

*Approved by the Executive*  
**The University of Derby  
Intellectual Property Rights  
Staff Regulations**

## **1. Introduction**

These Intellectual Property Right (IPR) regulations set out the University's position in relation to all staff of the University. This approach recognises that increasingly, staff will be working in mixed-skill teams and the traditional categories of employment are of little relevance. These regulations are therefore expressed in terms of intellectual products and circumstances. The aim of these regulations is to achieve an appropriate balance of *flexibility* and *protection* for the University and its staff. It is the spirit and intention of the regulations to encourage creative activity and the business of the University. These regulations have benefited from guidance contained in the HEFCE *Intellectual Property Rights in e-learning programmes* (2003/08).

Guidance has been integrated into these regulations to aid understanding and help interpretation. In some instances students may be involved in the pursuit of research or in the development of teaching materials. Where it is not appropriate for the students to be offered staff contracts, it should be recognised that they are entitled to the rights set out in the *University of Derby IPR Student Regulations*.

## **2. The definition of Intellectual property rights**

The ownership of the products of creative thought is hereon referred to as Intellectual Property Rights. IPR encompasses a very wide range of intellectual products. Four general categories are listed below with examples:

**Copyright:** Teaching materials, research papers, creative writing, computer programs, music, drawings, images, policies, regulations and administrative procedures.

**Design Rights and Registered Designs:** Patterns and shapes.

**Trade Marks:** For example, logos and signs. Trade Marks may be registered.

**Patents:** Invented products and processes that may be patented.

**Guidance:** *Guidance on all aspects of IPR is available from the IPR Co-ordinator located in the Business Development Unit. Staff should consult the IPR Co-ordinator in connection with collaborative developments and in instances when there is uncertainty with regard to the appropriate procedures.*

## **3. The general position on IPR**

In accordance with statutory law, the University normally holds Intellectual Property Rights on all materials produced by University Staff as a consequence of activities undertaken in pursuit of the duties set out in their contract and their job description. There are however, circumstances in which this normal position is varied in favour of more flexible arrangements.

If the creators of intellectual products have concerns regarding the protection of IPR during the preparation and development of these particular works, they may ask all the relevant parties to sign a **confidential non-disclosure agreement**.

**Guidance:** *This regulation applies to all materials produced in connection with the prescribed duties of the member of staff as set down in their contract, irrespective of whether*

*the work is carried out on-campus, home or elsewhere; and irrespective of the ownership of the equipment used. Hence, using one's own computer at home does not mean that, as a consequence, the IPR belongs to the member of staff. However, the University's Intellectual Property Rights do not extend to works that have no connection with the contractual duties of the member of staff. The Business Development Unit can provide advice and a proforma for the signing of a confidential non-disclosure agreement. The circumstances in which the normal IPR position is varied are set out in the regulations below.*

#### **4. Publication of research and scholarship**

Except where staff are bound by contract giving IPR to an external body, intellectual property that is created by staff undertaking research or scholarship in connection to their employment duties *initially* belongs to the University (Section 3). **However**, the University automatically **grants copyright** to individual and joint authors of research and other scholarly works. Researchers and scholars are therefore entitled to **transfer copyright** to organisations that accept their works for publication. If the research or scholarship has been conducted in collaboration with staff at other institutions the ownership of IPR should be discussed and agreed at the planning stage of the research. This principle also applies to other creative works such as fine art, images, designs, musical scores and digital material, which have been produced as an outcome of research.

The University reserves the right for the Dean of Faculty to undertake an **assessment** of the extent to which an individual's scholarly activity is commensurate with their contractual duties. If the Dean, in consultation with the line director in the Executive, concludes that the scholarly activity has become a significant commercial activity, which is adversely affecting the conduct of duties, s/he may require the member of staff to negotiate the payment of an agreed portion of the income to the University.

