

# **UCEM Intellectual Property**

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## **Policy**

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# 1.0 Introduction

This document summarises the Intellectual Property Policy (IPP) of the University College of Estate Management (UCEM). The policy outlines the rights and responsibilities of the University College and its staff and students. For the purposes of staff, this policy is non-contractual but must be adhered to at all times.

## 1.1 Intellectual Property Rights (IPR)

IPR are the legal rights associated with creative and intellectual effort or commercial reputation and goodwill. Together, the different types of Intellectual Property Rights (Patents, Copyright, know-how, registered trademarks, registered designs and unregistered designs) protect a wide variety of property including literary and artistic works, computer programs, inventions, designs and marks used to identify goods and services.<sup>i</sup>

Intellectual Property (IP) can be a valuable asset and substantial income can be generated through its successful exploitation. The nature of The University College of Estate Management's (UCEM) activities, in particular its course material including study papers and research activities, often gives rise to the creation of valuable IP which can benefit UCEM, its Staff and students, as well as third parties.

## 1.2 Institutional Context

The University College of Estate Management (UCEM) is an independent, charitable institution concerned with professional education and training for the property and construction professions. It was founded in 1919, and was incorporated by Royal Charter in 1922. Originally based in London, the College offered full-time, part-time and 'postal course' tuition, including delivering the University of London External Degree in Estate Management from 1926 onwards and preparing students for the examinations of the professional bodies of the land.<sup>ii</sup>

UCEM provides opportunities for Staff and students to contribute to the formulation and on-going development of policy.

This policy document clarifies its position and provides information on its policy and procedural issues **at UCEM with regard to Intellectual Property Rights and IP ownership.**

## 1.3 Background

Intellectual Property has been a long-discussed and debated topic within Higher Education that has become more pressing with recent developments in technology. Many Colleges and Universities have instituted policies unilaterally, while others have adopted policies negotiated between departments, faculties and administrations. Whatever the context, departments/faculties need to develop appropriate policies and language.

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The parties to such an agreement adopted by UCEM believe that the public interest is best served by creating an intellectual environment whereby creative efforts and innovations can be encouraged and rewarded, while still retaining its learning communities, reasonable access to, and use of, the Intellectual Property for whose creation UCEM has provided assistance. The University College supports the development, production, and dissemination of Intellectual Property by the members of its various departments.

Although the law provides for several different types of Intellectual Property, UCEM's concerns centre on two: (i) Copyright and (ii) Patents.

### 1.3.1 Copyright

Copyright protects the form in which ideas are expressed. Examples include books, articles, presentations, lecture notes, course materials, test results, research notes, diagrams, drawings, charts, art works, photographs, architectural drawings and buildings, and computer software.

Copyright law protects original, creative works of authorship such as books, manuscripts, music, film and video productions, computer code and works of art such as paintings and photos – among other things. Authors of these works have exclusive rights to the following with their work:

- Reproduce the work
- Distribute copies of the work to the public
- Perform the work publicly
- Display the copyrighted work publicly
- Prepare derivative works based upon the work<sup>iii</sup>

### 1.3.2 Patents

Patent means protected by a government issued right allowing someone to make and sell a product or service for a certain amount of years without anyone being allowed to copy it.

A patent for an invention is granted by government to the inventor, giving the inventor the right for a limited period to stop others from making, using or selling the invention without the permission of the inventor. When a patent is granted, the invention becomes the property of the inventor, which – like any other form of property or business asset – can be bought, sold, rented or hired. Patents are territorial rights; UK Patent will only give the holder rights within the UK and rights to stop others from importing the patented products into the UK.<sup>iv</sup>

## 1.4 Who does this apply to?

This policy affects all stakeholders who have a relationship with UCEM, including staff, students, collaborators and sponsors. In the context of this policy, the descriptions used are listed within section **3.0 Definitions**.

## 2.0 IP liaison officer/key contact

**Grahame Smith, Vice-Principal – Governance** is the designated central point of contact within UCEM for all Intellectual Property queries. Contact details are as follows: Graham Smith, Vice-Principal – Governance, University College of Estate Management, Whiteknights, Reading, Berkshire. RG6 6AW

## 3.0 Definitions

In this document the following capitalised words, acronyms and phrases have the meanings attributed below:

**‘UCEM staff’** means persons with a formal contract of employment with UCEM. Employees may be full-time, part-time, permanent or fixed-term or hold another relevant employment status. For the purposes of those Staff employed by the University College on contracts of employment, please note this policy is non-contractual. Individuals engaged by the University College on contracts for services will agree to contract clauses regarding Intellectual Property, however please note this policy will not form part of the contract for service but may be referred to and a copy provided.

