



## STARTING A SPINOUT COMPANY

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These guidelines have been written for researchers at the University of Oxford to guide you through the process of setting up a spinout company with Oxford University Innovation Ltd.

This booklet is one of a series of five Guidelines to Researchers available from Oxford University Innovation Ltd (and at [www.innovation.ox.ac.uk](http://www.innovation.ox.ac.uk)). These are:

- \* Intellectual Property, Patents and Licences
- \* Starting a Spinout Company
- \* Consulting Agreements
- \* University Proof of Concept & Seed Funds
- \* Oxford Startup Incubator

I welcome any comments you have on how these guidelines could be made more helpful.

**LINDA NAYLOR**

**MANAGING DIRECTOR, OXFORD UNIVERSITY INNOVATION LIMITED**

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**Oxford University Innovation Limited**

Buxton Court, 3 West Way, Oxford OX2 0JB

T 01865 280830

F 01865 280831

E [enquiries@innovation.ox.ac.uk](mailto:enquiries@innovation.ox.ac.uk)

[www.innovation.ox.ac.uk](http://www.innovation.ox.ac.uk)

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## INTRODUCTION TO OXFORD UNIVERSITY INNOVATION

Oxford University Innovation Ltd is the University of Oxford's wholly owned technology transfer company. Oxford University Innovation was established (originally named Isis Innovation) in 1988 and manages the University's intellectual property portfolio, working with University researchers on identifying, protecting and marketing technologies through licensing, spinout company formation, consulting and material sales.

Oxford University Innovation provides researchers with commercial advice, funds patent applications and legal costs, negotiates exploitation and spinout company agreements, and identifies and manages consultancy opportunities. Oxford University Innovation works on projects from all areas of the University's research activities: life sciences, physical sciences, social sciences and humanities.

### Patents & Licensing

Oxford University Innovation files around 100 patent applications per year, and manages over 2,500 patent application families and 1400 licence agreements. Oxford University Innovation licenses technologies to companies who invest in developing and selling products in a timely and ethical manner. Licensees are sought from all technology and business sectors on an international basis.

### Creating New Companies

Oxford University Innovation has assisted in the formation of more than 100 University spinout companies since 1997, generating significant value in equity holdings for the University of Oxford. Oxford University Innovation works with University researchers to develop new business opportunities, identifying and sourcing investment, management and professional services.

### Consulting and Services

Oxford University Consulting (OUC) offers access to the expert knowledge of University researchers and departmental services within the University. OUC is part of Oxford University Innovation, providing a professional service dedicated to finding cost effective solutions to consultancy needs. Areas of expertise include problem solving, data analysis, expert evaluation, due diligence, management and business development.

### Material Sales

Oxford University Innovation manages the negotiation of sales agreements for biological and physical science materials developed within the University.

The **Oxford Innovation Society**, founded in 1990, enables industrial companies to benefit from Oxford University Innovation's activities by having a 'window' on Oxford science. Members enjoy advance notification of all patent applications marketed by Oxford University Innovation, a regular newsletter, customised benefits, including seminars and needs analysis, and attend meetings and dinners, which provide a unique environment for constructive interaction between business leaders, investors and top University scientists.

The **Oxford Angels Network** introduces private investors and seed/venture capitalists interested in investing in spinout companies from the University of Oxford to investment opportunities. OAN is a not-for-profit company limited by guarantee, established by Oxford University Innovation in 1999. Members of OAN may also be interested in serving as non-executive directors, nominated by the University, on the boards of the new spinout companies.

Oxford University Innovation has strong **University links** with all the parts of the University involved in technology commercialisation and enterprise. These include Research Services; Begbroke Science Park; Oxford Science Enterprise Centre; and Entrepreneurship Saïd at the Saïd Business School.



**Isis Enterprise** is a division of Oxford University Innovation, offering consulting expertise and advice in technology transfer, based upon Oxford University Innovation Ltd's success as Oxford University's technology transfer company. Isis Enterprise helps universities, research organisations and governments develop their technology transfer activities.