**Guidance:** *The University of Derby willingly follows normal practice at UK universities which is to allow staff as authors of research papers, textbooks and other scholarly works to own the copyright. This simplifies the process of transfer of copyright, which is commonly demanded by publishers of academic papers. The University gains in reputation and in other ways by being associated with the published work. However, the University must protect itself against the possibility of a member of staff abusing this position and using University resources to pursue a commercial activity to the detriment of her/his other contractual duties. It is therefore necessary for the University to be able to assess the position and, if dissatisfied, insist on a financial arrangement that is fair to both parties.*

#### **5. Consultancy and commercial research**

Staff engaged in consultancy or commercial research, must resolve the matter of the IPR at the planning stage prior to the signing of any contract. This consideration should be undertaken in consultation with advisers located in the **Business Development Unit**. It is important to consider the IPR of any collaborative partners and any IPR stipulated by the organisation commissioning the work. If the IPR is not held by an external organisation commissioning the work, then the IPR may be held by the University or shared by the University and any collaborative partners. The mutually agreed IPR position should be recorded in an **agreement** signed by all parties, following guidance provided by the Business Development Unit. This agreement may incorporate a **confidential non-disclosure agreement** which protects the IPR during the development stage.

See also the sections on Transfer of IPR (Section 9) and Authors' Rights (Section 10) below. Members of staff are also recommended to consult the University's *Code of Practice on Consultancy* (2003).

**Guidance:** *The allocation of IPR is a matter of extreme importance. It is strongly recommended that in the case of any collaborative research, there should be a meeting of all the participating principal researchers at a preliminary stage to decide on the ownership of the IPR. Researchers should obtain the advice of the Business Development Unit.*

## 6. Teaching materials and University documentation

In accordance with the general position, the copyright for all teaching materials and University documentation produced by University staff rests with the University. This applies equally to electronic and paper versions.

**Guidance:** *In the situation where students have agreed that materials produced by them may be included in the teaching materials, their IPR must be recognised and respected. Students hold the IPR for all materials which they produce, including materials that are submitted for assessment. (See the IPR Student Regulations, Section 8v). Further advice is available from the Copyright Co-ordinator in the Learning and Resource Centre.*

## 7. Crediting authors of works owned by the University

Although the University holds the IPR for all works undertaken in connection with consultancy, commercial research and teaching, it recognises the rights of the staff who author these works to have their names shown at an appropriate place in the work. All staff who make a significant contribution to a work should be listed and **credited** with the production of that work even though they are not the holders of the IPR.

## 8. Sharing profitability of commercial works

Members of staff who are formally credited as the co-authors of works with immediate or potential commercial value may **negotiate** through the auspices of the Business Development Unit for a share of any profits that may be realised.

**Guidance:** *This regulation does not imply that the authors hold the IPR for these works.*

## 9. Transfer of IPR from the University to the author(s)

If, after a period of time, the University has not acted to exploit an invention or work which has been deemed to be of potential commercial value, the author(s) may submit a written application to the Director of the Business Development Unit for the transfer of the IPR from the University to the author(s). This request should be considered and not unreasonably refused. If the University agrees to this transfer, it will not expect to share in any profits which may arise from the development undertaken by the authors.

**Guidance:** *It is not advisable to stipulate a particular period of time that should elapse. This period will depend on the individual circumstances. The authors may judge that there is quite a narrow time window of opportunity before the potential for development expires. The University may decide to patent an invention which will, for an annual fee, give 20 years protection. Staff are advised to consult with the staff of the Business Development Unit and see 'examples' of patents.*

## 10. Author's rights

The formal recognition and crediting of authors as the originators of teaching materials carries with it certain rights. Credited authors are entitled to indicate when the materials are out of date and should be revised. They are also entitled to approve the significant revision of teaching materials that bear their name. If an author believes that teaching material is out of

date and their offer to update the material is not accepted, or if they do not approve of the revised version, they may request that their name is removed.

If a credited author moves to another institution, the University grants the author a **non-exclusive, non-royalty license** to use that portion of the teaching material which they created. If the author significantly revises the material, the University has no further rights in connection to this teaching material and the IPR is decided by the regulations that apply at the new institution. If the University revises the original teaching material, the author who has left has no rights to use the revised teaching material. The same principles apply to members of staff who bring materials developed at their former institutions. The University recognises and takes care not to infringe the IPR of other institutions.

## **11. Performers' rights**

Members of staff who video-record their delivery of teaching materials are entitled to performers' rights. A member of staff who moves to another institution is granted non-exclusive, non-royalty license to use the recording at the new institution but s/he has no rights to use a new recording made at the University. Equally, the University has no rights to use new recordings that the member of staff may make at her/his new institution.

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