



THE UNIVERSITY OF
WINCHESTER

INTELLECTUAL PROPERTY POLICY & REGULATIONS

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Document Author:	Professor Simon Jobson
Responsible Person and Department:	Professor Simon Jobson RKE
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Summary: <p>The University of Winchester regards the creation of Intellectual Property as an essential aspect of both its teaching and its research and knowledge exchange strategy. Intellectual Property is an asset that may have commercial value. The University has a responsibility to ensure that it is managed effectively and for the good of the University.</p> <p>The product of work carried out for the benefit of the University environment (which includes facilities, resources, expertise and intellectual assets) constitutes intellectual property that should be owned, protected and used by the University for the general good of the whole University community and these are clearly outlined in the Terms and Conditions of Academic Staff and in this Intellectual Property Policy.</p>	

INTELLECTUAL PROPERTY POLICY & REGULATIONS

1. POLICY

- 1.1. The University of Winchester regards the creation of Intellectual Property (IP) as an essential aspect of both its teaching and its research and knowledge exchange strategy. Intellectual Property is an asset that may have commercial value. The University has a responsibility to ensure that it is managed effectively and for the good of the University.
- 1.2. The product of work carried out for the benefit of the University environment (which includes facilities, resources, expertise and intellectual assets) may give rise to intellectual property rights that should be owned, protected and used by the University for the general good of the whole University community.
- 1.3. The University has no specific rules as to the payment of fees to staff or research students, in respect of IP generated, but it is expected that Deans will make such payments to staff in Faculties, subject to the approval of a Deputy Vice-Chancellor. Persons offered a reward under this system shall execute a formal agreement to enshrine the terms of the reward and their obligations. For details of the University's *Revenue Sharing Arrangements*, see Appendix A.
- 1.4. The Director of Research & Knowledge Exchange is responsible for development and implementation of the University's Intellectual Property Policy and for ensuring that the IP Regulations are known and followed throughout the University.

2. REGULATIONS

2.1 Scope

- (a) These Regulations cover Intellectual Property (IP) in all material arising from any of the University's activities whether teaching, research, consultancy, academic, professional or other, including IP created using University facilities and resources;
- (b) These Regulations cover all persons who are:
 - (i) Bound by the University's regulations in general by virtue of their employment, or
 - (ii) Under a contract (such as a contract for services or a student contract) binding the signatories to abide by these Regulations, or
 - (iii) Otherwise agreeing to abide by these Regulations specifically (which agreement may be by written contract or by conduct or by verbal indication);
- (c) The University owns IP if:
 - (i) The IP was created by a person then employed by the University in circumstances where the law presumes ownership to the employer, or
 - (ii) The IP owner has in writing assigned his/her rights to the University.

2.2 University Ownership of IP

Unless otherwise agreed in writing between staff concerned and the University, the University owns the following forms of IP:

- (a) Course and e-learning material made for University programmes;
- (b) The outcomes from research specifically funded and supported by the University;
- (c) Films, videos and multi-media productions made within the course of employment;
- (d) Literary, dramatic, musical or artistic work made in the course of employment and not brought into existence as a scholarly work produced in the furtherance of professional careers;
- (e) Patentable and non-patentable inventions, arising from University-based work or research, if the latter may reasonably be considered to possess commercial potential;
- (f) Works generated by computer hardware or software owned or operated by the University;
- (g) Computer software, firmware and related material not within 2.2 (a)–(d), but only if it may reasonably be considered to possess commercial potential;
- (h) Registered and unregistered designs, arising from University-based work or research.

