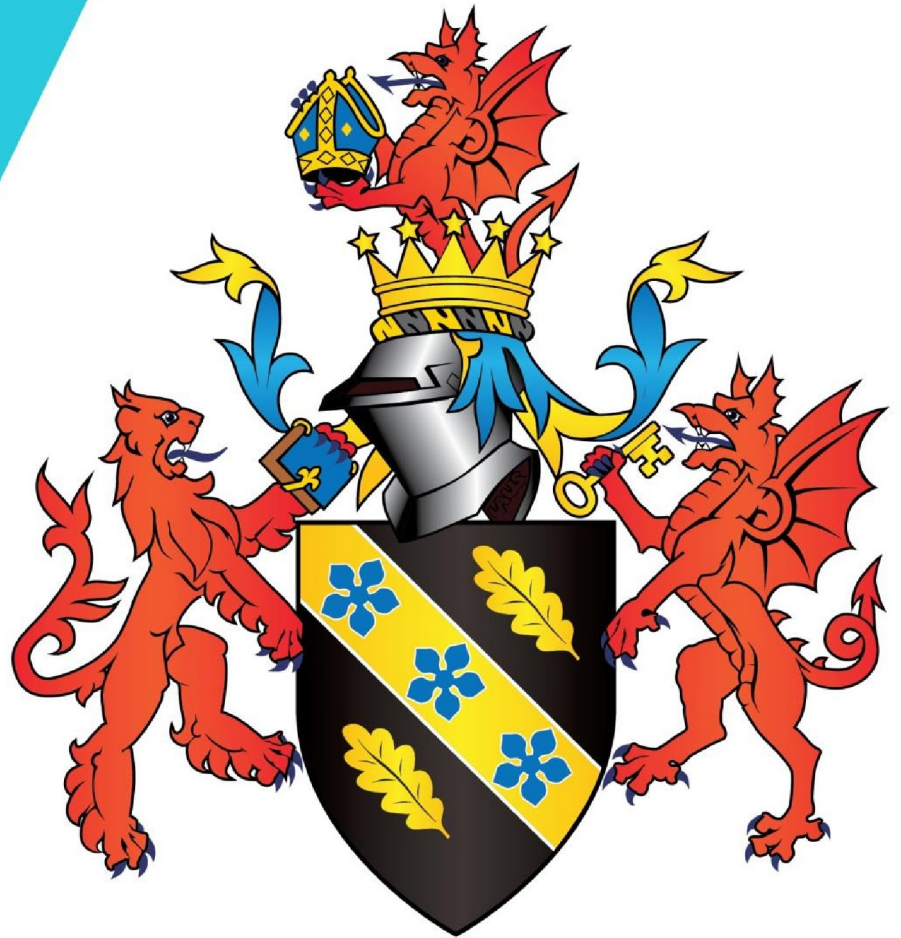




Prifysgol Cymru  
Y Drindod Dewi Sant  
University of Wales  
Trinity Saint David



# Intellectual Property Policy

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## Background

The University of Wales Trinity Saint David regards the creation of intellectual property (IP) to be important as it supports a number of its strategic objectives and is integral to the core objectives of knowledge creation, knowledge transfer, scholarship and learning. The University is committed to developing policies and support services which create the best possible environment for IP to be created and to be transferred into practical use. The central features of this philosophy and responsibility are:

- i. clear incentives to staff to create intellectual property;
- ii. transparent and effective services which can help evaluate and protect the IP, and then decide on the most appropriate arrangements for its transfer into use; and
- iii. arrangements for sharing any commercial returns from commercialisation of intellectual property which provide for generous rewards to the originators of the intellectual property;
- iv. seek to generate a surplus for the University over and above recovery of any costs it may incur in the commercialisation of IP.
- v. an approach which is entirely compatible with academic freedom and career development.

## Status and variation

This policy is specifically incorporated into all employees' contracts of employment and any legal relationship between the University and its students. It supersedes any previous IP policy and may be subject to variation.

