

Intellectual Property Policy

2019/20 – 2021/22



Edge Hill
University

Intellectual Property Policy

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1 Introduction

- 1.1. This policy addresses how Edge Hill University (the University) manages Intellectual Property (IP) generated by its Employees, Students or by Third Parties related to the organisation.
- 1.2. IP is something unique that is created and is an asset which may have commercial value.
- 1.3. As a charity the University must make appropriate use of its charitable assets. IP is one type of asset that the University may hold. The University must manage and protect its Intellectual Property Rights (IPR) and receive a proper share of any benefits arising from use of its IP, in furtherance of the University's charitable aims. The University therefore has a responsibility to ensure that IP is managed effectively, to the benefit of the organisation and that it obtains good value for any investment it makes in creating IP.
- 1.4. This policy details how the University will:
 - assist with identifying IP and the owners of any IP;
 - acquire, protect and use the IP generated within the University environment;
 - recognise and reward the creator(s) of IP; and
 - avoid the infringement of third party IP rights.
- 1.5. The University will aim to respect third party rights and not to infringe the rights of others who own and control IP. It will meet its obligations to the funders of research including, where required, the management and commercialisation of the results of the research.

2 Governance and Management

- 2.1 This Policy is approved by Academic Board, with the management and operational responsibility delegated to the Research Office.
- 2.2 The Director of the Research Office is the Policy owner on behalf of the University and has delegated responsibility for the implementation of this Policy, the University's IP management strategy, co-ordinating its management and commercialisation for the University and its communication to Members of the University.

3 Definitions

- 3.1 The term “**Intellectual Property**” or “**IP**” means all inventions capable of protection whether by means of patent or not, registered and unregistered designs and design rights, University-commissioned works, computer software, commercially exploitable knowledge (including Know-How) and all copyrights including copyright in literary, musical, dramatic and artistic works, software, distance learning course materials and material circulated electronically: e.g. via the internet. It also includes the University Name and Logo.

In any given situation, there may well be three different types of IP:

- i. Foreground IP: IP arising as a direct result of the a particular project.
- ii. Sideground IP: knowledge/IP which is relevant to project but produced outside of the project during the project's term.
- iii. Background IP: IP which already existed prior to the project.

These terms can be defined differently depending on the particular contract that governs the particular project.

- 3.2 The term “**Know-How**” means technical information, knowledge and skill e.g. a procedure, a process, an identifiable knowledgeable way of doing something. The only way to protect valuable Know-How is through confidentiality.
- 3.3 The term “**Legislation**” means all Legislation relevant to IP, including but not limited to:
 - The Intellectual Property Act 2014;
 - The Patents Act 1977;
 - The Copyright, Designs and Patents Act 1988;
 - The Trade Marks Act 1994; and
 - any other related IP legislation.
- 3.4 The term “**Teaching Materials**” means any materials (physical or otherwise) used as part of teaching and learning on programmes or modules delivered at the University. This includes, but is not limited to lecture hand-outs, presentations, guides, textbooks, study notes and films.
- 3.5 The term “**Scholarly Works**” means works produced in the furtherance of an academic career. This includes but is not limited to articles in journals, conference papers, books, films, sound recordings, and study notes.
- 3.6 The term “**Commissioned Works**” means any works specifically commissioned by the University to create specific materials or works, undertaken by a member of staff, as part of their employment or through a service provider-client relationship, the IP in such work belongs to the University. This includes but is not limited to research funded directly by the University, materials created specifically for the delivery of a programme (e.g. Technology enhanced learning, distance learning programmes), University projects relating to teaching, learning and assessment and University systems relating to the management of University business. This also includes; works commissioned and created as a result of University projects in which an Employee is engaged which may not be part of their normal course of duties.
- 3.7 The term “**Employees**” means anyone with a contract of employment with the University.
- 3.8 The term “**Students**” means all Students registered/enrolled on University awards or modules.

- 3.9 The term “**Third Parties**” means individuals who are not Employees or Students of the University. This includes but is not limited to visiting academics, associate academics, Emeritus Professors, consultants, contractors, spin-out companies, and research sponsors.
- 3.10 The term “**Members**” means all governors, Employees and Students of the University.