## DECIDING WHETHER TO START A SPINOUT

Setting up a Spinout can be exciting, interesting and stimulating. It is also time-consuming, can be a stressful activity, and may distract you from your research. You will need to work with business managers and investors whose objectives may be different from your own.

Not all research is suited to becoming the platform for a new business. Oxford University Innovation staff will help evaluate the business opportunities arising from your research.

Business and management skills will be needed for the spinning out, as well as running the subsequent business. Therefore it is important to identify a source of these early on.

If you intend to remain an employee of the University, you will need various consents from the University to participate in a spinout. You are required by the University's Regulations to seek permission for any outside appointments, for instance providing consultancy services to the spinout or holding a directorship (whether non-executive or executive) in the spinout. Also, some funding agencies do not allow researchers to be directors. You will need to manage the conflicts of interest in line with the University's policies.

There are potentially onerous legal responsibilities attached to being a director of a limited company. Before deciding to spin out you must understand these, and decide whether the benefit is worth the potential risk.

**THIS IS WHAT YOU DO:** Decide what the company is to do, what is it going to sell, where is it going to get it, who is it going to sell to and how? Decide on who is going to own the company, decide on who is going to work in it, what funding will be needed, and where will it come from?

A SUCCESSFUL SPINOUT REQUIRES:

- **Time** - which you may prefer to spend on research
- **Skills and Resources** – which are not generally available in universities
- **Mundane Work** - which you may prefer not to do (printing, stationery, premises, insurance, many meetings etc.)
- **A Measure of Luck.**

## IMPORTANT INFORMATION

There are many aspects of company formation which require up to date legal, taxation, accountancy and financial expertise from fully qualified and regulated professionals.



We have prepared this information to assist you in understanding the process of starting up a spinout company. Oxford University Innovation Ltd and its staff are, however, not regulated or approved to give advice on these matters. Accordingly, you should conduct your own investigations and **obtain independent professional advice**.

We have taken care to try and make these guidelines accurate and reliable, but as with any summary of complex provisions which are defined in more detail elsewhere, this guide is offered without liability for any errors or omissions.

## **OXFORD UNIVERSITY INNOVATION'S CONTRIBUTION**

Oxford University Innovation has assisted University of Oxford researchers in setting up over 100 spinout companies. Oxford University Innovation's contribution is in three main areas:

- Business Planning
- Identifying Management
- Identifying Investment.

### **Business Planning**

Oxford University Innovation can help with the preparation of the business plan, which will provide the basis on which your investors will construct their proposals. Oxford University Innovation can assist in deciding how best to structure the new company (debt/equity; shares, share options etc).

To help define the business of the company we have developed the questionnaire which is included at the end of this booklet. Although some of the questions appear trivial we have found that discussing them with researchers (particularly if there is more than one involved) is very helpful in stimulating discussion, and clarifying exactly what the spinout is to do. Oxford University Innovation staff will be pleased to go through the questionnaire with you if you so wish.

### **Management**

During the spinning out process, as well as in the subsequent running of the business, it is important that the team has a leader. This may be a researcher, or possibly one of the investors or an identified manager. Oxford University Innovation can compensate to some extent for lack of leadership in the spinout team; but will not be involved in the management of the resulting company (unless a member of Oxford University Innovation staff becomes involved as the University's appointed director). It is therefore important to establish a leader at an early stage. It may or may not be the case that the early leader eventually becomes the Managing Director of the company. Oxford University Innovation has a list of lawyers and accountants we have used before and can introduce you to them as well as to potential investors.

### **Investment**

Oxford University Innovation can assist in identifying sources of investment finance through Oxford Sciences Innovation plc (OSI), the Oxford Angels Network (OAN) and other contacts.