## 1. Introduction and defined terms

1.1 The objective of this policy is to provide an accessible and consistent framework within which UWTSD IP is developed and managed for the benefit of the University, the originator and the public good. It sets out the policy and rules of UWTSD in respect of:

- i. the ownership of Intellectual Property ("IP") created by employees of the University ("University Personnel");
- ii. the use and commercialisation of Intellectual Property; and
- iii. the implementation and administration of the Intellectual Property Policy.

This policy may be supplemented from time to time by additional guidance, issued in accordance with the Procedures.

1.2 Intellectual Property means (1) patents, copyright, database rights, design rights, trade marks, topography rights, plant breeders' rights and all other intellectual or industrial property rights whether registered or unregistered such as exist now or in future under the law of England and Wales, the law of the European Union or the law of any other jurisdiction throughout the world (2) the right to apply for, and applications for, such rights and (3) all extensions and renewals of such rights.

Intellectual Property shall also include other intellectual assets such as rights in inventions e.g. new technologies, methods and discoveries and any other product or



attribute of intellectual or academic activity (whether or not formal property rights subsist or are capable of subsisting therein) such as (but without limitation) know-how, knowledge and expertise, skills, techniques, and the results of experiments, tests, or calculations.

- 1.3 To Commercialise means to realise commercial or financial benefit through the exploitation of Intellectual Property, and Commercialisation shall be interpreted accordingly.
- 1.4 To Create means to create, devise, design, invent, discover, be the author of or otherwise originate any Intellectual Property and creator shall be interpreted accordingly.
- 1.5 University Personnel means employees of the University.  
  
'Employee' means an individual who has entered into or works under (or, where the employment has ceased, worked under) a contract of employment' (Employment Rights Act 1996)
- 1.6 Procedures means UWTSD's Procedures for Implementation of its Intellectual Property Policy as amended from time to time in relation to the implementation and administration of this Policy.
- 1.7 IP Committee (IPC) means a group within the University that has primary responsibility for the administration and implementation of this policy.

## 2. General Principles

### **The general principles underlying this policy are:**

- 2.1 The University claims ownership in all intellectual property to which it is entitled:
  - 2.1.1 Under the contract of employment between the University and the relevant University employee; and
  - 2.1.2 Under any other written contract between the University and the relevant University employee (whether such contract was signed before or after the date of this policy).

In the event of any conflict between this policy and any of the foregoing contracts, the conflicting provisions shall be interpreted as follows:

  - (a) the contract of employment and other written contracts shall all take priority over this policy; and
  - (b) any conflict between the contract of employment and other written contracts shall be resolved in accordance with their terms (provided that where such terms are silent as to conflicts, the most recently signed of them shall prevail).
- 2.2 The University will not claim ownership of any intellectual property developed by an employee prior to their employment.



- 2.3 The University is not entitled to a share in commercial benefit that may arise from the exploitation of IP created by an employee which is not owned by the University in the employment contract or other contract. The University and the creator may enter into a written agreement by which the University is granted permission to use the IP for academic purposes.
- 2.4 The University is entitled to use and to receive a share in commercial benefit that may arise from IP which is owned by the University in the contract of employment or other contract.
- 2.5 Where the University chooses not to exercise its right to commercialise IP it owns it may agree to assign the rights. In so doing the University will act reasonably and in good faith and will consult with the creator.
- 2.6 Whenever University funds, facilities, personnel or other resources are involved in (1) creating Intellectual Property which is exploited commercially or (2) undertaking other commercial activities, the University must obtain good value for its investment.

This is because:

- As a charity the University has a duty to ensure that the use of its resources is properly accounted for and;
  - Most of the University's activity and resources is funded by public money. In general, public money or resources cannot be used to confer a direct or indirect benefit on a business undertaking unless the University receives fair value.
- 2.7 Mindful of the diversity of activity within the University that might result in the creation of IP and the variety of options for commercialisation or exploitation that might arise, the University will adopt a 'case by case' approach to considering IP related matters.

