



Intellectual Property Policy & Regulations

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CONTENTS	1
Introduction	1
The Legal Position	2
Intellectual Property Policy	2
1. Policy Principles	2
2. Policy Regulations	3
3. Scope of the Autism Bedfordshire IP Policy and Regulations	3
4. Exceptions to the Regulations	4
5. Responsibility to identify, disclose and protect IP, IPR and materials covered by the Autism Bedfordshire IP Policy and Regulations	5
6. Disclosure of IP to be used in research, project work or other Autism Bedfordshire activities	6
7. Responsibility to respect third party IPR	6
8. Securing Autism Bedfordshire’s rights in relation to IP, IPR and materials	7
9. Reward for creation of IP, IPR or materials under the Autism Bedfordshire IP Policy and exploited by Autism Bedfordshire	8
10. Duration of Obligations under the Autism Bedfordshire IP Policy and Regulations	9
11. Infringement	9
12. Setting up a Business or Company	10
13. Conflicts of Interest	11
14. Discretion to assign/licence back IP and IPR	12
15. Breach of Regulations	13

Introduction

This document sets out the Intellectual Property Policy of Autism Bedfordshire. The policy outlines the rights, responsibilities and procedures of Autism Bedfordshire, its staff and volunteers in relation to intellectual property and material(s) created, to which Autism Bedfordshire resources, e.g. time, funds, facilities or expertise, have contributed. It also underlines the importance of staff and volunteers respecting third party intellectual property rights.

Intellectual property, or IP, and the rights associated with them, intellectual property rights, or IPR, underpin the relationships and contracts that Autism Bedfordshire is able to enter into with third parties (including businesses, organisations, charities and funding bodies).

Any lack of clarity over the ownership of rights at any time may inhibit Autism Bedfordshire’s legal involvement in future projects and its right to use the outcomes of research or

development projects as no body will enter into an agreement with Autism Bedfordshire if the IPR position is not clear.

This policy sets out the IPR procedures and processes of due diligence with regard to ownership and the rights to use intellectual property. It is intended to help to protect Autism Bedfordshire and its employees from potential legal action by third parties relating to any IP associated liability.

There might be a number of tax considerations (whether UK or overseas tax) to be dealt with in respect of the exploitation of IP, IPR and the formation of businesses and/or companies. Any such tax consequences will depend on the specific details of each case. Accordingly this policy does not address these issues and therefore specific advice will need to be taken by all parties involved in such matters at the appropriate time.

The Legal Position

Under the Patents Act 1977, Copyright, Designs and Patents Act 1988, and Copyright and Rights in Databases Regulations 1997 (the Acts), there is a presumption that ownership of copyright, database rights, designs and patents produced in the course of employment belongs to the employer. The Acts also confirm that in the case of designs produced under a commission the person commissioning the design is the first owner. The legal ownership of any rights can be varied by relevant legal agreement and documentation.

Protection of Autism Bedfordshire intellectual property may be relevant in order to allow commercial exploitation or to encourage further funding of activity. Protection may involve keeping information confidential for a period, and where appropriate, undertaking patenting or other legal forms of protection. It is the aim of Autism Bedfordshire to ensure individuals are supported in their entrepreneurial endeavours and rewarded through the policy for the creation and legal exploitation of intellectual property and intellectual property rights. It is also important to Autism Bedfordshire that individuals do not infringe third party IPR in their work.

The policy and procedures as set out will be reviewed from time to time and any queries on the policy should be referred in the first instance to the Chief Executive Officer (CEO).

Intellectual Property Policy

1. Policy Principles

- The product of work carried out with the benefit of Autism Bedfordshire resources and/or Autism Bedfordshire assets (including, but not limited to, facilities, resources, assets, materials, funding, staff and staff time, confidential information and confidential background intellectual property rights, know-how and expertise, intellectual assets) constituting Intellectual Property (IP) and the associated Intellectual Property Rights (IPR) should be owned, protected and used by Autism Bedfordshire for the general good of the whole Autism Bedfordshire community.
- Autism Bedfordshire should not infringe any third party IP and IPR.

- Autism Bedfordshire should meet its contractual obligations to third parties including those associated with the dissemination, management and exploitation of IP and IPR and obligations of confidentiality.
- Autism Bedfordshire should make provision to recognise and reward persons who:
 - a) create work within Autism Bedfordshire that may have commercial value; and/or
 - b) bring into Autism Bedfordshire, for its benefit, work already created which they own.

