

Anglia Ruskin University – Summary

1 Introduction

Intellectual Property is a type of intangible asset which is the result of original thought and creativity. As Universities are by their very nature creators of new ideas then Intellectual Property will inevitably result from that, some is very valuable and leads to technical innovation. It is important to note that while not all Intellectual Property may not be exploitable on its own it may be that it can be used in association with other Intellectual Property to generate commercial income.

While some forms of Intellectual Property are automatically protected by law (such as copyright), some require being registered before rights can be enforced (for instance patents).

2 Scope

2.1 This policy applies to all Anglia Ruskin employees, employees of Anglia Ruskin's subsidiaries as well as students studying at Anglia Ruskin. The aim of this policy is to:

2.1.1 Improve the awareness of both management and academic staff of what Intellectual Property is, the issues surrounding its identification, ownership, protection and commercialisation;

2.1.2 Clarify our policy objectives in relation to Intellectual Property and make clear management responsibilities and procedures, particularly in relation to scientific and technical know-how, patentable ideas and designs; and

2.1.3 Ensure that our staff know what action to take when Intellectual Property issues arise in the course of their work, what support services we have, and how to tap into them.

3 Inventions created by employees during work which is part of their normal duties

3.1 In accordance with UK law (and in common with other universities), Anglia Ruskin will own all Intellectual Property generated by its employees in the course of their employment. Such ownership shall be subject to the exceptions in paragraphs 3.4 and 3.5 below and to the provisions relating to employees' inventions in the Patents Act 1977 (as amended) section 39 to 43.

3.2 Where Intellectual Property is generated through collaborative work with others or by personnel not employed by Anglia Ruskin or in any circumstances where we have contributed to its generation, Anglia Ruskin will seek to establish a share in the ownership of that Intellectual Property. The arrangement will be dependent on the co-operation of the other parties involved.

3.3 Where we considers it appropriate, we will also seek to obtain access to Intellectual Property belonging to other parties for the purpose of potentially commercialisation, these include but are not limited to that of students and service providers.

- 3.4 Anglia Ruskin will not assert ownership of Intellectual Property rights in the following works so that these will reside with the member of staff who created them:
- 3.4.1 material produced by members of our staff for their own personal use and reference, including as an aid to teaching.
 - 3.4.2 material created wholly outside of the course of employment of our staff where such materials are wholly unconnected with the members of staff's employment.
- 3.5 Anglia Ruskin supports and promotes the principle of academic freedom and encourages staff to advance their academic development by academic publication. In accordance with academic practice we will not normally assert ownership of the copyright in any works or design compiled, edited or otherwise brought into existence by a member staff as a scholarly work produced in furtherance of their professional career. Such copyright shall belong to them; 'scholarly work' includes items such as books, contributions to books, articles and conference papers and shall be construed in the light of the common understanding of the phrases in higher education. Anglia Ruskin are most likely to lay claim to copyright in such works when Anglia Ruskin have commissioned the work and/or paid for it all or in part or we own the Intellectual Property on which it is based.
- 3.6 Note that Associates in a Knowledge Transfer Partnership (KTP) are our employees on short-term contracts and therefore bound by the conditions of any Intellectual Property Rights agreement between us and the industrial partner, and subject to this policy on Intellectual Property Rights ownership.

4 Exploitation

4.1 Introduction

Intellectual Property is one of the important and measurable outputs of an innovative University. We recognise the potential of innovative and creative intellectual property to create tangible and non-tangible benefits for our Institution, staff and students.

Anglia Ruskin wishes to manage its Intellectual Property proactively, selectively and fairly, in collaboration with staff and students. The obligations of academic staff regarding disclosure of inventions, as well as delineation of the areas where we would not wish to manage Intellectual Property outputs, are outlined in our **Contracts of Employment**.

We wish to identify new Intellectual Property as it arises, assess its potential and to make good use of the opportunities it offers for initiating external collaboration and generating both favourable publicity and alternative sources of income for our institution, staff and students.

