



# **INTELLECTUAL PROPERTY POLICY**

*Updated: August 2011*

# Intellectual Property Policy

## 1. Introduction

This Intellectual Property Policy (“**IP Policy**”) addresses what you should do if you think you have or develop a new method or idea, or if you invent or create something novel. This could be of a literary, artistic, industrial, scientific or engineering nature. It will be something which you believe is important, new or original or whose publication is likely significantly to enhance your reputation. We refer to these as “**Disclosable Work**”. All rights in Disclosable Work are referred to collectively as “**Intellectual Property**” or “**IP**”. A few examples of IP in a Disclosable Work include rights such as copyright, patents and design rights.

Where you have produced or contributed to any Disclosable Work you are referred to throughout the remainder of this policy as a “**Creator**”. Subject to certain exceptions specified (see Sections 5.2 and 5.3 below), it is essential that you notify Aston University (“**University**”) promptly in accordance with Section 2.2.5 below. That disclosure must be carried out by correctly completing the Technology Evaluation Form in Schedule 2. Failure to disclose any Disclosable Work fully, promptly and properly is a serious matter which may be dealt with through disciplinary procedures.

Ownership in Disclosable Work will usually belong to the University though there are some exceptions. We explain this in more detail below. You may be entitled to share in the financial benefits resulting from Disclosable Work. Note that anything produced will be Disclosable Work in the same way whether you do this alone, or with anyone else including external organisations and individuals such as visiting academic staff. Work done under any form of sponsorship or grant will equally be Disclosable Work – see Section 2 below.

Intellectual property in the work done at the University is one of its most important assets. We strongly encourage you to take the initiative in identifying potentially valuable intellectual property and to participate in its exploitation. The University’s responsibility is to identify, protect and manage its intellectual property effectively and to seek commercial exploitation opportunities diligently.

If you are unhappy with the way this policy has been applied or have any other dispute or grievance in relation to this IP policy or its operation, this should be resolved in accordance with the University’s normal staff or student (as appropriate) dispute and grievance procedures.

## 2. What to do if you have been involved in producing Disclosable Work

2.1 Intellectual property can be very valuable so appropriate procedures must be followed to ensure that it is properly protected both for your own benefit and that of the University. For example, disclosing any information about an invention without a confidentiality agreement could lose the right to obtain the patent that could otherwise have protected the invention. Creators must inform the University’s Business Partnership Unit (or similar office which may be set up from time to time) of any Disclosable Work which they suspect contains any intellectual property and do so before telling anyone else.

## 2.2 Creator's Obligations

- 2.2.1 Creators must NOT assign, licence or give any rights in the Disclosable Work or the intellectual property this may contain to any other person nor must they purport to do this on the University's behalf;
- 2.2.2 Creators must NOT agree anything with any third party regarding the use or exploitation of Disclosable Works without specific prior written authority from the Pro-Vice-Chancellor for Business Partnerships and Knowledge Transfer;
- 2.2.3 Creators must NOT agree anything with any third party regarding the intellectual property rights in any Disclosable Works without specific prior written authority from the Pro-Vice-Chancellor for Business Partnerships and Knowledge Transfer;
- 2.2.4 Creators must keep full records of their development of their Work;
- 2.2.5 Creators must provide at the earliest opportunity to the University full details of all Disclosable Work they produce and the circumstances surrounding its creation and all related information which the University requires;
- 2.2.6 Creators must keep all Disclosable Work confidential and avoid disclosing this prematurely;
- 2.2.7 Creators must only disclose any Disclosable Work and the intellectual property relating to it in accordance with the University's instructions;
- 2.2.8 Creators must co-operate with the University in applying for patent or other protection;
- 2.2.9 Creators must provide any information required by the University to ascertain and demonstrate intellectual property ownership;
- 2.2.10 Creators must provide assistance to the University in its exploitation of the relevant intellectual property;
- 2.2.11 Creators must assist the University in producing appropriate literature to describe the intellectual property and identifying appropriate licensees;
- 2.2.12 Creators must attend meetings at convenient times with potential commercialisation partners;
- 2.2.13 Creators must advise the University on further development of the intellectual property;
- 2.2.14 Creators must immediately inform the Pro-Vice-Chancellor for Business Partnerships and Knowledge Transfer as soon as they become aware of any claim by a third party that they own rights in University intellectual property; and

- 2.2.15 Creators must seek the University's consent to any publication of information relating to any Disclosable Work.
- 2.2.16 Creators must comply with section 2.5 in relation to research grants and contracts.
- 2.3 Conflicts of interest may arise in relation to a variety of issues as a result of creation of a Disclosable Work or its exploitation. Any Creator with any doubt as to whether a conflict has arisen or may arise must inform the Secretary/Registrar immediately.
- 2.4 Note that the departure of a student or employee from the University or the fact that a contractor's agreement with the University has come to an end does not change the obligations of that student employee or contractor under this IP Policy.

