ORDINANCES

ORDINANCE 6 – UNIVERSITY EXAMINERS AND EXAMINATIONS

Delete current Ordinance 6.7 and replace with the following:

New Ordinance 6.7:

‘At the end of each stage of study, lists of progression and award outcomes shall be prepared for each programme of study, and shall be approved by the Chair of the Board of Examiners and the External Examiner. The list shall then be forwarded to Student and Academic Services for ratification by the Standing Committee on Assessment on behalf of the Senate.’

REGULATIONS

2.8.2 RECOMMENDATIONS OR DECISIONS AGAINST WHICH AN APPEAL MAY BE CONSIDERED

Amendments as follows:

A student may appeal against the following decisions or recommendations made by or on behalf of a Board of Studies or Thesis Advisory Panel:

(a) That the degree for which the student was enrolled should not be awarded, but that the student should be required to re-sit an examination or to revise and resubmit a thesis or dissertation for re-examination for the award or for a lesser award; and against the conditions on which such permission is given

(b) A decision of the Standing Academic Misconduct Panel appropriate academic misconduct investigation panel or examiners relating to the application of the Academic Misconduct Policy and Procedures academic misconduct procedures.

(c) A recommendation that a student’s enrolment should be terminated or transferred to another programme on the grounds that the student has failed to meet or comply with the requirements of an external organisation in which training or education is undertaken, or of an appropriate professional or regulatory body

(d) A decision regarding student progression, resulting in programme transfer or termination of studies.

(e) A recommendation that a student’s enrolment should be terminated, other than where triggered by failure of the programme or failure to progress.
(f) A decision taken by the Chair of Special Cases Committee (or their nominee) not to uphold recommendations of the Board of Studies to grant leave of absence, repeat study, programme extensions or other exceptions to programme specifications and enrolment requirements that fall under Special Cases Committee’s remit.

REGULATION 2.8.3 GROUNDS FOR APPEAL AND CIRCUMSTANCES IN WHICH HEARINGS ARE HELD

Amendments as follows:

(a) Students may appeal against any decision reached as a consequence of assessment (category 2.8.2 (a), (c) or (d) above) or any decision listed in Regulation 2.8.2, other than those relating to academic misconduct procedures (see (b) below), only if:

(i) they believe that a procedural irregularity has occurred, or that the assessment was conducted unfairly or improperly; or

(ii) for good reason, relevant exceptional circumstances can be shown that could not reasonably have been brought to the attention of the examiners before a decision on academic performance was reached.

(b) Students may only appeal against a decision made as a result of academic misconduct procedures on the grounds that:

I. The academic misconduct procedures were not followed properly;
II. The appropriate academic misconduct investigation panel reached a decision that was not reasonable in all the circumstances;
III. New evidence is available which could not reasonably have been brought to the attention of the appropriate academic misconduct investigation panel at the time of its investigation;
IV. There was bias or reasonable perception of bias during the academic misconduct process;
V. Any penalty imposed by the appropriate academic misconduct investigation panel or examiners or progression panel was disproportionate or not permitted under the academic misconduct procedures.

(b) (c) An appeal against termination of enrolment, other than where triggered by failure of the programme or failure to progress, or an appeal arising out of academic misconduct, is always considered at a full meeting of the Special Cases Committee.

(e) (d) In all other cases, an appeal will only be considered at a full meeting of the Special Cases Committee if, in the judgement of the Chair of the Special Cases Committee (or their nominee), a full meeting is necessary to resolve the issues which cannot be resolved with reference to the appeal documentation.

REGULATION 6.7.3 GROUNDS FOR APPEAL AND CIRCUMSTANCES IN WHICH HEARINGS ARE HELD
Make the following amendments:

(a) Students may appeal against any decision listed in Regulation 6.7.2, other than those relating to Academic Misconduct procedures (see (b) below), only if (a) (i) they believe that a procedural irregularity has occurred, or that the assessment was conducted unfairly or improperly; or (b) (ii) if for good reason, relevant exceptional circumstances can be shown that could not reasonably have been brought to the attention of the Exceptional Circumstances affecting Assessment Committee at the time they occurred. Further information on exceptional circumstances can be found in the Guide to Assessment, Standards, Marking and Feedback.

