

BI-KEC-001 INTELLECTUAL PROPERTY POLICY

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Associated policies, procedures and guidance
This policy should be read in conjunction with:
BI-KEC-002 Consultancy Policy
BI-HR-008 Staff Conflicts of Interest Policy
BI-RES-005 Research Integrity Policy
BI-IM-003 Information Classification & Security Policy
BI-HR-004 Grievance Policy
BI-COM-001 Corporate Identity

BI-IM-002 Data Protection Policy

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1. Definitions

“Associates”	Research Fellows (honorary), Honorary Members of Faculty, visiting students, visiting researchers and workers (excluding consultants and secondees), and Trustees.
“Allowable costs”	All costs, including but not limited to, those arising from filing and prosecuting applications for registered Intellectual Property (IP) rights, professional and legal advice, agent’s fees and Institute costs.
“Creator”	Any person to whom this policy is applicable in accordance with section 4, who creates, conceives, reduces to practice, authors, or otherwise makes a substantive intellectual contribution to the creation of IP and who meets the definition of ‘inventor’ or ‘author’ as generally implied in the IP laws of England and Wales.
“Employee”	Institute employees on Institute or Babraham Institute Enterprise Ltd (BIE) terms and conditions, Institute employees on BBSRC or other terms and conditions, and Research Fellows on Institute terms and conditions.
“Intellectual Property (IP)”	All Intellectual Property (IP) including but not limited to all patentable and non-patentable inventions, designs, information, specifications, formulae, improvements, discoveries, know-how, data, processes, methods, techniques and the IP rights therein, including but not limited to patents, copyrights, database rights (including software code and algorithms), design rights (registered and unregistered), and all rights of a similar nature, trademarks, trade names and service marks and the right to apply for any of the above as recognised in any country in the world. For the avoidance of doubt, IP shall not include any personal data (as defined in the EU General Data Protection Regulations 2018) (“Personal Data”) of which the Institute is the data controller. The Institute will retain ownership of all Personal Data and this policy is not intended to authorise any other party to process such Personal Data without the consent and authorisation of the Institute. See the Institute’s Data Protection Policy (BI-IM-002) for further details.
“Staff”	Employees and Babraham Institute registered PhD students.
“Students”	Babraham Institute registered PhD students.

2. Commitment statement

- 2.1. At the Babraham Institute our mission is to be an international leader in research focusing on basic cell and molecular biology with an emphasis on healthy ageing through the human life course.
- 2.2. Research and operational excellence are essential to meeting our vision of being at the forefront of research that improves lives. The [Institute Values](#) set out our approach to how we operate across all Institute activities, both at an individual level and together as the Babraham Institute. The expectation of the Institute is that each staff member looks to represent and reflect the Institute Values within their own contributions and function, and to support and not hinder the expression of these Values in the work of others.
- 2.3. The Institute is committed to ensuring that Intellectual Property (IP) which arises from its research activities is used in support of the objectives set out in its Articles of Association, and in accordance with its legal obligations, for the benefit of the Institute, its staff and, most importantly, society-at-large.

3. Purpose

- 3.1. This policy sets out the framework for the translation of the IP arising from the Institute's research into products, services and processes to deliver socio-economic impact. It encourages staff and associates to become creators and to identify IP with potential commercial value. It also establishes clear rules and procedures for the management and commercialisation of the IP generated at the Institute.
- 3.2. The Institute is a recipient of UKRI-BBSRC funding (the Knowledge Exchange and Commercialisation grant) to support commercialisation of Institute IP and capture the outputs, outcomes and impact of the research so as to demonstrate the wider value and benefit of these outcomes to the UK society and economy. This policy reflects the principles detailed in the BBSRC Knowledge Exchange and Commercialisation Policy, as well as the UK Research Integrity Office's (UKRIO's) [Code of Practice for Research](#)¹, with which the Institute must comply.
- 3.3. This policy seeks to ensure the legal protection (where appropriate), and effective management and commercialisation of Institute IP while at the same time not impeding the traditions of education and scholarship, academic freedom, open and timely publications, Institute sovereignty, and the Institute's mission.