4 Scope of this Policy

- 4.1 This policy shall apply to:
- all forms of IP in any format and in any media;
 - all Employees, Students and other Third Parties who contribute to the creation of IP jointly with or on behalf of the University.
- 4.2 This policy does not apply to IP created by Employees and Students that does not relate to their membership of the University. For example, where an employee elects to undertake Consultancy in a private capacity. Please find more information about private Consultancy within the [Consultancy Policy](#).
- 4.3 This policy does not cover the use of copyright materials owned by Third Parties for teaching, personal study or research purposes (by the University, its Employees or Students). Advice about the use of third party copyright materials for research or teaching purposes should be sought from Learning Services.

5 Ownership of IP

Employees of the University (including Graduate Teaching Assistants)

- 5.1 5.1. Under the Legislation relating to IP, there is a general presumption that all forms of IP generated by an Employee in the course of the employee’s normal duties belong to the employer. Unless specified otherwise in this policy, the University will own the IP produced by Employees in the course of their employment at the University. This includes both innovations which are capable of being commercialised and University Commissioned works.
- 5.2 However, there are some circumstances, and in light of custom and practice with the Higher Education sector, where the University will not claim the IP in the works which Employees produce. These are limited to Teaching Materials and Scholarly Works and are detailed in Sections 5.3-5.4 below.

Scholarly Works

- 5.3 In keeping with standard higher education practice, the University does not claim copyright over Scholarly Works created or authored by Employees as a result of their research and scholarly activity. However, the author(s)/creator(s) grants the University a free, unconditional, irrevocable and perpetual, transferable, non-exclusive licence to use and copy material

produced for academic and administrative purposes, including for archival purposes and to make it available online for academic purposes.

Any author submitting material to be published must inform the publisher of the licence between themselves and the University. When copyright is transferred or exclusively licensed to a publisher, the University must retain a licence to archive the material and make it freely available online, subject to any agreed embargoes set by the publisher of the research output, and subject to the embargo period allowed by Research England.

Teaching Materials

- 5.4 In keeping with normal academic custom, the University does not claim copyright in teaching materials created or authored by Employees. However, the author(s)/creator(s) grants the University a free, unconditional, irrevocable and perpetual, transferable, non-exclusive licence to use and copy material produced for academic and administrative purposes, including for archival purposes and to make it available online for academic purposes.

Any author submitting material to be published must inform the publisher of the licence between themselves and the University. When copyright is transferred or exclusively licensed to a publisher, the University must retain a licence to archive the material and make it freely available online, subject to any agreed embargoes as required by Research England.

Third Parties

- 5.5 Third parties may be involved in the creation of IP in conjunction with or on behalf of the University. Unless specified otherwise in this policy, the University will seek to own the IP produced by Third Parties in the course of their engagement at the University. This includes both innovations which are capable of being commercialised and University Commissioned works.

- 5.6 Visiting/Associate Academics and Emeritus Professors of the University

The University does not claim copyright in works produced or authored by Visiting/Associate Academics and Emeritus Professors as part of their contract with the University. However, the author(s)/creator(s) grants the University a free, unconditional, irrevocable and perpetual, transferable, non-exclusive licence to use and copy material produced for academic and administrative purposes, including for archival purposes and to make it available online for academic purposes.

- 5.7 Visiting Research Fellows

The University does not claim copyright in works produced or authored by Visiting Research Fellows as part of their contract with the University. However, the author(s)/creator(s) grants the University a free, unconditional, irrevocable and perpetual, transferable, non-exclusive licence to use and

copy material produced for academic and administrative purposes, including for archival purposes and to make it available online for academic purposes.

5.8 Contractors and consultants

All contracts with outside Contractors and Consultants should explicitly state that the copyright and other IP in any work they produce will belong to the University (where this cannot be agreed with the Contractor, contracts should state, as a minimum, that the contractor gives the University a free, unconditional, irrevocable and perpetual, transferable, non-exclusive licence to use the works and copy materials).

Students at the University

- 5.9 The University recognises that Students will normally own the IP in the works which they produce in the course of their programme of study, including essays, theses, dissertations and independent study projects. However, Post-Graduate Research Students are required to confirm that their works can be made publicly accessible through the University's research repository "Pure" and enable access to any online catalogues to which "Pure" links (e.g. the British Library).
- 5.10 In relation to any works Students submit for assessment, whilst Students will own the IP generated by the works, the University retains the right to keep the submission by the students for assessment (whether submitted via electronic or physical means). Students are advised, where possible, to keep copies of all works submitted. The University acknowledges that for some types of works submitted by students for assessment it will not be possible to maintain a copy (e.g. artworks etc.). For works submitted by students for assessment the University reserves the right to retain or refer to that submission until such time as all processes relating to outcome ratification are complete.
- 5.11 There are, however some circumstances in which Students will not own the IP in the works which they produce, and Students will be required to assign their IP rights to the University. These include the following:
- i. Where the Student is also an Employee of the University, and the IP relates to works produced in the course of their employment. This will be treated in the same way as works produced by other University Employees (see section 5.1 -5.4);
 - ii. Students whose studies are funded/sponsored by the University or by an external sponsorship may be subject to agreements which assign IP in the Student's work to the sponsor;
 - iii. Students may be invited to participate in projects funded or initiated by external bodies, in which the contract with the funder or project initiator affects the IP arising from the project. In such cases, the Student will be treated by the University as covered by the contract with the funder or project initiator;

