avoid the policy being inoperative due to staff illness or holiday.

Summary

It is advisable to think through and develop a Take-Down policy as part of general risk-management. Such a policy puts in place some measure of control if a serious situation does arise and can be seen as a type of insurance - a relevant situation may never happen, but if it does, it is as well to be prepared.

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