

 Telford Rural Polytechnic <i>Te Whare Wanaka O Puerua</i>		Ref No.	3 - 16
		Version No.	3
		Date Issued	1 March 08
Title	OWNERSHIP OF INTELLECTUAL PROPERTY		
Responsibility	Chief Executive Officer		

1. PURPOSE

To establish guidelines that will govern intellectual property created by staff and students of Telford (the Polytechnic), both within and outside their normal scheduled activities and responsibilities.

2. APPLICATION

This policy applies to ownership of intellectual property produced by staff and students while in the employment of, or under contract to, the Polytechnic; and to intellectual property created outside the Polytechnic.

3. DEFINITIONS

Intellectual Property

Intellectual property includes materials and resources produced for teaching, learning or administrative purposes, examinations, assessment materials, computer software, videos, tapes, artwork, research data, delivery packages including distance education packages, inventions, and any other work created or produced.

It also includes patents, copyright, designs, trademarks, confidential information and any other intellectual property right or form of intellectual property that relates to the Polytechnic or to its operations.

For the purposes of this Policy and Procedure it does not include personal notes in the form of diaries and journals, or work produced outside the terms of staff members' or students' employment or learning contracts.

4. STATUTORY OBLIGATIONS

Nil.

5. POLICY

Ownership

- 5.1 Intellectual property created by Telford staff and students in the course of undertaking their duties and obligations to the Polytechnic or within the terms of their employment or learning contracts, is presumed to belong to the Polytechnic unless otherwise stated in writing. This provision includes original work created for the direct support of teaching, learning or administrative functions within the Polytechnic.
- 5.2 Intellectual property created by staff and students in their own time and outside the terms of their employment or learning contracts, is the property of the staff member or student. In such cases, the Polytechnic's resources, facilities and support services (including other intellectual property or material developed for the Polytechnic) must not have been used in the creation of the intellectual property, unless agreed to in writing by the Polytechnic. Because conflict can arise in such cases, especially if the work produced is related to the staff member's or student's area of operation, notice of the proposed work should be given to the Polytechnic as early in the process as possible.

- 5.3 The Polytechnic encourages publication outside the Polytechnic and therefore does not claim intellectual property ownership in books and articles or similar materials published outside the Polytechnic in accordance with Clause 5.2 of this Policy and Procedure, unless otherwise agreed in writing.
- 5.4 In cases where a staff member or student has been awarded an external grant or is working under a specific contract for service or secondment, the conditions of the grant or contract will control the ownership of any intellectual property. In the absence of any such express conditions in the grant or contract, the provisions of Clause 5.1 of this policy will apply.

Ownership Rights

- 5.5 Ownership of any intellectual property by the Polytechnic conveys the right to use any intellectual property created by any staff member or student during the course of, or after completion of, that person's employment or learning contract.
- 5.6 Ownership of any intellectual property by the Polytechnic conveys the right to distribute the work, or copies of the work, to other sections of the Polytechnic or to sell the work outside the Polytechnic, without payment of royalties to any student or staff member.
- 5.7 The Polytechnic may in some cases agree in writing to license or transfer to a staff member or a student any intellectual property owned by the Polytechnic which has arisen from the work of the staff member or student, with or without conditions allowing for the ongoing use of the work within the Polytechnic.
- 5.8 The Polytechnic may in some cases enter into a written agreement with the staff member or student allowing for joint ownership of intellectual property; for example, provision for shared royalties or other revenue. The terms of such joint ownership will provide for the apportionment of revenue from any sales and may also include a requirement that the Polytechnic must be left a copy of the work produced when the staff member or student leaves the Polytechnic.
- 5.9 For the avoidance of any doubt the Polytechnic owns the intellectual property in all work produced or published by any department or division of the Polytechnic as teaching, learning or educationally focussed material, and the provisions of Clauses 5.5 and 5.6 will apply.

Staff and Student Projects

- 5.10 Staff and Student projects ("projects") are considered to be a special instance of creation of work and will be governed by this Clause 5.10. Projects fall into two categories:
- Work undertaken by a student or staff member as a required component of a programme or course of study;
 - Contract work undertaken in a private capacity outside the Polytechnic.
- A staff member's or student's work which results from a project is the intellectual property of the staff member or student if all the costs incurred have been paid for by the staff member or student.
- If all of the costs of a project have been included as part of a class materials fee for the purposes of Clause 5.10 first bullet point, the student is considered to have paid those costs. Care should be taken to ensure that costs added to and included in the class materials fee cover the use of facilities and resources, and/or overhead charges if appropriate, to ensure that the student is considered to have paid for all the costs incurred for the purposes of Clause 5.10 first bullet point.
- In cases where a staff member or student undertakes project work on contract in a private capacity outside the Polytechnic, the ownership of intellectual property will be governed by the contract under which the work was undertaken; provided that if the Polytechnic's facilities or resources are used and are not paid for by the staff member or student, then the work will be deemed to be the intellectual property of the Polytechnic, unless otherwise agreed in writing.

Negotiations

- 5.11 Any proposed initiative for profit or reward (any service, activity or trading venture which results in financial or other gain), that involves a department or division of the Polytechnic, must have the prior approval of the Chief Executive Officer, to ensure that the initiative does not compromise the educational outcomes of the students, staff, department or division; and must also comply with all legislative requirements and responsibilities. The initiative may be approved as a departmental or divisional project only. The initiative must be submitted for approval accompanied by a financial budget which details cashflow requirements, contingencies and projected financial return, together with all costs associated with overheads. The required use of facilities must be included, where applicable.
- 5.12 Negotiations and agreements between a staff member or student and the Polytechnic are made initially by the staff member or student, and the staff member's or student's immediate supervisor or manager. Any agreement reached is only binding, however, when formally accepted by the Chief Executive Officer - or his or her delegate - in writing. This normally follows consultation with other interested persons or bodies, depending on the nature of the work involved (for example, the Computing Manager or Marketing Manager).
- 5.13 Where a dispute arises as to the ownership of intellectual property, any such dispute must be referred to the Polytechnic Council, which may seek independent legal advice, and whose decision is final and binding on the parties. This provision will apply whether or not there is any written agreement in place.

6. PROCEDURE

Nil.

7. RECORD MANAGEMENT

Nil.

8. ASSOCIATED DOCUMENTS

Nil.

REVISION HISTORY			
Version	Description of Change	Author	Effective Date
1	Initial Release	External Consultant	April 2004
2	Triennial Review	QMS Team	March 2005
3	Alignment of the QMS with actual practices at Telford in response to the ITP Quality Audit Report, April 2007. Responsibility changed from AD to CEO, clause 8 added. Minor editing and reformatting. No changes to content.	QMS Policy Review Committee	1 March 2008