

## Intellectual Property Rights (IPR) Policy: Notes and Guidance

### Preamble

1. This document provides notes and guidance for the implementation of the University of Cumbria IPR Policy (August 2016). As such this document should be read in conjunction with that Policy. <http://my.cumbria.ac.uk/ipr>
2. Reference to paragraphs from the IPR Policy will be identified in this document by the prefix 'IP'.
3. Other pertinent and related University of Cumbria documents are listed on the cover of the policy and at the end of the paper.
4. Intellectual Property Rights are valuable to the University, to the individual, the region and the UK economy and must be safeguarded.
5. IPR can be created at any time so every initiative needs to be scrutinised for its IPR implications and possible commercialisation opportunities. These should be agreed in advance and documented with relevant parties or funding bodies and written into formal agreements. Protecting IP outside the UK needs specialist attention. (Contact: University Legal Services for advice).

### What is Intellectual Property (IP)?

Intellectual Property is something unique you create. An idea alone is not IP. For example, an idea for a book doesn't count, but the words you write do.

IP can be:

- An invention
- A literary or artistic work
- A name, symbol or image used in a business
- A design

Intellectual Property can:

- Have more than one owner
- Belong to people or businesses
- Be sold or transferred

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

### Does the policy apply to all staff?

The Policy applies to all Staff employed by the University including Research Assistants

The IPR Policy also applies to personnel working off site whereby their organisation receives payment from the University for (typically) learning and teaching delivery e.g. in Schools or on secondment

### Does the policy apply to unpaid personnel?

Yes, the IPR Policy also applies to unpaid personnel who may be Honorary, or working in a voluntary capacity for the University, or on secondment to the University for example:

- Visiting Professors
- Honorary/Visiting Fellows (if the substantive work is carried out at the University of Cumbria)
- Research Fellows/Visiting Research Fellows
- Industrial Fellows

### What happens in relation to joint appointments?

Joint appointments need particular attention to ensure the IPR benefits for both organisations are preserved. This should be discussed with your Human Resources Business Partner in advance.

### What about visiting lecturers or honorary Fellows or volunteers?

The Policy applies to all personnel working with the university whether paid or unpaid. Hence the University owns the IPR generated by visiting and honorary Fellows during the course of their project or work time with the University as though they were employees.

If a person wishes to claim ownership of IP on the grounds that that IP was not generated during the course of that member's employment/relationship with the University and did not require substantial use of University facilities, he or she should in the first instance approach their Head of Department (HOD)/ Head of Service

### How does IPR apply to supplier of services?

Suppliers of goods and services to the University (including consultancy) are subject to standard Conditions of Contract for the Purchase of Consultancy and Professional Services, which sets out specific obligations in relation to IPR and can be accessed on Staff net. It is strongly recommended that advice is sought from HR before entering into such contracts to ensure that IPR is adequately protected.

### What is the basic rule to follow?

The important starting point for consideration of the management of IPR within the University is to ensure that all staff and students understand the University's position in relation to the locus of ownership. In the case of students this will be by way of information provided at the time of their admission to a course of study.

The University would normally be regarded as owning all intellectual property generated by University staff during the course of their employment, or if unpaid, during their work period with the University.

### What are the exceptions for students?

Paragraph IP 2.4 draws attention to exceptions that currently applies to students in the University of Cumbria. This relates to those who, by reason of their particular award, are subject to the IPR Policy of the validating body of that award, Lancaster University. The Lancaster University IPR Policy vests the IP generated during courses of study in the student.

Students employed by the University or working on a voluntary basis in any capacity (except student ambassadors) places them in the same position as staff,

### Are there key notable exceptions for staff?

Yes, there are two exceptions to the general rule set out in IP5.2:

a) The University may, as a matter of policy, determine that particular categories of IPR should be vested in the staff who produce them. This is determined on a case by case basis. Staff should discuss with their Head of Department and Legal Services in the first instance. The University has decided not to make any claim over income earned by members of staff from academic publications.

b) Some IPR is generated on research or other third-party contracts the terms of which may give third parties (usually the funding body in question) rights over some or all of the IP. (In practice, such third-part rights will be negotiated between the University and the funding body before the research contract in question is signed.)

### What should I understand in relation to IPR and students?

The University identifies undergraduate and taught postgraduate students as owning their own IPR generated by them as a result of their studies.

The University owns the physical format (any medium) of assignments e.g. coursework, examination scripts, dissertations, presentations, portfolio as per Academic Regulation para F3.2 in all cases except as outlined in IP2.4 of the Policy.

Creative Arts students have special dispensation to exhibit and/or display their work as outlined in section 5.10 of the policy.

See the Student FAQs for more details (available from <http://my.cumbria.ac.uk/ipr>).

### Where do we stand in relation to collaborative work between staff and students?

Where collaborative projects are undertaken with substantial academic staff input or with background IPR, IPR is shared between the University and the student. Ideally this needs to be agreed before the project commences so both the student and the University benefit appropriately.

