

INTELLECTUAL PROPERTY RIGHTS

Document Summary

This policy outlines the policy for the effective management of Intellectual Property (IP) and gives brief definition of what intellectual property is. It gives information on who to contact if you have an invention you need protecting or general advice on IP arising as a result of your work.

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POLICY AUTHOR	Research & Development Manager

Important Note:

The Intranet version of this document is the only version that is maintained.

Any printed copies should therefore be viewed as “uncontrolled” and, as such, may not necessarily contain the latest updates and amendments

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1 SCOPE

1.1 This policy applies to all:

- Staff that are full or part time employees of the Trust;
- Staff with Trust contracts of employment whose payroll costs are partially or wholly funded by another party (e.g. medical charity, a government department) unless the contract between the Trust and that party assigns ownership of any IP to that party;
- Staff who have a part-time Trust contract and who are self-employed or otherwise employed part-time. Where IP is generated during this non-Trust employment, which is within the specialist area of the Trust employment, the Trust owns the IP. (Flexibility will be exercised where the non-Trust employment gives a greater opportunity for IP to arise);
- Staff who hold honorary contracts with other organisations, e.g. a university, which recognise the research status of an employee;
- Trainee professionals hosted by the Trust who generate IP during the course of their training;
- Staff who generate IP outside normal working hours and/or away from the place of work, where the IP relates to their area of employment within the Trust;
- Trust staff seconded to another organisation or employees of another organisation hosted by the Trust under contract are subject to the arrangements for

1.2 This policy does not apply to:

- Where the Trust chooses not to exploit IP which belongs to the Trust and which arises from the work of Trust employees, it will, in some cases, assign the IP to the inventor, who may wish to pursue its further development.

2 INTRODUCTION

In September 2002 the Department of Health published a framework and guidance document on the management of IP in the NHS, which superseded the previous policy framework. This framework and guidance sets out how NHS Trusts can contribute to the development of NHS as an innovative organisation by capturing new technologies, ensuring that inventions which can make more income available and appropriately developed and exploited.

Further guidance on accelerating adoption and diffusion of innovation was published by the Department of Health in March 2011 as part of a wider UK strategy for Health Innovation and Life sciences. The strategy sets out the plan to transform UK healthcare by creating a system for innovation that continually scans for new ideas, and takes them through to widespread use.

People working in the NHS continuously generate intellectual property (IP). It arises from both within and outside research and development activities, for example in the delivery of

patient care and in the education and training of employees. The innovation may be a novel treatment, a device, new drug, data, software, training material or a new management system.

Most innovations are best brought into use by using normal knowledge management processes and making them freely available to practitioners. In some cases it is necessary to protect this IP, to ensure it continues to benefit the health of our patients and the wealth of the nation.

3 STATEMENT OF INTENT

This document outlines the Trust commitment to support innovation. It provides a policy for the effective management of IP and gives a brief definition of what IP is, with information on who to contact if you have an invention/idea/innovation that you think may need protecting or if you require general advice on IP arising from your work.

4 DEFINITIONS

Term	Definition
Intellectual Property (IP)	Products of intellectual or creative activity in the form of novel ideas, innovation or Research & Development which can be given legal recognition of ownership through intellectual property rights such as patents, copyright, design rights, trademarks or know-how.
Copyright	Covers written information (such as leaflets, articles, assessment tool and training packs), databases, computer software, dissertations, research papers, academic articles and films/videos/ Copyright is achieved automatically when IP is created. However, it is advisable to attach a statement to discourage infringement, such as: <i>©Cumbria Partnership NHS Foundation Trust. All rights reserved. Not to be reproduced in whole or in part without the permission of the copyright owner.</i>
Patents	<ul style="list-style-type: none"> • Can be used to protect inventions that embody a new and innovative idea that is capable of industrial application (such as devices, processes or methods of operation). • Exclusions include methods of treatment of the human/animal body by surgery or therapy, or methods of diagnosis. • To be potentially patentable, details of an invention must not have been made public anywhere in the world (including journals, the internet, meetings, posters, etc.) prior to the filing date of the patent.
Unregistered Design Rights	In some new products, the novelty lies not in a new idea or principle but in their appearance. Registered Design Rights cover commercial products with a unique appearance
Trade Marks	<ul style="list-style-type: none"> • A sign or symbol that is used to distinguish a product or service from that produced or supplied by another business. It could be the design of a label or the shape of a product's packaging; • Can be used to protect names, logos, slogans, shapes, colours and sounds. • Registering a trade mark protects the owner from competitors trying to use that brand to promote their own products.