2. Policy Regulations

The following regulations are designed to implement the Autism Bedfordshire IP Policy.

2.1 Oversight of Autism Bedfordshire's IP Policy and Regulations

- a) The CEO is responsible for the day to day implementation of the Autism Bedfordshire IP Policy and Regulations.
- b) The Board of Trustees (including the CEO) is responsible for advising on issues relating to:
 - i) the formation of businesses to exploit IP and IPR;
 - ii) changes to the Autism Bedfordshire IP Policy;
 - iii) any IP issues falling outside the Autism Bedfordshire IP Policy and Regulations; and
 - iv) to hear appeals made by staff and volunteers in relation to unusual or special cases involving IP or IPR.

3. Scope of the Autism Bedfordshire IP Policy and Regulations

3.1 The Autism Bedfordshire IP Policy and Regulations normally cover any and all forms of IP and IPR and all materials relating to all of Autism Bedfordshire's activities, including the following;

- a) patentable and non-patentable inventions,
- b) all copyright in confidential information belonging to Autism Bedfordshire,
- c) databases and associated rights, computer software, source code, firmware,
- d) trade marks,
- e) e-learning materials and content,
- f) registered and unregistered designs, plant varieties, and topographies and geographical indicators,
- g) all confidential information, trade or business secrets,
- h) films, TV productions, videos, CD ROMS, DVDs, multimedia works, broadcasts, performing rights, typographical arrangements, field and laboratory notebooks and research notes,

- i) original artistic works such as paintings, drawings, engravings, sculptures, photographs, diagrams, maps, works of architecture and works of artistic craftsmanship,
- j) administrative, financial, teaching materials and course materials (including all copyright and design rights),
- k) all materials placed on the Autism Bedfordshire website or presented by other electronic, audio or audio/visual means,
- l) physical material including prototypes, physical models, physical designs, electronic devices, biological materials, chemical compositions,
- m) other works and materials created with the aid of Autism Bedfordshire facilities or resources,
- n) know-how and information associated with the above.

3.2 Autism Bedfordshire owns IP, IPR, products and materials:

- a) if they are created by employees of Autism Bedfordshire either directly, or indirectly as a result of their employment by Autism Bedfordshire, in circumstances where the law presumes ownership by the employer (ownership is not limited to activities or specific times e.g. hours of work, and applies to IP, IPR and materials created by part-time and casual employees which arise directly or indirectly from their employment); or
- b) where the legal owner of the IP and IPR has assigned his/her rights to Autism Bedfordshire.

3.3 The IP Policy and these Regulations normally cover all persons:

- a) bound by the Autism Bedfordshire IP Policy by virtue of their employment; or
- b) who as a signatory to a contract is bound to the Autism Bedfordshire IP policy (such as a contract for services or a volunteer agreement); or c) who agree to abide by the policy specifically in writing, by conduct or by verbal agreement.

4. Exceptions to the Regulations

4.1 IP and IPR which pre-date an individual's employment, paid association or volunteer agreement are excluded from the scope of the policy.

4.2 Normally, works which are produced by Autism Bedfordshire staff and volunteers and which are non-commercial and solely intended for academic purposes, such as articles in journals, papers for conferences, study notes (but not those used to deliver teaching), books or contributions to books including editing (which are not commissioned by Autism Bedfordshire), and works of art, performance art and music (which are created without use of Autism Bedfordshire assets or resources and are not commissioned by Autism Bedfordshire) are not subject to these regulations except where:

a) the disclosure would compromise Autism Bedfordshire's ability to conform to its legal obligations to a third party (e.g. business, funding body, charity etc) to maintain confidentiality, or

b) the disclosures would compromise Autism Bedfordshire's ability to protect IP or IPR that Autism Bedfordshire wishes to exploit.

It is the responsibility of Autism Bedfordshire staff and volunteers producing scholarly works to ensure that they are not covered by points a) and b), in this section 4.2.

4.3 Where the Board of Trustees or the CEO recommend that before an individual starts a course or starts work on a specific project, Autism Bedfordshire should waive its rights to any resulting IP and IPR in favour of that individual, Autism Bedfordshire will waive its rights using the Autism Bedfordshire IP WAIVER AGREEMENT pro forma.