**‘UCEM students’** means full-time, part-time, undergraduate, postgraduate, short course/continuing professional development (CPD) student enrolled with UCEM for education and training purposes.

**‘Collaborators’** means people or organisations contracted to do work for or with UCEM through consultancy agreements, contracts, sub-contracts, collaboration agreements etc. They may be individuals who are self-employed or employees of another organisation.<sup>v</sup>

**‘Copyright’** means that collections of rights that protect original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.

**‘Creators’** means such person or persons, responsible for and contributing to the creation of certain Intellectual Property, which may be commercially valuable.

**‘Derivative work’** is a new, original product that includes aspects of pre-existing, already copyrighted work. Also known as a “new version,” derivative works can include musical arrangements, motions pictures, art reproductions, sound recordings or translations. They can also include dramatizations and fictionalizations, such as a movie based on a play.<sup>vi</sup>

**‘Income’** means Income actually received by UCEM upon exploitation of Intellectual Property (e.g. Royalties, up-front payments, sale of equity, traded rights or dividends) after deduction of identified costs including, but not limited to: legal costs and fees, Intellectual Property Rights (IPR) costs (including contingent repayable loans due to a third party). For avoidance of doubt, ‘Income’ as defined in this policy document, is not deemed to include consideration in exchange for research, services or facilities.

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**‘Intellectual Property’ (hereinafter ‘IP’)** means any inventions, designs, information, know-how, specifications, formulae, data, processes, methods, techniques, and other technology that are conceived, or developed by UCEM staff, UCEM students, Collaborators and Sponsors, along or jointly with others and the Intellectual Property Rights therein.

**‘Intellectual Property Rights’ (hereinafter ‘IPR’)** means any Patent, registered design, Copyright, database right, design right, trademarks, application to register any of the aforementioned rights, trade secret, right in unpatented know-how, right of confidence and any other intellectual or industrial property right of any nature whatsoever in any part of the world,

**‘Patent’** means those collections of rights that protect inventions or discoveries which constitute any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof.

**‘Sponsors’** means external funders for projects including, but not limited to, charities, industry, Public Statutory Regulatory Bodies (PSRBs)

**‘Staff’** includes: full and part-time UCEM employees employed on both fixed term and permanent contracts of employment or other relevant employment status; individuals employed by UCEM on a casual worker or zero-hours basis; individuals engaged on contracts for services (self-employed or limited contractor basis).

**‘Tangible media’** include, but are not limited to, books, periodicals, manuscripts, films, tapes, and disks.

**‘Works of authorship’** (including computer programs) include, but are not limited to the following:

- literary works;
- musical works, including any accompanying words;
- dramatic works, including any accompanying music;
- pantomimes and choreographic works;
- pictorial, graphic, and sculptural works (photographs, prints, diagrams, models, and technical drawings);
- motion pictures and other audio-visual works;
- sound recordings; and
- architectural works.

### **Note 1: Computer software:**

Computer programs fall into a ‘grey’ area between the two types of Intellectual Property. Programs that are a part of a ‘new and useful process’ may be eligible for Patent protection, while programs embodying minimally original expression may be eligible for Copyright protection.<sup>vii</sup>

## Note 2: Duration of Patents and Copyrights:

The duration of a Patent is 20 years from the date of the filing of the Patent. Actual Patent protection begins when the Patent actually issues from the Patent & Trademark Office. The duration of a Copyright (for works created and published after January 1, 1978) is the life of the author plus 70 years. Before that date, the duration of Copyright (with some exception) had been 75 years, increased to 95 years in 1998. Unlike Patent protection, Copyright protection under the Copyright Act attaches as soon as a work is "fixed in a tangible medium of expression," i.e., put on paper. There is no need to place a notice on distributed copies or applying to the Copyright Office for registration. (There are some benefits in doing so, but they are irrelevant to the duration of Copyright.)<sup>viii</sup>

## 4.0 UCEM's Intellectual Property Rights

As a general policy, UCEM complies with the requirements placed upon it with regard to Intellectual Property Rights, Freedom of Information and data protection. However, it always has to be mindful of the need to keep its provisions under regular review, given the fluid nature of law and national policy covering these areas. In particular, the acquisition of Taught Degree Awarding Powers brings with it a need for the University College to amend certain aspects of present arrangements to meet changing expectations on the part of QAA and other stakeholders.<sup>ix</sup>

### 4.1 Intellectual Property Rights

Specifically with regard to IPR, UCEM takes measures to ensure that these are protected in all instances. This primarily relates to protecting the Copyright in output generated for course materials (in all forms of media) and for other publications such as published Research Reports.