4. . Scope

- 4.1. This policy applies to:
 - Institute employees on Institute or Babraham Institute Enterprise Ltd (BIE) terms and conditions
 - Institute employees on BBSRC (in conjunction with their frozen contractual policies) or other terms and conditions
 - Research Fellows on Institute terms and conditions
 - Research Fellows (honorary)

¹ <https://ukrio.org/publications/code-of-practice-for-research/>

- Honorary Members of Faculty
 - Babraham Institute registered PhD students
 - Visiting students
 - Visiting researchers and workers (excluding consultants and secondees, see 4.2)
 - Trustees
- 4.2. Those in the following groups should consult the agreements governing their activities whilst hosted by the Institute, which will specify ownership arrangements for IP generated in the course of the project and whether they are covered by this Intellectual Property Policy:
- Consultants and secondees
 - Workers provided by a third party / contractors

When individuals provide a service, IP is usually owned by the Institute and the service is governed by a service agreement / contract. These individuals are not eligible for Awards to Inventors.

- 4.3. Institute employees on BBSRC terms and conditions (i.e., those who transferred employment to the Institute under TUPE in 2017) will generally fall under Institute policies, particularly where legislation has since been updated and the processes in their frozen BBSRC contractual policies no longer exist. However, where an Institute policy has an equivalent contractual BBSRC policy, these will be assessed side by side at the time they are invoked to ensure that Institute policy to be used is no less favourable for Institute employees on BBSRC T&Cs. Institute employees on BBSRC terms and conditions can see a copy of their frozen BBSRC contractual policies on the HR pages on The Hub. For avoidance of doubt, Institute employees on BBSRC T&Cs retain their sickness absence allowance, and redundancy and pension arrangements. If you have any concerns, please speak to hr@babraham.ac.uk.

5. Intellectual Property overview

- 5.1. The general rule in relation to IP created by an employee during the course of their employment is that, in the absence of an agreement to the contrary, the first owner is the employer. This position arises due to statute law governing IP. In the case of inventive products and processes, the Patents Act 1977 confers first ownership of an invention created by an employee to the employer. In relation to copyright works and registered and unregistered design rights (copyright protecting: i. literary works, dramatic, musical or artistic works; ii. sound recordings, films or broadcasts; and iii. the typographical arrangement of published editions.), the Copyright Designs and Patents Act 1988, the Registered Designs Act 1949 and the Regulation on Community Designs (6/2002/EC), all operate to confer ownership of copyright works and UK and EU designs created by an employee to the employer. Similarly, the first owner of database rights in a database will be the employer according to the Copyright, Rights in Databases Regulations 1997.
- 5.2. Each employee must disclose to the Commercialisation team all IP that is potentially commercialisable and any associated materials, including research results, which they create and or develop. Employees shall avoid early disclosure of these ideas as far as possible, through the use of confidentiality agreements (see section 7.2) and consult with the Commercialisation team as early as possible because premature disclosure is likely to mean that the invention cannot be protected by patenting (see section 7).

- 5.3. Except in circumstance where dissemination may disadvantage the Institute or where publication might result in the loss of an opportunity for commercial exploitation, employees are entitled to decide that the results of any research undertaken by them in the course of their employment by the Institute shall be published or disseminated to other persons to use or disclose as they wish in accordance with normal academic practice. The Institute encourages active identification of commercially-valuable IP, suitable protection and robust exploitation to the mutual benefit of the Institute, its staff and associates. It should be noted in this context that commercial exploitation (e.g., on the basis of patents) need not be incompatible with academic activities such as the publication of academic papers.

