



# HARTPURY

## Hartpury University

### Intellectual Property Policy

#### 1. INTRODUCTION

- 1.1 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.
- 1.2 This policy sets out the rights and responsibilities of Hartpury's employees and students (including research, taught, visiting, honorary and emeritus students) (collectively '**Hartpury Personnel**') in relation to their intellectual and creative output. It also sets out Hartpury's procedures in relation to intellectual property ('**IP**') and materials created to which Hartpury resources – including time, funds, facilities and expertise – have contributed.
- 1.3 Hartpury aims to encourage and facilitate the development and protection, where appropriate, of IP created by Hartpury Personnel. This includes the ownership, development, commercialisation and exploitation of IP, and the sharing with staff or students of any net revenue generated from research-related IP. Hartpury recognises that IP generated by research and other work undertaken at Hartpury is an important asset, and wishes to encourage all Hartpury Personnel to contribute towards this activity.
- 1.4 Hartpury also has the responsibility to identify, protect and manage its IP effectively. Hartpury Personnel 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 or enter into legally-binding arrangements on behalf of Hartpury; this authority rests with the Chief Operating Officer unless explicitly defined otherwise.

#### 2. WHAT IS IP?

- 2.1 Hartpury defines IP as the productions of original intellectual or creative activity. Intellectual property rights ('**IPR**') are the legal rights that exist in those productions. IPR can include (but are not limited to) copyright (whether in drawings, plans, specifications, designs and computer software or otherwise), patents, registered and unregistered designs, trademarks, plant variety rights, performer's rights, database rights, formulae, methods, plans, inventions, discoveries, improvements, processes, performance methodologies, techniques, specifications, technical information, tests, results, reports, component lists, manuals and instructions and other know-how and all other analogous rights, including applications for and rights to apply for any of the foregoing, in each case in the United Kingdom and all other countries in the world and together with all renewals, extensions, continuations, divisions, reissues, re-examinations and substitutions. IPR also include what might be termed 'scholarly materials' produced by Hartpury employees in the normal course of their duties.

2.2 Certain IPR (for example, patents, trademarks and designs) can be protected by registration. The fact that IPR may not have been registered does not, however, prevent the IPR owner from asserting rights of ownership in relation to the IPR, including a right to commercially exploit.

### 3. **WHO OWNS IPR?**

#### 3.1 **Employed staff**

3.1.1 Under intellectual property laws (including the Registered Designs Act 1949, the Patents Act 1977, the Copyright, Designs and Patents Act 1988 and the Copyright and Rights in Databases Regulations 1997) an employer owns the IPR created by its employees in the course of their employment, unless there is a written agreement to the contrary. This means that Hartpury owns IPR created by Hartpury staff in the course of their duties. Hartpury staff includes all those employed by Hartpury through an employment contract and includes academic, professional services and research staff.

3.1.2 All employees of Hartpury unconditionally and irrevocably waive all moral rights in respect of any works produced in the course of their employment, other than in scholarly works, which are retained by the individual.

#### 3.2 **Employees working at other institutions**

If Hartpury employees have honorary academic appointments at other institutions or are to be seconded to another institution, an agreement must be put in place between Hartpury and the institution before the Hartpury employee commences the appointment or secondment. This agreement must include terms establishing the ownership and use of pre-existing and arising IPR, as well as appropriate confidentiality provisions.

#### 3.3 **Individuals with honorary, visiting or emeritus status**

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

3.3.2 They may, however, be required under certain circumstances to assign to Hartpury any IPR they create. This could include, for example, IPR:

3.3.2.1 created jointly with a member of Hartpury staff in the course of his or her employment;

3.3.2.2 created using Hartpury facilities or resources which require the assignment of IPR to Hartpury as a condition of use;

3.3.2.3 created in the course of undertaking research or other activity for which Hartpury is formally responsible; or

3.3.2.4 as otherwise agreed between Hartpury and the individual.

3.3.3 Where an assignment of IPR is made to Hartpury, the assigning individual may enter a revenue sharing agreement with Hartpury on the same terms as a Hartpury employee.

#### 3.4 **Third parties**

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

take due note of the requirements of the National Security and Investment Act 2021 in any agreements involving IP.

### 3.5 **Taught Students**

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

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

3.5.2.1 has specifically agreed otherwise in writing with Hartpury;

3.5.2.2 has a sponsored studentship under which the sponsor has a claim on the IPR arising as part of the terms of the sponsorship;

3.5.2.3 participates in a research programme or 'live' external company project where any arising IPR is to be owned by the sponsor of the research or project;

3.5.2.4 generates IPR using Hartpury facilities and/or resources and is required to assign IPR to Hartpury as a condition of use; or

3.5.2.5 generates IPR jointly with an employed member of Hartpury working in the course of his or her normal employment.

3.5.3 Where students are required to assign IPR to Hartpury, the student may enter into a revenue sharing agreement with Hartpury on the same terms as for a Hartpury employee.

### 3.6 **Research Based Students**

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

3.6.2 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 IPR from their projects jointly. Hartpury may therefore require that students undertaking research-based degrees assign any IPR they create in the course of their studies to Hartpury. Where such an assignment is made, the student may enter a revenue sharing agreement with Hartpury on the same terms as for a Hartpury employee.

3.6.3 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 IPR to that organisation.

## 4. **COMMERCIALISING INTELLECTUAL PROPERTY**

4.1 Hartpury Personnel must inform Hartpury of any proposed commercialisation of Hartpury's IPR and/or any IPR created using Hartpury facilities and/or resources.