#### 4.1.1 Copyright

UCEM has several Copyright licenses to ensure that it conforms to Copyright laws.

These licensing agreements include:

- **Copyright License Agency Independent Higher Education Licence;**
- **Newspaper License Agency License;**
- **Ordnance Survey License;**
- **Crown Copyright License.**

UCEM has an extensive library of photographs that have been sourced over the years and care is taken to ensure that UCEM has the relevant permissions to use these photos

All authors are issued guidance on Copyright and the licences held by UCEM. If an author wishes to use material not covered by these licenses written approval is sought from the Copyright holder.

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### 4.1.2 Policies Relating to Staff

When writing course/learning materials for release to students or for research reports, authors (internal and external/associate tutors) are expected to use the Harvard Referencing system, as currently in use within UCEM. The use of this style of referencing avoids inadvertent plagiarism and ensures that the terms of our licenses are adhered to.

Stricter adherence to the Harvard system when referencing study material was introduced in 2008, and only study papers prepared since then will comply with this style.

Please note that further guidance on the Harvard Referencing standard is available via the Virtual Learning Environment (VLE) and within the e-Library – section 6: UCEM Published Material and entitled, *'The Harvard System: The CEM Guide to Referencing and Citation'* (2014), UCEM.

### 4.1.3 Policies Relating to Students

The terms and conditions that students must agree to in order to get access to the UCEM VLE informs them of how the material that they submit on-line will be used and the behaviour expected in terms of the use of material provided by UCEM.

Students are expected not to plagiarise material in the course of their studies and are provided guidance on plagiarism and referencing.

## 5.0 Ownership of Intellectual Property and IP Rights relating to contractors

Ownership of the Intellectual Property of employees is governed by law (Copyright, Designs and Patents Act 1988 and other relevant IP legislation), by contracts of employment, and relevant project contracts.

- 5.1 Any Intellectual Property Rights (including without limitation Copyright, Designs and Patents rights) created by a contractor in the course of performing the services, or exclusively for the purpose of performing the services, will vest in the University College upon creation, and the contractor will assign by way of future assignment to the University College all title and interest to any such Intellectual Property Rights. The contractor will at all times, both during and after the Agreement, do all such acts and things and sign all such deeds or documents as the University College may reasonably require in order to secure the University College as the owner of any Intellectual Property Rights referred to in this paragraph.
- 5.2 The University College will grant to the contractor a perpetual, non-exclusive, royalty-free licence to use the materials assigned under para.5.1, above.
- 5.3 The contractor will waive absolutely and irrevocably any relevant moral rights granted under the Copyright, Designs and Patents Act 1988.

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- 5.4 Where, in connection with the provision of the services, the contractor uses any materials in which the Copyright is owned by the contractor, the contractor will grant to the University College a perpetual, non-exclusive, royalty-free licence to use, maintain and support such contractor materials.
- 5.5 The contractor will use all reasonable endeavours to obtain all necessary licences and permits to use third party materials which he or she wishes to use or make available in the course of performing the services. The contractor also will use all reasonable endeavours to procure that any licences for third party materials are perpetual, and contain terms that will allow the University College on termination of the Agreement to continue to use, maintain and support such third party materials on a royalty-free basis.
- 5.6 The contractor will indemnify the University College in respect of any loss or damage to the University College arising from a failure by the contractor to obtain any requisite licence or permit in respect of third party materials used, or made available by, the contractor in the course of performing the services.