- OSI is an investment fund of £320m raised in 2015 and dedicated to investing in Oxford spinouts. OSI is the University's **preferred partner** for funding and development of spinout companies. The section below on OSI has more details.
- OAN is a group of private investors (often called 'business angels') and venture capital companies with a keen interest in investing in university spinout companies. It is not uncommon for business angels to take an active role in their investee companies which can bolster the spinout team. Investment opportunities are presented to OAN members through direct mailings, meetings and formal presentation events held throughout the year; Oxford University Innovation has an extensive network of investors worldwide.

Although it is the University which must approve all spinout companies, Oxford University Innovation is involved in the approval process; and the University will consider the recommendations of Oxford University Innovation when deciding whether to accept an investment proposal.

## Oxford Sciences Innovation (OSI)

### Background

OSI was appointed in March 2015 as the University's preferred partner for funding and development of spinout companies from Medical Sciences and MPLS Divisions. OSI raised £320m for this purpose, which makes it the largest fund in the world dedicated to spinouts from a single University.

The investors in OSI include Lansdowne Partners and Invesco, the University endowment fund, the Wellcome Trust, IP Group, Google Ventures and Woodford. The University holds a protected equity stake in OSI.

### University rules and academic freedoms

The partnership with OSI does not change the other rules of the University:

- There is no change to the University's statutes or regulations relating to intellectual property.
- Oxford University Innovation is the preferred route for exploiting intellectual property.

The deal with OSI is careful to preserve academic freedoms. Subject to any requirements from your research funding, it remains up to you, the researchers, whether to commercialise your research at all, whether to pursue a spinout route or, if you do decide to form a spinout, whether to work with OSI in seeking investment. OSI have an Oxford-based team dedicated to explore opportunities from the University and OSI can approach you directly. Please see the section below on confidentiality and early stage discussions.

### OSI's right to share University founding equity

OSI will share equally in the University's founding equity in the spinouts from Medical Sciences and MPLS Divisions. This does not affect the shares held by academic founders and there is no right for OSI to share the University's founding equity in spinouts from Social Sciences or Humanities Divisions. For spinouts from Medical Sciences and MPLS Divisions, this right of OSI to share the University's founding equity applies irrespective of whether OSI also invests capital in your spinout company. So, if the founding academics are from MPLS or Medical Sciences, then OSI will own part of the new spinout company regardless of where the investment comes from.

### OSI investments



OSI may choose to invest money and provide expertise in your new spinout. OSI are able to choose to invest in spinouts from any part of the University including Social Sciences and Humanities.

OSI are not obliged to invest – they will make their own investment decision. If OSI does decide to invest, this will be in exchange for shares in the company, like any other investor. Shares purchased by OSI through investment will be in addition to any entitlement of OSI to share the University's founding equity. OSI may invest in the initial seed round of investment of the spinout or later, as it grows.

### **Research funding and Sponsors**

The OSI partnership does not affect the rights of your research funders, so the arrangements with research sponsors such as the Wellcome Trust, Technikos (IBME) and others are unchanged. Staff at Research Services and Oxford University Innovation will ensure that such rights are understood and managed appropriately.

As usual, you should talk to Research Services if considering new research funding where arising IP might be constrained.

### **Confidentiality and early stage discussions**

The partnership agreement between OSI and the University contains substantial confidentiality provisions. You can talk to OSI about your research without compromising patentability; OSI will keep your discussions confidential. Remember you may separately owe a duty of confidentiality to research funders and collaborators.

If you talk to OSI at an early stage about your research or technology, please tell either your Head of Department or Oxford University Innovation that you are doing so. Your Department's administrator or an Oxford University Innovation Technology Transfer Manager will gladly join any meeting on request, and we recommend this if you progress to discuss commercial terms, or any arrangement that might affect the rights of research funders or sponsors, collaborators or fellow inventors and developers.

## **OXFORD UNIVERSITY PROCEDURES**

The University encourages the formation of spinouts where they are the best means to commercialize ideas. Our participation in Oxford Sciences Innovation plc provides access to a preferred source of capital for investment in new spinouts.

