



HARTPURY

Hartpury Intellectual Property Policy

Introduction

This policy uses the term 'Hartpury' to mean the Hartpury University Higher Education Corporation and all of its subsidiaries and trading names, including Hartpury University and Hartpury College of Further Education. The Hartpury Intellectual Property Policy sets out the rights of its staff, research and taught students in relation to their intellectual and creative output. Hartpury aims to encourage and facilitate the development and protection, where appropriate, of any Intellectual Property (IP) created.

Purpose

This policy sets out the rights, responsibilities and procedures of Hartpury and its staff and students in relation to intellectual property and material(s) created, to which Hartpury resources, including time, funds, facilities or expertise, have contributed. This includes the ownership, development, commercialisation and exploitation of IP, and the sharing with staff or students of any net revenue generated from IP. Hartpury recognises that Intellectual Property generated by research and other work undertaken at Hartpury is an important asset, and wishes to encourage all staff and students to contribute towards this activity. However, Hartpury also has the responsibility to identify, protect and manage its Intellectual Property effectively. Staff and students are expected to act in a manner consistent with the Code of Research Practice in developing, reporting and enabling the commercialisation of IP where this arises from research activities. For the avoidance of doubt, individual members of staff, students and Governors do not have the authority to sign agreements or enter into legally-binding arrangements on behalf of Hartpury; this rests with the Chief Operating Officer unless explicitly defined otherwise.

A. WHAT IS INTELLECTUAL PROPERTY (IP)?

Hartpury defines Intellectual Property as the productions of original intellectual or creative activity. Intellectual Property Rights (IPR) are the legal rights that exist in those productions. IPR include the following related areas: copyright, patents, designs, trademarks, plant variety rights, database rights and analogous rights. IP includes what might be termed 'Scholarly Materials' produced by employed staff in the normal course of their duties. Certain IP (for example, patents, trademarks and designs) can be protected by registration. Failure to register can have an impact on the ability of the IP owner to

commercially exploit IP . The fact that IP may not have been registered does not, however, prevent the IP owner from asserting rights of ownership in relation to that IP including a right to commercially exploit.

B. WHO OWNS IP?

Employed staff

Under intellectual property laws (including the Registered Designs Act 1949, the Patents Act 1977, Copyright, Designs and Patents Act 1988, and Copyright and Rights in Databases Regulations 1997) the employer owns Intellectual Property created by employees in the course of their employment. This means that Hartpury owns IP created by Hartpury staff in the normal course of their duties. Hartpury staff includes all those employed by Hartpury through a formal employment contract and includes academic, professional services and research staff.

Employees working at other institutions

If Hartpury staff have honorary academic appointments at other institutions, before the Hartpury employee commences an honorary appointment, an agreement must be put in place, after consultation with Hartpury, between institutions, which should include terms establishing the ownership of any arising IP. Where an employee is seconded to another organisation, the secondment agreement should explicitly establish ownership of and rights over any IP arising during the secondment.

Individuals with honorary, visiting or emeritus status

If Hartpury awards honorary, visiting and emeritus status to some individuals, such individuals are not formally employed by Hartpury and will normally, therefore, own any IP they create.

They may, however, be required under certain circumstances to transfer to Hartpury any IP they create as if they were a Hartpury employee. This would include, for example, IP created jointly with a member of Hartpury staff in the course of his or her employment, created using Hartpury facilities or resources or created in the course of undertaking research or other activity for which Hartpury is formally responsible.

Where such assignment is made, the individual may enter a revenue sharing agreement with Hartpury on the same terms as a substantive employee.

Third parties

Hartpury may enter into agreements with third parties, which specify ownership of IP generated by Hartpury staff and students in research collaborations. In such cases IP may be owned by Hartpury, the third party or jointly depending on who creates the IP and what the terms of agreement are. Hartpury respects the IP rights of third parties and does not allow or condone unauthorised copying, sharing or infringement of these rights.

