

INTELLECTUAL PROPERTY POLICY

1 STATEMENT AND SCOPE

- 1.1** This document describes the Royal Veterinary College's (the "College"), policy and practice relating to exploitation of intellectual assets and commercialisation of research. The first part of this document explains the legal situations relating to intellectual property generated at the College, and procedures for its protection and management. The second part relates to business incentives and revenue sharing from commercialisation.
- 1.2** The College intends to be active in pursuing opportunities for commercialisation of ideas and technologies arising from its research, teaching and clinical work. In accordance with general academic practice, and to encourage cultural change within the organisation to support these aims, the College will incentivise and reward its personnel for their commitment to this goal.

2 Ownership of Intellectual Property Rights (IPR)

2.1 Employee's Intellectual Property

There are two particularly relevant pieces of legislation relating to ownership - the Patents Act 1977 and the Copyright, Designs and Patents Act 1988. These two Acts make it clear that inventions and other forms of Intellectual Property (IP) generated by an employee belong to the employer if made in the course of the employee's normal duties.

The College, as most universities, takes the view that generation of IP, relevant to their field of work, constitutes part of the normal duties of staff employed in academic, research, and clinical posts.

Students, if they are not employees of the College, are treated separately.

3 Student Intellectual Property

- 3.1** The intellectual property position of registered students of the College who are employed by, or whose studentships are funded by, certain independent organisations (e.g. Animal Health Trust, Institute of Animal Health) may be governed by the policies of those organisations.
- 3.2** Students sponsored by companies – e.g. under CASE awards may be required to sign a legal agreement with the company covering rights to any IP arising from the sponsored project.
- 3.3** IP generated in the course of their studies by students who are also employees of the College, will automatically belong to the College.
- 3.4** Postgraduate research students (and undergraduates when a supervisor wishes) will be formally requested to assign all IP that they may generate in the course of their studies, to the College. In return, they will be able to benefit from the same incentives and rewards as if they were members of staff. This will be a condition of undertaking commercially sensitive projects as a student at the College. Students who do not wish to make such an assignment may be transferred to alternative research projects.

4. Copyright

- 4.1** Materials protected by copyright such as lecture presentations and notes, and still and moving images generated for use in teaching will remain the property of the College if/when their originator leaves the College's employment. However, the originator may assert their moral right to be identified as the originator of the material, and will be granted a licence to use such material freely in their subsequent employment or personal consultancy.

5 Exclusions

- 5.1** For a limited class of items subject to copyright, for example scientific textbooks, the College follows customary academic practice by waiving rights to the copyright in its employees' works, and allowing individual employees to exploit the copyright works to their own benefit. It is often possible to negotiate the terms offered by publishers. The Business Development team can assist in advising staff on protection and benefit through copyright on such items.

6 Protection and Management of Intellectual Property

6.1 Invention Disclosure

- 6.2** College inventors are required to declare any invention, device, material, product or process, computer software or other potentially significant result, whether patentable or not, developed or invented during the course of, and arising from, their work, research or study whilst employed by or registered as a student at the College.

- 6.3** The College employs a Business Development team to advise on and facilitate commercialisation. Where the College considers there is potential for profitable commercial exploitation, it will seek protection by patenting or other means, of IP generated by College personnel using a central budget. The cost of protecting IP will therefore not be a charge on Departments. The College will then identify and negotiate with commercial partners for the development of the work.

- 6.4** The Business Development team will undertake due diligence on new inventions to check ownership and any obligations relating to the invention e.g. the rights of a commercial or charitable sponsor.

- 6.5** If the College does not wish to pursue commercialisation (or abandons IP protection), ownership will be offered freely for reassignment to the individual inventor(s).

7 IP Protection

- 7.1** Inventors will be expected to contribute actively to ensure optimal protection and opportunity for commercial exploitation of their ideas by co-operating with the Business Development team. In particular, they will review 'prior art' (earlier patents and scientific papers) and other relevant literature promptly if requested, and help the Business Development team and patent agents in preparation of all patent or other IPR documents and other responses to patent offices.

- 7.2** The Business Development team will make an initial assessment of an invention, after discussion with the inventor(s), using Invention Disclosure and Commercial Assessment checklists.

- 7.3** Recommendations regarding IP protection, patent filing and prosecution will be made by the Business Development team by email to a Review Panel consisting of the Vice Principals for Research and for Strategic Development. The recommendation will include brief background details and an outline commercialisation strategy (e.g. exclusive/non-exclusive licensing, spin-out company formation etc).

- 7.4** The Review Panel will consider commercial potential vs. financial risk of filing, and value to the College not quality of science.
- 7.5** The Review Panel will aim to respond to the Business Development team's recommendation within seven days. The Review Panel's decision may only be reversed by reference to the Principal.
- 7.6** The budget for IP protection (i.e. external costs of filing fees and agents' costs) will be set annually but reviewed quarterly by Head of Business Development and Vice Principal for Strategic Development and may be adjusted.