(b) Students may only appeal against a decision of a Standing Committee on Academic Misconduct Investigatory Panel (StAMP) on the grounds that:

I. The Academic Misconduct procedures were not followed properly;
II. The StAMP reached a decision that was not reasonable in all the circumstances;
III. New evidence is available which could not reasonably have been brought to the attention of the StAMP at the time of its investigation;
IV. There was bias or reasonable perception of bias during the academic misconduct process;
V. The penalty imposed by the StAMP was disproportionate or not permitted under the Academic Misconduct procedures.

(c) An appeal against a recommendation concerning termination of enrolment, other than where triggered by failure of the programme or failure to progress, is always considered at a full meeting of the Special Cases Committee.

(d) In all other cases, an appeal will only be considered at a full meeting of the Special Cases Committee if, in the judgement of the Chair of Special Cases Committee (or their nominee), a full meeting is necessary to resolve issues which could not otherwise be resolved with reference to the appeal documentation.

REGULATION 7: CLARIFICATIONS TO AUTHORITY TO INVESTIGATE DISCIPLINARY CASES

Amendments as follows:

7.2.3 (a) Allegations of any suspected offence ...

- delete “investigated” and substitute “considered”;
- replace “Registrar and Secretary” with “Director of Student Life and Wellbeing (under the delegated authority of the Registrar and Secretary)”;
- delete “Investigating Officers”.

7.2.3 (b) The initial investigation may include...

Delete the existing text and substitute:

7.2.3 (b) If a report of student misconduct is received, a Head of College, Head of Department or the Director of Student Life and Wellbeing (under the delegated authority of the Registrar and Secretary) shall assess whether there is a case to answer, and request an
investigation from an appropriate Investigating Officer. An Investigating Officer may be an Assistant Head of College, or the Assistant Registrar: Conduct and Respect, or another independent member of staff as the Head of College, Head of Department or Director of Student Life and Wellbeing may consider appropriate. The Investigating Officer shall investigate further as he or she deems appropriate and make a recommendation to the appropriate decision-maker, taking into account the circumstances and evidence available.

7.2.3 (j) In addition to a fine...
Delete “relevant Investigating Officer” and substitute “Head of College, Head of Department or Registrar and Secretary, as appropriate”

REGULATION 11 - USING UNIVERSITY INFORMATION

Amendments as follows:

11.2.3 (bullet one): Insert “or Privacy” after “Data Protection” and before “legislation”.

11.2.3 (bullet eight): Delete “Director of Information Services” and substitute “Deputy Registrar and Director of Corporate and Information Services”.

11.5.1: Delete “Director of Information Services” and substitute “Deputy Registrar and Director of Corporate and Information Services’.

11.5.4: Delete “Director of Information Services” and substitute “Deputy Registrar and Director of Corporate and Information Services”.

Delete current Regulation 12 and replace with the following:

REGULATION 12 – INTELLECTUAL PROPERTY RIGHTS

Introduction
The University protects and exploits its intellectual property rights in furtherance of its charitable objectives of teaching and research. In addition, public and charitable research funders require the University to have an effective system of identifying, protecting, managing, and commercialising IP generated by our staff so that technology is disseminated and used for the public benefit. Where appropriate (taking into consideration other models such as social enterprises and not-for-profit ventures), the University seeks to commercialise intellectual property rights for wide dissemination of research results and impact to society. Monies obtained from such commercialisation are then reinvested in the University.

These regulations have been formulated to provide a framework for the successful accomplishment of technology transfer, the identification, protection and exploitation of potentially valuable
research results and the exploitation of potentially profitable creative and scholastic work. By identifying possible routes of exploitation and providing financial incentives for individuals and departments, the regulations are intended to encourage academic staff to identify and to develop commercial projects.

The regulations also set out the ownership and access rights of intellectual property rights created by students.

Reference to the existence of these regulations shall be made in the conditions of employment of staff. Their existence shall also be drawn to the attention of students of the University. This regulation should be read in conjunction with the University policy on the disclosure and commercialisation.