6. Intellectual Property ownership

6.1. Institute employees

- 6.1.1. In accordance with the applicable law set out in section 5.15.1, all forms of IP generated by an employee, made in the course of the employee's normal duties, belongs to the employer. As such, any IP created by employees in the course of their normal duties shall vest in and be the property of Institute.
- 6.1.2. Ownership of IP generated in the course of undertaking research in collaboration with, or on behalf of a third-party shall be determined in accordance with the terms of the contract governing the research and, where applicable, in accordance with funder terms and conditions.
- 6.1.3. In accordance with the obligations contained in the Business Protection Agreement signed by employees at the start of their employment at the Institute, the creator shall, on request by the Institute, sign any documents necessary in order to give effect to the claim made by the Institute and to waive any rights in respect of the subject-matter of the claim which may be conferred on them by Chapter IV of Part 1 of the Copyright, Designs and Patents Act 1988.
- 6.1.4. On a case-by-case basis, the Institute has limited discretion to decide that particular categories of IP should instead belong to the creator.
- 6.1.5. In accordance with standard academic practice, the Institute shall not assert any claim to the ownership of copyright in employee's academic research papers.

6.2. Students

- 6.2.1. Subject to section 6.2.3, IP created or generated by a student shall vest in and be owned by the Institute.
- 6.2.2. The creator shall, upon request by the Institute, sign any documents necessary in order to give effect to the claim made by the Institute and to waive any rights in respect of the subject-matter of the claim which may be conferred on them by Chapter IV of Part 1 of the Copyright, Designs and Patents Act 1988.
- 6.2.3. The Institute shall not assert any claim to the ownership of copyright in student theses.

6.3. Associates

- 6.3.1. Associates who are affiliated to the Institute but who are neither employees nor students may be required to assign the rights to any IP they create in the course of their activities undertaken whilst hosted by the Institute. The Institute may have obligations to organisations that are funding the research in question which it will not be able to honour without such an assignment of rights being in place. Associates who have assigned their rights in this way are treated as if they are Institute employees for the purposes of revenue sharing.
- 6.3.2. The Institute recognises that, in a limited number of cases (such as visiting workers who remain employees of another organisation whilst at Institute), special arrangements may need to be negotiated regarding the ownership and use of IP that they may generate. Such arrangements will be negotiated on a case-by-case basis, generally with the associate's employer. Any associate who believes that they fall within such a category should contact the Institute's Contracts Office or Commercialisation team for advice at the earliest opportunity.

6.4. The Institute

- 6.4.1. The Institute's conditions on the ownership, use and exploitation of IP are designed to reflect the general position under the law outlined in section 5.1. The Institute asserts its right to ownership and use of all IP generated by staff and associates² during the course of their employment or their time at the Institute, and likewise asserts its right to ownership and use of all IP generated by staff outside the course of their employment where substantial Institute resources have been used. Where the Institute has ownership, it is committed to sharing with the staff and associates concerned the rewards derived from successful commercial exploitation of IP which they have generated in accordance with section 9 below.
- 6.4.2. In some circumstances, the Institute may agree with an external sponsor of research that the external sponsor shall be entitled to the IP rights relating to the results of the research, or shall be entitled to an assignment for those rights. In these cases the employee, by agreeing to conduct the research under the agreement, shall also have agreed to comply with the terms of the agreement. In particular, the employee shall execute any assignment of IP that is required by the agreement.

7. Disclosure & confidentiality

- 7.1. In the event that Institute employees or the Institute's Commercialisation team decide that the results of research should be commercialised, staff and associates should be aware that, in respect of patents and similar rights in inventions and new technology, protection for and subsequent commercialisation of the inventions may be jeopardised if information about the invention is made available to the public anywhere in the world before all relevant applications for protection have been submitted. Any statement, oral or written, which is made to someone who is not under an obligation to keep the information confidential will invalidate a patent for the invention in the majority of countries.

² The Institute's right to ownership of associate-generated IP shall be determined in accordance with the terms of the governing agreement.