## 6.0 Who may use the intellectual property?

### **The Licensing and use of works outside UCEM:**

- 6.1 Unless otherwise agreed, Intellectual Property work created by UCEM authors and/or faculty members while working for UCEM can be used without charge for educational and administrative purposes for UCEM business. UCEM authors and/or faculty members should include such uses in their agreements when transferring Copyright for such works to a publisher. These uses would enable UCEM to operate more efficiently for such purposes as complying with accreditation agency requests and are not meant to infringe on legitimate UCEM authors and/or faculty members' rights.
- 6.2 Material created for ordinary teaching use and in department programs, such as syllabi, assignments, and tests, shall remain the property of the UCEM authors and/or faculty members, but educational establishments shall be permitted to use such material for internal instructional, educational, and administrative purposes, including satisfying requests of accreditation agencies for department-authored syllabi and course/module specifications.
- 6.3 In an agreement transferring Copyright for such works to a publisher, UCEM authors and/or faculty members are urged to seek to provide rights for the institution to use such works for internal instructional, educational, and administrative purposes.



## **7.0 Declaration and distribution of any funds generated**

- 7.1 UCEM Staff members must declare any funds received from the sale of Intellectual Property developed with the use of UCEM's resources
- 7.2 Any funds received by UCEM from the sale of Intellectual Property owned by UCEM authors and/or faculty members will be allocated and expended as determined solely by the agreement between UCEM and the creator(s).
- 7.3 Funds received by UCEM from the sale of Intellectual Property owned by UCEM will be allocated and expended as determined solely by UCEM.
- 7.4 Funds received by the UCEM authors and/or faculty members and UCEM from the sale of Intellectual Property owned jointly by the department and UCEM will be allocated and expended in accordance with the specific agreement negotiated by the parties.
- 7.5 In the event of multiple Creators, the Creators will determine the allocation their individual shares when the work is first undertaken.

## **8.0 Resolving issues and disputes**

In the event of any dispute arising from the sale and use of Intellectual Property the following will occur:

- Where the dispute involves a staff member, internal procedures will be followed prior to any formal referral to legal advisors. Note that legal advice may be sought in seeking to resolve the dispute through internal procedures. This may include contractual procedures in the case of Contract for Services arrangements.
- Where the dispute is beyond the scope of being managed through internal or contractual procedures, or where this process is unsuccessful, UCEM will refer the matter to legal advisors.

## **9.0 Policy monitoring and review**

The UCEM Intellectual Property Policy is subject to periodic monitoring and review, and changes may be implemented in order to ensure that the policies and procedures operate effectively and that UCEM strives for continual improvement.

This policy affects all stakeholders who have a relationship with UCEM, including staff, students, collaborators and sponsors and at a basic level, this Intellectual Property Policy will be listed within the UCEM list of policies that must adhered to.

UCEM will ensure that those involved with Intellectual Property are clear about their roles and responsibilities and kept informed on any developments in order to ensure the highest quality standards are adhered to.

In support of this policy UCEM may produce further guidance, in the form of updated policy and/or procedural information. As this policy is non-contractual, it will publish any updates on the intranet.

## Appendix A References

1. University of Liverpool (2012), *Policy of Exploitation and Commercialisation of Intellectual Property*, Liverpool
2. UCEM (2011), *Periodic and Partner Review by the University of Reading: Self-Evaluation Document*, p30&31, UCEM, Reading.
3. ILAM (2003), *Intellectual Property Policy for the Institute of Leisure and Amenity Management*, ILAM, Reading
4. UCEM (2014), '*The Harvard System: The CEM Guide to Referencing and Citation*', UCEM, Reading.
5. UCEM (2013/14) *The essential guide to studying at The College of Estate Management: Student Handbook*, UCEM, Reading.
6. World Intellectual Property Organisation (1999) *Guidelines on Developing Intellectual Property Policy for Universities and R&D Organizations*, WIPO, Switzerland
7. Morrow, Prof. S., (2009), *What are derivative works under Copyright Law?* LegalZoom.com [online]. Further information is available at [www.legalzoom.com/articles/what-are-derivative-works-under-copyright-law](http://www.legalzoom.com/articles/what-are-derivative-works-under-copyright-law) [accessed 27 May 2015]