2.3 Patents

The University has a contract of employment with academic staff that addresses specifically the application of the Patents Act 1977:

- (a) The provisions of sections 39, 40, 41, 42 and 43 of the Patents Act 1977 relating to the ownership of employees' inventions and the compensation of employees for certain inventions apply;
- (b) You agree that by virtue of the nature of your duties and the responsibility arising from them you have a special obligation to further the interest of the University;
- (c) Any matter or thing capable of being patented under the Patents Act 1977, made, developed or discovered by you either alone or in concert, whilst in the performance of your normal duties, or duties specifically assigned to you, shall forthwith be disclosed to the University and, subject to the provision of the Patents Act, shall belong to and be the absolute property of the University;
- (d) You shall (notwithstanding the termination of your employment) sign and execute all such documents and do all such acts as the University may reasonably require:
 - (i) To apply for and obtain in the sole name of the University (unless it otherwise directs) patent registered design or other protection of any nature whatsoever in respect of the inventions in any country through the world and, when so obtained and vested, to renew and maintain the same;
 - (ii) To resist any objection or opposition to obtaining, and any petitions or applications for revocation of, any such patent, registered design or other protection; and
 - (iii) To bring any proceedings for infringement of any such patent, registered design or other protection.
- (e) The University hereby undertakes to indemnify you in respect of all costs, claims and damages, howsoever and wheresoever incurred, in connection with the discharge by you of any and all such requests under 2.3(d)(i), (ii) and (iii).
- (f) The University acknowledges the provisions of sections 7 and 42 of the Patents Act 1977. In respect of any invention that belongs to the University by virtue of Section 39 of the Patents Act, it shall be for the University in the first instance to decide whether to apply for patent or other protection;

- (g) In the event that the University decides not to apply for patent or other legal protection, you have the right to be notified of that decision as soon as is reasonably practicable thereafter;
- (h) If, following such a decision, the University wishes you to apply for patent either by yourself or with another, you must first inform the University of your intention to do so. Within a reasonable period of time following such notification the University must tell you whether it would object to your proposed application. The sole ground for such objection is that the patenting of the invention will involve or result in the disclosure to third parties of trade secrets or other confidential information belonging to the University and that such disclosure may damage the interests of the University;
- (i) Where the University objects under 2.3(g) you hereby undertake in consideration of the payment of compensation to be determined under 2.3(i) below, not to proceed to apply for patent of the invention concerned nor to assist any other person to do so;
- (j) The calculation of compensation referred to above shall have regard to those factors set out in section 41 of the Patents Act 1977. In the event that the University cannot agree the amount of compensation, it shall be competent for either you or the University to apply to the President of the Law Society [of England and Wales] to appoint an arbitrator under the terms of the Arbitration Act 1996, whose decision shall be binding.

2.4 Copyright and Designs

- (a) The University has a contract of employment with academic staff that addresses specifically the Copyright, Designs and Patents Act 1988¹:
 - (i) Subject to the following provisions, the University and you acknowledge the provisions of sections 11 and 16 [that relate to first ownership of copyright and restricted acts] of the Copyright, Designs and Patents Act 1988;
 - (ii) All records, documents and other papers (including copies and summaries thereof) which pertain to the finance and administration of the University and which are made or acquired by you in the course of your employment shall be the property of the University. The copyright in all such original records, documents and papers shall at all times belong to the University;
 - (iii) The copyright in any work or design compiled, edited or otherwise brought into existence by you as a scholarly work produced in the furtherance of your professional career shall belong to you. 'Scholarly work' includes items such as books, contributions to books, articles, conference papers and 'practice as research', and shall be construed in the light of the common understanding of the phrase in higher education;
 - (iv) The copyright of any material produced by you for your personal use and reference, including as an aid to teaching, shall belong to you;
 - (v) However, the copyright in course materials produced by you in the course of your employment for the purposes of the curriculum of a course run by the University and produced, used or disseminated by the University, shall belong to the University, as well as the outcomes from research specifically funded and supported by the University;
 - (vi) The above sub-clauses 2.4(a)(iii)–(v) shall apply except where agreement to the contrary is reached by you and the University. Where a case arises, or it is thought a

¹ See footnote 1.

case may arise, where such agreement to the contrary may be necessary, or where it may be expedient to reach a specific agreement as to the application of the above sub-clauses to the particular facts of the case, the matter should be taken up between you and the Dean of Faculty. By way of example, this sub-clause would apply where any question of assignment of copyright or of joint copyright may arise; other examples and guidance may be contained from time to time in the Staff Handbook;

- (vii) In order to assert the University's copyright claim all relevant works owned by the University, as set out in these regulations, shall be marked by the relevant staff and/or students 'Copyright (year of creation) University of Winchester'.

