

UNIVERSITY OF ABERDEEN

POLICY ON INTELLECTUAL PROPERTY, EQUITY AND REVENUE SHARING

Prepared by the Intellectual Property Exploitation and Revenue Sharing Policy

Task & Finish Group (TFG), 2023-24.

Last revised September 2024 and supersedes any previous versions of policies relating to Intellectual Property, Equity and Revenue Sharing at the University of Aberdeen.

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Introduction

University staff and students generate intellectual property from many of their activities in research, teaching and knowledge exchange. Our policy for Intellectual Property, Equity and Revenue Sharing is set out within this document. This policy, as approved by the University Court, puts in place mechanisms to cover all aspects of intellectual property rights, equity and revenue sharing. Definitions of terms used in the policy are provided at Appendix 1.

Policy Remit

The protection and exploitation of intellectual property created by University staff and students is a means by which the University may generate impact from research or income for investment and reward of staff and student inventors and creators. This policy sets out how the University supports the exploitation of intellectual property, taking into account the University's charitable purposes, the fair treatment of staff and students who have developed intellectual property and the Academic Schools and Directorates that support them.

This policy is intended to:

- Encourage staff and students to be inventive and creative and to consider the potential impact available from intellectual property arising from research, teaching, and knowledge exchange activities;
- Promote the successful exploitation of intellectual property;
- Encourage knowledge exchange and commercialisation to meet regional and national objectives for economic impact;
- Support the development of intellectual property by providing a fair and equitable reward to inventors and creators;
- Create income for the University which may be used or invested to support its activities;
- Clarify the University of Aberdeen's position on Scholarly Works, Teaching Materials, Open Educational Resources and sharing of copyrighted materials for the generation of impact; and
- Operate alongside other policies and guidance including, but not limited to the [Code of Practice on Conflicts of Interest in Research and Knowledge Exchange Activities](#) and Consultancy, [Copyright](#), Lecture Recording and [Research Publications](#) Policies. All of these policies are available in the [Policy Zone](#).

This policy may be updated and/or amended by the University from time to time. Should this policy be changed, the policy in force at the time of the University first taking action to protect (or, in the absence of formal protection, to exploit) intellectual property rights will be that which applies to income sharing.

This policy does not cover Consultancy, Academic Initiated Collaborative Research or Contract Research (all as defined in the [Costing and Pricing Policy](#)).

Ownership of Intellectual Property Rights

Under the *Patents Act 1977* and *Copyright, Designs and Patents Act 1988*, the University owns the intellectual property rights generated by its staff, provided that these are developed in the course of their normal or specifically assigned duties (and in some other circumstances), as per an individual's contract of employment, relevant University policies and exceptions included in the Acts. This applies to all staff, including academic, academic-related and technical staff. In certain circumstances, as outlined in this Policy and in other policies referred to in this Policy, the University allows its staff and students to own intellectual property rights that they create even when these are developed in the course of their duties.

The University requires postgraduate research students to assign their intellectual property to the University upon registration. However, postgraduate research students may request to opt out of this assignment at any time, noting that agreement from their supervisors is required.

Generally, undergraduate and postgraduate taught students will own intellectual property created during the course of their studies unless the University requires assignment of intellectual property for reasons such as working on projects devised by staff or projects involving industry partners.

As an employer, under the *Copyright, Designs and Patents Act 1988*, and other applicable legislation, and as part of our charitable aims to protect intellectual property dedicated to public benefit under the *Charities and Trustee Investment (Scotland) Act 2005*, subject to third party agreements entered into by the University, the University of Aberdeen asserts its right over all intellectual property created by its staff and postgraduate research students. This includes inventions, software and works created for promotional, administrative and academic (including research and teaching) purposes in the pursuance of their normal duties or duties assigned to them under their contract of employment or study prescription. Under the *Copyright, Designs and Patents Act 1988*, this also includes literary, dramatic, musical or artistic work (e.g. film) but excludes performer's rights. In relation to performer's rights, the Lecture Recording Policy takes precedence over this Intellectual Property, Equity and Revenue Sharing Policy. Activities occurring and materials created outwith the course of duties of employment or study and without significant use of University materials and resources are not included.

