

What constitutes R&D for the Innovator Founder Visa?

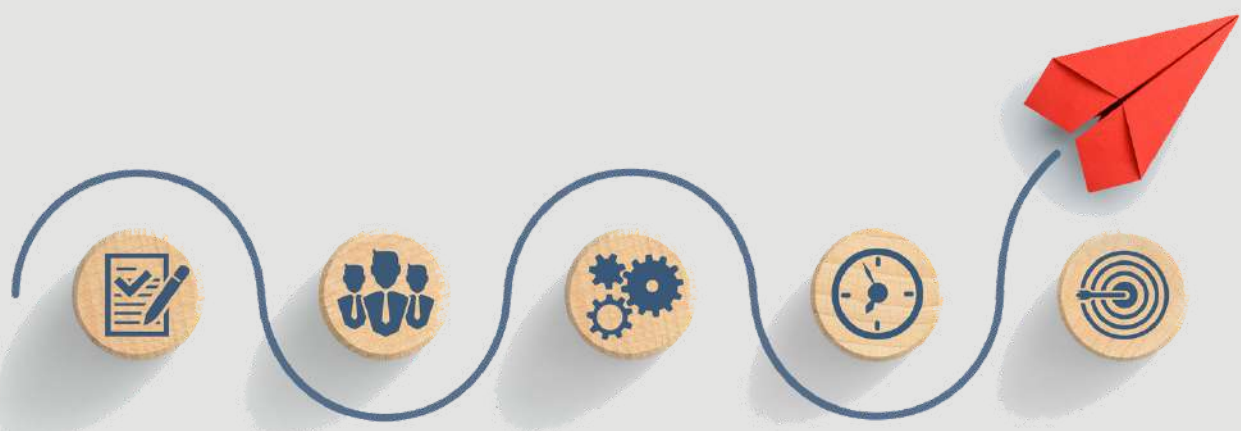
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This guide has 7 sections:

- 01 THE PURPOSE OF R&D**
- 02 THREE QUESTIONS TO ASK YOURSELF**
- 03 R&D DOESN'T NEED TO BE REVOLUTIONARY**
- 04 R&D INVOLVES UNCERTAINTY**
- 05 HOW SHOULD YOU EVIDENCE YOUR R&D**
- 06 HOW DO YOU DEMONSTRATE THE OUTCOME**
- 07 START WITH THE END IN MIND**



Many founders assume that because they are creating something new, they are automatically carrying out research and development (R&D). Unfortunately, that isn't the case.

For the purposes of the Innovator Founder route, research and development is not simply writing software, building a product or improving your own business. It is the process of solving technical or scientific uncertainty where the answer is not already obvious.

A useful way to think about R&D is this:

If a competent professional could solve the problem quickly using their existing knowledge, it probably isn't research and development. If they would genuinely need to investigate, experiment, test ideas and overcome uncertainty, it may well be.



The purpose of Research & Development

The aim of research and development is to create new knowledge. That does not necessarily mean inventing something the world has never seen before.

It may involve:

- creating a genuinely new product
- creating a new process
- creating a new service
- making a significant technical improvement to an existing product
- adapting an existing technology so it works in an entirely new environment
- solving a technical problem that previously had no obvious solution

What matters is not whether the product is commercially new.

What matters is whether genuine technical uncertainty had to be overcome.



Three Questions to Ask Yourself

One of the simplest ways to judge whether your project involved genuine R&D is to ask yourself three questions.

1. Was I trying to solve a genuinely difficult technical problem?

Routine programming, standard engineering and normal product development are unlikely to qualify. The challenge should have required investigation rather than simply applying existing knowledge.

2. Was I seeking a genuine technical advance?

Learning something yourself is not enough. Neither is producing something that is simply new to your own business. The project should seek to advance technical knowledge or capability beyond what is already available.

Most importantly, it also needs to be fundamental to the innovative aspect within your endorsement, and to the success of your business.

3. Would another competent professional already know the answer?

This is perhaps the most useful test. Imagine handing your project to an experienced specialist in your field. If they could immediately explain the solution, there probably wasn't enough technical uncertainty.

