

What opportunities do the REF 2021 results offer universities?

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About the Research Excellence Framework (REF) 2021

The REF 2021 results indicate the quality of research work being carried out at UK universities. Greater quality is attributed to research that is world-leading, and lesser quality is attributed to research that is only nationally recognised. The objective of this exercise is to ensure that public spending on university research (circa £2 billion per annum) is worthwhile.

Research submitted by universities has been assessed in three ways:

- 60% of the assessment relates to **Outputs**, being the published research (e.g. research published in journal articles);
- 25% of the assessment relates to **Impact**, being the “change or benefit to the economy, society, culture, public policy or services, health, the environment or quality of life, beyond academia”;
- 15% of the assessment relates to **Research Environment**, which includes the “strategy, resources and infrastructure that support research and enable impact”.

Key takeaways

The REF data shows that there has been a 46% increase in the number of staff submitted to REF by universities, as compared to the REF 2014 results. Although this may suggest that universities have invested more heavily in researchers, in reality, this is a skewed increase. In REF 2014 universities could, to some extent, ‘cherry-pick’ the researchers they submitted. For REF 2021, the submission regulations changed, and universities have been required to submit all their researchers who have “significant responsibility for research”.

The weighting for Impact has been increased from 20% to 25% since REF 2014. This highlights the increasing importance placed on the “change or benefit to the economy, society, culture, public policy or services, health, the environment or quality of life, beyond academia”. A key example of the importance of impact is the Oxford University AstraZeneca COVID-19 vaccine, which has massively benefited society and health.

157 UK higher education institutions submitted 185,594 pieces of research, with the outcomes shown below.

	4 stars (world leading)	3 stars (internationally excellent)	2 stars (internationally recognised)	1 star (nationally recognised)
Outputs	36%	47%	15%	2%

	4 stars (outstanding)	3 stars (very considerable)	2 stars (considerable)	1 star (recognised but modest)
Impact	50%	38%	11%	2%

	4 stars (capable of producing world leading quality and outstanding impact)	3 stars (capable of producing internationally excellent quality and enabling very considerable impact)	Other
Research Environment	50%	37%	13%

How to commercialise

The high level of world leading and internationally excellent work, with an outstanding or very considerable impact, suggests that universities are producing research that can be very successfully commercialised.

The commercialisation of the intellectual property ("IP") within this research can be achieved, most commonly, in one of three ways:

- through establishing a spin-out company, whereby a university sets up a spin-out company and licences the IP to it for the university to manufacture and market. The university receives value, often through a shareholding and sometimes through licence fees;
- through licensing the IP to an existing company which then, for instance, manufactures the product created with the IP and gets it to market in return for payments back to the university; or
- through entering into a contract with a third party entity, whereby each party licences its IP into the joint venture as 'background IP' and, based on the terms of the contract, the parties ensure the IP gets to market through mutual collaboration and payments (which can run in both directions).

The above models each have pros and cons, for instance:

- the spin-out model can be more onerous than the model of licensing IP to an existing company, because services (HR, payroll, IT, etc.) may have to be organised for the spin-out;
- the model of a contractual joint venture with a third party can be more onerous than the model of licensing IP to an existing company, because the negotiation and drafting of the joint venture contract has to be more extensively undertaken, to ensure that each party's contributions and returns in and from the joint venture are clearly established;
- where the IP being commercialised has a wide range of applications that require ongoing support or complex chains to take it to market, the spin-out model can be more appropriate than the model of licensing it to an existing company. Conversely, if the IP has a discrete, identifiable application and can operate within a well-understood market, then licensing it to an existing company can be the better choice.

We have produced extensive webinars on the topic of commercialisation, including:

- [How to commercialise your IP – licensing, spin-outs and JVs](#)
- [University spin-outs and joint ventures](#)

The REF has permitted universities to make joint submissions – i.e. where two or more universities develop research in collaboration and are joint owners/co-owners of the IP. It is important to take the time to expressly deal with the IP considerations of joint ownership at the outset to avoid disputes regarding ownership in the future.

The share that each co-owner holds in the **IP** can depend on what type of IP right it is (e.g. co-owners of IP protected by a patent tend to have equal shares) and how much of a contribution each party has made (e.g. where **IP** is protected by a copyright, the courts have on occasion found co-owners to have unequal shares, on the basis that some co-owner contributions were more substantial than others).

The most important co-ownership consideration is that, unless otherwise agreed, no co-owner can assign or licence the IP to a third party without the consent of all the co-owners. Any co-owner that has not consented may be able to take infringement action.

As the three aforementioned commercialisation models all involve the licensing out of IP, this need for co-owner consent limits commercialisation where co-owners have diverging priorities; for instance, where one co-owner envisages the commercial success of the IP, but another co-owner prefers to limit the IP exploitation to internal research and development to retain an 'edge' in the R&D market.

Therefore, it is important to expressly set out the rights that each co-owner has in relation to the IP at the outset of any joint endeavour, including (as a bare minimum) whether co-owner consent needed:

- for a co-owner to exploit the IP itself (e.g. for further research or teaching purposes);
- to grant a third party with the ability to exploit the IP;
- to register the IP (where registrable); and
- to pursue a third party that has infringed the IP.

This article is a brief overview and there is much to consider when commercialising IP or embarking on a joint R&D venture. If you would like to know more, please contact [Selina Hinchliffe](#).

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