### 3. Ownership of Intellectual Property

#### University Staff

- 3.1 Intellectual Property created by an employee within his or her area of academic or research expertise during his or her period of employment with the University is presumed to have been created during the course of his or her employment, and so belongs to the University.
- 3.2 The use of University funds, facilities, personnel or other resources in the creation of intellectual property indicates that it has been created in the course of employment and therefore belongs to the University.
- 3.3 University employees have a duty to disclose to the University any Intellectual Property that they have created during their period of employment, which may reasonably be considered suitable for commercial exploitation.
- 3.4 The University recognises the importance to employees and the University to publish in scholarly works. Employees are encouraged to publish and may retain the proceeds from publications. Employees will own the copyright in their scholarly works however the right to publish may be restricted in certain circumstances:



- i) by terms imposed by third parties;
  - ii) where the University and the employee have agreed in advance that the work should not be published;
  - iii) where publication could reasonably be considered to risk the future exploitation of the IP literature, other artistic works, software and inventions.
- 3.5 Copyright may be licensed to the University for it to use for its own business activities. Further details on Copyrights can be found in section 5.

#### 4. Teaching Materials and other Academic Materials

- 4.1 The principle which the University applies to teaching materials and other academic materials is that the University should be entitled to use the IP for its own purposes and receive a share of any proceeds from commercialisation, but does not insist on ownership.

Teaching Materials are defined as any materials, whether in written, recorded or other electronic form including web-based material, computer programs, computer based learning material and databases, produced by one or more members of staff in the course of their duties for use in or connection with a degree programme module or other course offered by the University. This includes course guides, handouts and presentation materials (including lecture notes, slides and other audio-visual materials), instruction manuals and assessment and examination materials.

- 4.2 The creator shall own the copyright in teaching materials, academic and other printed materials (books, articles etc), theses and dissertations, lesson plans and learning modules except where they are comprised of original computer software, details of an invention or other commercially exploitable information or know-how not in the public domain.

The University may assert its rights of ownership as detailed in section 5.1 or in circumstances where Clause 5.1.vi is applicable and the University is contractually required to own the copyright.

- 4.3 The University shall be granted an unconditional, perpetual and irrevocable nonexclusive right to copy, use and modify these materials for all purposes connected with the University and any affiliated or subsidiary institution. The licence related to Academic materials shall be non-exclusive. The licence for Teaching Materials, lesson plans and learning modules shall be exclusive during the term of employment and nonexclusive thereafter. In its discretion, the University will provide reasonable and appropriate acknowledgement of the creator.
- 4.4 The creator shall not publish information that could reasonably be considered to be commercially sensitive or risk the future exploitation of IP, or any information in violation of an agreement between the University and a third party.
- 4.5 In the event the Teaching Materials or other Academic Materials or any other material covered by Clause 4.2 are commercialised, the revenue sharing provisions in Section 9 will apply.





- 4.6 It is the obligation of the creator to ensure that any licence or assignment of the intellectual property rights in Teaching or other Academic Materials or any other matter covered by Clause 4.2 to a third party, such as an academic publisher, is made subject to the rights of the University to use and modify such materials.
- 4.7 The creator will be responsible for ensuring that they do not infringe the rights of other parties and will acknowledge the moral rights to credit originators.

