

17: Identification and protection of Intellectual Property

17.1 Introduction

Both Queen Mary and Barts Health undertake activities that enable both parties to make progress in our understanding of the world and wish to ensure that any discoveries are developed to bring a benefit to society and the world. In order to ensure this can happen both organisations recognise the need to protect their intellectual property.

This IP policy has been created to inform staff members of the importance of IP protection and subsequent exploitation and advise how Barts Health undertakes to manage this. It protects both the interests of Barts Health and its staff.

It is incumbent upon Barts Health to exploit, whenever possible, anything that is produced by its employees or contractors where that product has potential commercial value or could lead to a new service development or create new efficiencies or savings.

17.2 Barts Health Intellectual Property Policy

17.2.1 Definition of IP

Intellectual Property (IP) can be defined as, but is not limited to inventions, designs, project results, prototypes, systems, processes, formulae, publications, internal reports, natural discoveries, ideas, knowledge, or know-how. Types of IP include Copyright, Registered Designs and Design Rights, Patents, Trademarks, Database rights and Know-how.

IP is often described as being either Background IP or Foreground IP:

Background IP is all the IP that is relevant to a collaborative venture or project that is supplied by the parties at the start of the project. The usual ownership position with regards to Background IP is that the party that has created and supplied it will retain ownership of it and any improvements made to it during a project.

Foreground IP is all the IP produced within the collaborative venture or project during its lifetime. Ownership of Foreground IP must also be formalised within a contract to avoid the default position of joint ownership between the parties arising, which can create unwanted restrictions on how Barts Health may commercialise any Foreground IP.

17.2.2 Application of Barts Health IP Policy

This policy applies to Barts Health staff and contractors working on behalf of Barts Health. The policy is to be regarded by Barts Health staff as the default position with regards to IP ownership. Although the policy refers to the most beneficial position for Barts Health in terms of IP ownership and subsequent income sharing, it is understood that it will not always be possible to achieve this.

Staff who are authorised to sign contracts with third parties, such as research or collaboration contracts, must consider and, if necessary, seek advice relating to IP matters before signing contracts.

17.2.3 Ownership

Barts Health employees have certain obligations relating to IP within their contracts of employment. The arrangements for the protection of Barts Health IP for contracted staff should include an undertaking to comply with the Barts Health IP Policy.

All IP made, written, designed or originated by staff during the course of employment with the Trust and in connection with their appointment shall be the property of the Trust to the fullest extent of the law. Staff should not make commercial use of services or products developed in the Trust's employment without the prior agreement of the Trust.

Staff should immediately disclose to the Trust, using the appropriate disclosure form, full particulars of any IP made, written, designed or originated by them during their employment with the Trust irrespective of whether it was so made or discovered during normal working hours or using the facilities of the Trust.

Staff must not register IP in their own name or make commercial use of services or products developed in the Trust's employment without the prior agreement of the Trust.

Staff waive all present and future moral rights in any copyright works in favour of the Trust and agree not to support or maintain nor permit any claim for infringement of moral rights in such copyright works.

Where an individual holds an honorary contract with another organisation but that individual's principal employer is Barts Health, then the ownership of any IP arising from their work is vested in Barts Health.

The Trust may decide to waive its right to own its intellectual property and assign ownership of that intellectual property to the employee, with the full costs of this being borne by the assignee (including all patent costs, legal assignment costs and management costs). In such cases, the assignees may pursue and exploit the relevant IP in their own time and without utilising Trust facilities and resources. The Trust may retain a residual share of the financial benefits (to be negotiated on a case-by-case basis) after deduction of any reasonable expenses incurred by the staff member in achieving the income (including patent and legal expenses).

17.2. 4 Collaboration Contracts

In circumstances where Barts Health is working in conjunction with another organisation the IP position will need to be determined within a collaborative agreement prior to the commencement of a project. In determining the position, the interests of Barts Health must be considered and ownership should be dictated by the level of input that the organisations have into the generation of IP.

All collaboration contracts will require review by the Trust before receiving final authorisation to ensure that Barts Health receives an adequate revenue share or if applicable, rights of ownership in IP arising from the collaboration.

Barts Health would advise that joint ownership of IP is avoided. Joint ownership of IP has the potential to present problems for the parties owning IP as they are not permitted to assign, licence or subcontract to third parties without the consent of the co-owner. As stated above it is advisable that ownership is agreed by specific contracts between the two parties prior to IP being created.

Where third parties request the use of Trust trademarks or logos, they should obtain the prior written agreement from the Trust and agree to its control, typically by a Licence. Use of Trust trademarks and brands must be in line with the Trust's Brand Guidelines.

17.2.5 Research Contracts

The JRMO is responsible for negotiating research contracts including all IP aspects, with the involvement of the Trust Commercial & Business Development Team.

A contract is usually the major mechanism for protecting Barts Health's IP. All contracts and agreements for research projects taking place on Barts Health premises and/or utilising Barts Health resources must be reviewed by the JRMO.

The JRMO reviews all research contracts and agreements to ensure adequate protection of its IP, including clarification of ownership. The JRMO will decide whether to accept or decline a research contract proposal on behalf of the Trust. Ownership of both Background IP and Foreground IP must be formalised.

Where ownership of the IP does not vest in Barts Health, contracts should clearly set out:

- The distribution of income received from any commercialisation to the various parties
- The level of each party's contribution to the development of the IP; and
- How any costs associated with protection of the IP should be borne

Once a contract has been reviewed and agreed by the JRMO it must also receive authorisation by an authorised Barts Health Officer.

Failure to inform the JRMO of any contractual arrangement may make individuals liable under Barts Health's Policy on Misconduct in Research (see policy number 24).