12.1 Definitions

In this Regulation 12 the following defined terms have the meanings given below:

“Academic Licence” means a worldwide, non-exclusive, perpetual, irrevocable, royalty-free licence for the purposes of teaching and non-commercial research which includes, without limitation, the right to use, copy, modify, distribute original and modified versions to third parties, perform in public, show in public, play in public, broadcast, and make adaptations and translations, all without attribution to any author.

“Commercial IP” means Staff IP, Joint Staff-Student IP, or Joint Staff-Third Party IP that is to be exploited commercially.

“create” and “created” means broadly authored, coded, collated, composed, created, designed, developed, devised, formulated, invented, made, produced, or written.

“Creator(s)” means one or more members of staff and students that created the Commercial IP.

“IP” and “Intellectual Property Rights” means all types of intellectual property rights throughout the world and includes, without limitation:

(i) patents and patentable inventions;
(ii) registered and unregistered design rights;
(iii) plant variety rights;
(iv) rights in semiconductor topographies;
(v) trademarks, goodwill, and domain names;
(vi) copyright and related rights, typographical arrangements, and computer software (source code and object code);
(vii) database rights; and
(viii) confidential information, trade secrets, and unpublished know-how.

“Joint Staff-Student IP” means Intellectual Property Rights created jointly by one or more students in the course of their studies and one or more members of staff in the course of their employment.

“Joint Staff-Third Party IP” means Intellectual Property Rights created jointly by one or more staff in the course of their employment and one or more third parties who are not students.

“Staff IP” means Intellectual Property Rights created by one or more members of staff in the course of their employment.
“Student IP” means Intellectual Property Rights created solely by one or more students in the course of their studies at the University.

12.2 Ownership of Intellectual Property Rights

12.2.1 Intellectual Property Rights created by Students

The default position is that students own the intellectual property rights they create while studying at the University. The University does not assert ownership in Student IP except in the limited exceptions set out in this section.

Exceptions where the University takes assignment of Student created IP are:

i. Intellectual Property created jointly with one or more members of staff. This will be treated as Joint Staff-Student IP. See Regulation 12.2.4 below.

ii. Participation in a staff-led project where there is already substantial University IP. This will be treated as Staff IP. In this situation the student will be told in advance about the IP arrangements on the project and be offered an alternative project where these restrictions do not apply.

iii. Contracts with third parties. This includes, for example, a studentship agreement where a third party funder requires a different arrangement on ownership of intellectual property rights. In the case of a funded PhD studentship, the University would require of the funder that the student retains ownership in the copyright in his/her thesis to allow for publication.

iv. Where the student is employed by the University. In this case, the student would be treated as a member of staff under this Regulation. Note that students in receipt of studentship funding are not normally employees of the University but point iii may apply to them.

12.2.2 Intellectual Property Rights created by Staff

Except as stated below, the University shall own all Staff IP. Each member of staff shall do all further acts and execute any further documents reasonably required by the University to give effect to this section.

The University does not assert ownership of copyright in the following Staff IP unless specifically commissioned by the University:

i. Books and articles (including journalism)

ii. Lectures

iii. Teaching materials (except for on-line learning and distance learning courses)

iv. Artistic works

v. Musical compositions

vi. Films created as part of professional practice

In this section:

- “commissioned” means a situation where the University employs a member of staff specifically to create a copyrighted work under any of i) to vi); and

- teaching materials for “online learning” means materials written to be used for online learning course (excluding lectures recorded as part of a classroom-based course), rather than a classroom-based course.
The University’s rights in relation to Staff IP may be waived or modified by agreement in writing with the staff member concerned.

12.2.3 Intellectual Property Rights created jointly by a Student and member of Staff
The University shall solely own Joint Staff-Student IP.

Any student who contributed to the creation of Joint Staff-Student IP shall be treated as though he/she were a member of staff for the purposes of Regulation 12.7.

12.2.4 Intellectual Property Rights created by visitors
Visitors to the University will normally own the Intellectual Property Rights they create while accessing University resources unless there is an agreement to the contrary.