## 5. Copyrights

- 5.1 The University does not assert its right to ownership of copyrights in books, published articles and other scholarly materials, dramas, musical compositions or artistic designs, except in the following situations:
- i. The work has been specifically commissioned by the University; or
  - ii. The work has been produced with the substantial use of University resources; or
  - iii. The University is required by a third party or other contract to assert ownership or to assign ownership rights and the works in question have been created in the course of fulfilment of the contract; or
  - iv. There is an agreement in writing that establishes the University's ownership; or
  - v. Copyright in any work where it may be necessary to protect rights in commercially exploitable IP, or
  - vi. IP created for the University's administrative purposes will be owned by the University.
- 5.2 These provisions allow the University to claim ownership of copyrights to materials authored by employees in the course of their employment.
- 5.3 Even if the University has not asserted ownership of a copyright, nevertheless, the creator of the copyright materials shall grant to the University an irrevocable nonexclusive royalty free licence in perpetuity to use the copyrighted materials for teaching or other agreed purposes. The licence shall remain extant even after the creator's affiliation with the University comes to an end.
- 5.4 The University shall own the copyright in works produced with substantial use of University resources. The resources that will be taken into consideration will generally be technical equipment used specifically for the purpose of generating the IP. This might include specialist equipment and machinery, hardware and/or software (this could also include portable equipment). In its sole discretion, the University may grant under terms and conditions it determines are appropriate a non-exclusive licence to the creator to use the materials.

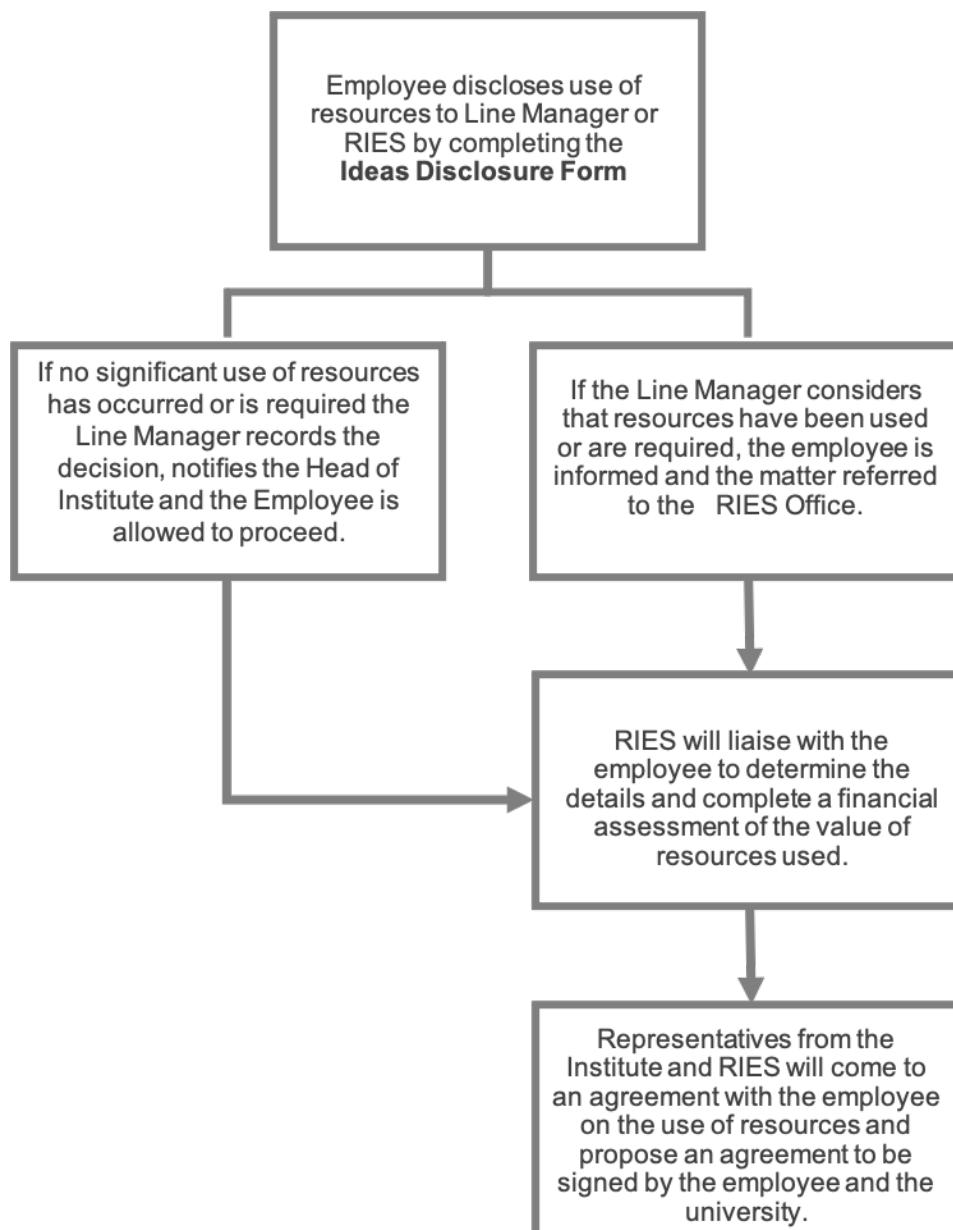
The determination of whether substantial University resources have been used shall be based on the facts and circumstances of the work that led to the IP. Employees shall discuss the facts and circumstances of the project with the RIES office at the outset of the project. The University does not consider the use of office or library resources as substantial so long as it is reasonable in duration and frequency, does not disrupt University business or incur additional cost.



