

# STAFF COPYRIGHT AND INTELLECTUAL PROPERTY POLICY AND PROCEDURE

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<b>Responsible Officer</b>	Chief Executive Officer
<b>Approved by</b>	Academic Board
<b>Approved</b>	14 May 2020
<b>Commenced</b>	14 May 2020
<b>Review by</b>	April 2023
<b>Relevant Legislation</b>	<ul style="list-style-type: none"> <li>• <a href="#">Copyright Act 1968</a> (Cwlth)</li> <li>• <a href="#">Designs Act 1906</a> (Cwlth);</li> <li>• <a href="#">Higher Education Standards Framework (HESF) 2015</a></li> <li>• <a href="#">Patents Act 1990</a> (Cwlth)</li> <li>• <a href="#">Trade Marks Act 1995</a> (Cwlth)</li> </ul>
<b>Responsible Division</b>	People and Culture

<b>1. Policy Statement</b>	<b>2</b>
1.1 Authority	2
1.2 Application	2
1.3 Context and Purpose	2
1.4 Principles	2
1.5 Scope and Coverage	3
1.6 Special Conditions or Exceptions	3
<b>2. Procedure</b>	<b>3</b>
2.1 Principal and Rules	3
2.2. Policy Provisions	4
<b>3. Accountabilities</b>	<b>7</b>
3.1 Responsible Officer	7
3.2 Contact Officer	7
<b>4. Supporting Information</b>	<b>8</b>
4.1 Supporting Documents	8
4.2 Related Documents	8
4.3 Superseded Documents	8
<b>5. Definitions and Acronyms</b>	<b>8</b>
<b>6. Approval and Review Details</b>	<b>10</b>
<b>7. Flowchart – Showing process and decision points</b>	<b>11</b>

# STAFF COPYRIGHT AND INTELLECTUAL PROPERTY POLICY AND PROCEDURE

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## 1. Policy Statement

### 1.1 Authority

The Australian Institute of Music Limited (AIM), known as 'the Institute', is governed by the Board of Directors (BoD) with academic authority delegated to the Academic Board (AB). The BoD and AB share joint responsibility for ensuring that all general and academic policies and procedures follow 'best practice' principles for Higher Education and other sectors of educational delivery, in compliance with relevant Australian legislation and current regulatory requirements.

As a general rule, the Institute claims ownership of Intellectual Property (IP) created by staff members in the course of their duties.

### 1.2 Application

This policy and procedure applies to Quality Assured (QA) delivery of accredited AIM programs offered at the Sydney and Melbourne campuses. If applicable, this policy and procedure will also apply in future, wherever QA AIM programs are approved for delivery elsewhere in Australia or overseas.

### 1.3 Context and Purpose

The sharing, use and protection of intellectual property, knowledge and information are essential to AIM's continuing success as an educational institution.

By implementing this *Staff Copyright and Intellectual Property Policy and Procedure*, AIM intends to control and utilise intellectual property, information and related resources fairly, carefully, consistently and in a manner that promotes AIM's objectives and mission statement.

The underlying purposes of this Policy are to ensure:

- Educational material has been reproduced and communicated to staff by or on behalf of Australian Institute of Music pursuant to Part VB of the Copyright Act 1968 (the Act).
- Educational material may be subject to copyright under the Act. Any further reproduction or communication of this material by staff may be the subject of copyright protection under the Act.

### 1.4 Principles

A number of principles underpin AIM's approach to staff copyright and intellectual property, these principles include:

- promote creativity and innovation
- encourage the sharing of knowledge
- acknowledge AIM's contribution in the development of intellectual property by staff
- promote access to educationally valuable material
- promote the lawful use of intellectual property
- protect confidential information relating to AIM and its community
- ensure AIM retains reasonable control over intellectual property created by staff where it is appropriate or necessary to do so
- protect, maintain and develop a good reputation of AIM in the eye of the public.

# STAFF COPYRIGHT AND INTELLECTUAL PROPERTY POLICY AND PROCEDURE

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## 1.5 Scope and Coverage

This Policy and Procedure encompasses all forms of Intellectual property, including copyright material, trademarks, domain names, designs, patents, trade secrets, confidential information and other such property information

This Policy and Procedure applies to:

- All full time, part-time, casual and contract staff of AIM
- Former staff (IP created at the time of employment)
- AIM campuses in Sydney and Melbourne, and other approved locations.

