

RESEARCH COUNCIL POLICY ON EMPLOYEE INTELLECTUAL PROPERTY, CONSULTANCY WORK AND CONFLICTS OF INTEREST

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Policy Statement

Wherever possible, the Research Council seeks to ensure that any potentially valuable Intellectual Property (IP) deriving from its activities (whether patentable or not) should be actively exploited to provide positive economic impact for the benefit of society.

This policy applies to all employees of the Research Council. It should be read in conjunction with local Research Council guidance, which will be consistent with the terms of this policy statement.

The UK Shared Business Services Ltd (UK SBS Ltd) provides HR services across the Research Councils. However some employees are deployed at establishments/facilities/ships that do not access services from UK SBS Ltd. In these cases reference to the SBS or System (Employee Self Service) will not apply and employees should refer to their Research Council HR team for assistance.

Whether a worker is deemed to be a worker or employee is not always clear under employment legislation. In cases where managers or individuals have any doubt as to whether the Policy should apply, advice should be sought from the Research Council HR team.

1. Definition

- 1.1 Intellectual Property (IP) includes documents, reports, papers, data, letters, patents, trademarks (whether registered or unregistered), registered or unregistered designs, utility models, logos, domain names and URLs, copyrights (including design copyrights), applications for any of the foregoing and the right to apply for them in any part of the world, discoveries, creations, inventions, or improvements upon or additions to an invention, confidential information, know-how, technical suggestions, and any research effort relating to any of the above mentioned, business names whether registered or not, moral rights and any similar rights in any country.

2. Ownership of Intellectual Property

2.1 Principles

- 2.1.1 The Research Council asserts its rights to own IP created by their employees in the course of their employment. For the purposes of clarity, "the course of employment" extends to activities and periods of activity outside work hours, if related to your field of occupation / usual duties as laid down in Statute and case law.

- 2.1.2 Subject to the provisions of the Patents Act 1977 and the Copyright Act 1988; if during the course of official duty an employee makes or creates Intellectual Property Rights (IPR), such that this might reasonably be expected to result from the carrying out of their normal duties, the rights shall be owned absolutely by the Research Council in question. The employee waives all moral rights to such Intellectual Property.
- 2.1.3 If a Research Council employee makes or discovers (or participates in the making or discovering) of any Intellectual Property, then they must report this to the Chief Executive or the delegated responsible authority.
- 2.1.4 The rights and obligations described above shall continue in force after employment has ceased in respect of Intellectual Property made during employment. This means that, among other things, employees must obtain the consent of the Chief Executive or the Research Council's delegated responsible authority before using or disclosing any Intellectual Property made during their employment. The failure to do so may lead to legal action.

2.2 Copyright in Academic Publications

- 2.2.1 Employees should refer to their Research Council for local guidance.

2.3 Patents

- 2.3.1 The Research Council may need to obtain patent rights to an invention made in the course of an employee's duties. The Research Council's delegate responsible for managing Research Council IP may seek advice to assist in deciding whether to make arrangements for patent or other protection for the invention. Such protection may be made in the name of the advising body, in the inventor's name, the name of the Research Council or a combination of these. The inventor will be required to give the Research Council any assistance necessary for such patent or other protection to be obtained for the life of the patent. The Research Council will meet all reasonable legal expenses associated with this.
- 2.3.2 If the Research Council decides not to pursue legal protection of any IP, and if the case is deemed to be acceptable to the Research Council, the Research Council's delegate responsible for managing Research Council IP will provide permission in writing, to arrange for patent or other protection for the invention to be pursued by the inventor. Protection costs would be at the inventor's expense and for their own benefit, subject to limitations and conditions that the Research Council may at its sole discretion reasonably impose, e.g. the stipulation of free use of the invention by the Research Council for use in its establishments or a suitable future revenue share agreement. Each application will be assessed on a case-by-case basis.

2.4 Compensation

- 2.4.1 Sections 40 and 41(4) of the Patents Act 1977 set out the circumstances for which compensation applies.
- 2.4.2 With respect to, but notwithstanding the above compensation arrangements, the Research Council may have an Award to Inventors Scheme under which an employee named as an inventor can be nominated or apply for a designated share of income generated from commercialised IP, or shares in a company set up to develop

and commercialise Research Council IP. Refer to your Research Council policy for details of specific schemes.

3. Consultancy

3.1 For the purposes of this policy statement, “consultancy work” is defined as work which entails the use of an employee's professional skills and qualifications and which attracts payment for services provided over a period of time.

3.2 Restrictions

3.2.1 Employees should not engage in activities which might conflict with the interests of the Research Council, or which might be to the detriment of normal duties. Before entering into any commitment to undertake consultancy work, an employee must obtain permission in writing from the Research Council's delegated responsible authority. Work related to the consultancy must be done wholly outside normal working hours and must not commit the Research Council to undertake any work. Any consultancy agreements for which an employee is a party in their own right must not attempt to transfer any Research Council IP to the consultant, or customer or supplier.

3.2.2 The potential scientific, technical and financial advantages of the work being done corporately will be taken into account. Consultancy work directly related to research programmes supported by the Research Council should be undertaken in an official capacity.

3.2.3 If the consultancy requires official resources including Research Council research facilities or consumables, assistance of other employees, or access to any Research Council property (including inventions/ know-how, unpublished information or data), the work should be undertaken in an official capacity.

3.3 Written permission from Director

3.3.1 Where approval for consultancy work is given, a formal written contract between the employee and the customer or supplier disclosing full details of the terms of agreement with respect to scope and nature of work and IP provisions must be approved by the Research Council's delegated responsible authority. Consent can be withheld if it is decided that the scope of the work might impact on the Research Council's activities, involves use of Research Council IP or requires more than incidental use of facilities.

3.4 Consultancy Fees and insurance

3.4.1 Fees for approved consultancy, which are carried out without recourse to official time or resources, may be retained by the employee. Exceptionally, where official resources are made available, the Research Council reserves the right to make an appropriate charge for the use of its resources.

3.4.2 The Research Council will not be liable for any act or omission arising out of the consultancy. Individuals should consider personal professional indemnity insurance.

3.4.3 No statement must be made which leads customers to believe the individual is acting as an employee, agent etc. of the Research Council.

3.4.4 Employees who receive income from outside sources are responsible for notifying HMRC and paying any Income Tax or National Insurance due.

4. Conflict of interest

4.1 Outside Business Interests, Directorships etc.

4.1.1 No restrictions are imposed on an employee's active participation in any business or other organisation beyond what may be necessary to ensure that the Research Council's interests are not prejudiced and that employees are available to fulfil the obligations of their employment. Employees should bear in mind that they could be put in a difficult position if the firm or organisation they are connected with is in a contractual relationship or enters into negotiation with the Research Council. In these circumstances employees must declare their interest in the organisation to their Director and provide further information if requested. Similar principles apply to the holding of shares or other private investments where a significant holding might raise the question of a conflict of interests.

4.1.2 Employees should refer to their Research Council's register of interests (if applicable), and the procedure related to its completion.

5. Policy Review

5.1 This policy will be regularly reviewed to incorporate any legislation changes. The TU may request that a policy is reviewed.

6. Amendment history

Version	Date	Comments/Changes