

## ***Controlled Document – refer to Intranet for latest version***

Category: Academic	Date Created: September 1997
Responsibility: Executive Director Education & Applied Research	Date Last Reviewed: September 2016
Approval: Executive Director Education & Applied Research	Version: 16.1

## **Purpose**

This policy is intended to provide a clear understanding of the rights and responsibilities of students in relation to Intellectual Property at UCOL.

## **Scope**

This policy applies to all UCOL students with the following general exception:

- Where a Student is also an employee of UCOL, then they shall be deemed as Staff for the purposes of this policy.

## **Responsibility**

The Executive Director Education & Applied Research has the specific responsibility for the implementation of this policy. This policy may be amended by the Chief Executive, after first consulting with staff or their representative(s).

## **Policy Statements**

1. Students are the sole owners of Intellectual Property Rights derived from their Work(s) unless any of the following exceptions applies.
  - 1.1 UCOL is the sole owner of all Intellectual Property Rights in the Work(s) when Students create a Work(s) either:
    - (i) using an existing Work(s) where the Intellectual Property Rights in that existing Work(s) are owned by UCOL or another party; OR
    - (ii) using funding from UCOL or obtained by UCOL from another party; OR
    - (iii) in collaboration with other people from UCOL.
  - 1.2 When a party other than UCOL provides funding for a Student Work(s), the party who commissions the Work(s) will own all Intellectual Property Rights in the Work(s) unless agreed otherwise in writing with UCOL.
2. Where either UCOL is the sole owner of all Intellectual Property Rights in a Work(s), or a third party has Intellectual Property Rights in a Work(s), the Student undertakes:
  - (i) not to give to any person(s) or entity, other than UCOL, any interest in any Intellectual Property Rights derived from the Work(s).
  - (ii) to do anything required by UCOL to enable UCOL to apply for Intellectual Property Rights protection, enforce that protection and commercially develop the Work(s).

- (iii) that all rights, duties and obligations in this Policy survive termination of the Student's enrolment at UCOL and survive termination and completion of the Work(s).
  - (iv) not to do anything or fail to do anything which may give rise to conflict of interest on the part of the Student or which may be detrimental to the Work(s) or related activities.
3. UCOL undertakes that nothing shall preclude or limit Student rights to have their Work(s) examined for the purposes of undertaking a course of study to which the Work(s) relates.
4. Students have the right to submit all or any part of their Work(s) for publication.
5. If UCOL considers that any Work(s) by a Student may be commercially viable, then UCOL will encourage the Student to use UCOL's Research and Knowledge Transfer Committee to assist the student, including applying for appropriate Intellectual Property Rights and, if appropriate, enforcing that protection.
6. Where UCOL plans to take part in any commercial development of any Work(s) by a Student, the students will be required to transfer to UCOL all Intellectual Property Rights in the Work(s). UCOL will then be the sole owner of all those rights. In return for that transfer, UCOL will assist the Student as stated and will pay the Student 40% of the net payments UCOL receives.
7. Before any Student seeks to commercially develop any Work(s) they create, whether through their own efforts or with any person other than UCOL, Students are advised to obtain written confirmation from UCOL's Research and Knowledge Transfer Committee that UCOL does not claim any Intellectual Property Rights in the Work(s). In deciding whether or not UCOL has any Intellectual Property Rights in any Work(s) the Research and Knowledge Transfer Committee will address matters such as, but not limited to:
  - (i) the form of the Work(s),
  - (ii) who made the Work(s),
  - (iii) whether or not any UCOL Resources were used in creating the Work(s) and,
  - (iv) whether or not existing Work(s) were used to create the new Work(s).

## Definitions

**"Chief Executive"** means the Chief Executive of UCOL and includes his or her delegates.

**"Consultancy Services"** means the provision of Work or services for reward (monetary or otherwise) to any third party by a UCOL employee.

**"Course Materials"** means all information and materials used, or which may be used at some later date in the provision of lectures, tutorials, seminars, workshops, field or laboratory classes, and other teaching activities, including courses.

**"Design"** means feature of shape, configuration, pattern or ornament applied to an article by any industrial process or means, being features which in the finished article appeal to and are judged solely by the eye, but excludes a method or principle of construction or features of shape or configuration which are dictated solely by the function which the article to be made in that shape or configuration has to perform.

**"Intellectual Property"** includes (without limitation) all legal rights relating to:

- literary, creative, artistic and scientific works,
- performances and materials (whether dramatic, visual or audio),

- inventions in all forms of human endeavour,
- know-how,
- scientific discoveries,
- industrial designs,
- trade marks, service marks, commercial names and designations,
- electronic media, software, computer programs,
- course materials, course design, course content,
- confidential information, trade secrets.

And, includes all other rights resulting from intellectual activity in educational, industrial, scientific, literary or artistic fields and Intellectual Property Rights has a corresponding meaning.

“**Third Party**” means any person, firm, company or entity other than UCOL.

“**UCOL**” means Universal College of Learning.

“**Work(s)**” means any item or thing, including, without limitation, a person’s effort to develop something tangible in which any Intellectual Property Rights exists or may exist, and Works has a corresponding meaning.

### **Relevant Legislation**

- Copyright Act 1994
- Trade Marks Act 2002
- Patents Act 1953
- Designs Act 1953

### **Related Documentation**

- [Intellectual Property – Student Guidelines](#)
- [Intellectual Property – Staff Policy](#)