

# Intellectual Property Policy for Students



**Harper Adams  
University**

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# Intellectual Property Policy for Students

## Introduction

The University regards the creation of intellectual property as central to its core purpose as an institution carrying out research, learning and teaching for the benefit of both the public, individuals and itself. Intellectual property has the potential to create a revenue stream, to enhance the reputation of the University and to promote new knowledge for the benefit of individuals, the public, the county and further afield. As a result, the treatment of intellectual property is important to the University and this policy seeks to outline the way in which it will be dealt with at Harper Adams University.

## Definitions

1. **Intellectual Property (IP)** is the term given to the productions of original intellectual or creative activity. Intellectual Property Rights (IPR) are the legal rights that exist in those productions. IPR include the following related areas: copyright, patents, designs, trademarks, plant variety rights, database right and analogous rights.
2. **Copyright** is an unregistered intellectual property right, which arises automatically by operation of law in the UK when a protectable work is created by a qualifying author, and there is no registration required. A copyright work must be original.
3. **Moral Rights**, in the context of intellectual property, these are the right to be acknowledged as the creator of a particular work and also the right to object to derogatory treatment of that work.

As a general principle Harper Adams University ('HAU') recognises that each Student is the owner of the Intellectual Property he/she creates in the course of his/her studies, subject to the following exceptions:

Undergraduate or Postgraduate Students employed, sponsored or funded by third party organisations, (wholly or partly) where a specific agreement related to ownership of IP generated by the student has been agreed by all relevant parties;

Students undertaking a wholly or partly sponsored project or placement;

Where the IP is generated as a result of collaborative work, for example with other students, or with members of staff (or where the work being undertaken derives from the IP of staff or HAU). This also includes situations where academic staff have developed research project titles and students have decided to take up an opportunity to work with a member of staff or a team of staff on such a project that the staff have created for this purpose;

Students studying on modules which have as a primary or substantial purpose, the creation of IP;

Research Students fully funded by HAU;

Students making significant use of HAU resources to develop IP outside coursework. In these cases students may be required to reach agreement with HAU on IPR ownership.

Other exceptional circumstances which may apply.

In the circumstances of a-g, the ownership and exploitation of the IP will either be governed by a pre-existing agreement which takes precedence over this Policy, or an agreement between the parties will be required governing ownership and exploitation. In these circumstances, HAU will work with the

student/s in question to try to ensure that where possible, the scope of any assignment of their rights is restricted as much as possible and their involvement in any IP generated is acknowledged or, where applicable and possible, any revenue generated from the IP is shared (taking proper account of costs as appropriate) with the student as appropriate in accordance with this policy.

### **What should you do if questions of IPR in your work arise?**

Consult your Supervisor or Head of Department in the first instance, who will seek guidance, as appropriate, from the Research Office, the University Secretary or the Deputy Vice-Chancellor. If you are unsure if there is an IPR issue, then you should consult as appropriate.

### **What are the HAU's rules and procedure for dealing with IPR in students' work?**

- i. For the avoidance of doubt, any Intellectual Property created by an undergraduate purely in a personal capacity and without any use of HAU's facilities and/or resources, will be owned by the student.
- ii. Ownership of Intellectual Property created by postgraduate students is primarily determined by the source and conditions of their funding. Externally funded postgraduate students shall inform the Research Office of any relevant funding terms and conditions prior to their first registration as a research postgraduate or as soon as any external funding conditions are available whichever is the sooner
- iii. Where research is funded by research grants or industrial sponsorship there will often be an expectation from funders that arising IP will be protected and where possible commercially exploited. Consequently, the student may be requested to sign an agreement relating to confidentiality and IP prior to being allowed to commence work on any project. The confidentiality provisions will not affect the ability of the student to submit a written project report or other academic work arising from the research for examination. Where a Non-Disclosure Agreement (NDA) is also part of any IP arrangements, the NDA agreement must be signed by the students as well as by University staff/ representatives of the funding organisation
- iv. Ownership of IP in a student project that is sponsored by an external organisation must be covered by the terms of the research contract between the sponsor and HAU, and students must be informed of the terms of that contract by the project supervisor or Head of Department at the start of the project and may be required to sign the contract to confirm that they have read and understood the same. If the research contract involves ownership of IP by the sponsor, students will be required to sign a formal agreement along with HAU to confirm the arrangements (as above, this agreement may also deal with issues such as confidentiality). The Research Office shall be responsible for such agreements.
- v. Where a student (whether a PhD, taught Post-Graduate or undergraduate) makes a pre-agreed substantive inventive contribution to IP which is later the subject of commercialisation by the University which generates revenues to HAU, then he/she may be entitled to a revenue share, subject to the accounting for costs, in accordance with this Policy.
- vi. Where commercialisation appears to be a possibility, all students and staff are advised to maintain confidentiality of any IP until an appropriate assessment can be made on the commercial value of the IP and where appropriate, an application for protection of the same has been filed.
- vii. Academic Departments are required to have adequate procedures for ensuring that IPR arrangements are implemented in a proper manner.
- viii. HAU may require the right to borrow, for a reasonable period of time, the physical work in any works produced by students, and/or a suitable reproduction of these works, for the purposes of publishing these works in publications by HAU and its staff, and/or for the purposes of showing these works to professional statutory bodies for the validation of appropriate degree programmes. In this event HAU will seek the permission of the student to this use. In displaying and borrowing student works HAU will have regard to the students' Moral Rights and will provide for appropriate notice of authorship. If this is not practical, then a waiver of these Moral Rights will be sought.

