

Research contracts – an introduction

Transcript of video

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Why are contracts relevant when you are planning your project's research data management?

Well, the research data will be the main element in all research contracts.

Previous research results that a party brings to a research project, often referred to as Background Intellectual Property, and new research results, often referred to as Foreground Intellectual Property or Results, should both be regulated in a contract.

All these parts have value, either commercially, for future research, or both.

Value may be intangible but still prominent.

The research results may be patented and of commercial value.

And there may be intellectual rights to be protected.

There may be costs expressed in the budget and financial management in the research contract.

For example, costs related to obtaining data from registers, costs linked to work effort in the project and license costs for future use.

All of this, both the costs and the different kinds of value the data may hold, should all be taken into consideration, and contracts are therefore vital in establishing who will own and have the right to use the research data in the future.

Being familiar with contract management will be useful after graduation, whether you will be seeking employment within or outside academia.

In all projects you participate in, there will be a contract that lays out the terms and conditions for the project.

Why should you think through the need for contracts at an early stage in your research process?

One thing that characterises research projects is that the outcome of the collaboration is often not known in advance.

This can again create some challenges when drafting a research contract, in deciding upon the intellectual property rights in the contract, and how these rights should be split between the parties.

The kind of data that you produce will determine what types of analyses you can do.

We often have some idea of who is going to work on the project and might generate results, who is

financing the project and who's infrastructure we are planning to use.

All these are important elements in deciding who will own the results at the end of the project.

After the results are created, it may be more difficult to come to an agreement with the other parties about the afterlife of the results, if you have not planned or discussed who should be allowed to reuse the data or results.

Therefore, you should create a common understanding between the parties early in the project – what they can and cannot do with the data, as well as ensure they give researchers appropriate credit.

A well-drafted contract could help you to get all the parties working towards the same goal.

On the other hand, a poorly drafted contract, that might not regulate the rights of research data sufficiently, could ruin an otherwise constructive relationship.

Recently, access to research data has become an important focus point among researchers, and funders may also have policies and strategies on access to, and sharing of, research data in the projects they finance.

Conversely, there might be restrictions on sharing or reusing research data, for example confidentiality clauses in the contract, restrictions in previous research collaboration in using existing research data, or the consent form from the participants contains restrictions.

Some of these issues can sometimes be resolved if addressed early in the process.

If you consider these issues early, you can amend consent forms to be more suitable or negotiate transfer of rights from previous research collaborators.

You should therefore think through the need for contracts already when writing your Data Management Plan.

As a researcher, you should expect to be able to build on the results of your research in further research.

Conversely, industry partners and sponsors may want the rights to the results of the research because they want to license an application that uses the results.

You could say that the research data is the currency of research, which again can be an investment for future funding.

Failure to protect the data accordingly, could mean that the investment, whether public or private, could become worthless.

What types of contracts do you need?

During your research process, you may meet a range of different contracts.

Some contracts are entered into before the research project commences, like a Letter of Intent, Confidentiality Agreements, Material Transfer Agreement or Data Transfer Agreement.

When the research project starts, you will need to have a collaboration agreement that governs the relationship between you and the partners in the project.

This agreement should set out responsibilities, roles and rights of the parties working on a specific research project.

The agreement is often drawn up following a joint award or funding, and the terms of the award will often be reflected in the collaboration agreement.

The collaboration agreement should regulate all aspects of the relationship, including intellectual property rights and dissemination of the project.

You might also come across other types of contracts during this phase, like Visitor's agreements and Studentship agreements, which both govern the rights and obligations for the visitor and the student.

If the ownership and user rights are not fully regulated in the collaboration agreement, it might be necessary to enter into a licensing agreement after the project results are clear, to decide upon ownership and further use of the research results.

For all these types of contracts, there are usually models and templates that can be used.

These templates contain the organisations' preferred terms for specific types of research collaborations.

If the template is developed by a commercial party, the terms and condition will be in favour of that party.

Your university might have their own templates they prefer you to use.

These are often voluntary to use, more flexible and give room for negotiation of specific terms.

Are you a party to the contract?

Normally any types of contracts, even confidentiality agreements, are entered into between the University you belong to and the other party, for example another University or a commercial party.

As a rule of thumb, you do not usually have the authority to accept and sign the contract on the University's behalf.

This will also mean that you as a PhD candidate will not be personally liable for any breach of the agreement.

The person who signs the contract will be the person given the authority to accept the contract terms and conditions on the University's behalf.

This could be the Rector, the Dean or your department leader, depending on the type of contract.

Even though you are not the person who signs the contract, you will normally be involved in both the negotiation and drafting process of the contract.

You are also obligated to perform and deliver according to what has been agreed between

the Parties.

Therefore, it is important that you familiarise yourself with the terms and obligations in the contract, and ensure during the research process that you do not breach the contract obligations.