

Intellectual Property: Commercialisation Revenue - Procedures

1. Purpose

1.1 These procedures describe how Intellectual Property (IP) commercialisation revenue is managed at the University, other than from commercialisation of teaching materials and IP not derived from research.

1.2 These procedures comply with the University's obligations under the *National Principles of Intellectual Property Management for Publicly Funded Research* and must be read in conjunction with the Intellectual Property – Governing Policy and Intellectual Property: Commercialisation of Research Outcomes – Procedures.

2. Scope and application

2.1 These procedures apply to all staff, students and invited scholars of the University.

3. Definitions

3.1 Refer to the University's Glossary of Terms for definitions of terms as they specifically relate to policy documents.

4. Distribution of net commercialisation revenues

4.1 The Office of Research arranges for the distribution of net commercialisation revenues to creators. As a general rule, is distributed in the following manner:

- (a) one half (50%) to all the creators among them;
- (b) one quarter (25%) to the creators' cost centre, (or cost centres where a staff member is both a member of a University institute or centre and a school); and
- (c) one quarter (25%) to the University central funds.

4.2 When creators are staff employed by a cost centre, the distribution of net commercialisation revenue under section 4.1 (b) is determined by the responsible senior executive for that cost centre (with the cost centre determined at the time that the IP was created).

4.3 When there are several creators who are employed by different organisational areas, distribution to relevant schools is made in the same proportions as apply to creators. At its discretion, the school can apply the commercialisation revenue to funding further research by the creator.

4.4 Net commercialisation revenue available for distribution to creators is the gross commercialisation revenue received by the University from the commercialisation of the IP less commercialisation expenses.

4.5 Commercialisation revenue can include:

- (a) royalties realised on sales by a licensee;
- (b) royalties from sub-licence fees received from a licensee;
- (c) lump sum licence fees (except where those fees are required to be used to subscribe for equity in a start-up company);
- (d) proceeds from the assignment of the University's IP;
- (e) proceeds of sale of the University's IP (where a sale occurs);
- (f) signing fees;
- (g) milestone payments;

APPROVAL AUTHORITY

Deputy Vice-Chancellor (Research and Innovation)

RESPONSIBLE EXECUTIVE MEMBER

Deputy Vice-Chancellor (Research and Innovation)

DESIGNATED OFFICER

Director, Office of Research

FIRST APPROVED

28 September 2018

LAST AMENDED

28 June 2024

REVIEW DATE

28 June 2026

STATUS

Active

- (h) minimum annual payments;
- (i) reimbursement of patent prosecution and maintenance expenses;
- (j) dividends upon shares owned by the University in a start-up company to which it grants a licence;
- (k) proceeds of sale of shares owned by the University in a start-up company to which it grants a licence;
- (l) damages from infringement proceedings; or
- (m) any income received from the exploitation of the University's IP.

4.6 The determination of whether particular revenue is commercialisation revenue available for distribution to creators is made by the Deputy Vice Chancellor (Research and Innovation).

4.7 Commercialisation expenses include the expenses incurred by the University in the production, development, protection, marketing and commercialisation of the University's IP, and are not limited to:

- (a) patenting and other IP protection expenses;
- (b) legal expenses incurred on the commercialisation project (and not just on the particular transaction giving rise to the revenue);
- (c) external professionals' expenses incurred on the commercialisation project (and not just on the particular transaction giving rise to the revenue), which can include:
 - (i) accountants' expenses for financial and taxation modelling;
 - (ii) valuers' expenses; and
 - (iii) other consultants' expenses (e.g. commercialisation consultants);
- (d) costs associated with the development of the IP including proof of concept studies, prototype development, marketing studies and business planning;
- (e) costs associated with the establishment of a start-up company (e.g. incorporation, legal, taxation and advisory costs);
- (f) travel and accommodation expenses incurred on the commercialisation project (and not just on the particular transaction giving rise to the revenue) by any person (whether staff member or an external professional);
- (g) legal costs and related expenses incurred to commence or defend infringement proceedings; or
- (h) taxes, duties or any other government levies incurred by the University, in respect of the commercialisation project or revenue.

4.8 Commercialisation expenses specifically do not include:

- (a) the University's administration expenses; or
- (b) the cost of undertaking research on the commercialisation project unless such research is funded by the University.

4.9 The determination of whether a particular expense is a commercialisation expense is made by the Deputy Vice Chancellor (Research and Innovation) upon recommendation by the Office of Research.

5. Equity in lieu

5.1 In exceptional circumstances and on a case-by-case basis, equity for creators in a start-up company is considered by the Deputy Vice-Chancellor (Research and Innovation) upon recommendation by the Office of Research. Creators need to consider the taxation impact, if any, upon them of receiving and holding equity. Similarly, the University needs to consider the Fringe Benefits Tax impact, if any, conflict of interest and other commercial issues.

6. Revenue division and dispute resolution

6.1 When there is more than one creator, they must determine among themselves how to divide the proportion of commercialisation revenue to which each is entitled.

6.2 In cases of uncertainty or if there is dispute between creators the Deputy Vice-Chancellor (Research and Innovation) determines proportionate contributions for the purposes of net revenue distribution to creators.

6.3 When there is disagreement on who is a creator, this is determined by the Deputy Vice-Chancellor (Research and Innovation) on recommendation by the Office of Research.

6. Authorities and Responsibilities

6.1 The Deputy Vice-Chancellor (Research and Innovation) is authorised to make these procedures and guidelines for the operation of University Policy. These procedures and any related guidelines must be compatible with the provisions of the Intellectual Property – Governing Policy.

6.2 The Director, Office of Research is authorised to make associated documents to support the application of policy documents. These must be compatible with the provisions of the respective policy document.

6.3 These procedures operate from the Last Amended date, will all previous procedures related to IP commercialisation revenue are replaced and have no further operation from this date.

6.4 All records relating to IP commercialisation revenue must be stored and managed in accordance with the Information Management – Governing Policy.

6.5 These procedures must be maintained in accordance with the Policy Framework – Procedures and reviewed on the shortened two-year policy review cycle.

9.6 Any exception to these procedures to enable a more appropriate result must be approved in accordance with the Policy Framework – Procedures prior to the deviation of the policy document.

9.7 Refer to Schedule C of the Delegations Manual in relation to the approved delegations detailed within this policy document.

END

RELATED DOCUMENTS

- Intellectual Property - Governing Policy

LINKED DOCUMENTS

- Intellectual Property - Governing Policy
- Intellectual Property: Commercialisation of Research Outcomes - Procedures

RELATED LEGISLATION / STANDARDS

- National Principles of IP Management for Publicly Funded Research