A proforma for the recording of IP arrangements for Undergraduate and Postgraduate projects has been developed and is available from research project co-ordinators or project supervisors. Students should contact the relevant Departmental Office if they are unsure which member of staff they need to speak to.

## **Rules & Regulations**

Where any Intellectual Property is not attributable solely to a student and involves either shared Intellectual Property or Intellectual Property generated in line with the specific exceptions set out above, the procedure for calculating and distributing the sums payable to individuals and departments is set out below.

Where a student has generated Intellectual Property that, in accordance with these regulations and/or operation of law, vests in HAU and is capable of commercial exploitation, they shall report its existence to the University's Research Office in accordance with the procedures set out by HAU from time to time.

In addition to any personal Moral Rights that a student may have in respect of his/her copyright works, HAU undertakes to appropriately acknowledge the authorship and inventorship of its students in respect of Intellectual Property to which it holds title.

The personal use of HAU related trademarks, logos, devices, acronyms, initials and other such representations or their likeness, whether graphically or in some other form, specifically, but not exclusively, in the registration of domain names, authoring of websites and use in other electronic media, is strictly prohibited, save where explicitly authorised in advance by HAU.

Where it is decided to seek exploitation of shared Intellectual Property, the University Secretaries Office or Finance Office will manage the process in accordance with good practice and in an open and transparent manner. The student involved shall provide all reasonable assistance in the exploitation process by, for example, providing information promptly on request, attending meetings with potential licensees, and advising on further development. HAU may consult on a confidential basis with appropriate experts in the subject matter of the Intellectual Property in question in order to assist with assessment of the innovation and its commercial potential.

In the event that HAU decides not to further commit HAU to the protection or exploitation of any Intellectual Property as it may have claim to, the rights embodied in such Intellectual Property may be assigned (on terms to be agreed) to the student in question, conditional upon provision for reserved further use of the Intellectual Property in the research and teaching courses of HAU.

## **Dispute Resolution**

Should a student be unhappy with a decision made with regard to the sharing of income from the exploitation of Intellectual Property created or partly created by them, they shall have the right of appeal to the Deputy Vice-Chancellor or the Vice-Chancellor. Any such appeal should be made in writing.

The Deputy Vice-Chancellor or Vice-Chancellor will normally make his/her decision within 30 working days of receiving the appeal and shall inform the student in writing of his/her decision.

Where a student does not agree with the decision of the Deputy Vice-Chancellor or the Vice-Chancellor, they shall have a final right of appeal to the Vice-Chairman of the Board of Governors or the Chairman of the Board of Governors. Any such further appeal should be made in writing. The Vice-Chairman of the Board of Governors or the Chairman of the Board of Governors will normally make his/her decision within 30 working days of receiving the appeal and shall inform the Creator in

writing of his/her decision. This decision of the Vice-Chairman of the Board of Governors or the Chairman of the Board of Governors is final and there is no further right of appeal.

## **Revenue Sharing from Exploitation**

In cases where shared Intellectual Property arises and there is a right to sharing of revenue under this policy, should a surplus revenue be generated, after accounting for costs, then the benefits will normally be shared with the originator of the Intellectual Property on the following basis;

- a. The first tranche of any income each year will be used by HAU to recover the costs of exploitation e.g. patent fees, legal fees, administrations costs, development costs and any other costs that can reasonably be shown to have arisen out of the work that has led to the creation of the Intellectual Property.
- b. Any surplus beyond a. above, will normally be shared according to the following formula;
  - Originator 40%
  - Department in which IP was created 20%
  - HAU Central Funds 40%

If Intellectual Property is created by more than one student then an appropriate share of revenue will be agreed.

May 2016

*Reviewed June 2019- no changes required.*