The University through its Intellectual Property Advisory Group (IPAG) determines the terms upon which University spinout companies are created. Oxford University Innovation is responsible for presenting all spinout opportunities to the University for approval to ensure that in situations where a conflict of interest may arise, necessary safeguards in place.

University employees have a number of rights and responsibilities in respect of commercializing intellectual property, and the University [Statutes](#), [Regulations](#) and the [Conflict of Interest policy](#) are all relevant to your activities in spinning out a new company, as are the [principles and procedures](#) for implementing them.

We at Oxford University Innovation will help to guide you through the relevant procedures, in conjunction with the appropriate University officers. The exact conditions of employment of University staff are University issues and we cannot adjudicate on them.



## **ACTION PLAN**

### **1 Initial Decision to Proceed**

Refer to the Spinout Questionnaire at the end of this booklet, and discuss with your colleagues (and Oxford University Innovation if you wish) whether you want to start looking at the possibility of starting a spinout company.

### **2 University Permission**

If you wish to proceed, because you may become a shareholder, director, and/or consultant to the spinout, you will need to consider the University's rules about its employee's holding external appointments and conflicts of interest. You will probably need consent from: your Head of Department, your Head of Division, and under the University's Policy on Conflict of Interest (see Page 10). Oxford University Innovation will guide you through all this. You may also require clearance from any external funders of your research.

Your Technology Transfer Manager will present the business plan and proposed structure of the spinout, including the suggested equity split, to the Oxford University Innovation Spinout Review Panel. It will also be presented to the Managing Director and the University Finance Director (both are directors of Oxford University Innovation), who will either seek more information or approve the proposals.

### **3 University and Founder Researchers Equity**

The University expects to be a significant shareholder in the spinout company because of the resources and permissions it makes available to the spinout. The extent of this shareholding will depend on the facts relating to the proposed business, and will be determined in accordance with the principles and process set out below, which were approved by the University's Intellectual Property Advisory Group in 2016.

#### Principles

To reach shared understanding about the equity split between the participating researchers and the University for founder equity in a proposed new spinout company, we work within the following principles:

1. Decisions about equity are based on the facts in relation to:
  - i. The research that forms the basis for the new business and any intellectual property relating to it;
  - ii. The connection to the researchers' academic environment and work, and the extent to which the new business will commercialise the outputs of that environment;
  - iii. The roles that the researchers have played during the preparation of the opportunity, and are anticipated to take after the new business is established;



- iv. The institutional practical support and permissions that are provided, including support from Oxford University Innovation;
  - v. The proposals for the spinout management and any equity set aside for managers;
  - vi. Any other material facts that are relevant to the decision e.g. rights of funding bodies, other institutions or third parties.
2. The appropriate allocation of equity between the University and the researchers (taken together as a group) is an equal split, where the facts established demonstrate that the spinout will use the University's intellectual property (see University Statutes and Regulations), generated within the University by members of the University and with broad dependence upon the University environment, and the spinout has developed with University practical support; i.e. 50:50 University:researchers, before dilution from any third party investment.
3. There exists a limited range of circumstances where the University would not expect to share equity in the new business. For instance, where a business is started purely as a vehicle to manage an individual's permitted outside appointments, or where the new business is entirely unrelated to the area surrounding an individual's academic work.
4. In between these limits there is a very wide range of possible circumstances for any new business. The University's expected equity share will also vary, commensurate with and according to the facts of the case. (see also University Regulations)

### Process

The process for determining equity is:

1. Researchers initiate the discussions with Oxford University Innovation (OUI) about any new spinout company (even when OUI is not directly involved in the company formation).
2. A Head of Department refers a query to OUI in response to a request from a researcher for permission for an outside appointment (see University Regulations for the holding of outside appointments and the conduct of outside work). Such a query may be initiated, for example, when the company appears to use University IP, yet is unknown to the Department.
3. Oxford University Innovation and the researchers gather and record all the facts about the background to the company; the IP forms and intellectual property due diligence process provide a source for the facts about the research background.
4. Oxford University Innovation and the researchers consider all the facts identified (principle 1): does an equal ratio between the researchers and the University seem appropriate (principle 2)? If not, what are the key facts that would support an alternative ratio (principles 3 and 4), and what is the proposal for the overall founding (i.e. pre-investment) equity structure? The researchers and Oxford University Innovation discuss, negotiate if necessary and reach agreement.
5. Agreement is recorded in the Deal Sheet 1, which is signed by the researchers, Oxford University Innovation and acknowledged by the relevant Head of Department. The overall spinout deal is approved by the University's Director of Finance.





