Researcher-Led Start-Up Pathway Guideline

Section 1 - Purpose and Scope

(1) Universities are increasingly seeking to encourage the translation of research conducted by their academic staff into products and services that benefit wider society. The University of Queensland (UQ) is fortunate in that it has Australia's leading University commercialisation company, UniQuest, that has led and continues to lead the way in the commercialisation of University intellectual property (IP).

(2) UniQuest offers what can be described as a "full-service" model for the commercialisation of UQ IP. In collaboration with the Researcher, the commercialisation journey is under the guidance of UniQuest experienced staff, from the initial assessment of IP, assessment of the market, identification and engagement with potential partners, identification of an appropriate commercialisation pathway, provision of proof-of-concept funding, accessing venture capital, identifying licensees, contract and deal negation, risk management, delivery of the UQ IP into the commercialising vehicle and the distribution of commercial returns to the UQ originators and contributors and relevant organisational units. Collaboration between the UQ researchers and UniQuest is critical to a successful commercialisation outcome. Financial benefits to researchers for participating in a successful commercialisation outcome accrue through sharing in a one-third split of net commercialisation revenues that return to the University. In some cases, this has resulted in a substantial (multi-million dollar) return to individual researchers.

(3) An important component of the University's commercialisation process is the appropriate management of financial conflicts of interest (FCOIs). FCOIs can generate deep public concerns, particularly when involving organisations or individuals who hold positions of public trust in the community. Managing FCOIs effectively is therefore vital in maintaining the University's reputation and public trust in the research outcomes generated by its staff.

(4) The primary mechanism that generates an FCOI in the commercialisation of University research is the holding of equity in a company that is the commercialisation vehicle. Start-up companies used by UniQuest to commercialise UQ IP typically do not involve researchers as shareholders. This is because where substantial equity is held by a researcher, an actual conflict may be generated with continued research activity by that researcher using University resources (including students and staff), and public (or other) funding of that research. Such conflicts risk reputational damage to the researcher and the University, and tend to require quite restrictive management plans that can sometimes impact on a researcher's ability to conduct further work in a specific area. In contrast, the financial benefits that accrue through the standard splits mechanism usually, in the absence of any other potential conflict or other factors that generate concern, require no such restrictive management plans.

(5) Under very specific circumstances where it can be demonstrated that standard UniQuest commercialisation pathways are not appropriate, a researcher-led start-up, where researchers may hold direct equity, may be considered as an appropriate commercialisation vehicle into which UniQuest may licence University IP. This Guideline sets out the circumstances under which a researcher-led start-up may be considered.

Section 2 - Circumstances when a Researcher-led

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Start-up May be Considered

(6) A researcher-led start-up may be considered:

a. where the IP notification involves know-how-based IP which has low potential for registerable IP protection (such as a patent); and
b. a commercialisation pathway review (clauses 38 to 42 of the Intellectual Property Procedure) has recommended a researcher-led start-up is suitable.

Section 3 - Key Operational Considerations to be Aware of for a Researcher-led Start-up

(7) Unanimous agreement between all UQ Originators and Contributors will need to be reached prior to proceeding to a researcher-led start-up.

(8) UQ, through UniQuest, will hold a small proportion (typically 10%) of non-dilutable equity (up to the first $10M of investment into the start-up) and may negotiate other royalty/milestone requirements in return for the licence to the UQ IP.

(9) As researchers may hold direct equity in the start-up company, UQ Originators and Contributors will relinquish their share of any commercialisation returns via splits as described in the UQ Intellectual Property Policy and Intellectual Property Procedure.

(10) UniQuest has an obligation to provide IP Group, Uniseed and Brandon BioCatalyst (formerly the MRCF) with an equal first look at the UQ IP before other investments are sought so this would need to be satisfied prior to the approval of the researcher-led start-up pathway. Any investment from one of the three (3) named “preferred” investors would negate the use of the researcher-led start-up pathway, and commercialisation would proceed via UniQuest's full-service model.

(11) Should one of IP Group, Uniseed or Brandon BioCatalyst become interested in investing in a researcher-led start-up after it has been formed, UQ/UniQuest would reserve the right to renegotiate the equity share for the UQ IP in line with the standard UniQuest/investor model.

(12) UniQuest will support contracting for the researcher-led start-up, including a template shareholder agreement, and any licence agreement to licence the UQ IP to the start-up.

(13) The researcher-led start-up would be responsible for its own expenses including legal fees associated with negotiating agreements, IP costs, admin, etc. These expenses should not be funded using UQ grant or operational funding or resources.

(14) Any IP filed would be in the name of UQ with UniQuest notified and kept informed.

(15) The researcher-led start-up may only use the UQ name in marketing, and in academic settings (conferences etc) with prior UQ approvals via Marketing and Communications.

Section 4 - How is a Researcher-led Start-up

Created?

(16) There are two ways that the start-up can be created following the approval for the UQ researcher to pursue the researcher-led start-up model:

a. A researcher sets up a start-up company that would then request a licence to the UQ IP (via UniQuest) on agreed terms. The researcher is then responsible for seeking investment into the company or sale of the product by the company. Under this model, any third-party encumbrances would need to be considered and the licence from UniQuest may be exclusive or non-exclusive depending on the specific circumstances. Assignment of UQ IP to the researcher-led start-up would not normally be considered.
b. A researcher may choose to delay setting up a start-up company until they have sought investment from a 3rd party. In this circumstance, there will be an IP Standstill for two (2) years while the researcher seeks investment to commercialise and form the researcher-led start-up. During the IP Standstill, UniQuest won't progress the IP but also won't pay any IP-related costs. After the 2 year IP Standstill period UQ and UniQuest may review its decision to approve the researcher-lead start-up, and in collaboration with the originator/s progress the IP through other pathways.

Section 5 - If a Researcher-led Start-up Pathway is Approved, What Kind of Restrictions Would be Required in a Management Plan in Order to Manage FCOI?

(17) A number of restrictions on further research are likely in order to manage the FCOI. A management plan would need to be approved by UQ and may include some of the following restrictions:

a. A change in employment conditions, such as the proportion of FTE held at UQ, may be required.
b. No UQ resources may be used for activities related to the researcher-led start-up, with the exception of where an IP Improvement Grace Period (as defined below) has been agreed.
c. No publicly-funded research will be permitted in the specific research area of the UQ IP licenced to the start-up, with the exception of where an IP Improvement Grace Period has been agreed and is in place.
d. No students or trainees may be used for researcher-led start-up projects. Early Career Researchers funded by relevant grants are able to work on start-up activities only during any agreed IP Improvement Grace Period.
e. IP Improvement Grace Period: For a period of two (2) years following the formation of the researcher-led start-up, an IP Improvement Grace Period may be approved to permit public funds to be held by the UQ researcher in the same research area as the researcher-led start-up if covered by an appropriate IP Improvements clause within the licence agreement for the UQ IP to the researcher-led start-up.

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Status and Details

Status	Current
Effective Date	27th September 2022
Review Date	27th September 2027
Approval Authority	Deputy Vice-Chancellor (Research and Innovation)
Approval Date	27th September 2022
Expiry Date	Not Applicable
Policy Owner	Sue Harrison Deputy Vice-Chancellor (Research and Innovation)
Enquiries Contact	Research Strategy and Performance

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