If they would need to investigate, experiment, test different approaches and work through the problem before reaching a solution, your work is much more likely to represent genuine research and development.

R&D Doesn't Need to Be Revolutionary

Many founders assume that only world-first inventions qualify - they don't.

Much genuine research and development consists of incremental improvements that solve difficult technical problems.

Examples include:

- improving software performance beyond existing limitations
- developing a more efficient manufacturing process
- adapting an existing technology so it functions within a completely different sector
- overcoming technical constraints that previously limited performance
- doing something in a new way or for a new market that involves changes that bring uncertainty

Often the finished solution appears obvious - that does not mean it was obvious before the work began.



R&D Involves Uncertainty

Research and development always contains uncertainty.

At the beginning of the project you should not know with confidence that your chosen solution will work.

You may need to:

- investigate several possible solutions
- build prototypes
- conduct testing
- analyse failures
- refine your approach
- repeat the process several times

If success was guaranteed from the outset, it is unlikely to represent genuine R&D.



How Should You Evidence Your R&D?

One of the biggest mistakes founders make is trying to recreate three years of research a few months before applying for settlement. Instead, you should document your work as the project progresses.

Think of it as writing a technical project report rather than a marketing document. Your report should explain:

- What technical problem were you trying to solve?
- Why was this technically challenging?
- Why couldn't the problem simply be solved using existing knowledge?
- What research, investigation or experimentation did you undertake?
- What approaches did you test?
- What worked?
- What didn't work?
- How did your thinking evolve?
- What was the final technical outcome?
- What new knowledge or capability did your work create?



Notice that the emphasis is on the technical challenge, not the commercial challenge. That said, user/market feedback could be used to iterate and validate the solution?

These are examples of challenges that are NOT acceptable :

- We wanted to enter a new market
- Customers found it hard to find the right solution
- We wanted to make it easier

Instead, focus on the specific reasons that the problem existed. For example:

- Software packages would not communicate with each other and there was no clear or obvious way to achieve this
- The sugar content was too high, and the only known substitutes included products with allergens
- The product couldn't be made by conventional means to produce the performance characteristics for the required environment

Treat this like you would if you were writing up a science experiment - and expect to be questioned on the fine detail. The stronger your evidence, the easier it becomes to demonstrate that genuine research and development took place.



How Do You Demonstrate the Outcome?

Traditionally, research and development has been evidenced by applying to protect the intellectual property that resulted from the work.

Depending on the nature of your innovation, this might include:

- a patent
- a registered design
- another appropriate form of intellectual property protection

However, the important point is that the protection must relate to the outcome of the research and development. Simply registering your company name or logo as a trademark would not demonstrate significant research and development. There must be a clear relationship between the R&D undertaken and the intellectual property being protected.

Patents are often regarded as the strongest evidence because they usually involve demonstrating technical innovation. However, they are not appropriate for every business, and can be very expensive.

Some innovations cannot easily be patented, while in other cases a business may deliberately choose not to disclose how its innovation works in order to retain it as a trade secret.



Research and Development Reports

Recognising this, the Home Office guidance provides an alternative route in appropriate circumstances.

Where a business has undertaken genuine, significant research and development but formal intellectual property protection is not appropriate, endorsing bodies may instead consider professionally reviewed evidence of the R&D alongside evidence that the innovation has been commercialised.

Typically, this takes the form of an independent report prepared by a recognised research and development or intellectual property specialist.

Rather than protecting the idea itself, the report independently assesses the work undertaken and explains why it represents genuine research and development against the relevant technical criteria.

This approach can be particularly valuable where:

- the innovation is not well suited to patent or design protection;
- the business wishes to retain the innovation as a trade secret; or
- another form of protection would not adequately reflect the technical work undertaken.



Start With the End in Mind

The most successful businesses do not think about research and development when they are approaching settlement.