8 Management of Jointly Owned IP

- 8.1** If another academic organisation has part ownership of an invention, the Head of Business Development will agree with that organisation which party will lead the commercialisation and the rights will be assigned to that party in return for revenue sharing. Proportions of revenue share will be negotiated according to inventive and commercialisation contributions. The parties will agree whether to split patent expenses, or the lead organisation take full responsibility.
- 8.2** If the College is leading commercialisation then the Business Development team will try to negotiate a majority revenue share to reflect its input, but aim to share expenses.

9 Authority to Commit the College

- 9.1** Inventors may not instruct patent agents independently of the Business Development team, or commit departmental or other funds to intellectual property protection.
- 9.2** The only authorised signatories who may enter into agreements on behalf of the College are the Principal, the Assistant Principal and Secretary to Council, and the Director of Finance. The Head of Business Development has delegated authority to sign confidentiality agreements and material transfer agreements.

10 Sharing Revenue with Inventors from Commercialisation of IP

- 10.1** There is no statutory obligation on an employer to compensate an employee in respect of IP generated by the employee. However, in the sole case of patents, an employee has the right to receive a reward if the granted patent is of outstanding benefit to his employer, taking into account among other things the size and nature of the employer's undertaking. Otherwise, any compensation is entirely at the employer's discretion. The College has taken the view that it should always award a share of the net proceeds from the exploitation of intellectual property rights to the inventor or originator unless there is an exceptional reason not to do so (e.g. fraudulent or unethical acts by an individual).
- 10.2** Distribution of revenue from commercial exploitation has been agreed by the Council of the College as described below.
- 10.1** The net income received by the College is normally divided between the inventor or inventors, and the College centrally, in keeping with the guidelines displayed below. In this context the term net income means after deduction of direct costs associated with the project. This means any commission or fees payable to external organisations employed on the project (occasionally, an external lawyer or a consultant might be used), and net of the cost of any patents or similar protection associated with the project in question. Indirect costs – e.g. maintenance of the Business Development function – are covered by the College centrally, with support from the government's 'Third Mission' funding stream.

Cumulative Net Revenue to College	Inventor(s)	College
First £50k	75%	25%
Next £200k	50%	50%
Over £250k	25%	75%

10.2 The Inland Revenue treats a payment of royalties to staff exactly like a bonus on salary. In consequence, it is taxed through PAYE and an Employer's National Insurance contribution is attracted at 10.4% of the sum paid out. The College bears the cost of this NI contribution. (For example, at the first level of the scale, the 25% indicated in the above table will in reality be reduced by $0.5 \times 0.104 \times 75\% = 3.9\%$, leaving 21.1% for the College.) The scale applies to each revenue-bearing project.

10.3 Of the College share of the net income, up to 50% or a maximum of £250,000 will be available for allocation to the inventor or originator's research programmes, whilst they remain at the College. The personal share will be paid whether or not the inventor or originator remains an employee of the College (assuming they supply contact details), and will be payable to their estate in the event of their death.

11 Spin-out Company Formation

11.1 The policy outlined above covers commercialisation of intellectual property by licensing or assignment to existing companies. If a new company is formed, which acquires rights to College-owned intellectual property, the inventor(s) or originator(s) may choose whether to benefit from the Awards scheme, or - if they choose to take equity personally in the new company in return for their intellectual contribution - they must opt out of the scheme, as it applies to the relevant intellectual property.

12 Transitional Arrangements

12.1 This Revenue Sharing policy came into force on 1st January 2003 and applies to all commercialisation income received by the College from that date.

12.2 Migration to the new scheme for any projects pre-dating this policy should be discussed on an individual project basis by the inventor(s) or originator(s) with the Head of Business Development.

13 Business Incentive Scheme

The College has established an incentive scheme to encourage active commitment to 'Third Mission' activities. It offers cash payments from central College funds to individuals or teams for specific commercialisation-related activities. This immediate 'payback' is intended to foster a culture change across the College towards recognition of the value of exploiting the intellectual assets of RVC, and of working with commercial partners.

14 Eligibility

14.1 The scheme is open to all full and part-time employees of the College and post-graduate students (i.e. Clinical Training Scholars, MSc and PhD students). To participate, staff and students must have assigned ownership of intellectual property to the College, in return for treatment as if they were employees whose normal duties could include generation of new intellectual property. They will then benefit from revenue sharing or equity participation as described above.

15 Assessment and Management of Incentive Awards

- 15.1** A Review Committee, consisting of the Vice-Principal for Strategic Development, the Vice Principal for Research, and the Head of Business Development, will decide if proposals are eligible for award of the incentives.
- 15.2** The Committee will also monitor the operation of the incentive scheme and its perceived value and success in encouraging commitment and support for Third Mission activity.

16 Structure

- 16.1** If an invention is submitted, by a member or members of the College who has/have not previously been identified as an inventor on a College patent, an award of £1,000 will be made to the inventor(s) on acceptance for commercialisation by the Review Committee.

17 Further Incentive Activities

- 17.1** See intranet for up to date information about access to proof of concept funding.

18 Further Information

- 18.1** All queries arising from this document should be addressed to the Head of Business Development.