

# THE UNIVERSITY OF LEEDS

## Intellectual Property Policy

*This Policy sets out the University's position regarding the ownership of intellectual property (IP) developed by staff, students and certain others, together with the procedures in place for commercialisation of University owned IP. It covers all University related activities, including research and innovation and student education.*

### **Status of this Policy**

This Policy is specifically incorporated into all employees' (staff) contracts of employment and any legal relationship between the University and its students.

### **Intellectual Property (IP)**

1. There are numerous definitions of IP. In essence, IP may be regarded as 'knowledge and its creative application'. In practical terms all material generated by staff should be regarded as potentially creating new IP. IP can be protected through patents, copyright, performance rights, design rights and trademarks.

## **The University's General Approach**

2. Subject to certain conditions referred to below:
  - 2.1. Where a member of staff creates IP during the course of their employment the University will own that IP.
  - 2.2. Where a student creates IP as part of their academic programme the student will solely own the IP (subject to exceptions noted below).
3. The wide dissemination of IP is fundamental to the work - and indeed the idea of – a university. Subject to conditions referred to below, the University has in this context granted members of staff and students freedom to publish academic publications.
4. The University encourages active identification of commercially valuable IP, suitable protection and robust commercialisation to the mutual benefit of the University staff and students. It should be noted in this context that commercialisation need not be incompatible with

academic activities such as the publication of academic papers.

## **Ownership of IP and the sharing of benefits**

### Staff

5. Although the legal position is inevitably complex, the University's position reflects the general law, in that, unless there are specific agreements to the contrary, the University will normally be regarded as owning all intellectual property created by University staff during the course of their employment.
  
6. However, not all IP created by staff during the course of their employment necessarily belongs to the University. There are two exceptions to the general rule set out in above:
  - 6.1. The University may, as a matter of policy, determine that particular types of IP should be vested in the staff who create them. Nonetheless, the University's capacity to waive its claim to IP is limited: partly for financial reasons, but also as a charitable body the University has to take all reasonable measures to

seek to maximise the returns on its assets (which, of course, include IP). The University has decided not to make any claim over income generated by staff from academic publications, for example received through the publication of a book or article.

- 6.2. Some IP is created during research or other third-party contracts where the agreed terms may give third parties (usually the funder) rights over some or all of the IP.

## Students

7. Where any student generates IP as part of their academic programme they will have sole ownership of this IP unless:
  - 7.1. The IP was generated as part of an activity where a third party requires ownership or co-ownership (e.g., where on a student placement a host requires ownership or where research is sponsored and the sponsor requires ownership).
  - 7.2. The student generated IP builds upon existing IP generated by University staff.

- 7.3. The student generated IP is jointly created with University staff.
- 7.4. The student is recruited on a specific understanding that due to the particular commercial or IP sensitive environment their IP position is varied.
8. Where the exceptions 7.2 to 7.3 above apply, the University will be the sole owner. However, the University is committed to sharing the benefits from the commercialisation of this ownership with the student in accordance with the framework described below under the heading “Commercialisation Process”.
9. For the avoidance of doubt where a student creates IP outside of their academic programme but has used University resources in the creation of the IP, the University may also be the sole owner. Where the University is to be the sole owner of the IP, the student:
- 9.1. May not outside of necessary use of their academic programme use, licence or transfer any of the IP they have generated without the agreement of the University. Any agreement to be given through the University’s Research and Innovation Service (RIS).

- 9.2. Will complete all necessary further steps to ensure the University can fulfil its obligated rights.
10. Where a student is to be the owner of the IP, the student grants the University a free, irrevocable non-exclusive licence to allow the University to complete its commitments to the student e.g. relating to the supervision and assessment of the student's work.
11. Whilst the University will retain ownership rights over publications containing University owned IP in line with the above, the University will not make any claim over income generated by the student from academic publications.

***Conditions of ownership, use and ownership of IP***

12. The University's conditions on the ownership, use and commercialisation of IP are designed to reflect the general position under the law: the University asserts its right to ownership and use of all IP created by staff during the course of their employment, and it likewise asserts its right to ownership and use of all IP created by staff outside the course of their employment where University resources have been used. Where the University has ownership, it

is committed to sharing rewards derived from successful commercialisation with the individuals who created that IP.

13. Against this background, the following specific conditions apply to the ownership, use and commercialisation of IP:

13.1. Except as may be provided in a contract with a third party, except in cases where an individual has been employed specifically for the purpose of producing a particular academic publication, and except where publication might result in the loss of an opportunity for commercialisation, the University freely allows members of staff and students to publish University IP in academic publications and to keep all income from those publications. (Cases of doubt or cases requiring interpretation should be referred to RIS).

13.2. Subject to 13.1 above, the University owns and therefore has the right to use without limitation all material that is created by staff during the course of their employment and any IP that is created by staff outside the course of their employment but which is based upon use of University resources.

13.3. The University when publishing IP created by staff and students will, wherever practicable, give due acknowledgement to the authorship of material.

13.4. Where the University commercially develops IP created by members of staff or students it will share a proportion of the income it derives from such commercialisation with the individuals who created that IP.