4.2 The commercialisation of Hartpury's IPR may only be undertaken with the prior written authorisation of the Vice Chancellor and/or Chief Operating Officer. Hartpury may determine (in its sole discretion) whether it wishes to commercialise its IPR and, if so, the steps that need to be taken (including the terms of any licence) to achieve that commercialisation.

- 4.3 If Hartpury decides that it does not wish to commercialise any part of its IPR it may choose to license or assign that IPR to the creator(s) of the IPR on such terms as it may determine in its sole discretion. If an assignment of IPR is made, Hartpury reserves to itself (i) a perpetual, irrevocable, worldwide, royalty-free, sub-licensable, transferable licence to continue to use the IPR for research (including commercial research) and teaching purposes; and (ii) a right to receive share of revenue in the event the IPR is commercialised by the creator.
- 4.4 Hartpury Personnel may not, without written authorisation of Hartpury, enter into any discussions, negotiations, arrangements or agreements with any person or organisation in relation to any of Hartpury's IPR. Hartpury may issue disclaimers of ownership of IPR in appropriate cases and agree that the IPR can be owned by the creators, for example for scholarly works.
- 4.5 Unless specifically agreed otherwise, Hartpury does not claim any rights of copyright in books or articles for learned journals written by Hartpury Personnel, and hereby assigns those future rights to the author as they may arise. In general, Hartpury preserves the rights of Hartpury Personnel 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.
- 4.6 Each staff member grants Hartpury 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 BY) licence, subject to the Policy on Open Access and Open Data.

## 5. **SETTING UP A BUSINESS OR COMPANY FOR THE EXPLOITATION OF IPR**

- 5.1 Hartpury Personnel may wish to set up a business, for example by operating as a sole trader or forming a partnership, LLP, limited company or other corporate structure (the '**New Entity**') in order to exploit IPR covered by this policy. Before doing so, Hartpury Personnel must seek and secure permission from the Board of Governors on the recommendation of the Vice Chancellor. Such permission may require that a viable business plan, relevant agreements and equity positions have been developed, the necessary funding (for example, sources of investment) has been identified and approved and the form of the New Entity has been determined.
- 5.2 Creating and operating a New Entity may result in the involvement of Hartpury Personnel in the New Entity as directors, non-executive directors, advisors, consultants or in other operational roles. Prior to any such involvement, Hartpury, the Hartpury Personnel and the New Entity (as applicable) must enter into appropriate contractual arrangements including (but not limited to) secondment, services and/or consultancy agreements.
- 5.3 Hartpury will normally be a shareholder, member or equivalent (where applicable) in any New Entity that involves Hartpury staff, resources or assets, or where Hartpury has previously provided funding to a project being carried on by the New Entity. Hartpury will normally license any IPR required for exploitation by the New Entity, on such terms as Hartpury may determine in its sole discretion. Any licence or assignment of IPR will take into account the requirements of the National Security and Investment Act 2021.
- 5.4 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 IPR with Hartpury and any present or previous sponsors of work at or with Hartpury) for any IPR or other information to which the New Entity needs access.
- 5.5 Hartpury Personnel 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 New Entity.

5.6 Any New Entity must take out its own insurance (at appropriate levels and with reputable insurers) 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.

## 6. DISTRIBUTION OF INCOME FROM EXPLOITATION

6.1 Hartpury may share the net proceeds of research-related IPR exploitation with the relevant employees and students, after recovering its costs. The form of income may include equity, dividends, royalty payments or shares of surpluses.

6.2 Where Hartpury's IPR have been assigned, licensed or otherwise transferred to employees or students, Hartpury reserves the right to receive milestone and / or royalty payments. These will be distributed net of any relevant costs, such as legal bills, registration costs, and other protection and exploitation costs, plus the repayment of any loans made to employees/students as part of the development process. The distribution will also be net of any agreed revenue sharing with the funders of the original research (where applicable).

6.3 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 IPR. 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.

	Up to £50 000	£50 000-£500 000	Over £500 000
Creator(s)	80%	40%	20%
Hartpury	20%	60%	80%

6.4 By accepting shares in a New Entity, the holder(s) of the shares 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 will therefore be wholly attributable to Hartpury.

## 7. USE OF THE HARTPURY NAME OR LOGO IN CONNECTION WITH THE COMMERCIALISATION OF IP

7.1 Hartpury's name, logos and trademarks must not be used in any commercial activity without the prior written authorisation of Hartpury. The terms of use of Hartpury's name, logos and trademarks by New Entities, licensees or other customers would normally be incorporated in any contractual arrangements between Hartpury and those parties for the use of the IP, facilities or staff.

7.2 Hartpury's prior written authorisation is also required to use any photos, brochures, marketing materials or other promotional materials derived from Hartpury or any part of it.

## 8. DISPUTES

Any dispute or disagreement in relation to this policy must be referred to the Academic Dean (RKE) in the first instance. If the Academic Dean (RKE) is unable to resolve the dispute following the reasonable efforts of both parties to do so, the dispute may be referred to the Chief Operating Officer. Subject to the provisions of any contractual agreement between Hartpury and the party raising the dispute incorporating this IP Policy to the contrary, the Chief Operating Officer's decision shall be final.

### Approval and Review Cycle

Date last approved	October 2023
Policy Owner	Academic Dean (RKE)
Approving Committee	Academic Board / SMT
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