- iv. Where the Student is taking part in a research programme which is conducted under the terms of agreement with, or research grants from external bodies. These terms may require that IP generated in the research programme be owned by the external body or the University, or be licensed to the external body;
 - v. Where a Student is invited to participate in a project which is managed by or builds upon the IP of an Employee or the University or would involve the creation of joint IP with an Employee, outside bodies, Third Parties or other Students, the Student may be required to assign their IP arising from the project to the University as a condition of participating in the project;
 - vi. Where a Student creates IP outside the course of his/her University studies, with more than incidental use of University Resources.
- 5.12 Where Students are required to assign their IP rights (in accordance with section 5.10), they will be acknowledged, as appropriate, in publications which result from the research work and if appropriate, be included into any revenue sharing which results from the commercialisation of the works.

6 Identification of and Protection of IP

Types of protection available

- 6.1 The table below provides an overview of the types of legal protection available for IP rights:

Table 1: Types of legal protection available

Type of protection	Action required	Examples of relevant IP
Copyright: Protects the way things are expressed. There must be some creative effort and the work must not be copied.	Automatic right (No need to be registered).	Literary works (including writing), art, photography, films, TV, music, web content, performances, software and sound recordings.
Trademarks: The intention is to distinguish goods and services of one entity from those of another.	Must be registered.	Product names, logos and jingles.
Patents: Protects inventions or products which can be either a new product or a process i.e. a new way of doing something. The invention must not be obvious, must be inventive and capable of industrial application.	Must apply for patent protection.	Machines and machine parts, tools, and medicines.
Design rights: They protect the shape and appearance of 3D objects and	Some design rights can arise automatically and	Laboratory equipment, the design of a teapot and designs on textiles or

Type of protection	Action required	Examples of relevant IP
the surface decorations applied to them.	others must be registered.	wallpaper.

Identification of University IP

- 6.2 Where the creator(s) generate IP, which they believe may be potentially exploitable they should;
- report its existence to their Head of Department and the Research Office as soon as possible and prior to any proposed disclosure to a third party of any invention;
 - complete an [IP Disclosure Form](#) where requested to do so by the Research Office;
 - take all steps reasonably necessary to maintain the confidentiality of any potentially exploitable IP and do nothing which will prejudice the right to apply for its registered protection;
 - at the request and expense of the University, assist the University in the application for and prosecution of any registered IP rights;
 - execute all documents and all acts as may be necessary to obtain the acceptance of and procure the grant of such applications for IP rights.
- The Research Office will work together with the creator(s) to establish; ownership of IP, whether to protect or commercially exploit it and how to do so.
- 6.3 In specific circumstances, the University may decide to protect its IP. Where it is decided that the University will apply for legal protection for IP, as stated above it is expected that everyone involved in creating or inventing the IP will provide all reasonable assistance in the process, disclose all relevant information and will maintain confidentiality.
- 6.4 Detailed records of any work undertaken should be maintained and the information relating to the IP kept confidential until such time as the IP has been evaluated and, where a decision is made to apply for legal protection, this has been secured.
- 6.5 All persons bound by the policy must co-operate with the Research Office to ensure all of the following:
- That project-work outcomes are, wherever possible, owned by, assigned to or licensed for the University's use and/or commercialisation on adequate and advantageous terms;
 - That those terms are agreed and made clear in any bid or proposal or collaboration document relating to the project prior to commencement of the work;
 - That the University may procure from the individual or third party owner or controller of any IP referred to or used from their work within the

- University an appropriate licence, assignment or consent for the University's use of the IP at the outset of the work to avoid infringement;
- iv. That no work is conducted for the benefit of or using material owned by a third party before the terms of ownership and use of project or work outcome are agreed in writing;
 - v. That the University's ownership is asserted in relation to trademarks and its copyright interest in paper and electronic media.