17.2.6 Duty to keep records

Although it is difficult to establish when, from a concept or idea, a clearly definable piece of intellectual property emerges, it is vital that during a research project the results are clearly recorded.

Employees, who are investigators and their fellow or subordinate researchers, as the research progresses, will keep laboratory notes to a standard format.

Once research into a concept or idea results in definable conclusions the outcome will be clearly recorded through an appropriately structured report.

Where an outcome has a potential commercial value, the report will be sent to the JRMO or a specifically designated individual for review and evaluation.

The potential commercial value of the IP will be assessed by Barts Health and, if necessary, action taken to protect the IP and initiate the commercialisation process.

17.2.7 IP Protection

Barts Health has a duty to adequately protect its IP. Ensuring that effective protection is maintained can only be guaranteed with the co-operation of its employees.

As all Barts Health employees (and appointed contractors) have a duty of confidentiality as stipulated within their employment contracts, they should not make public any confidential or unpublished information pertaining to the research they or their colleagues are undertaking.

The reason for this is that premature disclosure of research or ideas could have the effect of preventing the IP from being protected or ensuring that Barts Health has sole use and right to commercialise it. Employees should be aware that premature disclosure can be inadvertent and could arise through:

- Publishing in a thesis
- Articles in journals
- Presentations at lectures
- Public use of the IP
- Social Media platforms

Before discussions can begin with potential external partners a confidentiality undertaking will be concluded between Barts Health and the external organisation and signed on behalf of Barts Health by an authorised officer and the employee. This is typically via a Non-Disclosure Agreement (NDA) for which standardised versions are available.

All visitors to Barts Health's work sites who are not employees of Barts Health will be required to sign a confidentiality agreement before they obtain access to sensitive research areas.

One of the ways that IP is automatically protected is via Copyright. Copyright is an unregistered right that arises automatically upon creation of books, computer programmes, publications, lecture notes, reports, laboratory notes, social media material etc. Although the right arises automatically, in order to make others aware of the Copyright it is advisable to add a note at the end of the text to the effect that Copyright belongs to Barts Health NHS Trust and this will protect all such texts.

Where, in the view of Barts Health, the IP requires patent protection, Barts Health's patent attorneys will be approached to draft a specification and submit an application to the Patent Office. Such action will be taken only if a clear commercialisation route can be identified and forecast income streams exceed the costs of patenting.

Other areas of IP protection that Barts Health may consider protecting its IP include registering designs and applying for trademarks with the Intellectual Property Office.

17.2.8 Publication

Barts Health understands the importance of disseminating the results of its R&D activities, for the public health benefit and to further its research strategy. However, it is important that any IP contained in published material has been adequately protected to ensure that Barts Health's ability to commercialise successfully any potentially valuable IP is not compromised.

The JRMO and Commercial & Business Development Team will continue to raise awareness of the importance of protecting the Trust's IP and to seek to avoid the inadvertent release of IP by individual staff members through both this policy and through training materials.

Staff are encouraged to consult the JRMO before articles are submitted for publication or information is disclosed to a third party where they believe that potential Trust IP exists or where the staff member needs confirmation that no Trust IP will be released inadvertently.

Where there is a deliberate release of Trust IP without prior approval of the JRMO this could be considered a disciplinary matter.

Should protection be required the JRMO will take steps to ensure that such protection is put in place before publication of the research findings.

The JRMO will ensure that any delays in publication required in respect of this policy will be minimal and in no circumstances shall such delays exceed 6 months from the date of receipt of the article.

17.2.9 Declarations of Interest

Staff are required to declare:

- IP rights they hold (either individually or by virtue of their association with a commercial or other organisation) relating to goods and services which are, or might reasonably be expected to be, procured or used by the healthcare sector (on a commercial or promotional basis). This includes IP rights which have been assigned from the Trust, back to the inventor.
- Products and services developed in their own time (e.g. apps) which are, or might reasonably be expected to be, procured or used by the healthcare sector (on a commercial or promotional basis).
- External interests which may influence IP protection and commercialisation decisions, including (but not limited to):
 - Any shareholdings, controlling interests and other ownership interests in any publicly listed, private or not-for-profit company, business, partnership or consultancy which is doing, or might be reasonably expected to do, business with the healthcare sector
 - Management consulting fees, Gifts, Hospitality, Outside employment, Patents, Loyalty interests, Donations, Sponsored events, Sponsored research, Sponsored posts

Staff are directed to section 9.4 of the Standards of Business Conduct Policy for further information.

17.2.10 Commercialisation

There are several ways that Barts Health can exploit IP that it has developed. The principal methods of exploitation are as follows:

- Assignment of the IP rights to a commercial organisation: this would be a sale of the IP rights to another organisation
- The creation of spin-out companies that can then proceed to exploit the IP rights more freely than Barts Health may be able to, which will need to be done in line with national regulations and guidelines
- Licensing Agreements such as:
 - where companies are licensed to utilise Barts Health IP in exchange for a royalty based on the value of sales the company makes, enabling Barts Health to impose certain conditions on the use of the IP Rights
 - where a Warrant agreement, or similar, is put in place for the Trust to benefit from the

sale in the future of that spin-out company

Other options might include:

- Sale of IP rights in exchange for specific initiatives for example funded posts, purchase of capital equipment, discounted or free use of the invented or modified products and their integration into the Trusts systems.
- Through joint ventures with other non-commercial organisations, for example medical charities, local authorities.

The decision to pursue a commercial opportunity will be made in line with the IP DecisionMaking Framework and Related Delegated Authorities. The resources that NHS bodies devote should be commensurate with the likely benefits and with other calls on their funds.