6. In case of dispute all parties set out their case in writing. There is an escalation process for resolving dispute, involving the University's Director of Finance and the Intellectual Property Advisory Group (IPAG).

The University's founding equity will be shared with OSI for any spinouts from MPLS or Medical Sciences Divisions, as set out above in the section on Oxford Sciences Innovation plc.

The division of spinout equity between all those involved and any management and employees is a key issue and must be addressed early in the procedure. Since it will be a multi-party negotiation it is rarely easy.

Having agreed their respective shareholdings, the researchers and the University can then negotiate together with the investors as to what percentage of the company they wish to sell to the investors for their cash investment. Oxford University Innovation has much experience in negotiations with spinout investors and, although our responsibility is primarily to our own shareholder (the University), our interest in helping to complete the deal as rapidly as possible has proved helpful to the researchers spinning out.

**The University's royalty-sharing rules do not apply to Spinout equity.** If there are multiple researchers, their individual entitlements must be covered by agreed equity shares or in some other way.

#### **4 Technology Licence**

If the spinout intends to use any intellectual property owned by the University or Oxford University Innovation it will need appropriate licenses to the intellectual property (patents, copyright, know-how etc). The technology licence will not be free of licence fees and royalties. However, the licence terms will be sympathetic to the circumstances of the new company, due to the importance of cash to the spinout in its early years.

#### **5 Business Plan**

This describes what the business will do and how the investors will get a return. With some spinouts the business is at too early a stage for numerical projections to be meaningful. In these cases, the investment decision will be made on the basis of confidence in the researchers, proposed spinout managers and the technology.

It is rare for the business plan which is initially prepared by the spinout team to be identical to the final plan which is used by the company as it goes forward. Typically, the plan goes through a series of iterations as new facts and ideas emerge and it is common for investors and managers to impact the thinking as the plan evolves.

Whilst it is good practice to prepare a formal plan with detailed financial projections, the initial approach to investors is often based on a short executive summary which should be one page in length. Some investors will expect to receive more detailed information in the form of a business plan presentation backed up by a more formal document.

Oxford University Innovation can provide templates for the business plan document and presentation. Presentation practice can be arranged through the Oxford Angels Network.



## **6 Raising Investment Finance**

Investors prepared to risk cash on early stage companies seek to generate profits well in excess of their initial outlay. They need high levels of return because they understand that due to the risks involved many of their investments will perform poorly.

Private investors and venture capitalists have investment preferences in terms of sector (e.g. biotechnology or nanotechnology), levels of available funds and methods of working. In particular some investors will expect to be very closely involved in decisions made by the developing company. Other discriminating factors are the capacity of some investors to invest larger amounts in subsequent investment rounds and the capacity to lead an investment round involving more than one investor. Once an investor has indicated their interest in providing funds a process of due diligence will commence. Typically an investor will seek confirmation of all the main assumptions set out by the company in its business plan. Particular areas of interest will be patents, details of the financial plan and evidence of market interest. Responding to due diligence enquiries can be time consuming and a degree of patience will need to be exercised by all parties.

## **7 Documentation**

### Heads of Agreement

This sets out the key provisions of all aspects of the spinout company and provides a summary upon which lawyers can build full documentation.

### Shareholders/Investment Agreement

This addresses the relative shareholdings between the founding researchers, the University, management, and investors, and the protections which each shareholder seeks. The University has a standard shareholders agreement which is a useful starting point in discussions.

