

INTELLECTUAL PROPERTY RIGHTS POLICY

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University of Hull

Policy on Intellectual Property Rights

(This policy forms part of all contracts of employment and the contract between the University and its students)

What is intellectual property?

- 1 In general terms, intellectual property (IP) arises from human creativity and new ideas. Intellectual property rights (IPR), which include patents, copyright, performance rights, database rights, design rights and trademarks, protect the development, application and exploitation of new ideas. Everything that the university does has the potential to generate IP.

The general approach

- 2 In relation to IP, the university treats students and staff alike. References in this policy to 'originators' are references to staff, undergraduate students and postgraduate students, as appropriate.
- 3 The sharing of information is an important part of the university's work. The university is committed to freedom of publication provided that any IP arising is suitably protected.
- 4 The university will seek to maximise the benefits arising from the exploitation of IP for both the university and the originators. If IP is exploited commercially, the university will share any benefits with the originators in accordance with this policy. This means that the university and its originators must take reasonable and proper measures to protect the university's IP. Further guidance on protecting IP is available on the intranet.
- 5 The university encourages active identification of commercially valuable IP, its suitable protection and robust exploitation. Commercial exploitation is not necessarily incompatible with academic activity.

Equality

- 6 This policy has been produced with the aim of supporting the university's overall strategy to embrace diversity and welcome individuals from all backgrounds. When using this policy, the university expects members of staff to treat all colleagues fairly and with respect and will take action against acts which breach the policy on diversity. A member of staff who for any reason finds this or any other policy difficult to read or to follow should contact their area HR Advisor who will provide help with, or alternative formats of, the procedure.

Ownership of IP

The legal position

- 7 Unless there are specific agreements to the contrary, the university owns
- all intellectual property generated by staff during the course of their employment
 - all intellectual property generated by registered students during the course of their study
 - all intellectual property generated by staff and students other than in the course of employment or study if substantial university resources have been used

Note There are two exceptions to these rules.

- The university may, as a matter of policy, determine that particular categories of IP vest in those creating them. However, the university has a duty to take all reasonable measures to maximise returns on its assets, including IP. In practice, the university does not claim income earned from academic publications.
- Some research or other contracts will give third parties (usually the funding or commissioning body) rights over some or all IP. Such rights will normally be negotiated before the contract in question is signed. Proper advice should be taken at the contract stage.

Exploitation and rewards

- 8 The university asserts its rights to all IP owned by it, as detailed in paragraph 7, but will share any rewards derived from successful commercial exploitation of that IP with the originators of that IP.
- 9 The following conditions apply to the ownership, use and exploitation of IP.
- a) Subject to conditions b) to e) below, the university owns and has the right to use without limitation
- all material created by staff or students during the course of their employment or studies
 - any material created by staff or students outside the course of their employment or studies which is based upon substantial use of university resources
- b) Originators may publish academic works and keep all income from those works unless
- a contract with a third party provides otherwise
 - an individual has been employed specifically for the purpose of producing a particular academic work
 - publication might result in the loss of an opportunity for commercial exploitation

Cases of doubt or cases requiring interpretation should be referred to the Pro-Vice-Chancellor (Enterprise).

- c) If a member of staff leaves the university's employment, the university will normally grant that person a royalty-free non-exclusive licence to use teaching materials created by them during that employment, provided that this will not harm the university's exploitation of the materials (where relevant) or prejudice the university's interests in any way.
- d) When using material generated by staff or students, the university will normally give due acknowledgement to the authorship of that material.
- e) If the university exploits its IP commercially, it will share a percentage of the income it derives from such exploitation with the originators, in accordance with Table A. The university will inform originators of significant developments in respect of the exploitation of IP for which originators are receiving a reward under Table A.
- f) If an individual wants to claim ownership of IP on the grounds that it was not generated during the course of employment or study and did not require substantial use of university resources, they should, in the first instance, approach the Dean of their faculty. The Dean, in consultation with the Pro-Vice-Chancellor (Enterprise), may assent to any such claim, but they must inform the Planning and Operations Committee and seek appropriate advice in cases of doubt. Any dispute will be referred to the IP Panel (see paragraph 12).