13.5. If a member of staff or student is in dispute about IP issues e.g. wishes to claim ownership of IP and that is not accepted within their Faculty they should in the first instance approach RIS. RIS will then consult with others where necessary, such as the relevant Pro-Dean for Research and Innovation. Any dispute that cannot be resolved will then be referred for resolution to a panel consisting of the Deputy Vice-Chancellor for Research and Innovation; either the Pro-Dean for R&I of the relevant Faculty or the Pro-Dean for Student Education of the relevant Faculty; a nominee of the Leeds UCU; and a lay member of the University Council appointed by the Council.

## **Commercialisation Process**



14. The support, management and commercialisation of IP that is generated through the University's research and innovation activities is undertaken on behalf of the University by RIS. All transactions that grant third parties commercial rights and/or access to University IP must be managed by RIS who will obtain appropriate University approvals for these transactions.
15. The IP commercialisation process, whether through a spinout company or IP licensing, revenue share or assignment agreements with a third party, will be progressed with consideration of the nature of the IP and the interests of the individuals concerned (hereinafter referred to as the 'inventors') and the University.
16. The University may enter into agreements with third party organisations (University Commercialisation Partners) with the aim of enhancing the promotion, support and investment into University IP commercialisation.
17. Decisions on the sharing of any benefits from the commercialisation of IP will be made within the following framework:

17.1. The inventors will be required at the outset to warrant that they and only they have contributed to the creation of the IP in question (i.e. the specific IP that will form the basis for any subsequent licence, spinout company or IP sale), and to agree between themselves the distribution of the inventors' share of any income or capital gain arising from the commercialisation of that IP. Those who are identified as inventors may include academic, technical, support and professional services staff, and postgraduate and other students of the University.

17.2. Where a financial return is generated through IP licensing, assignment or revenue share agreements the inventors and the University will share the net proceeds from commercialisation of IP (after meeting any University accrued costs)). The maximum proportion received by the inventor(s) will be 40% of net proceeds. The University will receive 60% of the net proceeds (see also clause 17.5). Where a third party (e.g. a research funder or collaborator) has the right to receive a proportion of proceeds from commercialisation of IP, unless otherwise specified, the third party proceeds will be deducted prior to the University and inventor distributions.

17.3. In cases where a new spinout company is formed to commercialise IP, the founder equity in the new spinout company will be apportioned between the inventors, founder management team and the University. The initial apportionment of founder equity prior to any equity investment will be as follows:

17.3.1. Inventors who take an active role in the spinout company will receive 50% of the founder equity.

17.3.2. Founder management will receive an allocation of between 30% to 40% of founder equity to incentivise management who join the spinout company. The apportionment of this equity will be agreed between the University, the inventors and founder management in advance of receiving any external investment, taking into consideration the requirements of the spinout company and the creation of a capitalisation table that aligns with investor requirements (including the requirements of any University Commercialisation Partners).

17.3.3. The University will receive 20% of the founder equity in 'IP-Rich' spinouts where the University has filed patent applications. For all other opportunities where patent applications have been determined not to be appropriate or required for IP commercialisation, the University will receive 10% of the founder equity. Where a formal commercialisation partner is involved in the development of the opportunity the University may allocate a proportion of its interests to that partner.

Where in addition to founder equity the University receives income through an IP licence or IP assignment to a spinout company, this income will be shared with inventors in accordance with clauses 17.1 and 17.2.

17.4. Where the University makes further investment into a spinout, either through cash or contribution of facilities or discounted services, this will convert solely into additional equity for the University.

17.5. The University's share of the net and any capital gain arising from the commercialisation of IP will, be shared with the resource area (Faculty) in which the IP was generated. The share will be determined by

the guidelines laid down from time to time by the University's Executive Group, however revenue and capital gains arising from the commercialisation of IP will in any event be subject to making a contribution to the University's Enterprise Fund and other central funds designed to facilitate the commercialisation of IP.

17.6. Any disputes about the sharing of benefits that cannot be resolved by RIS will be referred for resolution to a panel consisting of the Deputy Vice-Chancellor for Research and Innovation; either the Pro-Dean for R&I of the relevant Faculty or the Pro-Dean for Student Education of the relevant Faculty; a nominee of the Leeds UCU; and a lay member of the University Council appointed by the Council.

18. With the consent of the Dean or nominee, members of University Staff, are entitled to use IP for the purposes of carrying out consultancies in accordance with current University policy on consultancy.
19. Members of staff are expected to take all reasonable steps to ensure that the University's IP is properly protected, by working with the Research Innovation Service.

20. For the avoidance of doubt, the University acknowledges and accepts that in the case of any inconsistency, it is bound by its legal responsibilities and obligations to staff contained within the general law that cannot be varied by these conditions.

### **Visiting Academics**

21. Unless agreed to the contrary visiting academics or researchers will be treated as members of staff, in terms of any intellectual property that they develop whilst at the University i.e. the University claims ownership of IP and rewards inventors in the same manner as University members of staff.
22. Many researchers or academics who are visiting the University have access to University facilities and research information that may be confidential to a third party collaborator, or during the course of a research project where the IP arising from it is committed to a collaborator or funding body. The University needs to ensure that it acts in compliance with any terms to funding and any other agreements (such as confidentiality agreements) that have been signed with a collaborator or funder.

Faculties should have more formal procedures for visiting academics to deal with these issues. Contact the RIS contracts team for further information and advice.

## **Model Publication Scheme**

23. Staff and postgraduate researchers are subject to the University's Model Publication Scheme, details are provided at <https://www.leeds.ac.uk/freedom-of-information/doc/model-publication-scheme>.