12.2.5 Intellectual Property Rights created jointly by a member of Staff and Third Parties
In the event of Joint Staff-Third Party IP, the University shall negotiate ownership arrangements with the third party concerned. Such arrangement shall cover the respective ownership interests of the University and the third party, how the IP will be protected, who will pay the costs of protection, and who will be responsible for exploiting the IP.

12.3 Access to Intellectual Property Rights

12.3.1 Licence in Student IP to the University
Each Student grants the University a non-exclusive, perpetual royalty-free licence to use its Student IP for the purposes of examination of that student. This includes sharing the Student IP with third parties, such as external examiners and providers of anti-plagiarism software.

12.3.2 Licence in Staff IP to the University
Each staff member grants the University an Academic Licence to any Staff IP not transferred to the University under regulation 12.2.2.

Each staff member grants the University an Academic Licence to their teaching materials and lectures, including the right to put those teaching materials and recordings of lectures on the University’s virtual learning environment (VLE).

Each staff member grants the University a non-exclusive, irrevocable, worldwide licence to make manuscripts of scholarly articles publicly available under open access principles which may be adopted by the University’s Library from time to time.

12.4 Intellectual Property Considerations in Research Contracts
The University will seek to retain ownership of new Intellectual Property Rights created by its staff in the performance of a research contract. As a matter of principle, the University will normally only transfer ownership of new IP to a third party funder if that funder pays at least the full cost for the work. The University may also negotiate royalties for commercial use of the IP. If the University transfers ownership of IP to a third party, the University will require an Academic Licence back to that IP.

The University will as a general rule seek to preserve the rights of staff members to publish material arising from research as they think fit. In commercially sensitive cases however the University will be
prepared to agree to a delay on publication for a period of time to allow for filing of a patent application.

12.5 Disclosure of New Intellectual Property Rights

If a member of staff creates IP that might be Commercial IP, he/she shall promptly report the existence of the IP to a Business Development Manager or Intellectual Property Manager in the Research and Enterprise Directorate in writing (including by email) prior to making any public disclosure.

The Business Development Manager and Intellectual Property Manager shall consider whether the disclosed IP is Commercial IP in accordance with University policy on the disclosure and commercialisation.

12.6 Protection of New Intellectual Property Rights

The University shall protect Commercial IP in its sole discretion, in accordance with [policy reference].

12.7 Exploitation of Intellectual Property Rights

12.7.1 Exploitation Generally

Where Commercial IP is created using external funding, the University may be required by contract to discuss commercialisation plans with the funder and negotiate a share of revenues with the funder.

The University will exploit Commercial IP either through licensing to an existing third party or through the creation of a spin-out company. Creation of a spin-out company will be in the University’s sole discretion.

At the request of any Creator, the University will consider whether the Commercial IP should be made freely available, such as through an open source software licence or Creative Commons license of a copyrighted work.

12.7.2Royalties from Licensing Commercial IP

Any royalties received by the University from licensing Commercial IP will (after any required distributions to third parties, such as funders or joint owners of the Commercial IP) be distributed as follows:

i. The first £1000 to the Creators.
ii. Reimbursement of all direct external costs, including patent costs.
iii. Reimbursement of all internal costs, including any costs expended by Research and Enterprise or the Creators’ department(s). Note, internal costs do not include Research and Enterprise staff costs.
iv. The remainder is then distributed between the Creators and the central University.

The following table sets out the cumulative distribution of royalties:
### Gross Revenue:

<table>
<thead>
<tr>
<th>Gross Revenue</th>
<th>Creators</th>
<th>University</th>
</tr>
</thead>
<tbody>
<tr>
<td>First £1000</td>
<td>100%</td>
<td>0%</td>
</tr>
<tr>
<td>Next £24,000*</td>
<td>80%</td>
<td>20%</td>
</tr>
<tr>
<td>Next £50,000*</td>
<td>50%</td>
<td>50%</td>
</tr>
<tr>
<td>Thereafter*</td>
<td>33.3%</td>
<td>66.6%</td>
</tr>
</tbody>
</table>

* Revenue received after reimbursement of internal and external costs

### 12.7.3 Spin Out Companies

These regulations shall apply to spin-out companies incorporated after the date of these regulations.