Approach to Intellectual Property

The University fosters a spirit of entrepreneurship among its staff and postgraduate research students, assisting and supporting commercialisation of intellectual property, including through spin out companies. Commercialisation of intellectual property can create a valuable source of unfettered income. While the University of Aberdeen asserts its right over all intellectual property created by staff and postgraduate research students in the course of employment or study, it wishes to reward inventors and creators, as well as Academic Schools and Directorates. This is in line with the University's protected charitable status obligations and aims, its status as an anchor institution in the northeast of Scotland, and in recognition that inventors should receive financial reward for their activities relating to commercialisation and spin outs, alongside our key aims of generating jobs in the economy and wealth within the University. We actively encourage our staff and postgraduate research student inventors who bring forward new inventions and developments and promote responsible innovation, equality, inclusivity and impact.

The University recognises that a delicate balance will need to be struck between its efforts on the one hand to incubate and support new ventures, and on the other to protect its position and reputation. The University will be involved, in circumstances where a spin out company provides a credible route to develop a new technology, in the generation of new spin out companies to develop technology. The appropriate protection and commercialisation of the University's emerging intellectual property will be established in conjunction with inventors. Staff and postgraduate research students should be aware that the ability to patent inventions may be adversely affected by the prior disclosure (either in spoken, printed or electronic form) of the invention in question. With respect to such registerable intellectual property, patenting and commercialisation possibilities, staff and students should contact [Research & Innovation](#) at the earliest opportunity.

Commercialisation of Research

The two main routes through which the University may become involved in staff and postgraduate research student commercialisation activities are identified as:

1. Setting up a new or spin out company which develops and commercialises a specific package of intellectual property, under licence from the University. A spin out company is defined as a company which is set up specifically to commercialise a particular University-supported technology and in which the University has an equity stake; or
2. Licensing intellectual property rights to an established company.

Spin Outs

The final approval for the University's involvement in spin outs rests with the Start Up and Spin Out Panel (SUSOP). The University may consider a spin out company as an appropriate route in the following situations:

- When staff members and/or postgraduate research students wish to commercialise an invention, know how or expertise by developing and commercialising a product or service and have received permission from SUSOP and their Head of School(s), and in the case of current postgraduate research students/postdoctoral researchers their supervisors/academic line manager or other designated manager or grant holder;
- When a third party (such as an investor or other funder or staff member/student) wishes to commercialise an invention or technology and where the inventors have no aspirations to play a lead role in the spin out then SUSOP may approve the creation of a spin out company as the best method of commercialisation. In this case, the inventor(s) may still wish to have a technical role in the company;
- When the University has identified an activity which it considers to be highly commercial but carries with it an unacceptably high level of liability; or
- Where the University has identified a number of complementary technologies, either within the University or from other third-party sources, which together may provide the basis of a new spin out company.

The intellectual property required for a new spin out will normally be licensed to the company and the licence terms negotiated by Research & Innovation on behalf of the University. In all circumstances, the University reserves the right to be represented on the Board of the Company. The University will not be obliged to provide any administrative or financial services to any spin out company once set up and, except under exceptional circumstances, will not do so. In addition, the University will have no involvement in the routine running of the company, other than where the founders have received specific permission, and an appropriate secondment or consulting agreement is put in place enabling a member of staff to provide an executive or other role within the company.

Software

In the event that a Staff member, in the normal course of their duties, or the University contemplates and enacts commercialisation of intellectual property in software, the University asserts its rights of ownership in the software and any inventions contained therein, subject to the University's income-sharing policy with the author(s)/creator(s) of the software and the rights of third parties.

Staff should seek to protect intellectual property produced under the aegis of the University, either through the use of a copyright statement ("©[year]The University of Aberdeen"), a Creative Commons licence or through an open-source agreement, and are required to exercise appropriate care in abiding by their legal protocols. Research & Innovation will provide advice on methods for protection of software.

Equity

The University will seek an equity stake in a new spin out company (all cases). Equity splits identified via [TenU's University Spin-out Investment Terms \(USIT\) Guide](#) and the [HM Treasury Independent report on university spin-outs](#) can be used as a starting point for life sciences spin outs (10-25% University equity) with exact terms varying depending on the wider commercial deal and the support provided by the University prior to spin out. In the case of start-ups involving unregistered intellectual property or academic expertise only, often focused on software, stakes could be lower (between 5-10%). The University will not require anti-dilution provisions, allowing investors to dilute the University's share/interest pro-rata with other equity holders.

The University equity stake in spin outs will be negotiated on behalf of the University by Research & Innovation, based on the principles above and the agreement on terms will be documented through heads of terms with final approved required from SUSOP.

