

OCA Intellectual Property Policy

1. Introduction

As a creative educational provider, OCA recognises that our students, staff, and tutors will generate new ideas and work through their study and work that will help them develop. To do this effectively, OCA also recognises the need for an academic environment in which ideas and examples of work can be shared. This Policy provides a framework in which intellectual property rights of students, staff and tutors are recognised while maintaining the proprietary rights of OCA and the integrity of OCA's learning environments.

2. Scope of Policy

This policy covers all intellectual property developed by all members of the OCA community, staff, students, and tutors, as a result of undertaking activities for, by, on behalf of, or through OCA. This policy applies to all staff, students, and tutors of OCA. It is also acknowledged that OCA may at any time freely transfer or assign any or all of its rights and/or responsibilities in respect of OCA IP or under this Policy generally to its parent institution, the University of the Creative Arts ("UCA") or to any other educational establishment or organisation under the common ownership or direction of UCA.

3. Definition of Intellectual Property

Intellectual Property, or "IP" means all and any ideas, works, applications, inventions, programmes, designs and material resulting from the creativity of the human mind, whether tangible or intangible, and any means whereby it is expressed, including without limitation art work, framework design, logo generation, literary works, reports, drawings, designs, symbols, names, images, patents, trademarks, service marks, internet domain names, copyright, trade secrets, whether registered, unregistered, or in the process of registration, and whether or not capable of protection, and in whatever form or medium it appears or is manifest.

Intellectual Property Rights are the legal rights of the creator and/or the owner of the Intellectual Property, as these may be defined in law and/or any agreement. These rights may arise as of right or as a result of registration with a recognised organisation and/or governmental authority (for example, as a Patent or Trademark), or under a licence.

4. Intellectual Property developed by OCA employees and contractors

- 4.1 Subject to 4.2 and 4.3 below, OCA shall be the owner of any IP generated, developed or created by academic and professional staff in the course of their employment with OCA or while they are contracted to OCA.

- 4.2 This policy excludes IP that can be shown to have been created or generated by the individual or contracting organisation before the start of employment or the commencement of the contractual relationship.
- 4.3 Where IP has been created or developed outside of the course of employment or is not connected with any contract with OCA, does not result from activities prohibited by the terms of that individual's employment or contract with OCA, does not use OCA resources, and does not use, incorporate, enhance, expand, improve, or modify existing OCA IP, such IP shall be deemed to be the property of the said individual.

An individual's academic publications will not normally be considered as OCA IP save where the publication forms part of a research contract which expressly limits or restricts publication, or where the content and/or the completed work has been commissioned by OCA (in which case it shall be considered to be OCA IP). In the case of non-OCA IP owned by an employee or contractor, OCA shall, subject to any necessary permissions from the publisher, have a royalty-free licence to use such publications for its teaching, learning, and promotional purposes.

- 4.4 Where IP is created or arises as a result of collaboration between an employee or contractor of OCA and a third party in the course of their employment or the performance of their contract, in the absence of any express agreement to the contrary OCA will be the owner of such IP or will benefit from a royalty-free licence to use it in perpetuity.

5. IP rights of Tutors

Tutors who are self-employed contractors of OCA are required to comply with all OCA policies as part of contracted services, including this policy.

- 5.1 Works created solely by the Tutors remain the IP of the Tutor (Tutor IP) but may be used and/or shared with OCA, its staff, students and educational partners for the purpose of teaching and learning. Tutors grant OCA a free, irrevocable, non-exclusive licence to allow OCA to make use of such Tutor IP to complete learning commitments in delivery of courses for 15 years with effect from the date on which the Tutor first made the Tutor IP available or when the Tutor ceased to work with OCA, whichever is later. This is to ensure the continuity of materials if a Tutor is no longer contracted by OCA.
- 5.2 Works that are expressly commissioned from or created by Tutors as OCA teaching and/or learning materials, in whatever format or medium shall be OCA IP, provided that this shall not extend to existing Tutor IP that is used or re-used in new #weareoca content, VLEs, Course content, or other learning contexts.
- 5.3 Tutors are not restricted from providing services to third parties other than OCA provided that neither they nor such third parties use or infringe OCA IP in providing such other services, and that there is no conflict of interest that might interfere with or materially prejudice OCA, OCA IP or that Tutor's provision of services to OCA.