17.2.11 Remuneration for inventors

Barts Health wishes to encourage full participation of staff in the development of new ideas and innovations and recognises that staff involvement with the development of its IP should be rewarded through a share in the proceeds of any successful commercialisation.

For the purposes of this Policy, the term “Inventor” means an employee who is an actual deviser of an invention. This includes not only the underlying idea, but also its means of realisation.

For the purposes of this Policy, the term “Net Revenue” means the revenue actually received by Barts Health from the successful exploitation of IP from options to use, licences, assignment or sale agreements after the deduction of:

- the out-of-pocket costs of managing, protecting and exploiting the IP including search fees, patent and other registration costs, legal and other professional fees;
- payments made to third parties contributing to the development of the IP.

Net Revenue does not include any revenue generated by Barts Health from the provision of healthcare services which utilise the IP or any payments which are received by Barts Health for performing research in a particular area or conducting clinical trials.

Where IP owned by Barts Health is to be exploited by means of forming or through a spin-out company, Barts Health Inventor(s) who have made a significant contribution to the IP shall be invited to participate in the formation of the company in recognition of their contribution or where they may play an important role in the success of the spin-out. It needs to be recognised that there are restrictions on NHS Trusts entering into arrangements that involve the setting up or participating in corporate entities and/or joint ventures. They also need to be notified to NHSE. As a result, the respective shareholdings/interests of Barts Health and the Inventor(s) shall be negotiated at the time of formation of the company or joining an existing joint venture. Revenue received by Barts Health from shareholdings (such as dividends or proceeds of sale), licences, warrants or other associated documents with any spin-out company or joint venture are not considered as “Net Revenue” for the purposes of this Policy.

Where an employee receives a shareholding or interest in a spin-out company or other joint venture entity as referenced above in relation to the exploitation of the IP there will be no further or separate entitlement to any Net Revenue in relation to the IP.

Where an employee produces more than one item of Intellectual Property, the income from subsequent Intellectual Property, unless the subsequent Intellectual Property is unrelated,

will be aggregated with that from the first item of Intellectual Property for the purpose of determining the employee's share.

The Inventor's share will be calculated on the total cumulative Net Revenue amount by reference to the specific band levels in the table below. It will be calculated by way of using the band levels incrementally so that once the Net Revenue value in any band level has been met the next band level will apply to any remaining part of the Inventor's share and so on.

This methodology will also apply to the Inventor's share for the same Intellectual Property that spans a number of years. The calculation of the Inventor's share will not reset each year.

Where multiple Inventors (Barts Health employees) are involved in the creation of IP, the Inventor's share shall be split between the Inventors in accordance with the shares/percentages set out in the signed disclosure form.

The Barts Health IP policy version that is valid on the date of commercialisation will determine how income will be shared between the Inventor(s) and Barts Health.

Barts Health will pay sums due through its payroll under this Policy to current employees and as such will deduct employer related taxes and National Insurance contributions before the payment is made, noting that any such payment made is treated as non-pensionable pay.

Should an Inventor leave the employment of Barts Health, Barts Health shall use its reasonable endeavours to maintain up to date contact details for the Inventor, but it is the responsibility of the inventor to notify Barts Health of changes in contact details. Any payments of the inventor's share made to an inventor once they have left the employment of Barts Health will be paid gross and it is the responsibility of the Inventor to account for all taxes and deductions in relation to those payments. In the event that Barts Health is unable to contact an Inventor for six consecutive months such entitlement shall cease and the Inventor's share of net income shall be retained by Barts Health.

The payment of any share to any Inventor(s) who dies, either while they remain an employee of Barts Health or if they have left employment at Barts Health, will not be seen as part of an Inventor's estate and as such payments (whether due during an Inventor's life or that would otherwise have been paid) will cease and not be payable to the Inventor's estate on the death of an Inventor.

The Inventor(s) share (excluding for the avoidance of doubt, commercialisation involving any spin-out companies) will be as shown below:

Total Cumulative Net Revenue	Inventor's Share	Barts Health Share*
	%	%
0 - £9,999	90	10
£10,000 - £49,999	75	25
£50,000 - £199,999	50	50
£200,000 +	30	70

*These funds are held in the Trust IP Development Fund which is managed by the Trust Commercial and Business Development team, and which is governed by the IP Management Oversight Group and chaired by the Group Chief Medical Officer. Where the IP Development Fund exceeds the forecast five-year IP Development Fund operating costs (e.g. resource, promotion, patent attorney etc.), any use of surplus funds, either to support the Trusts' financial position and/or further innovation, would be subject to approval by the Group CEO following the recommendation from the IP Management Oversight Group.

For the avoidance of doubt:

1. The calculation of the Inventor's share will not reset each year.
2. Where there is a royalty or other payment which is made in stages, regular intervals and/or over a number of years the Net Revenue amounts will be aggregated to enable the correct banding in the table above to be identified for subsequent years/stage payments.

In dealing with Barts Health exploitable intellectual property, the JRMO will bring to the notice of

Inventors and all those involved in the commercialisation process, Barts Health's policy on Standards of Business Conduct. The internal regulations in this policy will be strictly followed, particularly with regard to potential conflicts of interest.

If the Trust decides to waive its right to own a certain piece of intellectual property and assigns it to the Inventor(s), the Trust may retain a residual share of the financial benefits (to be negotiated on a case-by-case basis) after deduction of any reasonable expenses incurred by the staff member in achieving the income (including patent and legal expenses). Revenue received by Barts Health from assignments to Inventors are not considered as "Net Revenue" for the purposes of this Policy.