### Technology Licence Agreement

This will authorise the company to use any specified intellectual property owned by the University/Oxford University Innovation which the company wishes to use and which the University is able to make available to the company.

### 'Oxford' Trade Mark Licence

The University trading as Oxford University Press has trademarked the word "Oxford". If the spinout company wants to use the word "Oxford" in its name, it will need permission from the University which has a standard licence agreement. Oxford University Innovation can help asking the University for the necessary licence.

### Consultancy Agreement

The company will want to secure access to the services of the founding researchers. The arrangements between those individuals employed by the University and the company need to be approved by the University, via Research Services.

### Managing Director's Service Contract

This contract will be supplied by the company's lawyers and, whilst it does not need University approval, it is advisable to ensure the University has no objections to it.

### Memorandum & Articles of Association

These documents are standard company documents which set out the nature of the company's business and its operations. These will be supplied by the company's lawyers.

### Share Option Scheme



All spinout companies are likely to establish an incentive scheme at some stage. There may be advantages, relating to the option exercise price, in setting up a share option scheme at the spinout stage.

### 8 Final Approval and ‘Completion’

The necessary documents will be signed by the researchers, the University, Oxford University Innovation (if Oxford technology is involved) the external investors and any other shareholders. In order to optimise the taxation position of the company and those involved current legal and tax advice is followed.

## WHERE DO I START?

The actions below are shown in roughly the expected chronological order. However, business planning is not a single item and the initial ideas are usually refined and developed in an ongoing, iterative process as all involved contribute ideas.

ACTION	WHO	REFERENCE
<b>Complete Spinout Questionnaire</b>	Researchers	Spinout Questionnaire Technology Transfer Manager
<b>Develop Business Plan</b>		Technology Transfer Manager Advisers (e.g. accountant)
<b>Decide proposed equity split</b>	Researchers, Investors, University (IPAG)	Technology Transfer Manager  Possible appeal
<b>University Approvals (Academic)</b>	Head of Department / Division, Appointments Committee, Policy on Conflict of Interest, Regulations on Outside Appointments	Oxford University Innovation will assist with these if necessary
<b>Approach Investors</b>	Oxford University Innovation, Researchers	Oxford Angels Network
<b>Identify Management</b>	Researchers, Investors, Oxford University Innovation	
<b>Heads of Agreement</b>	Oxford University Innovation, Researchers, Investors	Lawyers
<b>Oxford University Innovation support &amp; approval</b>	Oxford University Innovation, Researchers, Investors	Technology Transfer Manager Oxford University Innovation Managing Director



<b>University Approval (Commercial)</b>	University Finance Director	
<b>Prepare final legals</b>	All parties	Lawyers
<b>Sign off - 'Completion'</b>	All parties	Lawyers

Each of these steps is likely to take at least a week (the business plan is likely to take many more) and experience shows that the overall process is likely to take many months.



## **ADDITIONAL INFORMATION ON THE UNIVERSITY POLICY ON CONFLICT OF INTEREST**

The University Policy is found at - [www.admin.ox.ac.uk/researchsupport/integrity/conflict/policy/](http://www.admin.ox.ac.uk/researchsupport/integrity/conflict/policy/)

You are advised to read the Policy in full; some relevant extracts are reproduced here:

### **Procedure**

19. The general rule, with the exception of committee business (see paragraph 28), is that disclosure should be made at the time the conflict first arises, or it is recognised that a conflict might be perceived, in writing to the Head of Department (or equivalent). If the Head of Department (or equivalent) has an interest in the matter to be discussed, the disclosure shall be made to the person at the next higher level of authority. In most cases this will be to the Head of Division. For University Senior Officers, the line of approval is noted in Council's Standing Orders. Exceptions to this rule are outlined in Appendix B, which is reproduced below for convenience:

### **Appendix B**

#### **Spinouts and licensees of University IP**

3. Staff or students may have a financial interest or other personal interest in a spinout or in an organisation to which the University has licensed or is seeking to license University IP or may have personal IP with which they are intending to create a start-up company.