### How do we handle IPR and our Alumni?

Articles authored by alumni of the University of Cumbria and its legacy institutions for use in alumni print publications and the alumni pages of the website will remain the ownership of the author. A letter of consent will be agreed and documented in advance that determines the right to (1) reproduce the work, (2) prepare derivatives of it, (3) distribute it, (4) perform it, and (5) display it as appropriate.

### What about Collaborative Projects and Knowledge Exchange?

IP5.12-IP5.19 sets out the position whereby projects/initiatives (commercial, charitable or educational) are run by the University with third parties irrespective of whether the University is the lead partner; the policy covers both (present and future

IPR) and the IP position needs to be agreed and documented with all parties at the outset and form part of the formal agreement (copies of the agreement to be lodged in the Vice Chancellor's Office)

### Is this different for projects with business?

Knowledge Transfer Partnerships (KTPs) and collaborative projects with businesses have three types of IP to be considered and agreed:

- Background IPR – IPR relating to the Project owned or created or developed by a party other than during the course of the Project
- Foreground IPR – IPR arising wholly out of the Project which are owned or created on behalf of a Party except for University Foreground IPR
- University Foreground IPR - IPR created during the course of the Project by the University without contribution by the KTP Associate or Company

### Who owns what type of IPR?

**Background IPR** – remains with the party introducing it to the Project.

**Foreground IPR** remains with the party producing it.

**University Foreground IPR** – this remains with the University, unless the University agrees to share this.

Rights to University Foreground IPR will be granted for use in the field but the partner/Company is not permitted to issue a sub licence without permission from the University. All to be treated as Confidential – i.e. not passed to a third party without permission.

(In a collaborative agreement with a company, the company may own or licence the IP, but the University would normally retain the right to use it for teaching and research).

### Where can I find out more about working with business?

The Lambert IP Toolkit has been produced to aid Companies and Universities wishing to undertake collaborative research projects – it contains model agreements, decision maps and pro-forma, see toolkit and guidance at

<http://www.gov.uk/guidance/lambert-toolkit>

### Does the policy explain the different types of IPR Protection?

Yes, in summary, examples of IP protection include patents (of particular products or processes), copyright (of particular publications), performance rights (of particular creative works), design rights (of particular product designs or creative artefacts) and trade marks (of particular products or artefacts).

Appendix 1 of the IPR Policy provide guidance on categories of material covered by the IPR Policy.

Some forms of IP protection are automatic (e.g. copyright), others must be applied for.

### Is the contract of employment for academic staff clear about IPR?

Yes, the contract of employment provides clear policy guidance on patents and inventions, and copyright. Contact your HR Business Partner for further information.

### How does the IPR policy treat 'publications'?

Publication is the means by which staff or students of the University put their individual IP, in the public domain in any format. Publication, here, is used as a generic term to refer to any appropriate means be it written, oral, visual or aural as may be identified by the following examples:

- Paper for a conference, seminar or workshop
- Publication – journal, book chapter, book etc. (paper-based or recognised electronic distribution)
- Exhibition/Performance/Broadcast or other public delivery
- Report for internal audience or external agency

For publications that are individually owned by the authors, the University should normally be accredited as the host institution.

### How do I use Creative Commons Licences to protect publications?

The process of 'publication' or "product launch" such as developing software– placing the IP in the public domain - makes that IP available to others and as such it can no longer be subject to restrictions on its exploitation unless protected for example by use of a creative commons licence or copyright statement e.g. "© The University of Cumbria". This is strongly advised.

Please contact Director of Library and Student Services (LiSS) for advice about the use of Creative Commons Licences and their recording in the University. More information: <https://creativecommons.org/licenses/>

### Safeguarding IPR – what are our roles and responsibilities?

The collective Intellectual Property of the University is one of its most significant assets. As a publicly funded, charitable organisation the University is obliged to seek to maximise the return on all its assets.

The University, therefore, encourages active identification of commercially viable IP, suitable protection and robust exploitation to the mutual benefit of the University, its students and staff.

Staff, (paid or unpaid), or students who believe that they may have or are developing intellectual property that may be exploitable must thus make themselves aware of their obligations under the IPR Policy and ensure that that intellectual property is safeguarded.

### How early should I discuss IPR and with whom?

In such circumstances staff are advised to share their thoughts regarding the potential for commercial exploitation of IP they may generate with their line manager in the first instance. Staff should be prepared to help students who approach them with viable ideas for enterprise and using generated IPR.

If there is a view that some potential may exist, then this should then be shared with the Executive Dean/Head of Service as appropriate to consider a strategy to safeguard the IP and agree an approach to exploitation. It would be appropriate at this juncture to alert the University Registrar and Secretary and the University's Enterprise Leads who are responsible for University enterprise activity.