Examples:

Overarching Principles

- a) the term "Net Revenue" means the revenue actually received by Barts Health from the successful exploitation of IP from options to use, licences, assignment or sale agreements after the deduction of:
 - the out-of-pocket costs of managing, protecting and exploiting the IP including search fees, patent and other registration costs, legal and other professional fees
 - payments made to third parties contributing to the development of the IP
- b) Net Revenue does not include any revenue generated by Barts Health from the provision of healthcare services which utilise the IP or any payments which are received by Barts Health for performing research in a particular area or conducting clinical trials;
- c) if the Inventor is an employee of Barts Health, payments of the Inventor's share will be made through its payroll and as such Barts Health will deduct employer related taxes and National Insurance contributions before the payment is made, noting that any such payment made is treated as non-pensionable pay; and
- d) the Barts Health IP policy version that is valid on the date on the signed disclosure form, will determine how income will be shared between the Inventor(s) and Barts Health.
 1. *Use of IP by granting a licence, assignment etc.. to a third party which realises a royalty payment or series of payments over a period of time.*

If the Net Revenue received each year for three years and the first year is £9,000, the second year £30,000 and the third year £50,000 the share will be (in accordance

with the table above) calculated on the basis of:

- for year 1 - £9,000 will be at 90% to the Inventor and 10% to the Trust
- for year 2 - £999 will be at 90% to the Inventor and 10% to the Trust and £29,001 will be at 75% to the Inventor and 25% to the Trust
- for year 3 - £10,999 will be at 75% to the Inventor and 25% to the Trust and the remaining £39,001 will be at 50% to the Inventor and 50% to the Trust

If there are multiple Inventors the % share for the Inventor will be shared between all the Inventors in the shareholdings set out in the disclosure form.

2. *Sale of IP (assignment/transfer for a one off payment) for one patent or a number of patents relating to the same subject matter*

If the Net Revenue available for sharing is £250,000 regardless of the number of patents then the share will be calculated on the basis of:

- £9,999 at 90% to the Inventor and 10% to the Trust
- £40,000 at 75% to the Inventor and 25% to the Trust
- £150,000 at 50% to the Inventor and 50% to the Trust
- £50,001 at 30% to the Inventor and 70% to the Trust

If there are multiple Inventors the % share for the inventor will be shared between all the inventors in the shareholdings set out in the disclosure form.

3. *Sale of IP (assignment/transfer for a one off payment) for one patent or a number of patents relating to the same subject matter where the employee leaves Barts Health and is not traceable for six consecutive months and/or dies*

If the Net Revenue available for sharing is £60,000 regardless of the number of patents then the share will be (in accordance with the table above) will be calculated on the basis of:

- £9,999 at 90% to the Inventor and 10% to the Trust;
- £40,000 at 75% to the Inventor and 25% to the Trust;
- £10,001 at 50% to the Inventor and 50% to the Trust.

On leaving the Trust it is the responsibility of the Inventor to notify Barts Health of changes in contact details. Barts Health shall also use its reasonable endeavours to maintain up to date contact details for the Inventor. In the event that Barts Health is unable to contact an inventor for six consecutive months such entitlement shall cease and the Inventor's share of net income shall be retained by Barts Health.

If the Inventor dies, either while they remain an employee of Barts Health or after they have left employment at Barts Health, the payment of any share to the Inventor will not be seen as part of the Inventor's estate and as such payments (whether due during an Inventor's life or that would otherwise have been paid) will cease and not be payable to the Inventor's estate on the death of the Inventor.

If there are multiple Inventors and one Inventor dies, the % share of the deceased Inventor will be shared between all the remaining Inventors notwithstanding the death of another Inventor (and that deceased Inventor's payments ceasing).

4. *Sale of IP (assignment/transfer for a one off payment) a number of patents which are not linked by subject matter*

If there are three patents which are not related and each patent realises a Net Revenue of £11,000 per patent when they are sold, then for each patent the share will be (in accordance with the table above) calculated on the basis of:

- £9,999 at 90% to the Inventor and 10% to the Trust
- £1,001 at 75% to the Inventor and 25% to the Trust

The Inventor therefore receives £29,249.55 (£9,749.85 x 3)

If there are multiple Inventors the % share to the Inventor will be shared between all the Inventors in the shareholdings set out in the disclosure form for each patent.

5. *Use of IP by granting a licence, assignment etc. to a third party which realises a royalty payment or series of payments over a period of time which is then sold for a further oneoff payment.*

If the Net Revenue is paid each year for three years and the first year is £9,000, the second year £30,000 and the third year £50,000 the share will be (in accordance with the table above) calculated on the basis of:

- for year 1 - £9,000 will be at 90% to the Inventor and 10% to the Trust
- for year 2 - £999 will be at 90% to the Inventor and 10% to the Trust and £29,001 will be at 75% to the Inventor and 25% to the Trust
- for year 3 - £10,999 will be at 75% to the Inventor and 25% to the Trust and the remaining £39,001 will be at 50% to the Inventor and 50% to the Trust

In year 4 there is a final one-off payment of £150,000. This is added to the amounts paid in years 1 to 3 in calculating the final share of the Net Revenue. The Inventor's share of the final one-off payment will be as follows:

- £110,999 will be at 50% to the Inventor and 50% to the Trust
- £39,001 will be at 30% to the Inventor and 70% to the Trust

If there are multiple Inventors the % share for the Inventor will be shared between all the Inventors in the shareholdings set out in the disclosure form.

6. *An invention is to be exploited/commercialised by way of a spin-out company or the entering into a joint venture with third parties*

Subject to the rules and regulations relating to the ability of NHS Trusts to set up/take shares in a corporate vehicle/corporate joint venture the arrangements will be negotiated on a case-by-case basis recognising that Barts Health may not generate its revenue from a shareholding rather it may be crystallised through a warrant or agreement relating to share/sale proceeds.