4. In such cases:

4.1 they should normally play no executive role in any decisions made between the University or its subsidiaries and such spinouts or IP licensees. If it is believed that there are exceptional circumstances to argue for such involvement, prior permission must be sought by the Head of Department and then from the Pro-Vice-Chancellor (Research). The proposed conflict of interest plan/approach to be put to the Head and then the Pro-Vice-Chancellor (Research) must aim to protect the reputation of the academic(s), their research group(s) and the University and ensure compliance with company law; and

4.2 if they wish to undertake a consultancy for that spinout, they must seek prior permission from the Head of Department, and in turn from the Pro-Vice-Chancellor (Research). The proposed conflict of interest plan/approach to be put to the Head and then the Pro-Vice-Chancellor (Research) must aim to protect the reputation of the academic(s), their research group(s) and the University and ensure compliance with company law.

## **FURTHER POINTS**

### **ADVISERS**

The company will need various professional advisers to assist it in its business: Lawyers, Human Resource Advisers, Accountants, Public Relations Firms, Banks, Business support networks etc.

Oxford University Innovation can help in identifying appropriate advisers. In terms of documentation, it is important that the company has appropriate legal representation of its own when putting in place the agreements described above. As founding individuals you should seek personal legal representation in your capacity as consultants to the company and also as shareholders. When engaging advisers you must always consider who will pay them if the company is not formed. Many may work on a



contingency basis whereby if the investment is not made, they will not be paid. Do not sign a letter of engagement with an adviser until you have agreed who is going to pay. Oxford University Innovation has deliberately not expressed preferences or recommendations and has refrained from even general comments. The University and Oxford University Innovation will always use their own lawyers.

## INSURANCE

The spinout will need to obtain a number of insurance policies including: directors and officers insurance; building and contents insurance; employer’s liability insurance; public liability insurance and product liability insurance.

## TAX

There is a plethora of taxes and tax schemes relevant to the various aspects of the spinout company.

Company	Individuals
Value Added Tax	Capital Gains Tax
Corporation Tax	Income Tax
National Insurance	Enterprise Investment Scheme and Seed Enterprise Investment Scheme
R&D Tax Credits	Inheritance Tax
Enterprise Management Incentives	

These change frequently as do the optimal ways of managing the tax liabilities. Up to date professional advice is essential.

## COMPANY CONSTITUTION

The spinout company will be a limited liability company incorporated under English law. A limited liability company protects the owners from creditors; it will be a separate legal person that can sue and be sued in its own right. It will consist of:

**Shareholders** – These will include the researchers, the University and the investors. Shareholder’s liability will be limited to the amount that each shareholder has fully paid up on their shares. The number of shareholders will increase with every round of funding (see Share Dilution below).

**Board of Directors** – The directors of the company (of which there must be at least one) will be appointed by the shareholders. The directors are responsible for strategic management of the company and will be personally liable for their actions as directors of the company. The Directors elect one of themselves to be the Chairman.

**Managing Director** – The managing director will be a member of, and will be appointed by, the board of directors. The managing director will generally be given power by the board to run the company on a ‘day-to-day’ level.

**Company secretary** – The company secretary reports to the directors and is responsible, along with the directors, for the records of the company, including: notices and minutes of meeting, company house returns etc. The company’s lawyers or accountants will quite often be the company secretary.



The rules of the company will be set out in the memorandum and articles of association. These include: the number and type of shares which the company can issue; the rights of shareholders; and the powers of directors. The directors must manage the company in accordance with the articles and the law.

### DIRECTORS RESPONSIBILITIES

The legal responsibilities placed on each director protect creditors from the owners. A limited company must have directors; directors must not continue trading when the company is insolvent; directors must keep accounts which reflect accurately the company’s financial condition; directors are like trustees of the company, and must not benefit personally at the company’s expense. Directors are **PERSONALLY LIABLE** for the activities of the Spinout.