4.4 The waiving of rights under section 4.3 may only be considered if Autism Bedfordshire does not have obligations to a third party (e.g. business, funding body, charity etc) that would otherwise inhibit Autism Bedfordshire legally entering into the waiver. The Agreement needs to be signed by the individual and by the CEO, and also to confirm that Autism Bedfordshire has a continued right to use such IP and IPR for the purposes of research (including third party funded research) and education.

4.5 Where IP and/or IPR are created/owned jointly by Autism Bedfordshire and by parties exempt from the Autism Bedfordshire IP Policy and Regulations, agreement may be sought between Autism Bedfordshire (represented by the CEO) and the exempt party to determine if, or how, the IP may be exploited and how the outcome of any successful commercialisation would be shared. It should be noted, however, that in such a case neither Autism Bedfordshire nor the exempt party may exploit the jointly owned IP without the authorised, written agreement of the other party.

5. Responsibility to identify, disclose and protect IP, IPR and materials covered by the Autism Bedfordshire IP Policy and Regulations

5.1 When undertaking work from which IP, IPR and materials covered by the Autism Bedfordshire Policy and Regulations arise or may be expected to arise, all persons bound by the Autism Bedfordshire IP Policy and Regulations must:

a) notify the CEO and Board of Trustees, in writing, of any innovation, invention, IP, IPR, exploitable technology or material created, as soon as they become aware of it, by completing the Autism Bedfordshire "INVENTION AND MATERIAL DISCLOSURE FORM", seeking advice from the CEO, when needed;

b) keep the nature of and matters relating to IP, IPR and material confidential (through proper use of confidentiality agreements etc) until the fact and manner of disclosure is agreed by the CEO and Board of Trustees;

c) assist with the protection and exploitation of IP and IPR developed and keep suitable records of creation; and

d) co-operate fully with Autism Bedfordshire and its agents (e.g. external patent agents and lawyers);

e) co-operate with Autism Bedfordshire to ensure that assignments or confirmatory assignments to IP and IPR are executed, where appropriate;

and

f) support negotiations in relation to IP, IPR and Materials conducted by persons approved by the CEO or Board of Trustees.

6. Disclosure of IP to be used in research, project work or other Autism Bedfordshire activities

6.1 All persons bound by the Autism Bedfordshire IP Policy and Regulations are responsible to Autism Bedfordshire for:

a) ensuring that all bids and contracts are approved through relevant research, project and contract approval processes; and

b) complying with project contractual obligations binding on Autism Bedfordshire (it is the responsibility of the Project Manager to ensure that all staff and volunteers to be engaged on the project are aware of and have agreed to be bound by the terms of the contract before commencing work on it); and

c) complying with the Export Control Act 2002 (“Export Act”) and Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 (“the Order”) and inform the CEO if they have reason to believe that they, Autism Bedfordshire or a third party intends to use technology in circumstances where it will or may become necessary to apply for an export licence under the Export Act or the Order.

d) disclosing to the CEO or Board of Trustees at the outset of the work, or as soon as they become aware of it:

i) the ownership by a third party of any IP referred to or used for their work;

ii) any use to be made of existing university IP during their work; and

iii) any IP which they themselves own which is proposed to be used by Autism Bedfordshire.

7. Responsibility to respect third party IPR

Autism Bedfordshire staff and volunteers are advised that any use and copying of third party materials (e.g. books, journals and images in print or electronic form including internet sources, third party research studies, databases, artistic works including all recorded musical or audio works, software, designs, trade marks, photographs, specifications etc), are subject to the law of copyright and other intellectual property rights and also, in many cases, to the terms and conditions of licences to which Autism Bedfordshire is a party.

Infringement of copyright, patents, trade marks or related rights or licence terms and conditions places the University at risk of legal action, withdrawal of access to resources by information providers and/or damage to its reputation.

7.1 All persons bound by these regulations must observe the law of copyright and related rights and licences to which Autism Bedfordshire is party in their use of copyright materials, including but not limited to books and journals (whether print or electronic), databases, artistic works and software and should familiarise themselves with the guidelines on respect of copyright provided as *University Financial Regulation 18 and with the guidance available from Library Services*.

7.2 All persons bound by these regulations must ensure as far as reasonably possible that any use by them of materials, inventions or any IPRs in materials created or used by them does not infringe the rights of third parties.