Barts Health Inventor(s) who have made a significant contribution to the IP shall be invited to participate in the formation of the company/spin-out/joint venture. That participation will be the consideration/share for the Inventor for the commercialisation.

Alternatively where the spin-out company is created solely by the inventor(s), Barts Health may be invited to participate in the formation of that company/spin out/JV by the Inventor(s). In this case participation can take many forms such as via a royalty agreement to benefit from sales by that Company alongside a Warrant Agreement to benefit from the Sale of that Company. This will be the consideration for the Trust for the commercialisation.

There will not be a separate share of Net Revenue for the inventor including access to any monies Barts Health realise.

7. The Trust assigns IP ownership back to the Inventor under an assignment agreement

The Trust decides to waive its rights to IP ownership and agrees with the Inventor to assign the IP back to them, in return for 15% of invoiced sales value received from the successful exploitation of the IP.

If invoiced sales are received each year for three years and the first year value is £9,000, the second year value is £30,000 and the third year value is £50,000 the sum paid by the Inventor to Barts Health will be:

- for year 1 – of the £9,000 invoiced sales value, 15% (£1,350) will be paid to the Trust
- for year 2 – of the £30,000 invoiced sales value, 15% (£4,500) will be paid to the Trust
- for year 3 – of the £50,000 invoiced sales value, 15% (£7,500) will be paid to the Trust

17.3 Queen Mary policy (*Subject to a separate review by QM Innovation*)

17.3.1 Introduction and values

Our mission is to create a truly inclusive environment, building on our cherished cultural diversity, where students and staff flourish, reach their full potential and are proud to be part of Queen Mary University of London (“**Queen Mary**”). Dedicated to the public good, we will generate new knowledge, challenge existing knowledge, and engage locally, nationally and internationally to create a better world.

In the context of that Mission, the University recognises the potential and importance of Intellectual Property and know-how (**IP**) generated through our education and research, and has therefore established this policy to ensure that IP rights are protected and we maximise the use of IP in support of our strategy.

Queen Mary is committed to supporting the creation, identification, protection, dissemination and appropriate exploitation of IP.

17.3.2 Purpose

This policy provides a clear framework for Employees, Students, and Associates in relation to intellectual property rights and the ownership and management of IP within Queen Mary. This policy should be read in conjunction with Queen Mary’s Commercialisation and Benefit Sharing Policy found on Queen Mary’s Policy Zone website.

17.3.3 Legislative context

This policy deals with IP management within Queen Mary, and so is impacted by the Copyright, Designs and Patents Act 1988, and the Patents Act 1977.

17.3.4 Scope

All Employees, Students, Associates and others involved in the creation of IP at Queen Mary are bound by the terms of this policy.

The aspects of the policy which specifically apply to Employees are set out in section 6. The aspects which specifically apply to Students are set out in section 7. The aspects which specifically apply to Associates are set out in section 8. Where a Student is also an Employee, the policy applicable to Employees applies to IP generated by that individual in the exercise of their employment duties.

17.3.5 Principles

This policy is based upon the following principles:

- That IP produced at Queen Mary should be used for societal benefit in general, whilst recognising that it is appropriate for Queen Mary and/or the creators to share in the financial benefits from its translation.
- That there should be a balance of the following interests: effective management and commercialisation of institution IP; ensuring the legal protection of the University's IP; and not interfering with the traditions of education, scholarship and academic freedom and open and timely publications.
- That the work done by Employees in the creation of IP covered by this policy should be recognised in staff appraisals and assessments of workload and promotion.

17.3.6 Employees

Section 6 applies to all Queen Mary Employees.

a) IP Ownership

- All rights in IP created by an Employee in the course of their employment will belong to Queen Mary in accordance with UK law, including the Copyright, Designs and Patents Act 1988, and the Patents Act 1977.
- IP created by an Employee outside the course of their employment will belong to the Employee, except that, to the extent permissible by law, Queen Mary shall own IP created by an Employee outside the course of their employment where substantial or significant Queen Mary resources, facilities and/or support has contributed to the development of such IP.
- Where such rights do not vest in Queen Mary automatically, Employees shall assign such IP rights to Queen Mary upon request.
- Ownership of IP created by an Employee with the support of an external body will be determined by a Queen Mary-approved agreement; where this has not been defined in advance, ownership will in the first instance belong to Queen Mary.

b) Scholarly Materials

- Save as set out in section 6.2.6, Queen Mary agrees that the IP rights in Scholarly Materials created by individuals whilst Employees, and the rights to any revenues derived from these, shall be owned by their authors. However, Queen Mary retains the right to use those works and to sub- license their use. Therefore, as a condition of and in consideration of Queen Mary waiving its rights of ownership to IP in Scholarly Materials, with effect from the date of creation the author grants to Queen Mary a perpetual, irrevocable, non-exclusive, royalty-free, worldwide licence, with a right to sub-license, to use, copy, modify and make available the Scholarly Materials for academic, research, teaching, marketing and/or administrative purposes and/or any other purposes relating to Queen Mary's charitable activities.
- The licence granted to Queen Mary under section 6.2.1 will include the right for Queen Mary to deposit manuscripts of journal articles, conference proceedings and similar outputs to Queen Mary Research Online to support Queen Mary's aims for immediate open access and/or to deposit other materials of a scholarly nature where required for compliance with external funding bodies. Deposited materials will typically be made publicly available under a creative commons licence. Queen Mary will consider written requests to terminate or modify licences on a case-by- case basis.
- A record for each Accepted manuscript should be added to the research information system, Symplectic Elements, and a copy of the file uploaded within 90 days of acceptance for publication. For other output types (research data, software), a record should be added to Symplectic Elements and the file uploaded as soon as possible. Employees will notify Library Services if any rights or permissions are required from a third party.
- Where an article is co-authored, the Employee will use its best endeavours to obtain a licence to Queen Mary from the co-authors on the same terms as the licence granted to Queen Mary in section 6.2.1.
- Employees must ensure that any relevant publishers are made aware of the licence granted to Queen Mary under section 6.2.1.
- Queen Mary's waiver of its rights of ownership of the copyright in Scholarly Materials in favour of Employees, as referred to at section 6.2.1 shall not apply to works created:
 - i. where Queen Mary is involved in the creation of Scholarly Materials by investing additional funding or resources not in the normal course of employment, then ownership and rights to any share of royalties or income shall be fairly apportioned between Queen Mary and the author/s.
 - ii. where Scholarly Materials are specifically commissioned by Queen Mary (whether or not for separate remuneration) they shall be owned by Queen Mary and shall not be subject to section 6.2.1.
 - iii. where Scholarly Materials are created subject to an agreement between Queen Mary and a third party then any copyright issues, including ownership, will be handled according to the terms of such an agreement.