## 2.5 **Research Grants and Contracts**

Disclosable Work may result from activities funded wholly or partly using external funding such as research grants and contracts. In order to protect the University's interest in such Disclosable Works:

- 2.5.1 The University will still seek to retain ownership of the intellectual property in all work funded by external research grants or contracts in all but very exceptional cases.
- 2.5.2 Contracts with sponsors will be negotiated by the Research Support Office before the start of the work in order to avoid subsequent disputes. To protect the University's legal and commercial position it is essential that no one conducts any discussion about contractual terms without express permission from the Research Support Office.
- 2.5.3 All persons must make sure before starting any research, teaching or other work, that the University has obtained any intellectual property licences or permission needed for the work to proceed. No research teaching or other work must be done unless the University first has those rights as the University and any individual involved in the work could otherwise face infringement claims and potential criminal liability;
- 2.5.4 All persons must make sure that any research council or other grant or contract or sponsorship or other support for work carried out at the University is on terms which the University has approved through its Research Support Office and that those terms are fully complied with;
- 2.5.5 All persons should be aware that the payment of less than the full economic cost of research can only normally be considered if the University derives some other benefit from the contract, such as by retaining ownership and exploitation rights of the intellectual property.
- 2.5.6 All persons must comply with all obligations under Section 2.2 above in relation to Disclosable Work resulting from something created wholly or partly using external funding such as research grants and sponsorships in the same way as where there is no such funding.

## 2.6 Leavers

Where anyone engaged in Disclosable Work (“**Leaver**”) leaves the University this Section 2.6 will apply to that Leaver and all Disclosable Work in which he or she is engaged whatever the stage of development of that Disclosable Work:

2.6.1 This Section 2.6.1 applies where there is external funding in relation to that Disclosable Work. To the extent that expenditure to which such funding relates has not yet been incurred by the University, arrangements may be made to transfer that funding to the institution which the Leaver is joining. Whether such arrangements are made will be decided by the University in its sole discretion.

2.6.2 However, all IP in Disclosable Work developed up to the date of leaving will belong to the University. The Leaver will co-operate fully with the University to ensure that a proper audit of that IP can be carried out prior to the Leaver’s departure or at the earliest possible opportunity thereafter. Such co-operation will include providing all information required by the University.

## 2.7 Joiners

Where anyone engaged in Disclosable Work (“**Joiner**”) joins the University from another organisation this Section 2.7 will apply to that Joiner and all Disclosable Work in which he or she is engaged whatever the stage of development of that Disclosable Work:

2.7.1 All IP in Disclosable Work developed from the date of joining will belong to the University even if this may form part of a larger work started at the previous organisation.

2.7.2 Where Disclosable Work results from work carried out both at the University and at the previous organisation, the University’s Business Partnership Unit will be responsible for negotiating with the previous organisation on how the intellectual property rights in such Disclosable Work shall be handled and how any revenue will be shared.

## 3. Sharing the benefits of Disclosable Work

3.1 University employees and students can benefit from the University’s Revenue Sharing Scheme if their work generates income for the University. The University’s Revenue Sharing Scheme (which may be amended from time to time) is described in Schedule 1. Any dispute in respect of the sharing of revenue will be dealt with in accordance with the University’s normal staff or student (as appropriate) dispute and grievance procedure.

3.2 The University may decide that it does not intend to exploit Disclosable Work or the intellectual property it contains. If so the Creator may ask the University to assign the intellectual property rights to him/her. Although it has sole discretion, the University will often agree to do so.

3.3 The University will consider requests from its students and employees for a right to use intellectual property owned by the University and created by them for their own

private use or for use in private consultancy, although the terms of (and decision to grant) any such licence is in the University's sole discretion.

3.4 The University will usually endeavour to acknowledge the authorship and inventorship of Disclosable Works although it will not be obliged to do so in every case. Creators should be aware that it is often necessary for them to take certain steps themselves in order to protect their rights as an author or inventor. Complex issues can arise in relation to this so it is essential that Creators seek advice in each case. The Business Partnership Unit may be able to provide some advice or may recommend a professional advisor who can do so.

#### **4. Whom does this IP Policy apply to?**

##### **4.1 Employees**

The University will automatically own all intellectual property created by employees:

4.1.1 in the course of their University duties;

4.1.2 when using University facilities; or

4.1.3 in the course of duties falling outside his/her normal duties but specifically assigned to him/her.

However, employees will be entitled to a share of any revenues resulting from exploitation of something they have created in accordance with University Policy (see section 3).

Employees include academic staff and anyone else employed by the University.