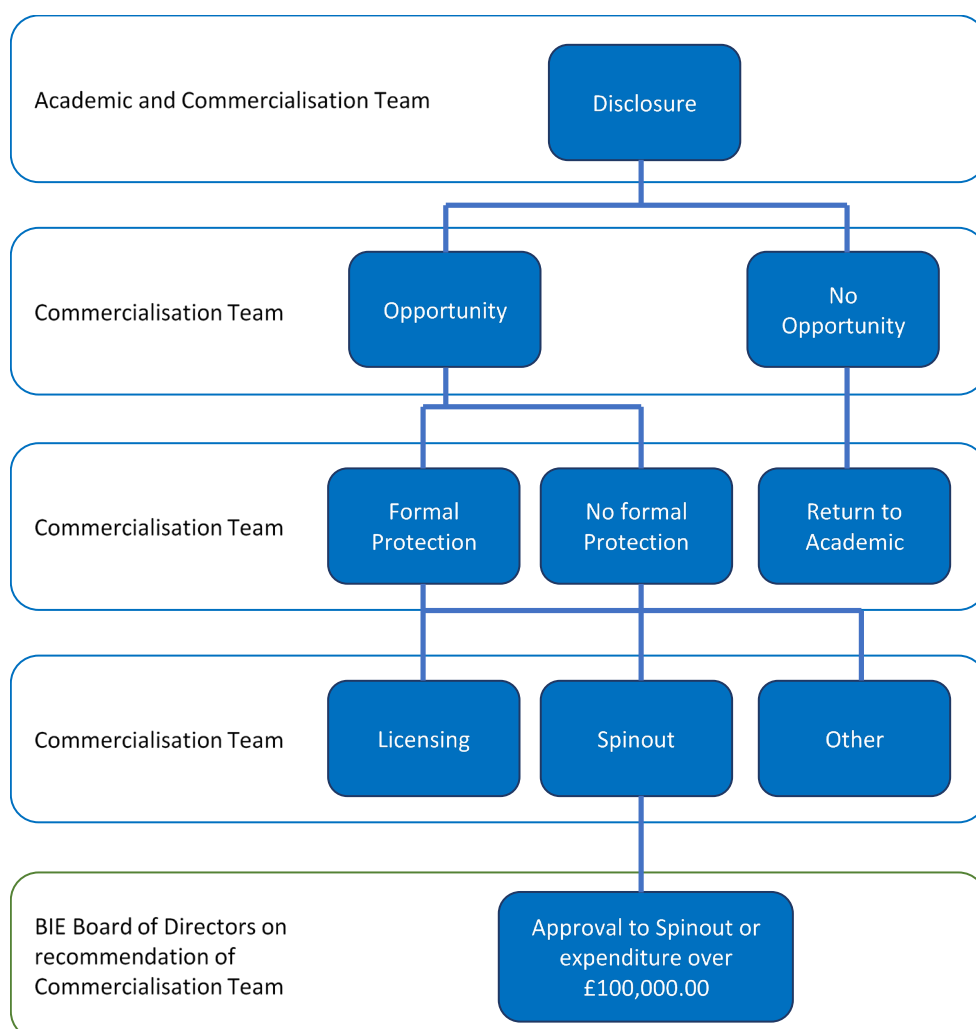
7.2. Employees, associates and students must ensure that all IP is kept confidential until suitable arrangements for its protection have been put in place. Contractual arrangements around confidentiality will be managed by the Contracts Office.

8. Exploitation

8.1. The Institute’s commercial IP portfolio is managed by BIE, the Institute’s wholly owned trading subsidiary. BIE shall only submit an application to register IP at the cost and expense of BIE where the creator(s) agree to assist in the commercialisation process and BIE believes that there is a clear path to near-term commercialisation, or that further and readily available funding can nurture an early stage opportunity towards commercialisation.

8.2. The Institute, via BIE, aims to maximise the impact of IP by means of commercialisation using mechanisms such as licencing agreements and / or spinout companies. On rare occasions, alternative exploitation routes, such as joint ventures, may be used.