7 Contracts and agreements

- 7.1 Before the commencement of any collaboration with Third Parties or outside bodies who are not bound by these regulations from which IP may arise or for which University IP may be used or disclosed an agreement must be reached between the University and the third party or outside body parties in relation to IP.
- 7.2 All contracts and agreements entered into on behalf of the University with Third Parties or outside bodies which may involve the creation of IP or use of University IP should contain clauses relating to the ownership and management of IP and be drafted following the principles in this policy.
- 7.3 Any such agreement should ensure that all collaborators have the necessary rights to carry out the project and provide a set of rules to govern how the results of the project will be handled. The Research Office will review or propose any such agreement.

8 Assignment of IP

By Students to the University

- 8.1 Where any of the above circumstances detailed in section 5.10-5.11 arise, the University will require that Students complete and sign a confidentiality and IP agreement before commencing work on the project. In signing that document, the student will agree to:
 - i. maintain strict confidentiality with respect to University IP;
 - ii. ensure that non-disclosure agreements are in place before discussing matters relating to University IP with outside bodies or Third Parties;
 - iii. assign ownership of the IP to the University if and when requested;
 - iv. not assign or licence any rights in University IP to Third Parties.

Assignment of University IP to Employees, Students or Third Parties

- 8.2 Employees are obliged to maintain strict confidentiality with respect to University IP and are required to ensure that non-disclosure agreements are in place before discussing matters relating to University IP with Third Parties. The Research Office will be responsible for putting together a non-disclosure agreement for the Third Parties' consideration.

- 8.3 The University may at any time assign the rights in its IP to Employees, Students or Third Parties (e.g. to research sponsors, subsidiary companies or spin-out companies) or enter into an agreement to allow its IP to be used by the creators of it.
- 8.4 Assignment will normally only be undertaken where there is clear evidence that the IP provides no other benefit to the University and is not related to other IP which the University has an interest in and will be subject to an agreement, which may include the requirement to share any revenue generated as a result of any commercialisation of the IP (following the formula detailed in Section 10).
- 8.5 The University will not assign its interest if it considers that the commercialisation of the IP could potentially bring the name of the University into disrepute through previous association.
- 8.6 Employees are not permitted to assign or licence to Third Parties rights in University IP. Requests for any transfer of rights from the University to another party should be made in the first instance to the Director of the Research Office.

9 Commercialisation of IP

- 9.1 The University is committed to exploiting the IP which it owns or controls in a way that optimises the benefits for itself and its Employees. Where IP is successfully commercialised, the University will at its discretion consider sharing the financial benefits with the staff concerned.
- 9.2 IP may be exploited in a number of ways; for example, through licensing, joint ventures or the formation of spin-out companies. The Research Office manages the exploitation of University IP and should be consulted by Employees in the first instance.
- 9.3 The University will evaluate the commercialisation potential of IP and determine whether it wishes to exploit it. This will be done as quickly as possible and with regard to the wider community benefits of the application of new IP. However, the University reserves the right to determine what its strategy for the exploitation of IP will be in any individual case (in any and all fields of use) and to follow whichever process of investigation and evaluation it deems necessary to determine that strategy.
- 9.4 The University accepts no limits on the time that should be taken to determine that strategy, although it may enter into time-bound arrangements on a case-by-case basis. Where a clear forward strategy has not yet been identified, the University undertakes to keep each case under regular review (and at least once per annum).

10 Reward for the creation of IP

- 10.1 Where IP is commercialised, the University, at its discretion may seek to reward the creator(s) by which the research and/or commercialisation had taken place, in recognition of its contribution to the University. In addition, the University may also look to reward the Department to which the IP had been generated.
- 10.2 It is the responsibility of the Research Office to administer a system of reward and adjudication between creator(s) to which all persons bound by this policy shall have the right to apply, whether as individuals or as a team. They must be able to warrant and demonstrate their creation of IP which has been of value to the University. Persons offered a reward under this policy may be required to execute a formal agreement detailing the terms of the reward and their obligations.
- 10.3 The system of reward detailed below, and continuation of payments made under it, is discretionary and will be subject to a written agreement.
- 10.4 The University will be responsible for disbursing the net cumulative benefits. Such benefits are the value remaining once costs and disbursements have been covered.