##### **4.2 Sabbatical, Seconded, Visiting Academics and others**

Any academic or other person working in the University will be subject to this policy even if not an employee of the University or otherwise contracting with the University. Section 4.1 above will apply to them in exactly the same way as if they were so employed. Examples of such persons include:

4.2.1 visiting academics;

4.2.2 anyone working at the University whilst on sabbatical or any form of secondment from another organisation;

4.2.3 emeritus professors;

4.2.4 persons on whom the University has conferred an honorary title;

4.2.5 session lecturers;

4.2.6 anyone else who is engaged in teaching, study or research at the University but:

4.2.6.1 is not employed by the University;

4.2.6.2 is not enrolled as a student at the University; and

4.2.6.3 does not have any other contract with the University.

### 4.3 Students

Unless the University agrees otherwise in relation to any individual student or category of students, all Students shall be provided with a copy of this IP Policy on enrolment and shall agree as a condition of enrolment:

4.3.1 that this policy will apply to all Disclosable Work; and

4.3.2 that they will assign to the University intellectual property created by them if:-

4.3.2.1 it is created jointly with

(a) a university employee and Section 4.1 above applies;

(b) a postgraduate research student and Section 4.3.2.3 below applies;

(c) any person covered by Section 4.2 above; or

(d) any person covered by 4.4 below;

4.3.2.2 the intellectual property is created with the use of University facilities;  
or

4.3.2.3 the intellectual property is created as part of the research carried out by a postgraduate student registered on a research based course.

In return the student will become entitled to share in revenue as described in Schedule 1.

4.3.3 Students will own anything not covered by Section 4.3.2 above.

When a student assigns the intellectual property rights in any Disclosable Work to the University, under Section 4.3.2 above, the University will manage the commercialisation of the intellectual property. The University may also agree with the Student by arrangement on a case by case basis to manage the commercialisation of any intellectual property in Disclosable Work to which Section 4.3.2 above does not apply provided such intellectual property is assigned to the University. In return the student will become entitled to share in revenue as described in Schedule 1.

NOTE: The University will only claim ownership of intellectual property created by undergraduate students where it is covered by sections 4.3.2.1 and 4.3.2.2 above. Determination of ownership will be considered on a case by case basis

#### 4.4 Non-employees contracted to the University

- 4.4.1 This Section 4.4 applies to any person (“**Contractor**”) entering into a contract with the University which states that such person is to be bound by this policy. Contractors will comply fully with all provisions of Section 2 above in relation to all Disclosable Work in whose creation or development that contractor is involved to any extent.
- 4.4.2 Contractors will assign to the University all intellectual property rights in any such Disclosable Work which has been developed whilst that contractor has collaborated with any person covered by Sections 4.1, 4.2 or 4.3 above or with another Contractor or used any University facilities.

#### 5. What Disclosable Work does this Policy apply to?

5.1 It is not possible to list all kinds of Disclosable Works. *Where there is any doubt as to whether this policy may apply to any work that has been done, it is essential that this is notified to the University urgently.* However, the following is a non-exclusive list of examples of Disclosable Works:

- 5.1.1 inventions (whether or not patentable);
- 5.1.2 methods, protocols, operating procedures and similar works;
- 5.1.3 reports to sponsors and other works created specifically in the performance of projects supported by external sponsors;
- 5.1.4 registered and unregistered designs, trademarks, plant varieties, and semiconductor topographies;
- 5.1.5 databases, computer hardware, software, firmware and related material;
- 5.1.6 works generated by computer hardware or software owned or operated by the University;
- 5.1.7 films, videos, typographical arrangements, field and laboratory notebooks;
- 5.1.8 multimedia works, any other works created with the aid of university facilities (subject to the Sections 5.2 and 5.3 below);
- 5.1.9 works commissioned by the University and not already described in Sections 5.1.1 to 5.1.8; and
- 5.1.10 know-how and information associated with the material in this Section 5.1.

Excluded from Disclosable Works are those items referred to in Sections 5.2 and 5.3 below.

NOTE that whether Disclosable Work is produced at the University or elsewhere will not usually be an important factor in deciding whether the intellectual property in that work is owned by or to be transferred to the University.

