

18 October 2021

Department of Education, Skills and Employment  
Via email to [urcs@dese.gov.au](mailto:urcs@dese.gov.au)

Re: Submission on the  
**Higher Education Research Commercialisation IP Framework Consultation paper**  
from The Australian Society for Medical Research (ASMR)

Thank you for the opportunity to comment on this **Consultation paper**.

Founded in 1961, the ASMR is the peak organisation representing the Australian health and medical research sector through its public, political and scientific advocacy. In addition to its core membership of health and medical researchers, the ASMR has affiliations with specialist societies, medical colleges, and patient foundations/groups that effectively expand ASMR's network to more than 100,000 stakeholders of Australian health and medical research.

The federal government intends to standardise business contracts under a mandatory scheme for all research projects that engage in commercialisation. Agreements would cover a wide range of areas, such as research agreements, CDAs, NDAs, licences, and spin-off agreements.

While the ASMR agrees in principle with such a framework, particularly the intentions to remove major negotiation barriers and to introduce more consistency and coherence for the sector, two aspects of the roadmap are of concern.

**Mandatory implementation:**

While we can see benefits in standardising agreements to reduce frictions and time spent negotiating, the mandatory nature and lack of flexibilities in the proposed framework could severely reduce the interest of industry partners to enter negotiations. The nature of negotiation is to have flexibility around terms based on the individual circumstances.

It is also not clear how a mandatory framework would be enforced without creating new bureaucratic layers.

Making the framework non-mandatory would bring Australia in line with other research-intensive economies, such as the UK, which has had a similar non-mandatory framework since 2004.

A non-mandatory framework would also make it unnecessary to have a two-stream system (below and above \$100k) and two sets of agreements, which would greatly simplify the framework, speed up implementation and increase the chance of achieving the intentions.

**Time frame:**

The consultation document outlines that the development of the framework has been expedited to be ready by December 2021 and to be applied for all ARC funded research from 2022. Given that a single specific standard agreement has not been developed so far, this timeframe seems unrealistic and overly rushed for something that could have a significant impact and consequences for the sector.

While supportive of the idea of such a standardised framework, the ASMR has concerns that the implementation of the proposed framework is rushed, and the intended mandatory nature will reduce innovation and commercialisation, ultimately compromising the intention.

The main recommendations of the ASMR are:

- extend the timeline for implementation so all stakeholders are able to comment on the framework and more importantly so that the specific standard agreements are satisfactorily developed before trialling the implementation.
- start with a non-mandatory implementation period of 5 years and conduct a review of the activities (e.g. percentage of agreements implemented without change or modified in a minor / major way) before considering mandatory implementation.

Should you wish to discuss this further, please do not hesitate to contact the ASMR (contact details below).

With best regards,



Professor Christoph Hagemeyer

Immediate Past President and Executive Director  
Australian Society for Medical Research