## 1.6 Special Conditions or Exceptions

Where staff are bringing in previously created and owned IP for teaching purposes, it remains the property of the originator.

## 2. Procedure

### 2.1 Principal and Rules

#### 2.1.1 Commitment to Legitimate and Ethical Use

AIM is committed to the legitimate and ethical use of an intellectual property. AIM shall endeavour to comply with all its obligations in relation to intellectual property, whether imposed by statute or contract.

#### 2.1.2 Knowledge of Obligations and Responsibilities

All employee and contractors should be aware of their legal obligations and responsibilities in relation to the use of an intellectual property. To assist this, AIM shall make available to its employees and contractors, educational material relating to the appropriate use of an intellectual property.

#### 2.1.3 Implementation

AIM shall implement controls, systems and training to promote the legitimate use of an intellectual property. This will include the design and implementation of appropriate disciplinary procedures and auditable administration processes.

#### 2.1.4 Copyright

Generally, AIM leaves copyright ownership with the creator of the material – subject to certain exceptions and controls that are necessary to protect and promote AIM’s administrative needs, educational purposes and reputation. This is articulated slightly differently depending on whether the creator of the material is a student, employed member of a teaching staff, a contracted teacher, an administrative employee or an outside consultant. AIM has different obligations and expectation in respect of each of these groups.

#### 2.1.5 Trademark

AIM trademarks are valuable, They will be used by AIM, and authorised for use by others, in a manner that recognises their value and their inextricable relationship to the reputation of AIM. Where necessary, they will be protected.

#### 2.1.6 Confidential and Sensitive Information

Confidential and sensitive information can be both valuable and damaging, even though it may not be able to be protected or controlled as intellectual property.

# STAFF COPYRIGHT AND INTELLECTUAL PROPERTY POLICY AND PROCEDURE

---

The protection of such confidential and sensitive information is both fundamental and critical to AIM's continuing success as an educational institution. Indeed, the preservation of AIM's good reputation (and that of its staff) relies on the careful management of such information.

## 2.2. Policy Provisions

### 2.2.1 Ownership of Intellectual Property

The ownership of any Intellectual Property created by persons affected by this Policy will be determined by the terms of this Policy unless such persons have entered into an agreement with AIM that overrides this Policy.

### 2.2.2 AIM Ownership of Intellectual Property created by Staff

- a. All copyright in musical works and lyrics created by any staff member in connection with the provision of services to AIM belongs to AIM on creation.
- b. AIM will own copyright in a Copyright Work created by a Staff Member if:
  - o The work consists of Computer Works; or
  - o The work consists of Course Material; or
  - o This Policy specifically provides that the Staff Member does not own the copyright in the work.
- c. If there is any dispute on whether Intellectual Property was created within the course of a Staff Member's Duties, the Staff Member must consult with the Leadership Team whose determination will be binding.

### 2.2.3 Intellectual Property Developed by Staff Members outside of the Course of their Duties

If a Staff Member has created any Intellectual Property that is unrelated to the work done by them in the course of their duties at the Institute and without using any significant level of Institute resources, then the Institute does not own such Intellectual Property. For example, AIM has no claim on musical works and lyrics created off-campus, not on AIM equipment or computers, and for non-educational purposes. Such works remain the intellectual property of the creator.

### 2.2.4 Ownership of Copyright by Staff Members

#### 2.2.4.1 Originator to own Copyright

A Staff Member who is the Originator of a Copyright Work will be the owner of the copyright in that work unless the provisions of this Policy specifically provide that the copyright is owned by AIM.

#### 2.2.4.2 AIM has a Licence to Originator's Work

With respect to a Copyright Work created by a Staff Member whilst in the employment of the Institute, where the Staff Member is the owner of the copyright in that Copyright Work pursuant to this Policy, the following shall apply:

- a. The Institute retains a non-exclusive, royalty-free and irrevocable licence to publish and use the Copyright Work for its educational and research purposes.
- b. AIM is entitled to access to that Copyright Work in order to enable the Institute to freely exercise the licence granted to it under clause 4.2(a).

The Staff Member may be required and shall be actively encouraged to, lodge a copy of the Copyright Work with the library.

Staff may be required under their employment agreement to disclose any third-party agreement that is in direct competition with AIM or may be deemed a conflict of interest.

