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HE Intellectual Property Policy

Document Management, Approvals & Review:

Policy Statement:

The Intellectual Property Policy sets out the University Centre Kingston Maurward and Kingston Maurward College's policy in respect of:

- The ownership of Intellectual Property created by its employees, its students and by associated staff
- The protection of Intellectual Property owned by the University
- The exploitation of Intellectual Property owned by the University
- The distribution of revenue arising from the commercial exploitation of Intellectual Property
- The implementation of this Policy

This document further serves to clarify the ownership of IP (and the distribution of benefits arising from IP) which are set out in brief in the employment contract for all staff at Kingston Maurward College (including UCKM).

Authority:

The HE Intellectual Policy is approved by Higher Education Academic Board in accordance with the Corporation's Standing Orders. It applies across all the academic activities of the University Centre.

Title	HE Intellectual Property Policy	
Manager	Head of Human Resources	
Approvals (Committee)	HE Academic Board	
Approvals (Board)	Approved by Corporation	
Next Review Due	In three years	

HE Intellectual Property Policy

1 Introduction

- 1.1 This document sets out the Weymouth and Kingston Maurward College (hereafter termed the College or WKMC) policy in respect of:
- The ownership of Intellectual Property created by its employees, its students and by associated staff
 - The protection of Intellectual Property owned by the College
 - The exploitation of Intellectual Property owned by the College
 - The distribution of revenue arising from the commercial exploitation of Intellectual Property
 - The implementation of this Policy
- 1.2 This document also serves to clarify the ownership of IP (and distribution of benefits arising from IP) which are set out in brief in the employment contract for all staff at Weymouth and Kingston Maurward College (this includes activities and staff at University Centre Kingston Maurward (UCKM) and Weymouth Higher Education (WHE)).

2 Definition of Intellectual Property

- 2.1 Intellectual Property (IP) is the term used to describe the product(s) of any creative endeavour – artistic, literary or scientific - that can be protected under legislation.
- 2.2 In the context of this policy, IP thus refers to all matter capable of being protected by patents, copyright, designs, database rights, topography rights, trade marks, plant breeders rights, know-how and all other intellectual or industrial property rights, in each case whether registered or unregistered and including applications or rights to apply for them together with all extensions, divisionals, continuations, continuations-in-part and renewals of them, and in each and every case all rights or forms of protection having equivalent or similar effect anywhere in the world.
- 2.3 Intellectual property also refers, however, to other intellectual assets such as inventions 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.

3 Principles of the Policy



- 3.1 Weymouth and Kingston Maurward College (including WHE and UCKM) is a registered charity: the majority of its resources and its activities are funded by public money. WKMC therefore has a duty to ensure that those resources are accounted for and used appropriately. That includes Intellectual Property.
- 3.2 The general principles underlying this policy are:
- The College owns the IP created by its employees, except to the extent that this policy provides otherwise.
 - The College must obtain good value for any investment it makes in creating IP (in terms of its funds, facilities, staff or other resources) that is commercially exploited. Where, however, the use of those resources is insignificant in the creation of IP the College may waive its ownership rights.
 - Creators of IP that is commercially exploited and that generates income should receive a fair share of that benefit, as should the College and the relevant Institute(s) or Department(s).
 - In respect of IP which the College determines not to exploit, commercially or otherwise, the College should have the right to use that IP for its own purposes and to receive a share of any benefits of exploitation, but should not unreasonably refuse to license or assign the IP to the Creator.
- 3.3 These principles are congruent with those employed by other Higher Education Institutions and may be thought of as typical for the sector.

4 Ownership of IP

Employees of the College

- 4.1 The College claims ownership, unless agreed otherwise, of all IP arising from work:
1. Undertaken by employees of the College in the course of their normal duties of employment.
 2. Undertaken by employees of the College outside of their normal duties of employment that makes more than incidental use of the College's resources.
 3. Developed under a contract between employees and the College.
 4. Developed in the course of research or other activities sponsored by the College
 5. Developed in the course of research or other activities sponsored by an external body, subject to any agreement with that external body.



- 4.2 The College recognises the following exceptions to its ownership of IP which apply unless otherwise agreed:
1. Any material produced as an aid to teaching
 2. Conference and seminar papers
 3. Publications such as books, book chapters, journal articles
- 4.3 With regard to these exceptions, the College shall be granted an unconditional, perpetual and irrevocable right to copy, use and modify these materials for all purposes connected with the College and any affiliated or subsidiary institution.
- 4.4 The rights relating to 4.2(1) shall be exclusive during the term of employment of the staff member generating the IP and non-exclusive thereafter. The rights related to 4.2(2) and 4.2(3) shall be non-exclusive.
- 4.5 With respect to the production of items specified in section 4.2, where the College has invested support in terms of financial resource, materials or time to the member of staff, there will be an apportionment of any royalties or revenues which accrue from the commercialisation according to the proportions identified in section 7.3 of this policy. An example would be the production of a textbook or set of teaching materials produced by an individual or group of staff who had been supported by the College in the production or commercialisation through a period of project leave, investment in the commercialisation or by providing a period of lighter duties.