Generally, an invention, software or other copyrightable material or tangible research property will not be considered to have been developed with substantial use of University resources if:

- i. No University funds, or grant funds awarded to the University, were used to support the development;
- ii. Only a minimal amount of time has been spent using University facilities or only insignificant facilities and equipment have been used;

5.5 The use of resources will be determined in line with the process outlined below:





- 5.6 In the event the University commercialises copyrighted materials, it shall provide an equitable revenue distribution to the creator in accordance with Section 9 of this Policy.
- 5.7 When the copyright materials (or other IP) are subject to a research project or otherwise subject to a contract with a third party, any contractual provisions relating to the ownership of the copyright shall prevail. The University, the employee and the funder will agree the terms that will impact on the ownership of the IP in advance of the work in question being undertaken.
- 5.8 The University shall have the right to assign or license its rights in copyrights that it owns. The University will consult with and consider the views of the creator before assignment and licensing.
- 5.9 Unless specifically authorised in writing, a creator may not license or assign or otherwise deal with copyrighted materials that are owned by the University.
- 5.10 If there is an agreement between the University and the creator that governs the ownership of the material, the terms and conditions of the Agreement shall prevail over the general terms of this policy. Any agreement must be in writing signed by both parties.

## 6. Publication

- 6.1 The University recognises that the principle of open access to research outputs can stimulate new research opportunities and lead to greater research impact. The Open Access Publications Policy recognises that publicly funded research is a public good that should be made openly available to whoever seeks to access it when legally, commercially and ethically appropriate. The Policy requires that where possible all appropriate research outputs produced by staff in the University's employment are submitted to the University's Open Access Repository.

## 7. Commercialising Intellectual Property owned by UWTSD

- 7.1 No University Personnel may, without express authority from the University, enter into any discussions, negotiations, arrangements or agreements with any person or organisation in relation to any Intellectual Property which belongs to the University.
- 7.2 The University via the Intellectual Property (IP) Committee (IPC) shall have the absolute discretion to decide whether to obtain protection for intellectual property and whether to maintain such protection.
- 7.3 Patent or other appropriate intellectual property protection shall be filed in the name of: "University of Wales Trinity Saint David" and not in the name of the employee. Where it is possible to do so the employee inventor will be acknowledged in the application.
- 7.4 The University in its sole discretion shall have the right to determine if and how intellectual property will be protected and commercialised or otherwise exploited, and, if so, the manner of exploitation and the terms and conditions by which the intellectual property will be exploited. Although the University will attempt to consult reasonably



and in good faith with the employee prior to taking any decision, the University's judgment shall be final and absolute.