6. IP rights of Students

- 6.1 Students will own IP that is solely created by or developed by them during the course of studying with OCA, except in the following circumstances:-
- 6.1.1 The IP is created or generated in the course of joint work or during activity with a third party and that third party has asserted its right to own the IP as a result of sponsorship or hosting of activity e.g. a placement or student sponsorship.
 - 6.1.2 The IP incorporates, enhances, expands, improves, or modifies existing IP owned by OCA.
 - 6.1.3 The IP is developed in collaboration with or is commissioned by OCA, or has been created using OCA resources.

Where 6.1.2 and 6.1.3 above apply, OCA shall jointly own the resulting IP. OCA recognises that the student may wish to make use of the resulting IP, and this is covered under Clause 9.2 (Commercialisation of IP) of this Policy.

- 6.2 OCA students may not, other than in the course of their studies with OCA, publish, use, licence or transfer any OCA IP without the express written agreement of OCA.

7. Licence of Rights to OCA

- 7.1 Work produced while studying at OCA helps to contribute to the overall intellectual environment of OCA and provides a valuable learning resource for future students. Therefore, it is important that any work is showcased, shared, and referred to through learning materials, #weareoca content, and other appropriate learning platforms.

The work of OCA students may also benefit wider academic discussions, through the inclusion of student work in research articles, conference papers, blog posts, or other academic related material for a wider audience outside of OCA.

In addition, student work provides exemplars of OCA's curriculum and learning and teaching models, and as such may be used to market OCA and its courses.

- 7.2 Where a student is the sole owner of IP, OCA shall have a royalty-free, irrevocable, non-exclusive licence to use that student IP for the following purposes:-
- 7.2.1 to complete commitments to the student in delivery of their course, i.e. for assessment and/or supervision of work, in accordance with the Government guidance on exceptions to copyright for the purpose of teaching.
<https://www.gov.uk/guidance/exceptions-to-copyright>
 - 7.2.2 to use their work for marketing purposes in any form or context provided that credit to the student is made, and that, in the case of marketing and other non-teaching related purposes the student is provided with a copy of the materials prior to publication.

7.2.3 In the case of dissertations, major student projects, critical reviews, parallel projects, and critical reading reviews, to hold this work in repository and permit publication for the purpose of knowledge sharing with other students.

7.3 In the case of performers' rights owned by students in respect of their own performances, and in any audio, video or other recording of such performances, such rights shall be retained by the performing student provided that each student grants to OCA a royalty-free, irrevocable, non-exclusive licence in perpetuity to use, broadcast, share and/or reproduce such performances and recordings regardless of any rules that might otherwise restrict the use of performers' rights (whether property or non-property) for the administrative, promotional, educational, teaching and research purposes of OCA.

7.4 Where student work contains an image or likeness of any person/s, taken in a private or public setting or otherwise, the student must obtain a model release from the affected third party in all instances.

8. Ethical and Moral Obligations

8.1 OCA is committed to ethical use of the IP, materials and work of its students, staff, tutors and contractors. Currently the OCA's approach to the use of this IP, material and work is one of 'informed consent', under which it will make those persons aware of the uses to which it may be put, and the said owners give their permission for their content to be used in this way.

8.2 OCA operates within the context of a charitable purpose and in accordance with organisational principles governed by the charity governance code. OCA is accountable to the Charity Commission. In particular:-

8.2.1 OCA has introduced procedures to ensure that ownership of work by students, tutors and contractors is acknowledged. If used for marketing and in other non-teaching related contexts, the originators of the work will be provided wherever reasonably practicable with a copy of the materials and give the opportunity to withdraw their consent to such use prior to publication.