2.5 Copyright of Scholarly Work

- (a) Generally, scholarly works produced solely in the furtherance of an academic career, being articles in journals, papers for conferences, study notes not used to deliver teaching and books not commissioned by the University, as well as performances, musical scores and creative writing produced for the furtherance of an academic career are not subject to the default position outlined at 2.2 above.

2.6 External Work by Academic Staff

- (a) External work that is supportive of academic professional responsibilities is encouraged by the University. Such work may be subject to these Intellectual Property Regulations. Before entering into an obligation to undertake any external work, including consultancy, staff must inform the University through their Dean of Faculty or Academic Director;
- (b) However, by way of exception, this requirement does not apply to the following:
 - (i) External examining
 - (ii) Acting as an academic assessor or moderator
 - (iii) The production of scholarly works such as books, articles, papers and 'practice as research'
 - (iv) Any other activity specified in the Staff Handbook as not coming within this requirement.

2.7 Acquisition of IP and/or Copyright by the University

- (a) The University shall have a right to acquire ownership of, on fair and reasonable terms, the physical work of any artistic works produced by staff or students, including without limitation paintings, photographs, sculptures, fabric patterns and multimedia works, but excluding musical scores. For the avoidance of doubt, the copyright in all such artistic works shall remain with the member of staff or student;
- (b) At the time of registration students may sign any necessary documents in order to give effect to the revenue sharing arrangements made by the University in Appendix A. In exchange students will, unless otherwise stated, be entitled to be treated in the same way as staff for the purposes of this policy.

2.8 Undergraduate and Postgraduate Students, and Intellectual Property Regulations

- (a) IP created by undergraduate and postgraduate students is exempt save where the University specifically negotiates and agrees otherwise (for example, work requiring use of pre-existing University-owned IP). IP rights subsisting in works created by students will be

owned by such students, subject to the terms of this policy and/or specific agreement to the contrary;

- (b) Postgraduate research students must keep secure and confidential all information and property relating to or acquired through their project; and identify to their supervisor any intellectual property that they introduce to the project and which is not owned by the student;
- (c) The IP ownership of the results of pre-defined research projects remains with the University of Winchester unless otherwise agreed at the outset of the research. Postgraduate students on such projects will be able to apply for a share of any net commercialisation benefits that might accrue to the University from products of the project if these are commercialised. Literary copyright in their submitted theses and other scholarly works remains their property, while all other IP passes to the University;
- (d) The same may also apply to projects involving the external sponsorship of a postgraduate studentship or research programme. Where this is the case, however, the institution and/or the funding body/sponsor must clearly advise the student whether or not the student retains ownership of IP at the beginning of the research candidature. Para 2.7 (a) & (b) apply to postgraduate research students.

2.9 Responsibility to Identify and Protect IP (including Duty of Confidentiality)

- (a) When undertaking University work from which IP may be expected to arise all persons bound by these Regulations must:
 - (i) Keep the nature of and matters relating to IP confidential until the fact and manner of any disclosure are agreed with the University's Research & Knowledge Exchange Centre;
 - (ii) Assist in protecting the University's rights to the IP by keeping suitable records of creation.

APPENDIX A

REVENUE-SHARE ARRANGEMENTS

Net Benefits

Subject to any agreements with external collaborators, net benefits are the remainder of all licence fees, royalties and any other monies received by the University from exploitation of the IP after deduction of the following:

- tax
- costs of travel outside the United Kingdom on business connected with the IP
- costs of raw materials and production
- costs of development
- the University's expenses of applying for and obtaining protection of the IP
- costs associated with renewing and maintaining such protection
- costs of resisting any petitions or applications for revocation of such protection and bringing proceedings for infringement of such protection including fees paid and payable in respect of such matters and legal fees
- costs of external lawyers used to set up agreements with external collaborators

Payments

The University shall pay to the creator of the IP at least twice a year a proportion of the Net Benefits on the following scale:

Net Benefit	Creator's Share	University/Faculty Share
£1 to £1,000	100%	0%
£1,001 to £3,000	75%	25%
£3,001 to £30,000	50%	50%
£30,001 to £100,000	25%	75%
£100,001 to £500,000	20%	80%
£500,001 and over	15%	85%

The University share is usually split 50:50 between the University and the Faculty.