4.2 Confidentiality

- 4.2.1 Any information which may contain original ideas or technology that may have commercial value must be protected by getting the other party or parties to sign a formal confidentiality (or non-disclosure) agreement. Anglia Ruskin has a number of standard agreements to

ensure information is kept confidential which can be found on the Legal Services intranet page. There are three templates available which cover the following areas:

- a situation where both parties wish to share information as a prelude to collaborative work;
- a situation where we only wish to divulge some technology prior to patenting action in order to gauge the level of external interest; or
- a situation where a third party wishes to divulge confidential information to members of Anglia Ruskin.

The standard agreements need to be adapted to the circumstances of each case, in consultation with members of Research, Development & Commercial Services. Any amendments will need to be formally approved by personnel in the Secretary and Clerk's Office before an agreement can be authorised and issued.

- 4.2.2 A confidentiality agreement is also required whenever we wish to make a joint bid, induce an external organisation to help with the funding of further research and development, or to enter into a collaborative framework which may lead to commercialisation. Staff members are required to inform relevant members of Research, Development & Commercial Services team whenever such situations arise. It is useful to remember at this stage that students are not our employees which means under English Law they are not covered by any agreement entered into by us (covered in section 6 & 7 below). Where students are likely to be involved in dealing with confidential information and/or developing commercial valuable Intellectual Property they will need to assign the Intellectual Property to us using one of Anglia Ruskin's standard agreements which covers confidentiality, ownership of the Intellectual Property and the division of revenue resulting from exploitation (explained below).

4.3 Management Responsibility and Procedures

- 4.3.1 Responsibility for implementing the above policies as they apply to patentable ideas, designs and know-how arising in the course of research activity within Anglia Ruskin rests with the Deputy Vice-Chancellor (Research, Scholarship and Development).

- 4.3.2 The Intellectual Property Steering Group (IPSG) will consider the development of strategies and approve actions needed to implement the policies and strategies for Intellectual Property, particularly where such actions require the sanctioning of financial expenditure. The IPSG will be chaired by the Deputy Vice Chancellor (Research, Scholarship and Development). The group will be made up of:

- Director – Research, Development & Commercial Services
- Faculty of Science and Technology Associate Dean (External Income Generation)
- Faculty of Health and Social Care Associate Dean (External Income Generation)
- Finance Officer
- East of England Business Liaison & Regional Support Business Development Manager – Research, Development & Commercial Services

- 4.3.3 The IPSG will be convened on an ad-hoc basis by the Deputy Vice Chancellor (Research, Scholarship and Development) whenever there are issues to be considered. The Committee

will consider recommendations for filing of patent applications, investments in research which may lead to innovation, and will follow and recommend actions related to the progress of specific external collaborations with Intellectual Property implications. It will receive and consider regular reports on Intellectual Property income and expenditure and will report to the External Funding Committee.

- 4.3.4 Responsibility for the safe keeping of all official papers relating to our registered Intellectual Property and taking legal action, if required, lies with the Secretary and Clerk's Office.

4.4 "Day-to day" Management of Intellectual Property Operations

- 4.4.1 There are two basic initial situations which will require attention that could trigger activity to protect our Intellectual Property. Both situations should be identified as early as possible through pro-active investigation by a combination of Research, Development & Commercial Services and Faculty staff working alongside academic researchers. These two situations are:

- 4.4.1.1 The identification of emerging Intellectual Property, arising from any of our research activities, which could have industrial application. This is formally referred to as "Disclosure", because the Employment Contract states that staff must disclose their inventions. In practice, the commercial implications may often be spotted by someone other than the academic directly involved. All disclosures will be reported to IPSG, whether or not they result in a recommendation for further action.

- 4.4.1.2 The initiation of collaboration with an external partner, possibly a joint bid for research funds or a discussion about collaboration on a research and development project where we have some expertise and the industrial partner wishes to explore a new idea which could bring new product or process innovation to their business.