- 7.5 Unless agreed otherwise, if the University determines to file for protection of intellectual property, such as a patent, trademark or design application, the employee shall not incur any costs or expenses in relation to the making and prosecutions of applications.
- 7.6 The University shall have the sole right to determine the vehicle by which their Intellectual Property will be commercialised.

The University:

(1) may in its own name license the Intellectual Property to an enterprise for commercialisation or exploitation, or

(2) may, under terms and conditions it sees fit, license the Intellectual Property to a subsidiary with the authorisation to sub-license it.

- 7.7 If the University decides not to exploit intellectual property which it owns or if it decides to abandon efforts to exploit intellectual property, upon request of the inventor, it shall not unreasonably withhold or delay assignment to the employees who have created, developed or invented it. This assignment will be made without charge provided that any expenses (e.g. cost of registering the assignment with an IP Office) are borne by the assignee. The Assignee will grant the University license to use the IP for academic purposes.

In the event that an invention is created jointly by a number of employees they will all be consulted reasonably and in good faith before the assignment is made.

## 8. Contract Research and Consultancy

- 8.1 When research conducted at the University is funded by an outside body which has imposed terms related to intellectual property owned by the University, those terms and conditions shall prevail. The University, the employee and the funder will agree the terms that will impact on the ownership of the IP in advance of the work in question being undertaken.
- 8.2 Although the University shall strive to maintain ownership of intellectual property, to which it is entitled, resulting from the research or to otherwise reasonably and in good faith protect the financial interests of both the University and its employees, the University shall have the absolute discretion to accept the terms and conditions of a contract.
- 8.3 The University acknowledges that commercial contracts are not incompatible with academic freedoms, including publication.

## 9. Revenue Sharing

- 9.1 In the event that the University elects to commercialise intellectual property created by an employee then it will do so such that it receives good and appropriate value for that intellectual property.



## 9.2 Revenue Sharing Formula.

Net income (as defined in 9.2 below) from the commercialisation of intellectual property owned by the University shall be distributed as indicated in the table below and subject to a **Revenue Sharing Agreement** to be signed by all parties, unless agreed otherwise by all parties, in advance of any commercialisation.

Level of patent or idea income	Inventor(s) or Creator(s)	University Fund	Inventor's Department
First £ 2000	85%	0%	15%
Over £ 2000 and under £25,000	50%	25%	25%
Over £25,000 and under £50,000	40%	30%	30%
Over £50,000 of patent royalties	35%	35%	30%

- 9.3 Net income will be the gross revenue received by the University from the commercialisation of intellectual property minus expenses incurred by the University and its subsidiaries related to the commercialisation of the intellectual property. All parties will maintain accurate records of any such costs, which are reasonably and properly incurred during the commercialisation process to be itemised and agreed.
- 9.4 Expenses that will be deducted from the gross revenue to arrive at the net income will include fees and expenses incurred in obtaining and maintaining intellectual property protection, including legal and patent agent fees. Also to be deducted are payments made to co-owners or other third parties (such as original sponsors of the research that lead to the creation of the intellectual property), relevant consultant fees, and expenses incurred in the marketing and commercialisation of the intellectual property.
- 9.5 At the request of the University, the creator will provide assistance as necessary to accomplish the effective commercialisation of the invention, including appropriate and reasonable assistance to the licensee of any invention, or as specified in any Revenue Sharing Agreement.
- 9.6 Where there is more than one employee or student who has created the intellectual property, or has otherwise contributed to the creation, development or invention, the distribution of income between or among themselves shall be a matter for them to decide reasonably and in good faith. Where there is a failure to agree, matter should be referred to a panel, which will seek appropriate independent expert opinion, chaired by the Deputy Vice-Chancellor taking into account each individual's contribution to the invention.
- 9.7 The University shall be responsible for negotiating reasonably and in good faith with third parties the amount of royalties or other revenue that the third party will receive from the exploitation of intellectual property.