8. Securing Autism Bedfordshire's rights in relation to IP, IPR and materials

8.1 All persons bound by the Autism Bedfordshire IP Policy and Regulations must co-operate with the CEO to ensure:

- a) that research and project/work outcomes are, wherever possible, owned by, assigned to or licensed for Autism Bedfordshire's use and/or commercialisation on adequate and advantageous terms; and
- b) that such terms are agreed and made clear in any bid or proposal or collaboration document relating to the research or project/ work prior to commencement of the work; and
- c) before the start of any collaboration with third parties who are not bound by these regulations (including students, visiting academics as well as businesses and organisations) from which IP may arise or for which Autism Bedfordshire IP may be used or disclosed, that the CEO is informed in good time to secure appropriate agreements for Autism Bedfordshire relating to confidentiality and IP issues; and
- d) that where there is an intention for staff and volunteers to be engaged on research, projects or activities involving any of the following:
 - i) collaborations involving third parties (e.g. businesses, government, organisations, etc) where Autism Bedfordshire has an obligation to maintain confidentiality and/or obligations relating to the use of and access to IP and IPR,
 - ii) where conditions of funding require Autism Bedfordshire to exploit any resultant valuable IP or IPR (e.g. some funders, government, EU, some charities, etc),
 - iii) where Autism Bedfordshire wishes to continue to use the outputs of such projects or activities after the member of staff or volunteer leaves Autism Bedfordshire,
 - iv) where potentially valuable IP and IPR may be created or has been created, that staff and volunteers are informed at the time of advertising the post and before being engaged on the project or other activities that they will be required to sign an agreement conferring all right title

and interest in IP and IPR to Autism Bedfordshire, agreeing to abide by the Autism Bedfordshire IP Policy and Regulations and agreeing to maintain confidentiality in relation to the project or activity.

It is the responsibility of the project manager (with assistance from the CEO) to ensure that staff and volunteers give informed consent by signing – using the **“ASSIGNMENT OF INTELLECTUAL PROPERTY RIGHTS AGREEMENT”** before being engaged by Autism Bedfordshire on the project or other activity.

e) that Autism Bedfordshire procures, where necessary, an appropriate consent (licence or assignment) to use any IP or IPR owned or controlled by a third party where such IP or IPR is referred to or used in Autism Bedfordshire work, at the outset of the work to avoid infringement, and

f) that no work is conducted for the benefit of or using material owned by a third party before the terms of ownership and use of project/work outcome are contractually agreed by an authorised signatory for Autism Bedfordshire.

9. Reward for creation of IP, IPR or materials under the Autism Bedfordshire IP Policy and exploited by Autism Bedfordshire

9.1 Prior to the distribution of gross revenues received by Autism Bedfordshire, Autism Bedfordshire may deduct the following costs to calculate net revenues:

- a) royalties due to third parties including funders;
- b) costs and professional fees associated with the protection, maintenance, renewal and prosecution of the IP and IPR;
- c) costs associated with undertaking due diligence on the IP, IPR or materials;
- d) costs and professional fees associated with the defence of the IP and IPR;
- e) Illegal costs and professional fees associated with negotiation, legal agreements and advice;
- f) costs associated with marketing the IP and IPR (including travel costs); and
- g) the costs of any development work that is not externally funded or recoverable by Autism Bedfordshire;
- h) Any tax payable in the UK or overseas.

9.2 The sharing of net revenues from the exploitation of IP and IPR will be:

Net Revenue	Inventor's Share	Autism Bedfordshire's Share
Any Sum	50%	50%

9.3 Exceptions

a) Autism Bedfordshire will not pay a royalty to employees for core activities undertaken within normal course of duties relating to training activities, or CPD activities.

b) Autism Bedfordshire will not pay a royalty on monies received from a third party by Autism Bedfordshire to undertake research, consultancy or further development work.

c) Autism Bedfordshire will not pay a royalty from monies received from the sale of shares associated with the exploitation of IP, IPR or material, and this will be confirmed in the shareholders agreement for any spin-out company. It is expected that inventors/creators would have shares themselves as part of such exploitation in accordance with section 10 of the Regulations.

d) Autism Bedfordshire will normally wait until the amount of royalty to be distributed is greater than £100 (one hundred pounds sterling) in any one lot before undertaking royalty distribution.