These include, but are not limited to:

- i. all reasonable expenses paid outside the University, including patent agent fees, for the filing, prosecution and maintenance of IP rights;
 - ii. all reasonable external legal and other professional fees incurred in the commercialisation of the IP;
 - iii. all reasonable external legal fees expended on litigation;
 - iv. all reasonable expenditure on insurance relating to the maintenance and enforcement of IP rights;
 - v. any revenue due to Third Parties, for example sponsors;
 - vi. any other expenditure that is agreed with the creator(s), and
 - vii. any value added or sales taxes (e.g. VAT) that may be levied on sales made.
- 10.5 The University shall normally pay to the creator(s) once a year a proportion of the net cumulative benefits as shown in table two below, unless alternative models for the distribution of earnings have been agreed.

Table 2: Distribution of Net Cumulative Benefits

Net Cumulative Benefit	Inventor's Share	University/ Faculty Share
£1 to £75,000	65%	35%
Over £75,000	35%	65%

- 10.6 The inventor's share of the net benefits is cumulative: for example, if the net benefit was £5,000 in year one, £10,000 in year two, £15,000 in year three and £50,000 in year four, cumulative total £80,000, the inventor's share would be as shown in Table 3 below.

Table 3: Distribution of Net Cumulative Benefit (example)

Year	Annual net benefit (£)	Cumulative net benefit (£)	Inventor's Share - Year 1	Inventor's Share - Year 2	Inventor's Share - Year 3	Inventor's Share - Year 4	Inventor's Share - Cumulative (£)
1	5,000	5,000	3,250				3,250
2	10,000	15,000		6,500			9,750
3	15,000	30,000			9,750		19,500
4	50,000	80,000				31,000*	50,500
* Calculation of year 4 payment: net benefit in year 4 is £50,000. The first £45,000 of this takes net cumulative benefit to the £75,000 threshold. Therefore, the inventor's share of this first £45,000 is 65% (£29,250). The inventor takes a 35% share of the remaining £5,000 of net cumulative benefit (£1,750).							

- 10.7 Where IP is created jointly (e.g. by an Employee and a Student or third party, or by more than one Employee) and where more than one person may have rights of ownership in the IP, a written agreement among all parties to address the ownership and revenue-sharing from any commercial exploitation of the IP is required before the start of the commercialisation process. If no agreement is in place, then ownership and revenue-sharing among the interested parties shall be determined by the University.
- 10.8 Shareholdings by Employees in University spinout companies and joint ventures will be agreed on the basis of the business and/or technical requirements of the respective spinout company or joint venture. Where IP is placed within a spin-out company or joint venture in which the creators of IP receive shares, the revenue sharing arrangements set out in Table 2 will not apply.

11 Notification of infringement

- 11.1 Any person bound by this policy and provisions within it must alert the Research Office immediately on suspecting or becoming aware of any infringement of IP rights being either:

- Infringement of IP rights owned by the University, or

- The University's infringement of IP rights owned by a third party.

- 11.2 In the case of actual or suspected infringement of third party IP rights, any person bound by this policy must comply with the instructions of the University in order to minimise the impact and extent of the infringement. Any action will be entirely at the discretion of the University.

12 Breach of Regulations

- 12.1 The University reserves the right to regard a deliberate breach of the IP Policy or Regulations as a disciplinary matter for Employees and Students and will be treated under normal procedures.
- 12.2 The University may, at its discretion, consider all avenues available to it, including legal action, seeking injunction and damages or otherwise, in respect of persons bound by the IP Policy but who act in breach of them.

13 On leaving the University

- 13.1 Persons bound by this policy shall continue to acknowledge and attribute the University's IP rights created during their period of employment or study or other contractual obligation at the University in a clear manner and to avoid misleading future employers or collaborators or other material Third Parties as to the interests in the IP concerned.
- 13.2 All entitlements and obligations arising under this policy continue after the individual's relationship with the University ceases.

14 Dispute Resolution

- 14.1 In the event that a dispute arises in connection with the provisions of this policy, this should be raised initially with the Head of Department and the parties concerned shall themselves seek to resolve the issues in the first instance.
- 14.2 If this is not successful the matter shall be referred to the University's Pro Vice-Chancellor (Student Experience) and University Secretary for decision.
- 14.3 Appeals against decisions of the Pro Vice-Chancellor (Student Experience) and University Secretary must be made within seven working days of the decision in question, in writing to the Vice-Chancellor or their authorised nominee, whose decision shall be final

Endmatter

Category	Detail
Title	Intellectual Property Policy
Policy Owner	Pro-Vice Chancellor (Student Experience) & University Secretary
Approved by	Academic Board
Date of Approval	November 2019
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