## STAFF COPYRIGHT AND INTELLECTUAL PROPERTY POLICY AND PROCEDURE

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### 2.2.4.3 Artistic Works

- a. AIM recognises the emotional, personal and spiritual link which may exist between the creator of an artistic work and the work itself.
- b. For the reason given in clause 4.3(a), AIM claims no ownership of the copyright in such works.
- c. In areas of doubt, the Academic Board will determine, after suitable consultation with relevant groups within the Institute, what works are regarded as artistic works for the purposes of this clause.
- d. The Institute may exercise its rights under clause 4.2 in a manner consistent with its recognition of the emotional, personal and spiritual sensitivity of such works.
- e. The Institute must consult with the Originator of an artistic work before making any use of the work under clause 4.3(d).

### 2.2.4.4 Indigenous Works

- a. AIM recognises the emotional, spiritual and cultural link which may exist between the creator of an Indigenous Work and the work itself.
- b. For the reason given in clause 4.4(a), the Institute claims no ownership of the copyright in such works.
- c. AIM may exercise its rights under clause 4.2 in a manner consistent with its recognition of the emotional, spiritual and cultural sensitivity of such works.
- d. AIM must consult with the Originator of an Indigenous Work before making any use of the work under clause 4.4(c).

### 2.2.4.5 Copyright owned by AIM in other Circumstances

If a Staff Member is the Originator of a Copyright Work and:

- a. the Institute has specifically commissioned the Copyright Work; or
  - b. the Copyright Work was created as the result of the Staff Members participation in an Institute Project; or
  - c. the Institute has made a Specific Contribution resulting in the creation of the Copyright Work,
- then AIM shall own the copyright in the Copyright Work.

### 2.2.4.6 Course Materials

- a. AIM shall own the copyright in Course Materials created by Staff Members.
- b. However, if:
  - a Staff Member creates Course Materials; and
  - those Course Materials incorporate a Copyright Work that already exists; and
  - the Staff Member is the owner of the copyright in that Copyright Work,then AIM must obtain a licence from the Staff Member to use the Copyright Work in those Course Materials upon the terms set forth in clause 4.2.
- c. Course Materials may only be published on an AIM controlled or approved Website.

### 2.2.4.7 Computer Works

- a. If a Staff Member develops Computer Works within the course of their duties then the Institute shall own the copyright in those Computer Works.
- b. In order to assist Staff Members to attract external funding or sponsorship, the Institute may assign its interest in the Computer Works to the Originator of the Computer Works. However, the Institute will retain a licence on the same terms as set out in clause 4.2.

# STAFF COPYRIGHT AND INTELLECTUAL PROPERTY POLICY AND PROCEDURE

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## 2.2.4.8 Moral Rights

AIM will observe any obligations which it may have in relation to moral rights as may be provided in the Copyright Act from time to time. In any case, AIM will seek to protect the rights of attribution and integrity in relation to Copyright Works which it seeks to Commercialise.

## 2.2.4.9 Visitors and Adjunct Appointments to AIM

- a. Visitors to AIM or persons with an adjunct appointment to the Institute will not be affected by the terms of this Policy otherwise than specified in this clause.
- b. The ownership of any Intellectual Property created by a visitor or person holding an adjunct appointment during the course of any visit or adjunct appointment at the Institute shall be determined by consultation between the Institute and the visitor or person holding an adjunct appointment.
- c. If a visitor or person holding an adjunct appointment uses AIM IP or participates in an Institute Project, the Institute may require such persons to sign a confidentiality agreement. The obligations under the confidentiality agreement shall continue to apply for a period of time as determined under the terms of the agreement and may extend beyond the term or the termination of the visit, adjunct appointment or involvement with the Institute.
- d. Persons holding an adjunct appointment should consult with the CEO at the time of appointment regarding access to and use of AIM IP under this Policy.
- e. If Intellectual Property with the potential for Commercialisation is developed during the course of an adjunct appointment or visit to the Institute, and no consultation has occurred under this clause 4.9, the visitor or person holding an adjunct appointment must report such development to the Academic Board as soon as possible and consult with that Board as to the ownership rights and use of such Intellectual Property. The Institute may require such persons to enter into an agreement with the Institute regarding the ownership and use of the Intellectual Property and related matters.
- f. Upon termination of any visit, appointment or involvement with the Institute Project, a visitor or person holding an adjunct appointment should consult with the Academic Board if they wish to continue to use or have access to any Institute IP.