9.4 Where IP is generated by more than one inventor or creator, they are each responsible for informing Autism Bedfordshire of the proportion of their individual contributions to its generation. For the purposes of distribution of Inventors' shares in respect of net revenues received from exploitation of IP, IPR and material generated jointly it shall be the responsibility of the inventors/creators to agree their relative apportionment and to inform Autism Bedfordshire in writing by completion of the "INTELLECTUAL PROPERTY / MATERIAL INCOME DISTRIBUTION FORM". This document is an important part of the due diligence process and should be completed prior to the exploitation of any IP, IPR or materials.

9.5 Income from one invention (including exploitation of material relating to such invention) which is exploited is counted together irrespective of whether the same IP, IPR or material is commercialised through one or multiple agreements.

10. Duration of Obligations under the Autism Bedfordshire IP Policy and Regulations

10.1 Persons bound by the IP Policy shall remain bound to all such terms for the length of time necessary for the terms to have their full meaning and effect, including obligations of confidentiality. Persons leaving Autism Bedfordshire shall continue to acknowledge Autism Bedfordshire's IP rights created during their employment or other engagement with Autism Bedfordshire and shall continue to abide by the Autism Bedfordshire IP Policy and the IP Regulations in regard of such rights and continuing obligations.

10.2 Materials, files (in whatever form including electronic, audio, or visual storage formats) and laboratory books that contain records of Autism Bedfordshire owned IP shall be left with the Project Manager or CEO, as respectively appropriate, when employees or other persons bound by the IP Policy leave Autism Bedfordshire's employment, or Autism Bedfordshire, as the case may be.

11. Infringement

11.1 All persons bound by the Autism Bedfordshire IP Policy and Regulations must alert the CEO immediately on becoming aware of a suspected infringement of IP rights being either:

- a) infringement of IP rights owned by Autism Bedfordshire: or
- b) Autism Bedfordshire's infringement of IP rights owned by a third party.

11.2 All persons bound by the Autism Bedfordshire IP Policy and Regulations must comply with Autism Bedfordshire's instructions in relation to any actual or suspected infringement of third party IP rights, in order to minimise the impact and extent of the infringement. Any action taken will be entirely at the discretion of Autism Bedfordshire.

12. Setting up a Business or Company

A start-up or spin-out company or business is a useful vehicle through which to further develop and exploit services or products which result from research, innovation and educational endeavour. For the purposes of the IP Policy, a business should be regarded as a company but may alternatively be established as a partnership or by a sole trader as it is possible to have a tax status as both an employee of Autism Bedfordshire and as a business owner.

A company or business falling under the IP Policy includes one that involves an employee of Autism Bedfordshire or a third party who intends to use the product of work carried out with the benefit of Autism Bedfordshire resources and/or Autism Bedfordshire assets (including but not limited to facilities, resources, assets, materials, funding, staff and staff time, confidential information, IP and IPR, know-how, and intellectual assets).

12.1 Permission to set up a business or incorporate a company under the Autism Bedfordshire IP Policy and Regulations requires the permission of the Board of Trustees on the recommendation of the CEO.

12.2 Permission will not usually be given until a viable business plan, relevant legal agreements and equity positions have been approved by CEO, and in some cases until sources of investment have been identified.

a) Relevant legal agreements may include:

- i) Memorandum & Articles of Association (not needed in the case of a partnership or sole trader);
- ii) Shareholders' agreement (not needed in the case of a partnership or sole trader);
- iii) Licence agreement(s) (for use with a company or business);
- iv) Collaboration agreement with Autism Bedfordshire (for use with a company or business) normally including terms relating to:
 - Research, consultancy, or education services provided by Autism Bedfordshire, and Autism Bedfordshire employees and defining the terms under which Autism Bedfordshire employees may participate in the company's work; and

- Supply of services, defining the terms under which Autism Bedfordshire and the company use each other's resources, staff, premises and equipment and the financial and other terms for this;

v) Deed of partnership (for a partnership);

vi) Service/employment agreements for key employees: where required, these agreements relate to the terms of engagement by the company or business of the CEO and of other non-Autism Bedfordshire key employees and consultants.

12.3 Permission from the CEO and the Board of Trustees is required for any Autism Bedfordshire employee to take a directorship in a company or business. Normally such a position will be non-executive.

12.4 Autism Bedfordshire expects to be a shareholder in spin-out companies which involve Autism Bedfordshire employees, Autism Bedfordshire resources or Autism Bedfordshire assets.