Taught Students

Students registered on a taught degree programme at Hartpury will normally own any IP they create. Where students generate IP in the course of their academic studies they will normally own that IP in their own right. This includes all students registered on and undertaking a taught course at undergraduate or postgraduate level.

Exceptions to this may apply where, for example, the student:

- has specifically agreed otherwise in writing with Hartpury;
- has a sponsored studentship under which the sponsor has a claim on the IP arising as part of the terms of the sponsorship;
- participates in a research programme or 'live' external company project where any arising IP is to be owned by the sponsor of the research or project;
- generates IP using Hartpury facilities and/or resources and is required to assign IP as a condition of use;
- generates IP jointly with an employed member of Hartpury working in the course of his or her normal employment.

Where such assignment is made, the student may enter a revenue sharing agreement with Hartpury. For the avoidance of doubt, Hartpury will have no claim to any IP created by the student without use of Hartpury's facilities and/or resources.

Research Based Degrees

Students registered for research-based degrees (including PhD, ProfDoc and MPhil) may claim ownership of IP generated in the course of their studies only if they can clearly demonstrate that such IP has been created solely by themselves.

Typically, postgraduate students studying for research-based degrees use Hartpury facilities and work closely with Hartpury staff, including their Director of Studies, other supervisors, or other employees of Hartpury. The student and Hartpury employees will often therefore, have created IP from their projects jointly. Hartpury may therefore require that students undertaking research-based degrees assign any IP they create in the course of their studies to the Hartpury. Where such assignment is made, the student may enter a revenue sharing agreement with Hartpury on the same terms as for a substantive employee.

Where the student's programme is funded by an external organisation the student may be required, if (but only if) there is a contractual arrangement with that organisation to this effect, to transfer ownership of IP to that organisation.

C. COMMERCIALISING INTELLECTUAL PROPERTY

Hartpury Personnel (Hartpury employed staff or any person working under a contract for services with Hartpury) must inform Hartpury of any potential commercialisation of Intellectual Property owned by Hartpury and any IP created using Hartpury facilities and/or resources.

Unless Hartpury expressly authorises otherwise, commercialisation shall only take place under the direction of Hartpury and Hartpury shall determine whether it wishes to commercialise IP and if so the steps that need to be taken.

If Hartpury decides that it does not wish to commercialise IP it may 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 to be agreed and which are consistent with Hartpury's obligations as a charity and the use of public funds.

If the IP is commercialised by the creator, Hartpury will be entitled to a share of revenue and Hartpury will normally require an ongoing licence in perpetuity to continue to use the IP for research (including commercial research) and teaching purposes.

Hartpury Personnel may not, without written authority from Hartpury, enter into any discussions, negotiations, arrangements or agreements with any person or organisation in relation to any IP which belongs to Hartpury. Hartpury may issue disclaimers of ownership of IP in appropriate cases and agree that the IP can be owned by the creators, for example for scholarly works.

Unless specifically agreed otherwise, Hartpury does not claim its rights of copyright in books or articles for learned journals written by members of staff or students, and hereby assigns those future rights to the author as they arise. In general, Hartpury preserves the rights of staff and students to publish material arising from their research as they see fit. However, in some cases where commercial exploitation of the results is a possibility, Hartpury may require the author(s) to withhold publication until appropriate protection can be put in place.

Each staff member grants to the University a non-exclusive, irrevocable, sub-licensable, worldwide, non-commercial licence to make manuscripts of his or her scholarly articles publicly available. This licence is granted on condition that, if the University does make the said scholarly articles available, it will do so on the terms of a Creative Commons Attribution Non-Commercial v4 (CC NC BY) licence.

Setting up a business or company for the exploitation of IP

Hartpury staff, students and/or other individuals covered by the IP Policy may wish to set up a business, for example by operating as a sole trader or forming a partnership, a limited company or other corporate structure (the 'New Entity'), in order to exploit IP covered by this IP Policy. Before doing so, they must seek and secure permission from the Board of Governors on the recommendation of the Vice Chancellor.