- 9.8 The only obligation imposed by these revenue sharing provisions is to share net income with the creator once it has been received by the University. There is no explicit or implied obligation on the University to maximize the revenue received from the intellectual property. The University in its sole discretion may, reasonably and in good faith, take any action that eliminates or reduces the amount of revenue received from intellectual property owned by the University.
- 9.9 In the event of the death of an individual due to receive a share of revenue, that revenue will be payable to the estate of the deceased.
- 9.10 In the event that the employee leaves the University they shall continue to receive revenues to which they are entitled.

## 10. Logo

No third party may use the University's logo or logos without the written authorisation of the Vice-Chancellor or his/her nominee.

## 11. Moral Rights

The University, where it owns the copyright, will normally acknowledge authorship and consider the views of the creator in the disposition, commercialisation or other use of the work. The University recognises that a creator may have opinions as to how his or her creation is used and will respect those moral rights which are not automatically waived within the contract of employment namely:

- i) the right to attribution;
- ii) the right to object to derogatory treatment of a work;
- iii) the right to object to false attribution;
- iv) the right to privacy of certain photographs or films.

## 12. Confidentiality

It is the duty of all employees and students to be aware of, and to comply with, any duty or requirements of confidentiality imposed by a sponsor or which are required to maintain the patent ability of intellectual property by the University. In addition, all employees and students are obligated to protect and keep confidential the University's confidential information, trade secrets and know, or similar information, know-how or trade secrets which belong to a third party that has provided them to the University for use in a research project or other work.

## 13. Conflicts of Interest

- 13.1 The University as a public institution has a duty to protect the financial interests of the taxpayer and when there is the possibility that an actual or perceived conflict of interest may result from undertaking an action, an employee or student shall be obligated to follow the policies and procedures adopted by the University before engaging in these activities.
- 13.2 When the actual, potential or perceived conflicts of interest arise within the context of research or consultancy, the protection of intellectual property, or the exploitation, commercialisation or use of intellectual property, the University shall institute procedures for disclosure of conflicts of interest and approving the activity.





#### 14. Breach of Policy or Guidance

Any breach by University Personnel of this policy or of any guidance made in accordance with the Procedures may amount to a disciplinary matter and / or an infringement of the University's rights, and consequently may lead to disciplinary or legal action being taken by the University.

#### 15. Implementation and Dispute resolution

- 15.1 Subject to Clause 15.2 below, responsibility for the implementation and administration of this Policy shall lie with the Vice- Chancellor, who may delegate that responsibility to another person.
- 15.2 If the Vice-Chancellor or Chair of Council is personally interested in any matter related to the University's IP or has some other conflict of interest with the University related to any commercial matter, then the functions of the Vice-Chancellor and/or the Chair of Council (as the case may be) under this policy and the Procedures shall be exercised by such independent person or persons as the Council may determine.
- 15.3 The Procedures shall include an internal dispute resolution procedure.
- 15.4 In the event University Personnel allege that the University has not complied with this Policy and its Procedures, he or she may request that the matter be resolved by a mediator to be agreed upon between the University and the creator. If a resolution is not found within 30 days the matter may be referred to an arbitrator to be agreed by both parties or, if they are unable to agree on the identity of the person within one calendar month of the request to arbitrate, by an arbitrator appointed by the President of the Law Society of England and Wales. The arbitration will be conducted according to laws of England and Wales. The decision of the arbitrator shall be binding on the University and the staff member and the costs shall be borne as decided by the expert. Either Party would be free to bring proceedings in the courts in order to seek mandatory, declaratory or other relief which is not available from an arbitrator.