8.2.2 OCA regularly shares the work of creative practitioners, including OCA tutors and students, within learning materials or public facing platforms such as #weareoca. Students, through the development of their work are also likely to refer to the work of other practitioners through learning logs. Where known, all intellectual property should be referenced using Harvard referencing methods.

OCA is in the process of establishing an ethics committee to oversee uses of [student] content, works and data within teaching and research contexts.

8.3 As an online provider, OCA benefits from the collective contribution others have made in making content available online through Creative Commons licences. These licences grant copyright permissions for creative and academic material to become openly-licensed works

with varying degrees of openness to reuse, repurpose, or share. OCA supports the principle of sharing material where appropriate by means of Creative Commons licences, and may choose to share OCA IP in this way.

- 8.4 OCA regularly cites or makes use of texts and other items reading lists or learning materials. The IP of any such material will be referenced using Harvard, and texts may be electronically duplicated where consistent with the terms of its Higher Education licence from the Copyright Licensing Agency.

9. Protection and Commercialisation of IP

The decision to register, seek protection for and/or commercialise OCA IP is at the sole discretion of OCA. OCA has no obligation to do so. OCA will decide at its discretion the resources committed to exploring and exploiting any IP initiative.

9.1 Protection

Employees, contractors, Tutors and students have a duty to identify and take appropriate steps to protect OCA IP, provided that the cost of any application for, renewal of registration of, or legal action to protect any OCA IP shall be for the account of OCA.

Employees, contractors, Tutors and students will keep secure OCA IP on the terms of this policy and will protect OCA know how and trade secrets, and comply with any and all other related employment terms, research/project guidelines and agreements. This is applicable in all respects both to the receipt and/or dissemination of information. OCA IP may not be disclosed to third parties without the permission of OCA. Where disclosure is made under confidentiality agreements with third parties on behalf of OCA, these must be approved and signed by OCA's Principal.

9.2 Commercialisation

Any person seeking to commercialise any work incorporating or derived from OCA IP or which references OCA should submit in all instances a written business case for exploitation, including the following:

- Description of the OCA IP that it is intended to use
- The nature of the project/task/activity and whether any further IP will be or has been created in the course of or as a result of the project/task/activity
- Details of any third parties involved and the terms of any sponsorship, exhibition, publication, marketing or other associated agreement or arrangement
- OCA's proposed involvement including if applicable, IP licence sought, and resources needed to exploit
- Anticipated benefits, including but not limited to financial outcome and/or revenue.

Submitted business cases will be considered by OCA's Oversight Management Group, with final decision powers resting with OCA's Principal.

OCA would normally expect to receive a minimum of 60% of the Net Proceeds from any commercialisation involving the approved use of OCA IP. "Net Proceeds" means the

revenue derived from or resulting from exploitation (after any costs, third party fees and overheads other than OCA overheads). OCA reserves the right to charge a percentage or fixed amount by way of royalty in relation to any OCA IP that is commercialised by any person in whatever form or medium.

10. Addressing issues that may arise

In the event of any breach of this Policy or concern that OCA practice does not comply with this Policy, complaints and concerns can be addressed and heard through the relevant mechanisms. Students should consult and submit a complaint following the Student Complaints process. Staff and tutors should follow the Grievance Process as set out in the Staff and Tutor Handbooks respectively.

11. Support for the policy

Students should contact enquiries@oca.ac.uk or call 01226 777593 to discuss any concerns at the earliest opportunity.

12. Control of the policy

This policy was authored by Craig Dewis, Head of Student Services in consultation with OCA Staff and OCASA, and given approval through OCA Oversight Management Group on 16 January 2020.

13. Reviewing the policy

OCA will work closely with OCASA to gather student feedback on the outline of the policy, its intentions, the administration of the policy, and a review of all these points in practice. These will then be fed into the next review point for the policy.

The next review date is June 2021. If you would like to raise any issues around this policy then you should contact either enquiries@oca.ac.uk directly, or if you are a student, you might also wish to raise these with the appropriate OCASA representative.