In advance of approaching investors or other funders, the University (through Research & Innovation) and the spin out founders should agree upon the initial equity split in the spin out. Founder shareholders (whether equity is held personally or on their behalf by the University) will be required to sign a waiver to any future revenues which the University may derive from its share of the equity in the new company or from royalty income from a technology licence to the spin out.

All income derived by the University from its subsequent sale of the equity, or from any licensing income associated with the licence of technologies to the spin out, will be retained by the University and will not be shared with the founding shareholders, subject to rewarding any non-shareholder inventors or contributors. The justification for this position reflects the investment the University has made in its human resources, physical and digital infrastructure, and other support in the development of the intellectual property, and demonstrates to the new company that the licence to its intellectual property has a value. The final approval for the University's equity position in spin outs rests with SUSOP.

In cases where the inventors do not become involved in the spin out company that is directed at the commercial exploitation of their invention, there are two mechanisms under which they may be rewarded:

1. Either the inventors may acquire an equity stake in the company and benefit in the same way as other shareholders (usually through sale of shares or from dividends); or
2. They will be eligible for a share from the University of any revenue derived from the University's equity holding.

It is important to note that option 2 will only be available providing that the total equity held by the University does not provide a controlling interest to the University (in most cases the spin out will be classified as a Small and Medium-Sized Enterprise under the requirements in force at the time of spin out).

Revenue from Licensing

Net income from licensing or sale of technology (i.e. after all third-party intellectual property protection costs have been met) is shared with the inventor(s), and with the Academic School(s)/Directorate(s)¹ where the inventor is based, with the remainder retained centrally by the University. The inventor's share may be taken as a personal reward, in which case it is subject to income tax and National Insurance and, where applicable, pension payments, or it can be placed into a nominated account according to the normal University procedures for discretionary funds in line with University financial regulations. Academic Schools and Directorates may do the same.

¹ Or Directorate(s) if the inventor(s) is(are) a member of Professional Services staff.

The distribution of royalties from licences to third party companies will be as follows:

	Up to £5k	£5k-£25k	£25k-£100k	£100K - £1M	>£1M
Inventor	100%	60%	50%	40%	33%
Academic School/Directorate	0%	20%	25%	30%	33%
University	0%	20%	25%	30%	33%

Notes

- *The distributions above do not apply to royalty or other commercialisation income from spin out companies paid to the University, since in this case inventors and contributors are normally rewarded through equity in the spin out.*
- *Royalty amounts are cumulative – as an example if, after cost recovery if applicable, the first royalty paid is £2.5K, then 100% of that will be the inventor's share. If the next payment is for £6K, then 100% of the first £2.5K is the inventor's share (to make a total of £5K) and of the remaining £3.5K, 60% of that is the inventor's share.*
- *VAT paid by the licensee will be deducted prior to any distribution.*
- *Payments to inventors as personal reward are subject to income tax, National Insurance and pension payments (where applicable).*
- *The University may recover expenses involved in commercialising the technology prior to any distribution, with the decision made on a case-by-case basis dependent on level of expenses.*

Register of Inventors and Contributors and Distribution of Revenue

A Register of Inventors and Contributors to licensed technologies will be held by Research & Innovation. Inventors and founders must assert the fact that they have considered all potential personnel (staff and students) who qualify as inventors or contributors to the development of the licensed technology. This is required in order that all inventors or contributors to technology licensed to a company (spin out or third-party company) may be rewarded according to contribution.

Any third-party (non-spin out) licensing income to the University will be distributed according to the table above. Where the University receives income from a sale of the equity in a spin out, distribution of revenue will be at the discretion of the University, and will normally be distributed on the advice of SUSOP (according to its remit and any further approvals required) as follows:

- a proportion will be available for non-founding staff participants;
- a proportion will be available to the Academic School(s)/Directorate(s) from where the activity arose; and
- the remainder to be retained and managed centrally for strategic purposes, including support for further commercialisation activities, according to the University's charitable aims.

Permissions and Responsibilities

Staff and postgraduate research students who wish to become involved in commercialisation activity through spin out companies must first obtain the support and backing of the University through their Head of School and SUSOP. All of the parties involved in spin out and commercialisation activity must recognise the potential for 'conflict of interest' and must undertake to take advice on this important issue as appropriate and ensure that they adhere to the University's [Code of Practice on Conflicts of Interest in Research and Commercialisation](#). In addition, all founders involved as a shareholder in a new spin out company must recognise that they have a responsibility to take their own legal and financial advice at their own cost.