The University and the Creators may agree that the Commercial IP is not suitable for licensing to an existing third party and instead should be commercialised through a spin-out company.

Any spin-out company shall be incorporated by the University upon authorisation of an appropriate University committee. The default split of equity in the spin-out company between the University and the Creators is: 25% University and 75% Creators. This share split does not include shares to a joint owner or funder, in which case both the University and Creators’ respective shares will be reduced proportionately.

The University’s default shareholding is in consideration of making available the Commercial IP to the spin-out company through an exclusive, royalty-free licence or through an outright assignment. In either case, the University shall reserve an Academic Licence to the Commercial IP.

The University and Creator may agree to a larger initial University shareholding in the spin-out company if the University has supported patent costs, provided business development support, or provided internal pump priming funding.

In the event of the issuance of further shares in the spin-out company, the University and the Creators will be both be diluted proportionately.

Division of proceeds within the University from dividends to the University and the sale of University shares shall be conducted in accordance with University policy on the disclosure and commercialisation. The Creators shall not be entitled any financial benefit received by the University from the University’s shares in the spin-out company, but the Creators may receive financial benefit from their own shareholdings in the spin-out company.

If the Creators do not want the University to take an ownership interest in the spin-out company, prior to any investment by the University, he/she may instead form their own company and license the Commercial IP from the University on an arms-length, royalty-bearing basis. In this event, no
royalties shall be payable under Regulation 12.7.2 to the Creators who have an ownership interest in the company.

Any exceptions to this Regulation 12.7.3 would need to be approved by the University’s Partnerships and Enterprise Committee (or any successor committee).

12.8 Assignment of Rights to Creator(s)

If the University declines to protect and commercialise Commercial IP, the University shall (subject to any rights of third parties) offer the Creators an opportunity to take assignment of the Commercial IP. In this event:

- the Creators shall be solely responsible for all costs in protecting and exploiting the Commercial IP;
- the Creators shall reimburse the University for any external patent costs to date;
- the University shall not share in any profit from the exploitation of the Commercial IP; and
- the University shall retain an Academic Licence to the Commercial IP.

12.9 Dispute Resolution

12.9.1 Informal Mediation

In the case of a dispute between Creators, or between the Creator and the University in relation to a matter under this Regulation 12, the Director of Research and Enterprise shall act as an informal mediator to attempt to resolve the dispute.

12.9.2 Final Determination

In the event a dispute between the Creators cannot be resolved, the matter shall be referred to the Vice-Chancellor (or his/her designate) for final determination.

In the event a dispute between the Creator and the University cannot be resolved informally:

(i) if the Creator is a current employee of the University, the parties shall first follow the University’s grievance procedures (https://www.york.ac.uk/admin/hr/policies/employee-relations/structure/)

(ii) if the Creator is not a current employee of the University or if the Creator is an employee but the matter was not resolved under (i) above, the matter shall be referred for final determination by an independent umpire to be agreed by the Creator and the University. If the parties are unable to agree on an umpire within fourteen (14) days of the request by either of them, the umpire shall be chosen by the President of the Law Society of England and Wales. In making a decision the umpire shall act as an expert and not as an arbitrator. Before making a decision the umpire shall give the parties the opportunity to make representations in writing including, once, on the representations of the other party and the determination shall be reasoned and in writing.

Related Policy Documents

The following is a list of related policies and guidance:

- IP Disclosure and Exploitation Policy
- IP Guidance: What is IP?
- Policy on Engaging Consultants
- VLE Guidance
- Library Guidance on Copyright
- Pricing Guidance for Commercial Work
- Policy for Division of Revenues from Sale of Equity in Spin-Out Companies
- Policy on UK Scholarly Communications Licence (UK-SCL)

**APPENDIX 1 – Awards of the University**

Creation of three Awards:

- Foundation Degree in Science (FdSc)
- Foundation Degree in Arts (FdA)
- Foundation Degree in Engineering (FdEng)

Removal of the award of Foundation Degree (FD).