The share of the Net Benefit to the member of staff is on a sliding scale, so that Inventors benefit preferentially early on in the lifetime of the invention.

APPENDIX B

INTELLECTUAL PROPERTY DISCLOSURE FORM

CONFIDENTIAL

IP Disclosure Form Name:	Date Received (RKE Centre Stamp)
Title of the Project:	Ref No:

In order to protect the rights of all members of staff involved it is important for the University fully to determine the facts relating to the invention, design or production of copyrightable material (including software). This Invention Disclosure Form is intended to record the invention and should be lodged with the University's Research and Knowledge Exchange Centre as soon as possible.

The information provided in this form will be treated as confidential and will be used for the sole purpose of assessing and seeking protection of the disclosed invention.

<p>POSSIBLE IPR</p> <p>Please tick relevant box</p> <p>Patents <input type="checkbox"/></p> <p>Trade Marks <input type="checkbox"/></p> <p>Designs <input type="checkbox"/></p> <p>Copyrights <input type="checkbox"/></p> <p>Confidential Information <input type="checkbox"/></p>	
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CONTRIBUTOR

1	Name	Post
Faculty		
Home Address		
		Nationality

KEY DATES

First recorded date of the IP	
Date your employment commenced with the University of Winchester	

OTHER STAFF INVOLVED

Please list all individuals whom you consider to have made an active contribution to the creation of the intellectual property. (Each contributor will be asked to complete this form individually.)

Names:

1

2

Home address(es)	1	2
Nationality		

Other students involved

1

2

Home address(es)	1	2
Nationality		
Faculty		

EXTERNAL FUNDING

Please give a detailed account of ALL external funding which has been used in connection with this or related work, including grants, contracts, studentships:

Cost code(s) (If available)	
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CONFIDENTIALITY

Please provide details of Confidentiality / Non-disclosure Agreements entered into with reference numbers / dates (please supply copies if available):

DESCRIPTION

Brief description of IP (circa 150 words):

PRIOR ART

Please give details of any earlier work of the same kind of which you know (Prior Art)
(Please included details of and/or attach copies of relevant publications with publication dates)

PUBLICATIONS / DISCLOSURE

Please provide details of any publications relating to the invention that you have or intend to make, or any other forms of disclosure (including verbal) with dates and form of disclosure:

THE INVENTIVE STEP

Please give details of the inventive step taken in the IP
Please attach 2–3 typed A4 pages giving a full description of the IP with full technical description if appropriate.

In which markets do you believe the IP will find most success?

List the three key commercial benefits of the IP:
1.
2.
3.

Do you know of any companies that may be interested in the IP? (You and other named creators should declare any conflicts of interest that may arise if the University of Winchester were to enter into a commercial agreement with any of these companies).

The information which is provided on this form will be used by the University to assess the ownership of the intellectual property rights, potential third party claims to those rights, and obligations to external sponsors. Incorrect or incomplete details could lead to litigation, the reduction or loss of exploitation revenues, or the invalidation of patent applications.

I confirm that I and the parties named are the original creators of this invention and that the above information is, to the best of my knowledge and belief true and correct. I agree to cooperate with the University of Winchester in seeking appropriate IP protection in the name of the University of Winchester and in the exploitation of this invention/design, in accordance with the University's IP exploitation and revenue sharing policies.

Signed by	Dated
Signature of the Dean of Faculty	

Upon completion please forward this form to the Research and Knowledge Exchange Centre. If you have any queries regarding the completion of this form please contact the Director of Research and Knowledge Exchange.

Appendix C

USEFUL WEBSITES AND SAMPLE CONTRACTS

Further information about IP

<http://www.ipo.gov.uk/>

Sample contracts and agreements

<http://www.innovation.gov.uk/lambertagreements/>

Own It offers free intellectual property advice for London's creative people. Useful information on website.

<http://www.own-it.org/events/>

JISC

<http://www.jisclegal.ac.uk/ipr/IntellectualProperty.htm>