Research & Innovation may assist the company to raise grant funding for the new venture and aid the evolution of business plans with a view to attracting venture capital funding. In certain circumstances, it will be appropriate for the individual member of staff's contract of employment to be amended for the individual's involvement in the spin out company (or alternatively a charge levied on the company). This will be co-ordinated by Research & Innovation and Human Resources but will require Head of School approval. SUSOP will consider the proposal and business plan relating to the new company and will provide the final approval.

Non-Commercial Use of Intellectual Property

The following section provides information on the use of University intellectual property for non-commercial purposes. The University recognises that impact from research, teaching and knowledge exchange activities may be obtained by making intellectual property freely available. However, all staff and postgraduate students must be aware of the potential for third-party rights over the intellectual property they create.

Scholarly Works

'Scholarly Works' refers to the dissemination of research findings and outputs through publication in academic journals, monographs, book chapters, briefing papers, the publication of software for research purposes, postgraduate research theses and the like, whether paper-based or electronic, and through presentation at conferences, exhibitions and events. The University recognises and supports the importance of Open Access publication and staff are advised to review the Rights Retention Policy with regard to copyright in Scholarly Works.

The University welcomes and encourages the production and dissemination of Scholarly Works. With reference to Scholarly Works, the following terms and conditions apply:

1. Subject to third-party agreements entered into by the University, and the clauses below, the University of Aberdeen waives its rights of ownership of copyright in Scholarly Works. This means that copyright is owned by the author(s)/creator(s) of the Scholarly Works in question and that staff (in consultation with co-authors and co-creators) are free to enter into publication contracts with external bodies but are advised to take advice where necessary before doing so.
2. Staff grant the University of Aberdeen a perpetual, royalty-free, non-exclusive licence to their Scholarly Works to use, copy, publish and distribute for academic (i.e. research and teaching), promotional and administrative purposes including for archival and open access requirements.
3. In the event that a member of staff wishes to publish a Scholarly Work under the protection of the University,² they shall return copyright ownership to the University, subject to the University's income-sharing policy (outlined in this Policy) and any relevant third-party agreements. This may require a formal assignation in some cases. Subject to any third-party agreements, their moral rights are not affected.

Teaching Materials

'Teaching Materials' refers to any teaching materials in any format (including e-learning environments) created specifically by staff for the purpose of:

- use by students in the course of their studies at the University of Aberdeen; or
- teaching and learning for and by University staff members of the public or third-party organisations; or
- administration, promotion or examination during teaching and learning.

² In this situation, the University will undertake responsibility for entering into legal agreements.

Unless sponsored by a third party, and subject to the terms of the Lecture Recording Policy, Teaching Materials created by staff of the University within the course of their duties shall belong to the University, subject to the University's revenue-sharing policy with the author(s)/creator(s) if Teaching Materials are used for commercial purposes. As specified in the Lecture Recording Policy, staff retain ownership of their performer's rights when lectures are recorded.

Staff making Teaching Materials (or other training or support materials) freely available as Open Educational Resources or the like are advised to use licences such as Creative Commons licences to enable and control use of this material.

Subject to third-party agreements, the University grants the creator(s)/author(s) of Teaching Materials a royalty-free, non-exclusive, worldwide licence to use them (or jointly by them with other University staff) for non-commercial teaching and research purposes for as long as they remain staff of the University.

Staff leaving the University may request, in the first instance from their Head of School, a copy of Teaching Materials created by them for personal use and for non-commercial research and non-commercial teaching. Permission may be granted, withheld or withdrawn by the University but will not be unreasonably withheld or withdrawn.

Staff should be aware that Teaching Materials are often created collaboratively and permission from joint creators of Teaching Materials must be obtained prior to use of materials created by other members of staff.

Where Scholarly Works (i.e. publications) arise out of the practice of teaching and learning at the University, they shall be regarded as Scholarly Works as above.

Subject to third party rights, the University waives its ownership of open-source software created by Staff for teaching purposes. Staff creating open-source software for teaching purposes should be aware of the conditions imposed by open-source publication.