Students

- 4.6 Students generating IP in the course of their academic studies and/or research own that IP in their own right.
- 4.7 Exceptions to this include (but are not limited to):
1. A sponsored studentship where the sponsor has a claim on IP arising from the terms of the sponsorship.
 2. Where the student is part of a research team where the sponsor of that research owns any IP arising from that research.
 3. Where a specific agreement has been made between the student and the College to the contrary (e.g. the student has used College facilities and resources through an agreement with the College that it shall own all or part of the resulting IP)
 4. Where the student generates IP resulting from collaboration or work with an employee of the College working in the course of his or her employment.
- 4.8 Where a College employee is concurrently registered as a student, the employee status takes precedence for the purposes of this Policy.



Associated Staff

- 4.9 Academics or researchers who have an honorary association with the College but are not employed by the College are not generally required to transfer any IP they create in the course of their honorary activities to the College. This is, however, subject to the terms and conditions of their honorary contract and the extent to which their honorary position confirms use of College facilities, equipment or any form of support from employed staff.
- 4.10 Proportionate claim on IP is related to the intensity of support provided by WKMC. As an example, an honorary research fellow being funded externally to undertake intensive laboratory-based research is likely to incur a claim on IP; unlike an emeritus fellow making occasional use of the library. The terms of any claim of IP will be set out in the engagement or agreement letter provided to the honorary or emeritus fellow upon appointment.

Working with third parties

- 4.11 It is the responsibility of each individual who is subject to this Policy to ensure that IP arrangements with third parties drawn up in the course of, for example, collaborative research activity, contract research or consultancy work, do not conflict with their obligations to the College, including the College's rights of IP ownership under this Policy.
- 4.12 In the course of consultancy agreements and sub-contracting arrangements with other institutions, it must be ensured that the College's rights are appropriately protected; especially where there is a strong possibility that IP may be created during the course of the work.
- 4.12 For further advice on this matter please contact the Head of Human Resources.

5 The Protection of IP

- 5.1 Employees must disclose to the College any IP that they create of which the College is the Owner (under the term set out in this Policy). In the first instance, employees should contact the Head of Human Resources.
- 5.2 Employees must keep confidential at all times and must not publish or disclose any such IP, except as expressly permitted by the College under this Policy or otherwise in writing.
- 5.3 It is the duty of the Employee to ensure that this IP is appropriately protected, although they should consult the Head of Human Resources in the first instance.
- 5.4 Some Intellectual Property Rights (IPR) arise automatically, i.e. Copyright and Unregistered Design Rights. Other forms of IPR, e.g. patents, trademarks,



registered design rights, database rights, must be applied for. It is the responsibility of employees (notwithstanding the termination of their employment):

1. To apply for and obtain in the sole name of the College, (unless otherwise directed) a patent, trademark, registered design or other protection of any nature whatsoever, as appropriate to the IP, in any country throughout the world and, when so obtained or vested, to renew and maintain this protection.
 2. To resist any objection or opposition to obtaining, and any petitions or applications for revocation of, any such patent, trademark, registered design or other protection;
 3. To bring any proceedings for infringement of any such patent, trademark, registered design or other protection;
- 5.5 The College undertakes to indemnify its employees in respect of all costs, claims and damages incurred, in connection with the discharge by its employees of any and all such requests under 5.6.(1-3).
- 5.6 Where IP can only be protected by a Confidentiality Agreement since no formal IPR are capable of subsisting then employees should consult the Head of Human Resources.

6 Exploitation of IP

- 6.1 Exploitation of IP is taken to mean any sale, transfer, assignment or licensing of the IP and/or the supply, sale or licensing of goods or services involving the use of the IP.
- 6.2 Unless otherwise authorised, the College shall determine if and how any IP that it owns shall be exploited, commercially or otherwise.
- 6.3 In the first instance, the creator(s) should contact the Director of Research development to discuss the issue of exploitation.
- 6.4 If the College decides that it does not wish to exploit any IP of which it has ownership, the College will normally license or assign the IP to the creators where it can be shown to its reasonable satisfaction that assigning ownership or licensing will be on terms which are consistent with the College's obligations as a charity and the use of public funds.
- 6.5 If the IP is commercialised by the creator, the College will be entitled to a share of revenue in accordance with guidelines set out in sections 7.1 to 7.3 of this Policy.

7 Distribution of Revenue Arising from the Commercial Exploitation of IP

7.1 Revenue here is taken to mean any capital and/or income received or receivable by the College in respect of the exploitation of its IP.

7.2 The following costs (including VAT, where recoverable) will be recouped from the revenue received in relation to the IP:

- costs associated with protection of the IP
- costs of defence of the IP
- costs of marketing the IP
- costs of any legal agreements associated with the IP
- costs of any development work that is not externally funded or recoverable
- any other costs necessary for the successful commercialisation of the IP overheads on all of the above
- the risk cost of any capital sums applied at the appropriate market rates
- any other expenses directly related to the obtaining or exploitation of the IP
- any payment due under a revenue sharing agreement to a third party involved in the research leading to the development of the IP

7.3 Any remaining revenue shall be apportioned as follows:

Up to £250,000:

50% for the Creator(s)

30% for the College (University Centre)

20% for the Centre or Department

More than £250,000:

To be determined by the Principal and Board of Trustees (acting in their capacity as the Remuneration Committee) on a case-by-case basis.

8 Implementation of this Policy

8.1 The responsibility for the implementation and monitoring of this Policy shall lie with the College Principle who may delegate that responsibility to another person.