### Why is timing important?

An important aspect of safeguarding potential IP, especially where it may involve patents, inventions or specific copyright materials is to ensure that the material does not enter the public domain before it is appropriately safeguarded.

Do not disclose your IP to third parties without first establishing confidentiality and disclosure agreements (in advance of conducting, research, consultancy or enterprise activity).

### How does IPR relate to teaching materials?

Reference to the statements on Copyright contained in the contract of employment identifies the position regarding teaching materials.

Where material is produced by a member of staff that can be considered to be course material in any format, then the IP belongs to the University. Where support material is produced and used by a member of staff to support themselves in the delivery of a course e.g. Lecture Notes/Outlines then the IP is vested in the member of Staff.

### Is the policy in relation to e-learning materials different?

Where staff produce material for an e-learning environment then such material is considered as course material and the IP belongs to the University. Such materials may consist of whole e-learning programmes or small components of programmes that may be available to students through Blackboard, for example or some other electronic learning environment (synchronous or asynchronous).

Although examples of successful commercial exploitation of such e-learning materials are few, it is incumbent upon the University and the member of staff to safeguard such potential for exploitation by developing an IP plan in the early stages and sharing this with Legal Services in advance.

### What is the position for IPR and Research and Scholarship?

Where the research of staff of the University falls under the Copyright provisions identified in the Academic Staff Contract, Paragraphs 17.3 and 17.4, then the individual member of staff has ownership of the IP of that 'scholarly activity' and any income arising from its 'exploitation' through publication. Such 'scholarly activity' is

most usually in pursuit of academic and/or pedagogic interests of the individual as supported by the University. That ownership of IPR by the individual staff in these circumstances is an active expression of the University of Cumbria's position on academic freedom. It is possible this needs a clear explanation without cross-referencing back.

Employees of the University need to be aware of circumstances where conflicts of interest in the ownership of IPR may arise and the implications in such cases and seek timely guidance from University Legal Services.

#### Who is responsible for the storage of materials that may generate IP?

Secure storage of materials (data, reports etc.) that may arise in the generation of IP is the responsibility of the Department/Research Centre/Service that generates the material and the individual staff in that Department/Centre/Service and in the case of students the students themselves using secure University systems.

Where dispute arises which cannot be immediately resolved, for example, between the author of a report and the Department/s for which the report has been generated, then the material may be lodged with the Research Office, as an independent location.

#### Where can I seek further guidance?

Further Guidance is available The Intellectual Property Office have produced an overarching and easy to read guide for Universities which is recommended reading <https://www.gov.uk/government/publications/intellectual-property-for-universities>.

The JISC IPR toolkit also provides a clear overview of IPR see <https://www.jisc.ac.uk/guides/intellectual-property-rights-in-a-digital-world>

Staff and students should take the IP quiz at: <http://www.ipos.gov.uk/blogs/iptutor/>

#### Who should I consult with internally?

Any comments on the IPR Policy or IP enquiries can be sent to Director of LiSS.

## Appendix 1

## Categories of Material covered by the IPR Policy

1. The following is a non-exhaustive list of examples of material to which the IPR Policy may apply:
  - Inventions
  - Methods, protocols, surveys, procedures etc.
  - Reports produced specifically in response to external funding or support
  - Registered and unregistered designs, trademarks, plant varieties
  - Databases, computer hardware, computer software and other related computer material
  - Material generated by computer hardware and software owned or operated by the University
  - Online learning content specifically commissioned by the University
  - Films, videos, arrangements, field and laboratory notebooks
  - Multimedia material
  - Any work created with the aid of University facilities
  - Material commissioned by the University not covered in any other category
  - "Know-how", ideas, data and information associated with any of the above.
  
2. It would be normal to exclude the following teaching materials from the policy's application, except if specifically commissioned by the University and except for broadcast and copyright in respect of audio, visual or multimedia material within teaching material:
  - Lecture notes and preparatory materials for personal use
  - Audio and visual aids used in face-to-face teaching of students
  - Handouts, reading lists and other information provided to students
  - Any other materials used in face-to-face teaching of students

It would also be normal to require creators of these teaching materials (who would own the IPR) to grant the University a non-exclusive, royalty free licence to use the teaching materials. Equally, the University could require the creators to remove all references to UoC from any teaching materials if they are used outside the University (or seek University's permission to use the name brand and logo.)

3. It would be normal for the University not to claim ownership of copyright (a specific form of IPR automatically vested in creators of certain creative works) in material created by its staff and students such as:
  - Artistic works (including paintings, sculptures, photographic works etc)
  - Text and artwork for publication in books
  - Articles written for publication in journals



- Plays
- Papers to be presented at conferences
- Oral presentations at conferences
- Posters for presentation at conferences
- Theses and dissertations
- Abstracts
- Lyrics
- Musical Composition

The University could also claim the copyright if the staff member or student was specifically commissioned to create the particular work.