Confidentiality

The University of Aberdeen's status as a charitable educational institution involves an obligation on the part of all staff to ensure the dissemination of research and teaching knowledge for the public benefit, and to protect the intellectual property they create for the public benefit. All staff of the University of Aberdeen are required to ensure they engage appropriately with the data, information and intellectual property obligations of the institution as a whole, and as laid out in the legal statutes of the *UK GDPR* and *Data Protection Act 2018*, the *Patents Act 1977*, *Copyright, Designs and Patents Act 1988* and the *Charities and Trustee Investment (Scotland) Act 2005*, amongst others. These include:

Personal and Sensitive Data on Individuals and Groups

- All staff of the University are required to observe confidentiality regarding the special category personal data of staff and students,³ and their criminal records data, most particularly in dealings with third parties outwith the University (such as in the case of professional or employment references), unless that information is released for that purpose by the student or staff member in question, or under the instructions of a court order.
- Staff are advised that they should be aware of and maintain confidentiality consistent with their duties under the relevant professional codes of their status.

³ The UK GDPR defines special category data as: personal data revealing racial or ethnic origin; personal data revealing political opinions; personal data revealing religious or philosophical beliefs; personal data revealing trade union membership; genetic data; biometric data (where used for identification purposes); data concerning health; data concerning a person's sex life; and data concerning a person's sexual orientation.

- Staff are required to maintain the confidentiality of those aspects of research data classified as such by the ethics committee relevant to their work, unless instructed to reveal that data by law or by a requirement of a regulatory body.

Intellectual Property

- Staff are required to maintain the confidentiality of all intellectual property intended for commercialisation generated by staff and students within the University, unless it has been rendered public elsewhere or permission granted by the owner of the intellectual property. In particular, where it has been created and is intended for commercialisation, staff are required to keep data, results, electronic files, software, notebooks and the like (whether their own or that of another member of staff or student) confidential from third parties unless instructed to do so by the University or required to disclose by law or by a requirement of a regulatory body.
- Staff are advised to make all registerable intellectual property-related information known to the University, either through their Head of School or through the University's Research & Innovation team. Staff are reminded that the ability to patent inventions may be adversely affected by the prior dissemination (either in spoken, printed or electronic form) of the IP in question, and are advised to maintain confidentiality with regards to the IP in question until such time as patenting and commercialisation arrangements are secured. With respect to such registerable IP, patenting and commercialisation possibilities, Staff are strongly advised to contact Research & Innovation at the earliest opportunity. You can find the [University's disclosure form here](#) for such purpose.
- Staff are advised that confidentiality over material and information may be subject to pre-existing third party agreements (such as research agreements, Intellectual Property and confidentiality/non-disclosure agreements) and in that event they will be legally obliged to maintain confidentiality. With reference to sensitive information or commercialisable intellectual property, staff are advised to contact Research & Innovation to have appropriate confidentiality/non-disclosure agreements put in place prior to engaging with third parties outwith the University. When proposing such agreements, staff should be cognisant of the University's overall charitable obligations, and aware that the University may be required to relinquish data by law or by a requirement of a regulatory body.⁴
- Staff are advised that the authorised signatories on behalf of the University on matters related to intellectual property (including licences, material transfer agreements, assignments/assignments and confidentiality/non-disclosure agreements) shall be Research & Innovation as contained in the University's Financial Regulations.

⁴ If required to make such a disclosure, Staff should discuss with their Head of School in consultation with the Director of Research & Innovation at the earliest opportunity.

Appendix 1: Definitions of Terms Used in the Policy

Assign and Assignment: *To transfer ownership of rights in intellectual property.*

Commercial activity: *The commercialisation of intellectual property (including through working with industry and the licensing of patents, software and copyright) refers to any activity that is carried out to use or exploit intellectual property. In the case of patents and other registered IP, commercialisation commonly refers to exploitation through spin-out companies and other licence agreements with third parties.*

Equity: *Shares held in a company.*

Intellectual Property: *Inventions and creative works, software, designs, trade marks, copyright, patents, database rights, teaching materials, semiconductor topography rights.*

Licensing: *To grant rights to use intellectual property to a third-party organisation.*

Revenue: *Income received by the University through commercialisation or exploitation of Intellectual Property.*

Postgraduate Research Students: *A postgraduate research student is an individual registered on a research degree programme (e.g. PhD, Master of Research) that is undertaken through independent research undertaken by the candidate over the duration of their studies and culminating in a thesis that is examined by viva voce.*

Staff: *All employees of the University, including part time staff, acting in their normal duties or duties assigned to them under their contract of employment or study prescription.*

Start Up and Spin Out Panel (SUSOP): *The Start Up and Spin Out Panel (SUSOP) has the devolved authority of the University Court, via the Finance and Resourcing Committee, to make decisions regarding creation of new spin out companies, monitoring investment, sale of equity and distribution of income. Further details can be found here: <https://www.abdn.ac.uk/staffnet/governance/susog-642.php>*