Permission will usually require that a viable business plan and relevant agreements and equity positions have been developed, the necessary funding, for example, sources of investment have been identified and approved and the form of New Entity for exploitation has been determined.

Creating and operating such an entity may result in involvement of Hartpury staff in the entity as a non-executive director, an advisor or in an operational role, which will require appropriate contractual arrangements, such as secondment, services or consultancy.

Hartpury will normally be a shareholder (or equivalent) in any New Entity that involves Hartpury staff, resources or assets, or where Hartpury has previously provided funding to the project. Hartpury will normally license on suitable terms any IP needed by the New Entity, which may be either exclusive or non-exclusive.

Hartpury may choose to negotiate on its own behalf and/or on behalf of Hartpury staff with stakeholders (for example funding bodies, joint owners of IP with Hartpury, any present or previous sponsors of work at or with Hartpury) for any IP or information to which the New Entity needs access.

Hartpury staff or students involved in a New Entity need to seek and fund their own independent financial and legal advice (and in particular tax advice) in relation to the formation of a business or company under this Policy.

Any New Entity must take out its own insurance for risks including but not limited to: public liability insurance, professional indemnity insurance, employer's liability insurance, cyber insurance, directors and officers insurance, buildings and contents insurance and product liability insurance, as appropriate.

Distribution of Income from Exploitation

In general, Hartpury will share the net proceeds of IP exploitation with the relevant staff and students, after recovering its costs. The form of income can be as equity, dividends, royalty payments, or share of surpluses.

Where IP has been sold, assigned or licensed, Hartpury would normally expect to receive milestone and / or royalty payments. These will be distributed net of any relevant costs, such as legal bills, patent costs, and other protection and exploitation costs, plus any repayment of loans made as part of the development process. The distribution will also be net of any agreed revenue sharing with the funders of the original research. The information in the IP Disclosure Record will be used to define the creators of the IP, and their share of the proceeds.

The net income from milestone and royalty payments to Hartpury will be distributed on the basis of the prevailing rates, as set out in the table below, which may be changed from time to time

This distribution will apply to each new agreement for any given item of IP. Renewals or extensions of existing licences will not be viewed as new agreements; i.e. where there is no substantive change to the subject, field, or territory.

Where Hartpury receives equity as part of a company formation, the creator(s) will normally also receive equity, before any third party involvement or investment. These shares will be in their own name(s) and they will therefore be able to decide how to manage the shareholding, whether that be full or partial disposal or retention. The individual(s) will be liable for any relevant personal taxes.

By accepting shares in a spin-out company, the creator(s) will waive any right to share in the income received by Hartpury through its holding (e.g. dividend income) or the disposal of its shares in the company. Any such payments received by the University will therefore be wholly attributable to Hartpury.

Use of the Hartpury Name or Logo in Connection with the Commercialisation of IP

The Hartpury name and logos should not be used in any commercial activity except with explicit permission. The terms of use of the Hartpury name and logos by spin-out companies, licensees or other customers would normally be incorporated in any contractual arrangements with Hartpury for the use of the IP, facilities or staff. Agreement is also required to use any photos, brochures, marketing materials or other promotional materials derived from Hartpury of any part of it.

Equality, Diversity and Inclusion

As with all Hartpury policies and procedures, due care has been taken to ensure that this policy is appropriate to all members of staff regardless of their age, disability, ethnicity, gender, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sexual orientation and transgender status.

The policy will be applied fairly and consistently whilst upholding Hartpury's commitment to providing equality to all. If any employee feels that this or any other policy does not meet this aim, please contact the HR Department.

Hartpury is committed towards promoting positive mental health by working towards the Mindful Employer Charter. Hartpury aims to create a culture of support within the workplace where employees can talk about mental health problems without the fear of stigma or discrimination.

Approval and Review Cycle

Date Last Approved	June 2020
Policy Owner	Dean of Research and Knowledge Exchange
Approving Committee	Academic Board Ratified by SMT/Executive
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