### SHARE DILUTION

As a company grows it is likely to issue more shares to new shareholders to attract cash investment and people. Each time this happens existing shareholders may find their percentage shareholding reducing unless a shareholder uses previously agreed pre-emption rights to buy more shares and thereby maintain a percentage shareholding.

Illustration of Share Dilution for a spinout from MPLS or Medical Sciences Divisions						
	Stage 1: founding		Stage 2: seed investment		Stage 3: management	
	shares	%	shares	%	shares	%
Founders	50	50.0	50	33.3	50	29.4
University	50	50.0	25	16.65	25	14.7
OSI			25	16.65	25	14.7
Investors			50	33.3	50	29.4
Management					20	11.8
Shares	100		150		170	
%		100		100		100

### SOURCES OF FINANCE

The spinout company will need cash in order to operate and grow the business. Cash is available from a number of sources:

Bank Loans, Business Angels, Seed Capital, Venture Capital, Institutional Capital, Corporate Venturing

All of these sources want something in return (e.g. interest, assets, equity) and have different skills and expertise to offer your spinout. The best source of funding will vary and Oxford University Innovation can advise you on the advantages and disadvantages of each source.

### FURTHER INFORMATION

Further information is available from a wide range of sources, including:

Companies House [www.companies-house.gov.uk](http://www.companies-house.gov.uk) (good downloadable booklets)

Oxford University Innovation web site <http://innovation.ox.ac.uk/university-members/commercialising-technology/starting-company/>

Institute of Directors [www.iod.com](http://www.iod.com)



## SPINOUT QUESTIONNAIRE

Company / Project Name	
Researchers and Departments Involved	
Oxford University Innovation Project Number	Technology Transfer Manager
Document Date	Target Investment Date

### THE PROPOSED BUSINESS

#### PRODUCT / SERVICE OFFERING

What Product / Services will the company sell in the short, medium and long term?

#### SOURCE OF PRODUCTS/SERVICES

Where will the company get the products / services it sells (develop them, manufacture in house, buy in, already has them etc.)?

#### TARGET MARKET(S)

Estimate of market(s) size; whether they are growing, static or declining; potential competitors.

#### ROUTE TO MARKET

How will the goods/services be sold?

#### BUSINESS PROJECTION

What are the expected sales, margin, overheads and cash requirement for the first few years? (We could provide pro forma spreadsheets if required)

#### COMPANY PERSONNEL

Give the names of individuals if known and state whether full or part time (quantify part time). State specifically who will be responsible for the following key functions:

Product Development (R&D) / Procurement

Sales and Marketing

Finance / Accounting

Leadership / General Management

WHO ARE THE PROPOSED DIRECTORS AND COMPANY SECRETARY?

WHO ARE THE PROPOSED LAWYERS, ACCOUNTANTS AND BANKERS?





#### INVESTMENT

What is the total cash investment by external investors?

Who are the external investors?

What equity is offered to the University and the investors?

#### RISKS

What are the major sources of risk / uncertainty in this proposal?

(Technical risks, academic competition, commercial competition, management risks)

#### THE SCIENCE AND INTELLECTUAL PROPERTY

The purpose of these sections is to enable Oxford University Innovation and the University to understand and evaluate both the quality and the security of the science, in order to form an opinion of its potential value.

Please add a section, which will describe, to a suitably qualified person, the basis of the science, the relevant experience of the scientists involved, and likely developments in the field.

Also describe both the intellectual property and the know-how which will be going into the company (including patents, both filed and potential). Please identify any University Intellectual Property that will be needed by the Company.

#### ONGOING RESEARCH

Will the company place research contracts with the University? If so, enclose details of the duration and magnitude of the proposed projects. Have terms been agreed with the University?

#### UNIVERSITY APPROVALS

Please describe the University approvals you have sought / will need to seek in relation to directorships, consulting appointments, conflict of interest, research contracts etc.

#### THIS PROPOSAL HAS BEEN PREPARED BY:

**NAMES:**

**DATE:**