8.3. Decision points and approvals are as follows:



8.4. If the Institute decides not to seek to exploit IP to which it lays claim, or if, after the Institute has initiated or sanctioned exploitation, the Institute decides that the process of exploitation

should be abandoned, the Institute shall not unreasonably withhold or delay an assignment of the IP to the creator (at the creator's expense).

9. Rewards to Inventors

9.1. Where a financial return is generated through licensing, assignment or revenue share agreements, the Creators will receive a proportion of the proceeds from exploitation to be paid via PAYE, after meeting any costs, including any allowable costs (see definitions) incurred by BIE, in accordance with the table set out below:

Cumulative income received	Income distributed	BIE Share	Creator(s) Share (Joint)
First £1,400.00 of total income	Income distributed without deduction of any allowable costs	0%	100%
£1,400.00 - £50,000.00		66.7%	33.3%
Over £50,000.00	Income distributed after the deduction of any allowable costs	66.7%	33.3%

9.2. The Institute will pay the share of exploitation receipts to relevant staff and associates within three months of the end of the financial year in which the Institute receives the receipts. Payment to existing employees will be made with salary and will be subject to statutory deductions.

9.3. For staff or associates to benefit from rewards to inventors payments as set out in this section 9, they would normally be expected to be named as an inventor on the registered IP, and to have made an inventive contribution to the creation of that IP. Staff and associates who supported the invention, but who did not make an inventive contribution, are not generally eligible for payments under this scheme. The Institute reserves the right to make exceptions to this approach on a case-by-case basis.

9.4. Creators whose employment or time at the Institute ceases will continue to be eligible for payments under the Rewards to Inventors scheme, subject to the Institute being informed of an address where the payments are to be sent. In the case of the death of a creator, who is due payments, these payments will be payable to the estate of the deceased.

9.5. There are two special cases to note:

- **Revenue distribution from exploitation of reagents:** net income from exploitation of reagents is split between the laboratory that is the source of the material, the Institute, and BIE in the following ratio: 70% to the laboratory; 15% to the Institute and 15% to BIE.
- **Equity sharing in a spinout / joint venture:** the distribution of equity between the Institute, BIE and the creator(s) in new spinout companies or joint ventures shall be determined on a case-by-case basis. The Rewards to Inventors scheme shall apply in the event that IP is licenced to a spinout company

10. Records management

10.1. All those who may generate IP as part of their work should make and keep clear and accurate records in a retrievable format. This is necessary not only in order to comply with proper research practice but also to support a claim to any IP that arises. All those engaged in research are required to comply with all applicable codes of practice and regulations, including the Institute's Research Integrity Policy (to follow).

11. Use of Institute name & logo

11.1. The responsibility for approving and overseeing the use of Institute's name and logo lies in the first instance with the Communications Manager in accordance with Institute's Corporate Identity Policy (BI-COM-001).

12. Disputes

12.1. Any person disputing the coverage, administration or effect of this policy must address their concern in writing in the first instance to the Commercialisation Manager and Head of Knowledge Exchange & Commercialisation who shall within 20 working days of receipt give either an initial ruling or reasons for not so doing together with an indication of process (e.g., further information required, reference to another person / body for decision or opinion), including where a right of appeal would lie in accordance with the procedures set out in the Institute's Grievance Policy (BI-HR-004).

13. Further information

13.1. For further information see:

- The BBSRC's Knowledge Exchange and Commercialisation Policy available at: <https://bbsrc.ukri.org/documents/knowledge-exchange-commercialisation-policy-pdf/>
- <https://www.gov.uk/guidance/manual-of-patent-practice-mopp/section-39-right-to-employees-inventions>

13.2. This policy will be reviewed regularly to incorporate any changes, legislative or otherwise. The next review date is specified on the cover sheet.

13.3. Associated policies, procedures and guidance are listed on the cover sheet. The Policy Owner named on the cover sheet can be contacted with any queries.

13.4. This policy may be varied, withdrawn or replaced at any time by the Institute at its absolute discretion.