4.5 Managing Actions which follow an Intellectual Property Disclosure

- 4.5.1 When Intellectual Property thought to have commercial significance is identified and/or disclosed a number of actions follow:

- 4.5.1.1 Action must be taken to guard against premature disclosure as if an eventual patent application is to succeed, the invention, concept or design must be kept secret. Has there been any publication? Who else amongst us knows about it? Are any research students involved? Action will be necessary if, for instance, publications have been sent to the printers and students have not completed the necessary Intellectual Property assignment form to us. Any staff who are "in the know" should be reminded of the need for confidentiality, which is a requirement of their employment contract.

- 4.5.1.2 In each case where an Intellectual Property Disclosure is made and there is a possibility that a postgraduate student has contributed to the invention, the situation needs careful handling. Invention is a matter of fact backed by evidence, not a matter of opinion. Claims by postgraduate students to have invented or contributed to the invention need to be taken seriously and agreement reached on the precise nature of the contribution without pressure of seniority. Where the

student has not contributed, but is party to key information, he/she will be asked to sign a declaration. In other cases, the student would be asked to assign the Intellectual Property to us using one of Anglia Ruskin's standard agreements which can be found on the University's Legal Services intranet page.

- 4.5.1.3 An initial low cost appraisal of the opportunity may be initiated and carried out by Research, Development & Commercial Services personnel working with Faculty staff and the academic(s) closest to the project. Each case will be given a unique IPD (Intellectual Property Disclosure) reference code and the initial appraisal will an assessment which includes who owns the rights to the idea as well as examining the patentability and what possible market applications are available.
- 4.5.2 If it is evident that the Intellectual Property which has been disclosed fails to meet the criteria required for patentability, the Disclosure will be recorded and a brief report made to IPSPG and kept on file, but a recommendation for no further action will be made.
- 4.5.3 In all other cases an appraisal report will conclude with a recommendation for action, which will be considered by IPSPG. In many cases, where patentable technology is disclosed, that recommendation will be for an initial UK Patent Application to be filed. The reasons why this is frequently an appropriate recommendation is explained in the following section.

4.6 Anglia Ruskin's Patenting Strategy

- 4.6.1 As previously mentioned, IPSPG's remit is to oversee the management of Intellectual Property and approve specific actions in relation to disclosures of specific new Intellectual Property. Much of the work of IPSPG undertakes is concerned with patenting. A patenting strategy has evolved, based on a pragmatic and low-cost approach to Intellectual Property protection in our University situation.
- 4.6.2 Before the initial filing, inventors will usually be required formally to assign their Intellectual Property to Anglia Ruskin University as this clarifies the ownership situation and in the event of applying for protection in the USA an application will only be accepted from an employer if the employee has assigned their rights to the idea to them.
- 4.6.3 This policy has several options depending on the situation which are briefly outlined below:
 - 4.6.3.1 If the Intellectual Property is at an early stage and only laboratory-based proof of its effectiveness exists, there may be a case for an alliance with a potential licensee and Anglia Ruskin under confidentiality arrangements, possibly even delaying the initial filing, until the technology is more proven. This type of arrangement could be subject to an Option Fee, where the collaborator would pay Anglia Ruskin to reserve a right to an exclusive licence, during the period of collaboration to prove the principle.
 - 4.6.3.2 Assigning the Intellectual Property, and the associated patent rights to an industrial party means selling the property outright. Income will be immediate, but may or may not represent the value of the property.

- 4.6.3.3 An exclusive licence will offer us the possibility of transferring Intellectual Property costs to the licensee, much more easily than a non-exclusive licence. We would retain ownership of the Intellectual Property and have to keep the patents in force, but would, if the right licensee is selected, receive royalty income over a number of years during which the licensee uses the technology.
- 4.6.3.4 On the other hand a series of non-exclusive licences could provide the opportunity for maximising income, but with the risk that none of the licensees provides much royalty income. We, in this case would be obliged to maintain patent protection, often a very costly operation.

Between the initial filing and potential licensing deals there will be a period of uncertainty as to whether the latter can be achieved. At all stages of the process of protecting and commercialising the Intellectual Property, there is a need for good communication and collaboration between the academic inventor(s) and the designated individual in Research, Development & Commercial Services. It is very likely that the academic(s) will be required to spend a good deal of time working with the patent agent initially, and subsequently working with Research, Development & Commercial Services staff and meeting potential customers for the purpose of demonstrating or presenting the benefits of the technology.

