INNOVATOR INTERNATIONAL

What constitutes R&D for the Innovator Founder Visa?

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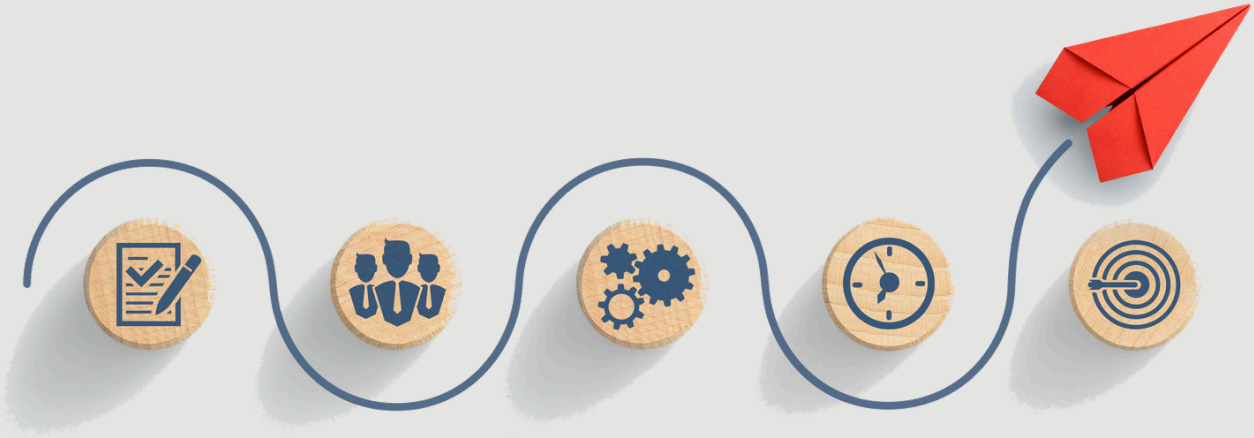
This guide has 7 sections:



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 doesn't qualify as research and development in the context of the Innovator Founder Visa. If they would genuinely need to investigate, experiment, test ideas and overcome uncertainty, then it's more likely to meet the requires criteria.

The purpose of Research & Development

The aim of research and development is to create new knowledge. What matters is not whether your idea is commercially new, but whether genuine scientific or technical uncertainty had to be overcome.

It is important not to confuse science and technology, or to assume that scientific advancement is limited to traditional engineering or work carried out in laboratories. The term "science" is much broader and can encompass a wide range of disciplines, including social science, behavioural science, sports and exercise science, environmental science, food science and agricultural science.

Scientific advancement can therefore involve developing new knowledge, methods or understanding in areas that may, on the surface, have very little to do with what we traditionally think of as science or technology.

Your R&D may involve:

- creating a genuinely new product (or a component within it)
- 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

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 scientific or 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 scientific or 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 scientific or technical knowledge or capability beyond what is already achievable and 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 the relevant field. If they could immediately explain the solution, there probably wasn't enough scientific or 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 scientific or 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
- applying new scientific principles or discoveries to present an advance against the current performance characteristics
- overcoming scientific or 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 scientific or technical project report rather than a marketing document.

Your report should explain:

- What scientific or technical problem were you trying to solve?
- Why was this scientifically or technically (not commercially) 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 scientific or technical outcome?
- What new knowledge or capability did your work create?

Notice that the emphasis is on the scientific or 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 abvious 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?

You must always provide your evidence for the research and development, but the requirements for this settlement criterion also requires that an application is made to protect the outcome.

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 scientific or 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 to providing evidence of an application for protection 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 scientific or 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 scientific or 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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