c) Teaching and Administrative Materials

- Queen Mary owns the IP rights to Teaching Materials and Administrative Materials. With effect from the date of their creation, Queen Mary grants the Employee who created such Teaching Materials and/or Administrative Materials a licence to use such Teaching Materials and/or Administrative Materials for the purpose of the Employee's employment with Queen Mary.
- With regard to Teaching Materials produced whilst they were in Queen Mary employment, Queen Mary grants any former Employee a non-transferable licence to use and reproduce such Teaching Materials produced by them whilst in Queen Mary employment for non-commercial purposes (including academic and research purposes). This licence includes use of the Teaching Materials as the basis for creating new teaching materials when employed at another charitable higher education institution. Employees and/or ex-Employees are not permitted to use Teaching Materials for commercial purposes or private gain unless Queen Mary agrees in accordance with section 6.3.3.
- If Queen Mary decides to commercialise Teaching Materials outside its academic purposes, then those Employees involved in their creation might be entitled to a fair and reasonable share of the proceeds of commercialisation unless the individual was commissioned and paid separate remuneration for its creation. If an Employee and/or ex-Employee wishes to commercialise Teaching Materials, the written consent of Queen Mary is required, but will not unreasonably be refused. The terms of such agreement, which might include a share by Queen Mary in the proceeds of commercialisation, should be negotiated with Queen Mary Innovation ("QMI").
- New academic Employees to Queen Mary are required to ensure that they have appropriate prior consents and/or licenses in place in relation to any materials they intend to bring to Queen Mary to use, copy and/or adapt for teaching or other purposes at Queen Mary. Once an Employee starts using such materials for teaching purposes at Queen Mary they become Teaching Materials for the purpose of this policy.
- Where this policy refers to circumstances where Employees may be entitled to a "fair and reasonable" share of the proceeds of the commercialisation of IP in certain circumstances, such fair and reasonable share shall be determined on a case by case basis by Queen Mary, taking the relevant circumstances into account.

d) Performances

- To the extent that an Employee benefits from performers' rights in any performance (and/or recording of such performance) carried out in the course of their employment with or otherwise commissioned by Queen Mary, the Employee shall own such rights. The Employee hereby grants to Queen Mary a perpetual, non-exclusive, royalty-free, worldwide licence, with right to sub-license, to use, copy, edit, display and/or distribute the performance and/or recording (in whole or in part) for academic, research, teaching, marketing, commercial and/or administrative purposes and/or any other purposes relating to Queen Mary's charitable objects.

e) Moral Rights

- To the extent that any moral rights (including the right to be identified as the author or director, the right to object to derogatory treatment and/or the right not to suffer false

attribution) exist in any copyright work which belongs to Queen Mary, Queen Mary will generally aim to respect the moral rights of that author by identifying them as the author of the work and not subjecting the work to derogatory treatment. However, Employees will generally not hold any moral rights in institutional materials (including reports, syllabuses, curricula and papers created and/or developed for administrative purposes) and may be required to waive their moral rights in other situations at Queen Mary's discretion.

f) Software and Databases and AI

- The IP in any software and/or databases created or developed by an Employee in the course of their employment shall be owned by Queen Mary.
- Queen Mary recognises the value of open source software and databases, and the related licensing arrangements, for promoting knowledge creation and dissemination. An Employee may make available software and/or databases they have created in the course of their employment or studies using a creative commons licence. The licence must require attribution, and only allow non-commercial uses of the work. Employees must also ensure the licence either: forbids any distribution or changes to the software and/or database (a CC BY-NC-ND licence); or permits sharing and changes, but only on the same licence terms (a CC BY-NC-SA licence). These licencing requirements are in addition to any other requirements that may be relevant to licencing software or databases (e.g. data protection, export control, etc.).
- If the software and/or database has been created with the involvement or support of a third party (e.g. funded research), Employees must ensure that any terms of the grant or contract are complied with, in consultation with the JRMO if necessary. If the software and/or database is of commercial interest, or if there is an intention to commercialise the software and/or database in the future, then Employees must first seek permission from QMI. If employees become aware that the software and/or database is being used commercially, or they receive enquiries about commercial use, they should notify QMI. Commercial licences must be negotiated through QMI.
- The IP in any machine learning and/or other artificial intelligence tools or machine learning language models ("**AI Tools**") created or developed by any Employees in the course of their employment shall be owned by Queen Mary.
- To the extent that Employees use any AI Tools in the creation or development of any IP or related works they shall use such AI Tools in accordance with their terms of use and section 9.3 and shall not infringe the Intellectual Property or other rights of any third party. Employees should contact their Head of School with any concerns regarding the use of AI Tools and the potential infringement of any Intellectual Property or other rights of any third party. In the event the Head of School requires any further support, he/she should contact the Directorate of Governance and Legal Services.