Responsibility for the negotiation of deals, drawing up propositions for licensing or assignment, and for the eventual preparation of licensing documents rests with members of Research, Development & Commercial Services, but it is the responsibility of those in the Secretary and Clerk's Office to seek appropriate legal advice in relation to any documents produced. It is also the responsibility of those in the Secretary and Clerk's Office to approve and obtain due authorisation of all legal documents entered into. Any Licence or assignment granted or awarded is made subject to the interests of Anglia Ruskin which reserves the right to seek a royalty or other payment in recognition of the value of the Intellectual Property Rights transferred that results or has resulted from the commercial exploitation of such property.

4.7 Exploitation Revenue Sharing

If revenue is created as a result of commercial activity or licencing deals then it will be shared according to the following table:

Cumulative Residual Income* Sharing Formula		
Residual Income	University	Inventor
up to £100,000	0%	100%
£100,001-£1,000,000	50%	50%
£1,000,001 and above	70%	30%

*Residual Income is defined as the gross income from the exploitation of a given item of intellectual property, less past and future costs which are directly attributable to the exploitation. Such costs may for instance include legal, technical and commercial advice, patent fees, expenses, and any past

or future commitment of internal resources specifically used for the commercialisation of the specific item of Intellectual Property.

5 Sponsored research, consultancy and other commercial work

5.1 Commercial work generally fall into the following four categories with the general Intellectual Property position of each included below:

- Research Councils and Government Departments - Intellectual Property arising from Research funded by Research Councils is generally vested in us. The ownership of Intellectual Property generated from work funded by Government Departments will vary.
- European Community - The partners submit an exploitation plan as a part of their application for funds, and all the Intellectual Property is assigned to the partners; the relationship is governed by a consortium agreement.
- Charities and Charitable Trusts - Arrangements vary considerably and are sometimes subject to negotiation.
- Industry and Commerce - Where work is being wholly or partially paid for by external commercial organisations, whether this work is considered to be research, consultancy or in some other category, it is essential to negotiate and agree beforehand who will own the Intellectual Property arising during the project, and particularly whether there will be rights to publish, rights to royalties etc. for us.

5.2 When Anglia Ruskin contemplates undertaking commercial research or other work of a commercial nature with an external party we have to consider how to protect the products of our intellectual input we expect to put into the project. If we enter into a collaborative project without any agreement as to who owns the intellectual property rights generated then it could cause difficulties at the end of the project. The important initial step is to involve the relevant Research, Development & Commercial Services staff in any discussions with the potential partner. Few academics have experience of negotiating commercial agreements, but many commercial companies have taken advantage of this fact in the past.

5.3 There must be clarity on all the issues below and an agreement signed before entering into any joint project or bid:

- Ownership and Rights to exploit the Intellectual Property - Our normal practice would be for the commercial partner to own the rights exclusively at the end of the contract. This is mainly because they may be in a better position to use the technology, and it might be contentious in a collaborative project as the commercial partner is paying us. It is also simpler if they make the decisions about patenting and bear the costs. Despite this provisions must be put in place to ensure we can use the knowledge gained to undertake future research and use any results in teaching students.
- Licensing - An alternative to the above arrangement, particularly where we are undertaking a lot of original research and the partner isn't concerned about Intellectual Property, is for the Intellectual Property to be owned by us and rights licensed back to the commercial partner. This is one way of ensuring that we have options for additional non-exclusive

licenses to be granted to other companies. However, it does mean that we would bear the costs of any Intellectual Property protection.

- Royalties – As mentioned above, when we consider granting a licence to a commercial partner will negotiate for a royalty to be paid based on the what the commercial partner intends to do with the Intellectual Property. We will need to reserve rights to access a partner's accounts to ensure we can audit them in the event of a dispute.
- Exclusivity - Sometimes the commercial partner will want to have an assurance, in addition to the normal confidentiality arrangements, which will ensure that we do not carry out research of a similar nature. This will directly impact on our ability to develop the Intellectual Property further however we must ensure that we are able to use the Intellectual Property for non-commercial research and publish our findings.
- Publication - Universities survive by publishing the results of their research. In spite of this the commercial partner may not wish to have the detailed technical results of a project published because of the potential damage to their commercial interests. Any arrangements of this nature usually contain a time limit which allows the company to apply for protection, thus effectively protecting critical new knowledge before publication of results in journals or through a PhD thesis.