#### 16. Links to other policies / procedures

- Open Access Publishing Policy
- Conflict of Interest Procedures



<b>Idea Disclosure Form</b> (3 pages maximum)	
<b>Name:</b>	
<b>Department:</b>	
<b>Other collaborators/ contributors (if applicable):</b>	
<b>1. Please provide a summary of the idea.</b>	
<b>2. Please identify the possible applications for the idea, including benefits.</b>	
<b>3. What are the potential benefits to UWTSD from investing in the idea?</b>	
<b>4. What have you done with your idea to date (e.g. models, papers, prototypes)?</b>	
<b>5. What are the next steps? Include major milestones, go/no-go decisions and deliverables.</b>	
<b>6. Please provide details of any prior disclosure (e.g. papers, conferences)?</b>	
<b>7. What finance/other resources would you require from:</b>	
<b>a). Your Academic Department (e.g. teaching cover)?</b>	
<b>b). UWTSD funds/resources (e.g. budget for staff time, travel, external validation)?</b>	
<b>8. What UWTSD resources have been used to date to develop the idea?</b>	
<b>Declaration</b>	
<b>I confirm that the information contained in this application form is correct and that reporting procedures put in place by RIES will be fully adhered to.</b>	
<b>Signature of Applicant:</b>	<b>Date:</b>
<b>I confirm that this application is fully endorsed by the Institute. I further confirm that, should funding be awarded, the Institute will ensure that the applicant is supported in developing the idea described in this application.</b>	
<b>Signature of Head of Institute:</b>	<b>Date:</b>





## 17. Resource Implications

Implication	Detail
Finance	There are no direct financial costs with implementing this policy. The Policy does however seek to protect the financial interests of the University, its staff and students.
Staff	This Policy will impact on staff, as such HR and Trade Union engagement has taken place during the drafting stage of this Policy.
Assets	Whilst there are no direct asset requirements associated specifically with the implementation of this Policy, procedures and systems will be put in place to record and manage IP.
Partners	This Policy will apply to any third parties that may be involved in the creation or funding of any Intellectual Property created by the University, its staff or students.
Timescales	This Policy will be implemented at the point in which it is approved at University Council.
Leadership	Deputy Vice-Chancellor (or his/her nominee)

## 18. Impact Assessment

Implication	Impact Considered (Yes/No)	Impact Identified
Legal	Y	These are detailed in the main body of the Policy.
Contribution to the Strategic Plan	Y	The Policy supports many strategic priorities detailed within the Strategic Plan including diversifying our income base, invest in the learning environment, develop our technical capabilities and ensuring that our governance framework is robust and fit for purpose.
Risk Analysis	Y	The Policy seeks manage risk associated with ambiguity of ownership of IP. It provides a framework that aims to protect the financial interests of the University, its staff and students.
Equality	Y	The provision of training and communication of this policy will take into consideration those with protected characteristics. Students / staff with additional learning needs will be provided with appropriate support when negotiating the terms and conditions of IP.
Welsh Language	Y	Once approved the Policy will be made available bilingually. The Open Access Repository will be hosted bilingually. Any communication with staff, students or third parties in respect of IP will be offered bilingually.



Environmental and Sustainability	Y	<i>The Policy seeks to protect the financial interests of the University and thereby supports the financial stability of the organisation.</i>
Communication/ Media / Marketing	Y	Approval of this Policy will be communicated through various means including via Staff and Student Bulletins, publication on MyDay and through direct communication to those undertaking Research within the University.

**Policy author(s):**

UWTSD Research, Innovation & Enterprise Services

**19. Document version control**

Version No:	Reason for change:	Author:	Date of change:
0.2	UCU request	KAD	16/05/16
0.3	Agreed amendments	KAD	25/05/16
2.0	Agreed by Chairs action (APC)		31/10/17
2.1	Updated in line with current UWTSD organisational structure	IMW	05/02/21

**Current status of Policy:** Approved

**Is the Policy applicable to:** HE **Date ratified:** 31/10/2017

**Date effective from:** 31/10/2017

**Policy review date:** 05/02/22

**For publication:** on UWTSD website and MyDay.