## 2.2 AIM IP to be Commercialised

### 2.2.1 Registration of the Creation or Development of Intellectual Property and Computer Works

- a. Where a Staff Member creates Institute IP and that Institute IP may be capable of Commercialisation the Staff Member must register the existence of that Institute IP with the Academic Board through the Executive Dean of Academic Affairs

### 2.2.2 Use of Institute IP prior to Registration

In order to ensure that AIM's IP is protected, Staff Members should not:

- a. Hold any discussions with any person external to the Institute concerning the Institute IP before registering the Institute IP, unless required by any funding or Institute Project agreement;
- b. Publish any information about any Institute IP before making a registration to the Academic Board. For example, the information should not be presented about the Institute IP at a conference or submitted for publication in a journal article or thesis, provided that in the latter case, where appropriate, confidentiality obligations apply under clause 2.

### 2.2.3 Reporting Infringements of AIM IP

Any Staff Member who becomes aware of the unauthorised use of AIM IP must promptly inform the Academic Board in writing of the relevant details.

# STAFF COPYRIGHT AND INTELLECTUAL PROPERTY POLICY AND PROCEDURE

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## 2.2.4 Duty not to act contrary to AIM's Rights

A Staff Member who does not own the Intellectual Property vested in a particular work must not:

- a. Apply for any form of protection for that Intellectual Property; or
- b. Commercialise or otherwise deal with the Intellectual Property; or
- c. Do any act or thing in a manner inconsistent with AIM's rights under this policy.

## 2.2.5 Assessment of Institute IP

Where the Academic Board is required to make an assessment of AIM IP, the Academic Board must make reasonable efforts to consult, on a confidential basis, an appropriate expert in the relevant field in order to obtain an independent evaluation of the Institute's IP in relation to its Commercialisation. Such consultation must involve the signing of confidentiality agreements.

## 2.3 Dispute Resolution

A Staff Member having a dispute with AIM arising out of the operation of this Policy should first consult the Institute's *Grievances & Complaints Policy & Procedure* to determine how the matter should be resolved.

## 2.4 Bringing Intellectual Property to AIM

Where the owner or Originator of Intellectual Property which was created prior to employment with the Institute, brings or intends to bring Intellectual Property to the Institute to be used in their employment or an AIM course or component unit(s), such persons may be required to assist the Institute in determining whether that Intellectual Property is entirely owned by them by providing AIM with:

- a. an inventory of that Intellectual Property;
- b. all documents relating to the ownership of such Intellectual property, including without limitation any contract, agreement, licensing agreement, or another institution's Intellectual Property policy;
- c. written warranties that the use of such Intellectual Property does not infringe the rights of any third parties.

## 2.5 Implementation

### 2.5.1 Responsible Officer

AIM CEO is responsible for the control and administration of AIM's policy on Ownership of Intellectual Property and has delegated authority from the Governing Board to submit patent applications in the name of AIM.

### 2.5.2 Authorised Signatories on Intellectual Property Matters

The solely authorised signatories on behalf of AIM on matters related to Intellectual Property shall be the AIM CEO. Contracts and agreements executed are subject to AIM's normal procedures.

## 3. Accountabilities

### 3.1 Responsible Officer

- a. **CEO:** has overall responsibility for this policy and procedure

### 3.2 Contact Officer

- a. **Executive Dean of Academic Affairs** is responsible for monitoring and facilitating the implementation and regular review of this policy.
- b. **Head of People and Culture:** is responsible to ensure all staff are aware of the *Staff Copyright and Intellectual Property Policy and Procedure*

# STAFF COPYRIGHT AND INTELLECTUAL PROPERTY POLICY AND PROCEDURE

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c. **Staff Members:** are responsible for complying with the *Staff Copyright and Intellectual Property Policy and Procedure*.

## 4. Supporting Information

### 4.1 Supporting Documents

- Nil

### 4.2 Related Documents

- [Grievances and Complaints Policy and Procedure](#)