17.3.7 Students

a) Ownership of IP

- As a general principle, Queen Mary recognises the Student as owner of any IP they produce while a registered student of Queen Mary. This principle may not apply in the case of externally sponsored or collaborative work, as set out in sections 7.2 - 7.3,

below.

- From time to time, Teaching and Administrative Materials will be provided or made available to Students by Employees. Queen Mary shall grant Students a non-transferable licence to use such Teaching and Administrative Materials solely as necessary for the Student to participate in their course of study or Queen Mary research. Students must not publish or distribute these Materials.

b) Externally sponsored work

Students may need to assign ownership of IP generated by them in circumstances where the activity they are involved with is funded by or otherwise benefits from the resources of a third party. The need for an assignment will be determined by Queen Mary having regard to the terms of any relevant contractual/grant arrangement(s) in place (or envisaged) with the third party. This includes (by way of example only) any research grant, studentship, collaboration or placement agreement governing the relevant activity. Arrangements in relation to any assignment of IP should be put in place at the outset of the project and in accordance with any other Queen Mary policy relating to externally sponsored activity.

c) Collaborative work

- Queen Mary acknowledges that Students collaborate on taught and research degree projects with Employees. For instance, this may include collaboration on projects with academic supervisors who are Employees. For any IP jointly generated by this collaboration students will be treated as if they were an Employee of Queen Mary under this policy.
- On occasion, Students will have opportunities to collaborate with others in a way that creates more complexity in relation to IP ownership and management. Queen Mary will own any IP generated by a Student:
 - i. where such IP is derived from or is premised on IP belonging to Queen Mary or an Employee of Queen Mary; and/or
 - ii. where Additional Queen Mary Resources have contributed to the development of such IP (whether in connection with or outside the course of the Student's studies).

For the purposes of this section “**Additional Queen Mary Resources**” means a contribution of Queen Mary resources (including but not limited to finances or access to premises, equipment or facilities) beyond that normally required by Students, whether in connection with or outside their course of study (as applicable).

Students may be required to sign a confirmatory assignment of any IP to Queen Mary in relation to the activity described in sections 7.3.1 and/or 7.3.2, above.

Students may request that Queen Mary supports the potential commercialisation of IP they have created as if they were an Employee of Queen Mary. If agreed by Queen Mary the relevant sections of this policy, and the Commercialisation and Benefit Sharing Policy, will apply to the applicable IP as if that Student was an Employee.

Notwithstanding the above, Queen Mary may from time to time provide financial and other resources through entrepreneurship schemes, competitions and initiatives with which its Students can engage. Queen Mary may, at its discretion, choose to agree joint ownership or to waive its claim to any IP generated through such activities in favour of the Students. Any such agreements will be set out in the relevant terms of the internal scheme, competition or initiative.

17.3.8 Associates

Unless agreed otherwise in any contract between Queen Mary and a third party, Associates are required to transfer to Queen Mary any IP they create using Queen Mary Resources, or that are improvements on Queen Mary IP, in the course of their affiliation and/or association with Queen Mary. Associates will be subject to this policy for the purposes of sharing revenue.

17.3.9 Disclosure and Confidentiality

a) Disclosure

- Employees are required to disclose in a timely fashion to QMI all IP which they create, make and/or develop which has (or may have) commercial value and/or development potential that has been created in the course of their employment with Queen Mary, or during joint work with an external body, or where use of Queen Mary Resources has been made.
- All IP that is created by Students and owned by Queen Mary under section 7 and all IP that is created by Associates and owned by Queen Mary under section 8 must also be disclosed by the creator of such IP to QMI.
- Creators of IP are required to disclose to QMI all individuals that have co-invented or contributed to the generation of the IP in question, any funding partner (e.g. grant bodies) that has contributed towards the development of the IP and which may be due a revenue share or have consent rights, and whether any third party IP has been used in the development of the IP.
- If a Creator develops IP or related works or any part of such IP or related works using an AI Tool the Creator shall notify QMI of the details of the use made of that AI Tool, the terms applicable to the use of that AI Tool, and any outputs or content generated by the AI Tool.

b) Record Keeping

- Employees, Associates and Students (together the “**Creator**” or “**Creators**” (as defined in the Glossary) who create IP must keep clear and accurate records in relation to any IP which they create, make and/or develop.
- Creators should ensure that all works, notes, reports, records, drawings, lab books etc. clearly identify the work, are dated and are kept secure.

c) Confidentiality

- Maintaining confidentiality is essential, as any disclosure of confidential information (for example, information that is not in the public domain such as know-how, research results, trade secrets, technical data etc.) may harm the commercial position of its owner(s) (whether that be the Creator, Queen Mary and/or a third party) and in certain circumstances, may prevent the owner(s) from securing appropriate IP protection.
- Information relating to IP or other works that could reasonably be foreseen to have commercialisation opportunities should be treated by Creators as confidential and disclosed only to relevant Queen Mary and QMI employees. Such information should not be disclosed externally without prior protection by a suitable confidentiality or non-disclosure agreement provided by QMI or the JRMO as appropriate.
- Creators shall not provide Materials with potential commercial value to third parties without a Material Transfer Agreement being put in place nor disclose information to third parties without a suitable confidentiality or non-disclosure agreement or similar being put in place.
- All Creators are required to keep confidential information they receive from third parties under any agreements (such as confidentiality or collaboration). This requirement would continue to apply when individuals leave Queen Mary.
- Creators shall not input:
 - i. any IP or related works created by them or by anyone else;
 - ii. any personal data; or
 - iii. any Queen Mary or third party confidential data, information or other materials into an AI Tool for any purpose, including without limitation for the purpose of training or prompting the AI Tool without the prior approval of the Director of the Digital Environment Research Institute, or such other person as decided by the Queen Mary IP Advisory Group.