## Appendix B Benchmarked Policies

1. Kingston University (2010), *Intellectual Property Rights Policy*. Available at [http://cdn.kingston.ac.uk/documents/aboutkingstonuniversity/howtheuniversityworks/policiesandregulations/documents/intellectual\\_property\\_general.pdf](http://cdn.kingston.ac.uk/documents/aboutkingstonuniversity/howtheuniversityworks/policiesandregulations/documents/intellectual_property_general.pdf) [accessed 2nd December 2014]
2. University of Greenwich (2013), *Intellectual Property Policy*. Available at <http://www.gre.ac.uk/governance/policy/ip/policy> [accessed 2<sup>nd</sup> December 2014]
3. University of Portsmouth (2011), *Intellectual Property (IP) Policy*. Available at <http://www.port.ac.uk/accesstoinformation/policies/researchandknowledgetransferservice/s/intellectualproperty/filetodownload,25237,en.pdf> [accessed 2<sup>nd</sup> December 2014]
4. University of the West of England, Bristol (2008), *Intellectual Property Policy and Regulations*. Available at: <http://www1.uwe.ac.uk/aboutus/policies> [accessed 2<sup>nd</sup> December 2014]

## Appendix C Other sources of information

1. Intellectual Property Office (2011), *New Guide for Universities to Manage Intellectual Property*. Available at: <https://www.gov.uk/government/news/new-guide-for-universities-to-manage-intellectual-property> [accessed 2<sup>nd</sup> December 2014]
2. Intellectual Property Office, *Intellectual asset management for universities* (2014). Available at: <https://www.gov.uk/government/publications/intellectual-asset-management-for-universities> [accessed 2nd December 2014]

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3. University of Southampton (2014), *Intellectual Property Regulations*. Available at: <http://www.calendar.soton.ac.uk/section1V/ipr.html> [accessed 2nd December 2014]. Includes further information on:

- Definitions,
- Use of IP and Confidential Information,
- IP Generated by Staff and/or Students,
- Procedure for Identification and Protection of IP,
- Exploitation of IP and Recovery of Costs,
- Compensation on Assignment or Licensing of IP,
- Compensation on Equity Participation,
- Rights on Termination of Employment or Registered Studies,
- *Authorised Signatories*, and
- Arbitrations.

### **Useful web-links:**

Centre for Intellectual Property Policy and Management (CIPPM), Bournemouth University [online] - <http://www.cippm.org.uk/>

Oxford Intellectual Property Research Centre [online] - <http://www.oiprc.ox.ac.uk/>

UK Government, *Patents, Trademarks, Copyright and designs* [online] - <https://www.gov.uk/browse/business/intellectual-property>, and

UK Government, *Intellectual Property and your work* [online] - <https://www.gov.uk/intellectual-property-an-overview/overview>

UK Intellectual Property Office [online] - <http://www.ipo.gov.uk/home.htm>

World Intellectual Property Organisation [online] - <http://www.wipo.int/about-ip/en/>; main UK IP laws are at <http://www.wipo.int/wipolex/en/profile.jsp?code=GB>

[all websites accessed 2<sup>nd</sup> December 2014]

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### Endnotes:

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<sup>i</sup> University of Liverpool (2012), *Policy on Exploitation and Commercialisation of Intellectual Property*, Liverpool.

<sup>ii</sup> CEM (2011), *Periodic and Partner Review by the University of Reading: Self-Evaluation Document*, p1&2, CEM, Reading.

<sup>iii</sup> Morrow, Prof. S., (2009), *What are derivative works under Copyright Law?* LegalZoom.com [online]. Further information is available at [www.legalzoom.com/articles/what-are-derivative-works-under-copyright-law](http://www.legalzoom.com/articles/what-are-derivative-works-under-copyright-law) [accessed 27 May 2015]

<sup>iv</sup> University of the West of England (2008), *Intellectual Property Policy*, Bristol

<sup>v</sup> University of the West of England (2008), *Intellectual Property Policy*, Bristol

<sup>vi</sup> Morrow, Prof. S., (2009), *What are derivative works under Copyright Law?* LegalZoom.com [online]. Further information is available at [www.legalzoom.com/articles/what-are-derivative-works-under-copyright-law](http://www.legalzoom.com/articles/what-are-derivative-works-under-copyright-law) [accessed 27 May 2015]

<sup>vii</sup> ILAM (2003), *Intellectual Property Policy for the Institute of Leisure and Amenity Management*, ILAM, Reading, p3

<sup>viii</sup> ILAM (2003), *Intellectual Property Policy for the Institute of Leisure and Amenity Management*, ILAM, Reading, p3

<sup>ix</sup> CEM (2011), *Periodic and Partner Review by the University of Reading: Self-Evaluation Document*, p30&31, CEM, Reading.

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