

# The Development and Implementation of an Intellectual Property Policy using Open Access Principles

## Institution & Institutional Context

Otago Polytechnic is a Polytechnic/Institute of Technology located in Dunedin, New Zealand, serving a regional population for the Otago province and with a regional campus in Central Otago and an International Campus in Auckland. Otago Polytechnic delivers a range of programmes at Certificate, Diploma, Degree and Post Graduate to Masters Level and is currently developing a Doctoral level programme in Professional Practice. Otago Polytechnic rates as excellent in all quality rankings in regards to its programmes and attracts students from throughout New Zealand and overseas to its programmes. Otago Polytechnic also rates highly in the Performance Based Research Funding as the second highest in research earnings and the third in quality ranking for research.

Otago Polytechnic hosts the Open Education Resource Foundation, which supports the development of open access and the OERu projects with partners from over thirty Universities and Polytechnics worldwide with the support of The Commonwealth of Learning and UNESCO - Pacific States.

## Keywords and OEP themes

Student voice; Institutional strategy; National policy; Student co-creation; Open licensing; Open textbooks.

## What is the case study about?

This case study outlines the development and implementation of an open access Intellectual Property Policy highlighting the importance of engagement with key stakeholders including staff and students in the development of a policy framework that reflects their intellectual capital and enables them to make decisions about how their intellectual property should be treated with support from the institution. The policy framework also provides a framework for the institution that ensures open access to information through the use of a creative commons attribution.

[http://wikieducator.org/Otago\\_Polytechnic:\\_An\\_IP\\_policy\\_for\\_the\\_times](http://wikieducator.org/Otago_Polytechnic:_An_IP_policy_for_the_times)

## What is the issue or need you are addressing?

The key issue to be addressed for

intellectual property is to ensure the intellectual property rights of individuals, the organisation and other stakeholders and partners is protected in a manner that acknowledges not only the rightful ownership of those parties, particularly learners and faculty members, the creators of IP, but also their interests.

The direct impact on quality of work undertaken by faculty and learners when there is clarity around ownership of IP is important so that the highest quality of academic and or creative endeavour is carried out without fear of losing any rights to IP which have been created. This directly links to teaching and learning where faculty engage in research, innovation and creative works with students, particularly in their final year at degree level and through post graduate study, where the quality of outcomes is critical to their academic success as well as providing potential future pathways as a result of the innovation and creativity. It is crucial that this intellectual activity is not in any way constrained through having an IP policy that impacts on the quality of the student's work and faculty guidance and support.

This initiative was undertaken over a period of approximately two years through exploring options and working closely with key stakeholders in resolving issues around IP ownership and the development of a policy framework that resolved this. The catalyst for development was the clearly articulated feedback from both students

and staff that they were holding back on their innovation and creativity for fear that the Polytechnic would claim ownership of their IP.

## How was the initiative implemented?

The initial need for an IP policy was recognised as the Polytechnic sought to develop its research and innovation capability further through the range of research active and creative activities in place supporting undergraduate and postgraduate study. An initial attempt at using a fairly standard approach, as advised by IP experts, was to develop a policy that had an institutional ownership focus but which also sought to protect faculty and students. An initial policy was developed based on other IP policy frameworks in place in other educational organisations and was circulated for consultation. This generated a significant level of concern, particularly from the creative areas where it was contested that creative activity resided with the creator not the institution. A series of workshops and discussions were held to bring this to light. The tension of ownership of creative processes and outcomes was discussed and alternate model explored, quickly becoming clear where the issues lay.

A particular point raised by a student group in software design was that if the institution claimed ownership of IP from student work, then they would not provide their best ideas, thinking or efforts in order to protect their IP. They would rather "just

do what was required to pass the course” than risk having their IP taken. This was a very concerning stance and counter to the teaching philosophy and desire to have learners excelling in their study.

Through further discussion the idea of using a creative commons approach that enabled decisions about IP to reside with the creator was considered. This was then developed further through a revised policy that made it clear ownership resided with the creator and that this would also apply at an institutional level for institutionally funded and developed materials, for example class teaching materials. This enabled full use of the materials by others with suitable attribution. The revised policy was received well, and indeed was heralded internationally by the Commonwealth of Learning as the first of its kind worldwide. Students and staff felt their voice was heard and their concerns taken seriously and with a positive outcome.

Further legal advice was also gained which supported the policy framework, albeit different to the mainstream at the time but none the less robust and legally sound.

Further work was developed at school level around providing an educational perspective on open access and IP for students improving their understanding of the issues inherent in this area. This also became an area for further research and publication for staff within the institution.

A Maori IP Policy was also developed to ensure the values of New Zealand’s Maori are protected and to accommodate a different concept of ownership, a Maori IP policy was developed in consultation with the local Maori Ngai Tahu law office. Broadly speaking, the Polytechnic’s role in this area is one of guardianship of Maori IP and knowledge. The concept of guardianship has also been extended to students’ IP.

## Outcome

The key outcome was a policy framework that legitimised the ownership and property rights of faculty, staff and the institution around the development of intellectual property while retaining and supporting quality teaching and learning standards and outcomes.

## Issues & challenges

Key issues described in the context were resolved through engagement with key stakeholders in the development of the policy framework. Of interest was the ongoing debate with a wide range of other education providers who seemed unable to resile from the more traditional views of IP and the importance of institutes protecting this.

## Insights and Recommendations for National and/or Institutional Development

Key bodies worldwide now recognise the importance of open access IP positions and these are being adapted more widely. Key organisations and ministries are adopting open access policies and as publically funded organisations there is a recognition of the importance of sharing research findings in more open and transparent ways enabling greater access to and use of research findings freely. Open course development is well underway and needs to be supported and funded on the basis that it will be shared openly rather than the practice of continually reinvesting in producing the same material. Open access is critical to communities that can least afford and or have least access to education, the cost of which is prohibitive. Free and open textbooks and online development must be supported further to reduce barriers to access to education. This is the mission for the Open Education Resource Foundation.

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