Note For the purposes of this policy, a 'Dean' is a member of the academic or academic-related staff who reports to a member of the university's Senior Management Team.

- 10 The university will take a pro-active role in exploiting its IP. Such exploitation will include giving appropriate consideration to future IP, when entering into research contracts with third parties. If members of staff identify an opportunity to commercially exploit any IP owned in whole or in part by the university, they should refer the matter to the relevant Dean/s and to the Research and Enterprise Office for advice. Exploitation may be via the university, through a new company, or through the licensing or assignment of IP to a third party. However the exploitation of IP is developed will be subject to the relevant university policies. The Reachout Committee will receive quarterly reports on decisions taken under this policy.
- 11 Decisions on the sharing of any benefits from the exploitation of IP will be made within the following framework.
 - The originators will be required at the outset to warrant that they and only they have contributed to the generation of the IP in question. They will need to agree among themselves how the originators' share of any income or capital arising from exploitation is to be distributed. Those who

are identified as originators may include academic and academic-related staff, support staff, postgraduate students and other students of the university.

- Any net revenue from exploitation of IP under this policy will be cumulatively shared on the basis set out in Table A. If a new company is formed to exploit the IP in question, the originators may opt to take an equity stake in that company, in accordance with the university's policy on individual equity stakes from time to time, provided that they first waive any claim to income arising from this policy. Originators may wish to seek their own legal and financial advice on which option to choose.
- Revenue and capital gains accruing to the university will be subject to a contribution to facilitate the exploitation of IP.

Table A				
Total net revenue	Originator/s	Department/s	Central funds	IP Protection & Exploitation Fund
Up to £2000	100%	0%	0%	0%
£2001–£5000	50%	20%	15%	15%
Thereafter	35%	65% at the university's discretion		

Note Net revenue is the amount received minus the costs incurred in identifying, protecting, developing and exploiting the IP.

- 12 Any disputes arising under this policy will be determined by a panel consisting of
- the Pro-Vice-Chancellor (Enterprise)
 - the Deputy Dean for Research or the Deputy Dean for Learning and Teaching of the relevant faculty
 - a nominee of Hull AUT
 - the Deputy Vice-Chancellor
 - a lay member of the University Council, appointed by the Council, as advised by the university solicitor

If a prospective member of the IP Panel has an interest in a case that is scheduled to come before the panel, that interest must be declared and a substitute member appointed.

- 13 The university's share of any benefits arising from exploitation of IP which is owned jointly by the university and a third party will be shared with the originators on the basis set out in Table A.
- 14 With the consent of the Dean of the faculty, or where the Dean is seeking consent, the consent of the Pro-Vice-Chancellor (Enterprise), staff may use university IP to carry out consultancies in accordance with the current university policy on consultancy, provided that a licence has first been agreed with the university.

- 15 If no steps have been taken to exploit university IP within one year of its creation, any individual may apply to the IP Panel for a licence to exploit that IP commercially. The IP Panel may, after such consultation as it sees fit, grant a licence or other right in the IP in return for a reasonable reward for the university, provided that, if any originator of the IP in question is to benefit from such a licence or other right, any rights they may have to a share in benefits under this policy are waived.
- 16 Staff must take all reasonable steps to ensure that the university's IP is properly protected. They should take advice from the Research and Enterprise Office and/or the university solicitor, as appropriate.

Monitoring

- 17 The effectiveness of this policy will be ensured by continuous monitoring, annual review and consultation with staff groups. The results of the monitoring process will be published.
- 18 It will be the responsibility of the HR Director to monitor the effectiveness of this policy. This will include
 - assessing the nature and frequency of complaints or cases and identifying any patterns which need to be addressed
 - monitoring individual complaints or cases to ensure that they are effectively resolved and that no victimisation occurs
- 19 The operation of the HR policies will be monitored by the HR Director reporting through the Staffing Committee to the Human Resources Committee. As part of the process, and prior to the reports being finalised, the HR Director will discuss any key issues with the trade unions and incorporate their views accordingly.