Normally Autism Bedfordshire will take an equal shareholding to the Autism Bedfordshire founder(s). Any subsequent dilution of equity (e.g. due to investors, non-Autism Bedfordshire based company managers, CEO etc) shall normally be pro-rata between Autism Bedfordshire and the Autism Bedfordshire founder(s).

12.5 Autism Bedfordshire will normally transfer its IP and IPR to such companies or businesses in the form of licences (exclusive or non-exclusive).

12.6 The CEO, on behalf of Autism Bedfordshire, will negotiate with stakeholders (including funding bodies, joint owners with Autism Bedfordshire of Intellectual Property and any previous sponsors of work undertaken at or with Autism Bedfordshire) to which the Company/Business wishes to have access. The Autism Bedfordshire founders and founding team may need to assist in this process.

12.7 Staff and/or volunteers are advised to seek their own independent legal and financial advice (including accountancy and tax) in relation to the formation of a company or business or any payment under this policy.

12.8 It is recommended that any such company or business formed takes out insurance to cover a number of factors including but not limited to; public liability insurance, professional indemnity insurance, employer's liability insurance, directors and officers insurance, buildings and contents insurance and product liability insurance, as appropriate.

13. Conflicts of Interest

By engaging in knowledge exchange activities with all the positive benefits for Autism Bedfordshire, or through other activities, employees may find they place themselves in a difficult position with regard to their duties where the outside interest/ engagement may conflict or appear to conflict with the interests of Autism Bedfordshire or with their duties as employees.

Conflicts of Interest also have the potential to bring the name of Autism Bedfordshire and the employee into disrepute where there is a conflict over legal requirements to both Autism Bedfordshire and another organisation (e.g. the fiduciary duties of a company director may conflict with terms of employment by Autism Bedfordshire).

These Regulations are not meant to discourage the many valuable outside activities of Autism Bedfordshire faculty and staff members as the majority of the outside activities and financial interests of faculty and staff members are compatible with their obligations to Autism Bedfordshire.

The requirement to declare and register such interests is designed to benefit both the employee and Autism Bedfordshire from disclosure and discussion of possible problems concerning outside activities and interests.

13.1 A potential conflict of interest will include the following:

- a) conflicts to the mission of Autism Bedfordshire;
- b) conflicts of loyalty or commitment (having contractual relationships with third parties such as being a trustee, having a personal consultancy or being a member of external committees);
- c) financial conflicts (especially relating to financial interests, personal consultancies, having ownership of or being a partner in another organisation);
- d) conflicts between legal obligations as a company director or trustee and duties as an employee of Autism Bedfordshire;
- e) being an employee of Autism Bedfordshire together with being an employee and/or director of another organisation or self-employed, where the roles undertaken in both positions present competing or conflicting interests for the individual concerned.

13.2 Staff members are primarily responsible for determining and disclosing their own possible conflicts of interest by completion of the "REGISTRATION OF POTENTIAL CONFLICT OF INTEREST FORM", and submitting this to the CEO.

13.3 CEO will maintain a register of potential conflicts of interests.

13.4 In the event that the CEO or Board of Trustees believe that the potential conflict of interest needs discussing further they will set up a meeting with the employee, and will advise of any recommendations for action where appropriate.

14. Discretion to assign/licence back IP and IPR

14.1 In the event that Autism Bedfordshire decides that it does not wish to pursue or continue to pursue the protection and/or exploitation of any IP or IPR it may at the discretion of the Board of Trustees assign or licence its rights back to the inventors/creators of such IP or IPR on terms (including the sharing of any future economic benefit from any subsequent exploitation) to be negotiated. This will only generally be considered where there is clear evidence that the IP

and IPR is not related to other interests Autism Bedfordshire may have and in general the terms will confirm that Autism Bedfordshire has a continued right to use such IP and IPR. Any such requests should be made in the first instance to the CEO.

15. Breach of Regulations

15.1 Autism Bedfordshire reserves the right to regard a deliberate breach of the IP Policy or Regulations as a disciplinary matter for Autism Bedfordshire staff and volunteers and will be treated under normal procedures.

15.2 Autism Bedfordshire may, at its discretion, consider all avenues available to it, including legal action, seeking injunction and damages or otherwise, in respect of persons bound by the Autism Bedfordshire IP Policy and Regulations but who act in breach of them.