## 5.2 Teaching materials

- 5.2.1 In the following sections, “**Specifically Commissioned**” means the University has specifically employed or requested the person concerned to produce the works, whether in return for special payment or not.
- 5.2.2 Unless they have been Specifically Commissioned by the University or Section 5.2.5 applies, the University will NOT claim ownership of copyright in:
- 5.2.2.1 lecture notes and preparatory materials;
  - 5.2.2.2 audio or visual aids designed for face to face teaching of Students;
  - 5.2.2.3 handouts, reading lists and other information to be provided to students; or
  - 5.2.2.4 other materials designed for the face to face teaching of students.
- 5.2.3 The material in Sections 5.2.2.1 to 5.2.2.4 is described in this policy as “Teaching Material”.
- 5.2.4 Creators of Teaching Material will grant the University, a non-exclusive, and royalty-free right to use the Teaching Material in perpetuity. Subject to Section 5.2.5 below, the Creator will own the Teaching Material and be free to use the same as he or she decides provided that such use is not prohibited by his or her terms and conditions of employment and provided that unless prior written permission has been obtained from the University for the use of its name, brand or logos, all references to Aston University and its brand and other logos or distinguishing marks are removed from the Teaching Material when this is used outside the University.
- 5.2.5 The University will own broadcast rights and copyright in the arrangement, format, layout and compilation of any audio, visual or multimedia work in Teaching Material created by it.

## 5.3 Rights which the University will not claim

- 5.3.1 Unless it has Specifically Commissioned them from University students or employees, the University will NOT claim ownership of copyright in certain types of Disclosable Work described in this policy as “**Creator Copyright Works**”:
- 5.3.1.1 artistic works;
  - 5.3.1.2 text and artwork for publication in books;
  - 5.3.1.3 articles written for publication in journals;
  - 5.3.1.4 plays;
  - 5.3.1.5 papers to be presented at conferences;

- 5.3.1.6 theses and dissertations;
- 5.3.1.7 oral presentations at conferences;
- 5.3.1.8 posters for presentation at conferences;
- 5.3.1.9 abstracts;
- 5.3.1.10 lyrics; and
- 5.3.1.11 musical scores.

5.3.2 Where a University student or employee has created a Creator Copyright Work, the University, will assign the copyright to that student or employee.

5.3.3 Except for copyright, the University will own all intellectual property rights in the Creator Copyright Works. In particular, Section 2.2 will apply to intellectual property rights in the Creator Copyright Works other than copyright.

5.3.4 Nothing in this section 5.3 will prevent either the creator or the University from placing Creator Copyright Work into electronic archives or similar repositories.

## **6. Other matters**

6.1 This IP Policy shall apply to all intellectual property devised, made, or created on or after 21st June 2006.

6.2 Persons bound by this policy shall continue to acknowledge the University's rights in intellectual property created during the period of their employment or other contractual obligation to the University in a clear manner to avoid misleading future employers, collaborators or other interested third parties as to the ownership of and interests in the intellectual property concerned.

## Schedule 1—Revenue Sharing Scheme

The University will share royalty income with employees and/or students involved in producing Disclosable Work whose exploitation generates revenue for the University. Payments are made at the University's sole discretion, but the University will normally share royalty income in accordance with the table below. This may be either as a lump sum or as royalty income over a period of time.

However note that revenue to be shared is calculated after deduction of all costs incurred by the University in developing, protecting, exploiting and marketing the Disclosable Work and the intellectual property it contains.

<b>Net Revenue<sup>1</sup></b>	<b>Allocated to the Creators<sup>2</sup></b>	<b>Allocated to University Central Funds</b>	<b>Allocated to Creator's School of Study</b>	<b>Allocated to support University commercialisation activities</b>
First £25,000 of Revenue	100%	-	-	-
Next £50,000 of Revenue	60%	25%	10%	5%
Revenue above £75,000	35%	25%	25%	15%

Where exploitation is through a company in which the University and/or the Creator has an interest, this Schedule 1 will apply only to income received under a licence or assignment of intellectual property. The respective shareholdings of the University and/or the inventor in the company will be negotiated at the time of formation or capitalisation. Unless otherwise agreed, this revenue sharing scheme will not apply to revenue generated in respect of such shareholdings whether via dividend, or otherwise.

### Notes

#### 1. Apportionment amongst individuals

Where more than one individual is involved, initial responsibility for agreeing the division amongst individuals lies with those individuals. Advice can be sought from the University via the University's Business Partnership Unit. Where no agreement has been made any revenue due to the Creators will be apportioned equally between them.

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1 The University will always seek to recoup all patent costs from licensees. Where this is not possible, some deductions will be required to cover patent costs before royalties are paid to Creators.

2 Allocated to all Creators together. The University will deduct any tax and NI obligations on the payment.

## **2. Leaving employment of University**

Cessation of employment, under normal circumstances, will not affect an individual's right to receive a share of revenue.

## **3. Death**

In the case of the death of an individual due a share of income, that share of any income will be payable to the estate of the deceased.

## **4. Disputes**

Any disputes regarding the distribution of revenue generated from the exploitation of Disclosable Works will be dealt with in accordance with the University's normal staff or student (as appropriate) dispute and grievance procedure.

**Schedule 2—Technology Evaluation Form**

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**Title**

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**Inventors**

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**Background**

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**Invention**

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**Advantages**

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**Disadvantages**

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**Prior Art**

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**Market**

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**Commercialisation**

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**Actions**

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