6 Intellectual Property created by Undergraduate students

The issue of Intellectual Property Rights in undergraduate student projects, particularly in the I.T. area, has arisen on a number of occasions. We would not wish to inhibit the creativity of an undergraduate student who, for instance as a project constituent of their degree course, is constructing a programme or device which may eventually have commercial value. There may be circumstances where a staff member's ideas have contributed to a student project. Where that is the case, we may agree to collaborate with them to protect and exploit the Intellectual Property concerned, for the benefit of both the inventors and ourselves in line with our revenue sharing and intellectual property exploitation policies in place at the time.

7 Intellectual Property created by Postgraduate students

7.1 Postgraduate students who are more likely than undergraduates to become involved in original work with commercial implications. Some are sponsored by employers, who may claim rights to Intellectual Property. Otherwise, unless we take specific action to ensure the transfer of Intellectual Property rights, these will belong to the student. Where there is potential commercial application, Anglia Ruskin will consider the contribution to the Intellectual Property made by intellectual input of the supervisor, and consider asking the student to assign his/her rights to us, so that steps can be taken collaboratively to exploit the commercial implications of the Intellectual Property.

7.2 It is Anglia Ruskin's intention to require all postgraduate research students to sign an undertaking, on registration, that, in instances where they are formally notified as working on a project having commercial sponsors or commercial potential, they will enter into a confidentiality agreement, and assign their Intellectual Property rights to Anglia Ruskin unless they are employed by the organisation funding the research. In return we will treat postgraduate researcher inventors on such projects on the same financial basis as staff

inventors in respect of Intellectual Property-based income. The proposed wording of that undertaking is given below for reference:

7.2.1 “I acknowledge the possibility that I may become involved in a project which produces new ideas, designs or similar exploitable intellectual property. Where this is the case, and I am formally notified of that fact by my supervisor or otherwise by a member of Anglia Ruskin University in writing, I agree, when asked by my supervisor or other responsible Anglia Ruskin University officer:

- to discuss and quantify my creative contribution in respect of any given item of intellectual property developed in the course of research in which I am involved, with my supervisor or otherwise with the nominated Anglia Ruskin University officer; to assign my rights in such Intellectual Property to Anglia Ruskin University, to be named as an inventor in and execute any document which may help to secure protection for Anglia Ruskin University of said Intellectual Property, and to sign any confidentiality agreement with an external sponsor of research in which I am involved; and
- to be a party to any Intellectual Property agreement which Anglia Ruskin University may undertake in relation to research work with which I am involved.”

8 Confidentiality - Thesis

8.1 Where a candidate or Anglia Ruskin wish a postgraduate thesis to remain confidential for a period of time after completion of the research, an application for approval shall normally be made to the Research Degrees Committee at the time of seeking approval of the research proposal. In cases where the need for confidentiality emerges at a subsequent stage, a special application for the thesis to remain confidential after submission must be made immediately to the Research Degrees Committee. The period approved shall normally not exceed two years from the date of the oral examination.

8.2 The Research Degrees Committee shall normally only approve an application for confidentiality in order to enable a patent application to be lodged or to protect commercially or politically sensitive material. A thesis shall not be restricted in this way in order to protect research leads. While the normal maximum period of confidentiality is two years, in exceptional circumstances the Research Degrees Committee may approve a longer period. Where a shorter period would be adequate the Research Degrees Committee shall not automatically grant confidentiality for two years.

8.3 Where the confidential nature of the candidate’s work is such to preclude the thesis being made freely available in Anglia Ruskin’s Library, Collaborating Establishment or Regional Partner College the thesis shall be retained by our University on restricted access and, shall only be made available to those who were directly involved in the project.