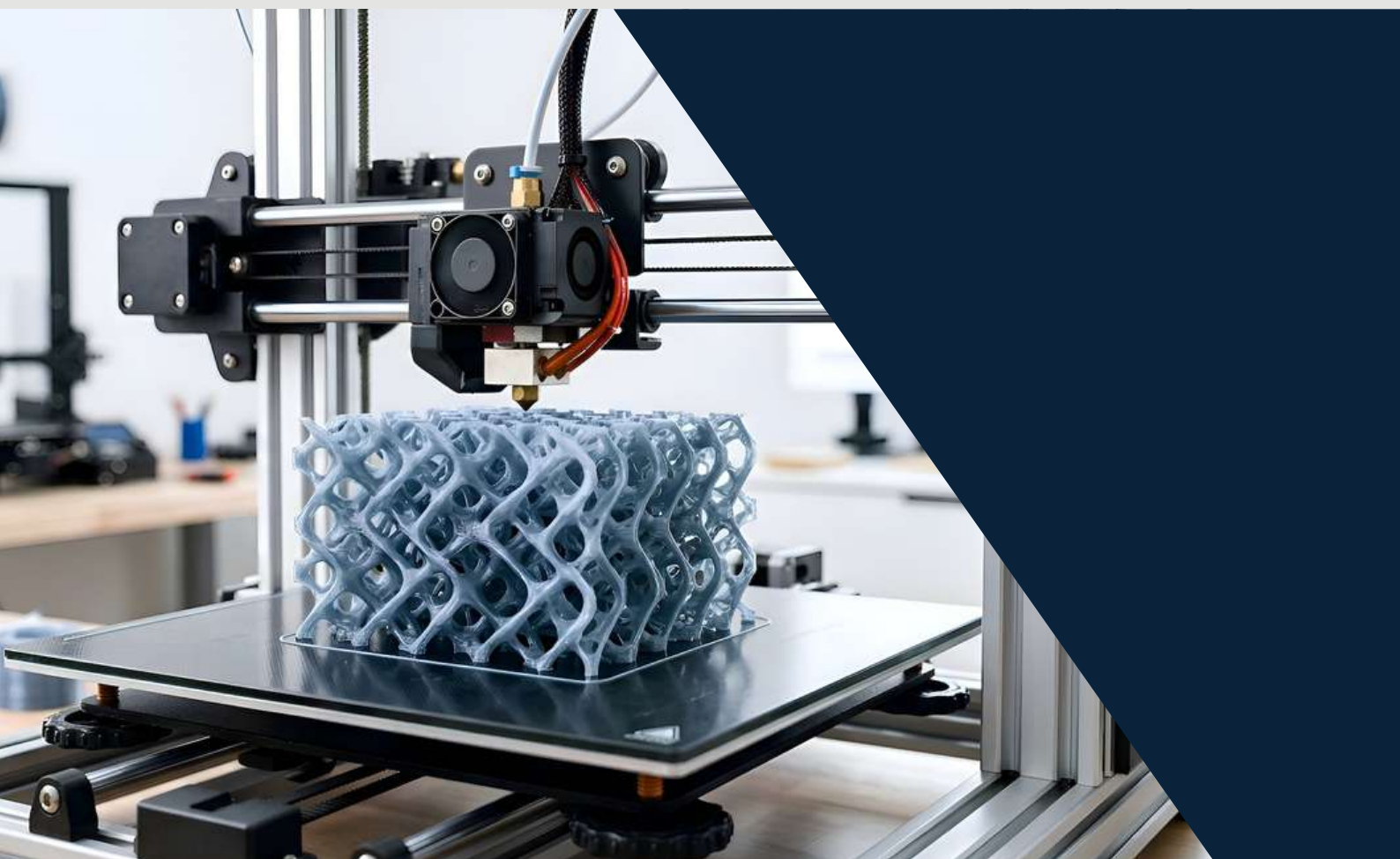
They think about it from the beginning.

- Plan your research.
- Record your evidence.
- Document your technical challenges as they happen.
- Protect your intellectual property where appropriate.

By the time you reach your settlement application, you should not be trying to remember what happened over the previous three years — you should already have a clear record of the research and development journey your business has undertaken.



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