### 4.3 Superseded Documents

- Nil

## 5. Definitions and Acronyms

TERM/ACRONYM	DEFINITION
<b>AIM referred to as the 'Institute'</b>	The Australian Institute of Music Limited ABN: 89 003 261 112; PRV: 12050; CRICOS 00665C.
<b>AIM Intellectual Property (IP)</b>	Intellectual Property which is owned by AIM according to the terms of this Policy or otherwise as a matter of law.
<b>Commercial Enterprise</b>	A company, organisation or institution whose business interests include the publication, marketing and/or commercialisation of intellectual property including Copyright Works.
<b>Computer Works</b>	Without limitation: <ul style="list-style-type: none"> <li>• Computer software in any form and on any medium;</li> <li>• Multi-media works in any form which are accessible wholly or partly by means of a computer;</li> <li>• Web pages and web sites; and</li> <li>• Copyright Works created with the intention of accessing them primarily by computer.</li> </ul>
<b>Copyright Work</b>	Any work as defined in the <i>Copyright Act 1968</i> (Cwlth) including artistic, literary, dramatic, or musical work, sound recording, cinematograph film, television broadcast, sound broadcast, published edition of a work, photograph, video recording, CD ROM or Computer Works. For the purposes of this Policy, Copyright Work shall also include monographs and scholarly works including manuscripts, lecture notes and other materials prepared for educational or scholarly purposes.
<b>Course Materials</b>	<ul style="list-style-type: none"> <li>• Any Copyright Work whether in electronic, written or any other form of media created by a Staff Member specifically for use in, or in connection with a course, subject or unit offered, or to be offered by the Institute or by an affiliated open learning or distance education agency;</li> </ul>



## STAFF COPYRIGHT AND INTELLECTUAL PROPERTY POLICY AND PROCEDURE

TERM/ACRONYM	DEFINITION
	<ul style="list-style-type: none"> <li>Any materials commissioned by the Institute specifically for use in, or in Institute or by an affiliated open learning or distance education agency unless there is an agreement to the contrary.</li> </ul>
<b>A Course of their Duties</b>	The scope of duties as a Staff Member as set out in the terms and conditions of any relevant enterprise bargaining agreement, contract of employment, duty statement or any other agreement between the Staff Member and the Institute in effect at the time at which AIM IP or other IP was generated.
<b>Intellectual Property (IP)</b>	<p>Includes any rights in relation to:</p> <ul style="list-style-type: none"> <li>a Copyright Work as defined in the <i>Copyright Act 1968</i> (Cwlth);</li> <li>a design as defined in the <i>Designs Act 1906</i> (Cwlth);</li> <li>a patent, application for a patent, invention, manner, method or process of manufacture, or method or principle of construction as defined in the <i>Patents Act 1990</i> (Cwlth);</li> <li>a trade mark as defined in the <i>Trade Marks Act 1995</i> (Cwlth); and including related rights and confidential information and know-how in relation to the above rights, or as otherwise determined by the Institute</li> </ul> <p>The definition of Intellectual Property may be amended from time to time consistent with Commonwealth legislation and international conventions.</p>
<b>Net Revenue</b>	In relation to a particular item or related items of Intellectual Property, the revenue remaining after the deduction by the Institute of its reasonable costs incurred in the production, development, protection and Commercialisation of AIM’s IP.
<b>Originator</b>	Any Staff Member or Student of the Institute (or group of them) who creates, whether or not in conjunction with another person, any Intellectual Property.
<b>Purposes</b>	The purposes of AIM from time to time as expressed in the Institute’s Statement of Vision, Mission, Values and Goals
<b>Resources</b>	Includes physical infrastructure, equipment, technical support and administrative, financial, human and legal resources.
<b>Revenue</b>	The gross proceeds of Commercialisation of AIM IP received by the Institute within each calendar year. This shall include, but not be limited to, any amount in the form of a lump sum, royalty or other payment.
<b>Specific Contribution</b>	In relation to the creation of Intellectual Property, means funding, resources, facilities or apparatus which are contributed by the Institute (beyond that which is ordinarily contributed).

# STAFF COPYRIGHT AND INTELLECTUAL PROPERTY POLICY AND PROCEDURE

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TERM/ACRONYM	DEFINITION
<b>Staff Member</b>	Any person who was at the relevant time, employed by AIM and includes the general staff of the Institute but does not include visitors or adjunct appointments to the Institute
<b>Student</b>	Any person who is or was at the relevant time enrolled as a postgraduate or undergraduate student at the Institute

## 6. Approval and Review Details

Version	Date Approved by Leadership Group	Date Approval Academic Board	Date Approved by Board of Directors	Amendment Details
1.0	30/04/2018	07/06/2018	21/06/2018	New Policy
1.1	17/04/2020	24/04/2020	14/05/2020	Reviewed and reformatted
1.2	N/A	N/A	N/A	Slight amendment to format

# STAFF COPYRIGHT AND INTELLECTUAL PROPERTY POLICY AND PROCEDURE

## 7. Flowchart – Showing process and decision points