d) Export control

- UK Export Controls restrict the transfer or disclosure of certain types of strategic goods, software, and technology (know-how and other information) (together the “strategic items”) to recipients and destinations outside of the UK. This includes physical exports, electronic transfers (via email, file sharing, virtual meetings, etc.), and transfers by any other means (e.g. verbally). Export control legislation applies to academic research and teaching in the same way as to trade and commerce.
- Creators are responsible for ensuring project plans take into account compliance with export control laws, including considering whether an export licence is required. Failure to obtain a licence prior to a relevant transaction may result in criminal liability. If you require assistance in assessing whether an export control licence may be required in relation to a specific project please contact JRMO. Further details can be found here [TrustedResearchandExportControl-JointResearchManagementOffice \(jrmo.org.uk\)](https://jrmo.org.uk/TrustedResearchandExportControl-JointResearchManagementOffice).

17.3.10 Interpretation of the IP Policy and dispute resolution

The Vice Principal (Research and Innovation) is responsible for the interpretation of this policy any subsidiary or related policies, including the Commercialisation and Benefit Sharing Policy. The Vice-Principal (Research and Innovation) is the designated adjudicator for any disputes arising from these policies and will be advised by the Queen Mary Intellectual Property Advisory Group (IPAG).

The Queen Mary IP Advisory Group will review Queen Mary's IP policies from time to time, making recommendations for changes in line with best practice. It will also establish relevant processes and guidance support its work, including the effective resolution of disputes. No revisions which materially change the Queen Mary's IP policies will apply retrospectively. From time to time the Advisory Group may issue guidance on the meaning and interpretation of Queen Mary's IP policies.

17.3.11 Associated information

This policy should be read in conjunction with Queen Mary's Commercialisation and Benefit Sharing Policy found on Queen Mary's Policy Zone website.

17.3.12 Authorisation

This policy was approved by the Queen Mary Senate on 12 December 2024.

- If an agreement was entered before this policy came into effect and that agreement was subsequently amended or assigned by separate agreement, then the IP policy in place when the original agreement was signed will prevail.
- This policy shall be reviewed no later than 5 years after its approval date.

17.3.13 Glossary

"Administrative Materials"	means any materials created by Employees in the course of their employment for administrative and/or operational purposes.
"AI Tools"	means as defined in section 6.6.4, i.e. any machine learning and/or other artificial intelligence tools or machine learning language models.
"Associates"	means academics, researchers, scholars, practitioners, teachers and/or anyone else who is affiliated or associated with Queen Mary who are not Employees and who are not Students (including, visiting and honorary academics and researchers, retired and ex-Employees, post graduate scientists, studentships and all other engagements that relate to the participation in, or conduct of, research, scholarship, creating works and/or teaching at Queen Mary.

“Creator”	means any Student, Employee and/or Associate who (either individually or jointly with others) creates IP. This includes, by way of example, inventors of an invention, creators of copyright works and developers of know how and technical information.
“Employees”	means Queen Mary’s academic staff; research staff, including research assistants; teaching staff, including guest teachers and course tutors; professional services and administrative staff; technical and support staff; graduate teaching assistants; anyone who has been seconded by their employer to work at Queen Mary (a secondee); interns; casual workers; agency workers; and anyone else who is employed by Queen Mary, whether full-time or part-time or on a temporary basis.
“Intellectual Property” and/or “IP”	means patents, rights to inventions, copyright and related rights, moral rights, trade marks, trade names and domain names, rights to goodwill or to sue for passing off, rights in designs, rights in computer software or business methods, database rights, rights in confidential information (including know how) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
“JRMO”	Joint Research Management Office.
“Materials”	means items produced in the course of research projects and includes biological materials, compounds, engineering drawings, computer software, integrated circuit chips, computer databases, prototype devices, circuit diagrams, physical items or objects, equipment and associated research data;
“Queen Mary Resources”	means the funds, facilities and/or resources (including equipment and/or consumables) of Queen Mary, the time and expertise of Employees and/or Queen Mary’s branding and IP;

“Scholarly Materials”	means works created by an academic Employee in the course of research or study that are for the purpose of communicating the progress or results of such research or study, the dissemination of knowledge and/or the furtherance of an academic career, including books, e-books, academic articles, research papers, conference materials, films and sound recordings and works of art (where the Employee is involved in the relevant fields of study) (and preparatory materials related to all such works), and does not include teaching materials related to Student education.
“Students”	means any student enrolled (or otherwise participating) on any course of study and/or research at Queen Mary (whether undergraduate or postgraduate, whether on a full-time or part-time basis and irrespective of the mode of study).
“Teaching Materials”	means any materials produced by Employees in the course of their employment for the purpose of teaching, including lecture notes, lecture plans, presentation materials used for teaching delivery and study and teaching guides.

Policy Information and Document Control

Policy title	Intellectual Property Policy
Version number	3
Related policies and procedures	Commercialisation and Benefit Sharing Policy
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Approval level	Senate
Approval date	12 December 2024
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Policy owner	Jonathan Morgan, Chief Governance Officer and University Secretary
Policy contact	Directorate of Governance and Legal Services dgls-legal@qmul.ac.uk

Version Control

Version	Date	Reason for updates/Summary of key changes