	<ul style="list-style-type: none"> Trade marks can be very valuable in keeping a product as a market leader
Know-How	<ul style="list-style-type: none"> Information which may be commercially or technically valuable and which is regarded as secret. It may, for example, include information on clinical techniques, care pathways or training materials. In all cases, the "know-how" will only retain its value if it is managed effectively. All commercialisation partners, business partners and collaborators should be bound by conditions of confidentiality through a Non-Disclosure Agreement. Know-how and confidential information can be bought, sold and licensed like any other form of IP and can persist indefinitely, as long as it remains secret.
Non-Disclosure Agreement (NDA)	This may be a reciprocal agreement whereby confidential information is both disclosed and received. An NDA may be obtained from your Trust nominated person responsible for IP Management (R&D Manager)

5 ROLES AND RESPONSIBILITIES

Role	Responsibility
Chief Executive	Chief Executive Officer has the ultimate responsibility for taking the final decision on disputed IP, taking professional advice if necessary.
Trust Employees	Have an obligation to inform the R&D Manager about identified or potential IP resulting from their clinical and/or research activities and must not, under any circumstances, publish or disclose, sell, assign, licence, give or otherwise trade IP without the agreement of the Trust.
R&D Manager	<ul style="list-style-type: none"> Facilitating the setting up of appropriate collaborative research agreements with research partners Advice and facilitation of Non-Disclosure Agreements (NDA) Managing the strategy for protection and commercialisation of new products Facilitating discussions regarding revenue share on project by project basis Obtaining input from legal advisors, patent attorneys and Trust Board as required.

6 INTELLECTUAL PROPERTY

The law around IP protection is complicated and you should contact your Trust R&D Manager, who is the nominated person responsible for IP Management locally, at the earliest opportunity to discuss more detailed information on IP protection.

	Do not reveal your invention in any way to any third party (e.g. friends, family, associates, colleagues or companies) before seeking advice. Disclosure of an idea, even by word of mouth, could seriously limit its value to the employee and the Trust.
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6.1 Ownership of IP

Ownership of IP rests with the Trust employing the person(s) who generated it. First ownership of any IP generated will be decided in accordance with the Patents Act 1977 and any other relevant legislation.

6.2 Collaborative Projects

If research is conducted by an employee in partnership with another organisation, a formal agreement clarifying the ownership (or sharing) of any IP generated is required. The Trust R&D Manager will have responsibility for developing IP sharing agreements with collaborating institutions.

6.3 Disputes of Ownership

If the ownership of IP is disputed, dated written records relating to the IP in question will be assessed to establish the inventor(s) and their proportionate contribution. If such material is not available, the Chief Executive of the Trust will make a final decision, and professional advice will be taken if necessary.

6.4 Protection of IP

The Trust will take appropriate steps to protect IP including through registrations.

6.5 Infringements of IP

Members of staff will take appropriate steps to avoid infringement of third party IP and notify the R&D Manager if they do become aware of any potential infringements.

7 EXPLOITATION OF IP

7.1 IP audits

Audits will be periodically carried out by the Trust. This process is necessary to identify potential IP arising from R&D and other activities. Auditing is essential to ensure the correct action is taken to protect any IP that may later be exploited.

7.2 Decisions on exploitation

It is the role of the R&D Department, in consultation with the inventor and other specialists, to decide on the potential for an idea/invention to be exploited. In strong cases, the information reported should effectively demonstrate the potential market and the likelihood of success of the venture.

7.3 Contract negotiations

Any IP that is licensed, sold or otherwise transferred to another organisation will be negotiated in the best interests of the Trust by professional advisers.

7.4 Revenue-sharing with inventors

The Trust encourages full participation of employees in the creation and potential exploitation of IP. Policy is to reward staff members who have contributed substantially to the generation of IP which subsequently provides revenue through commercialisation. Staff who have developed the intellectual property should have a share in any benefits e.g. through a royalty income or one off payment. The amount of this payment will be determined by the Trust at its discretion. Where more than one inventor is involved, the distribution of rewards will be decided based upon principles of percentage of creative contribution.

The net benefit to the Trust will be allocated in a proportion that is agreed between the inventor, contributing Trust departments and the Trust (after deductions of any costs incurred in connection with protection and commercialisation).

8 PUBLICATIONS

It is the Trust's policy to actively encourage employees to publish their work and the Trust will not normally object to an employee's right to be named as an author of copyright material. *However*, if IP is to be commercialised, all work needs to be kept confidential until it is correctly protected.

Advice should be sought from the R&D Manager before publicly disclosing any work.

9 CONFIDENTIALITY

Any IP must not be disclosed (including by way of presentation of papers or posters at conferences, publication of abstracts or chapters in books and any other verbal or written communication) to anyone until IP protection has been obtained. IP cannot normally be protected (especially in the case of filing patents) once prior disclosure has occurred, no matter how informal.

10 RECORD KEEPING

It is important for staff working on projects which generate IP to keep written, dated records of their activities and results. This is especially important for patent application purposes in the US, since the US has a policy of "first to invent" rather than the "first to file" rule which is applicable in the UK.



When exploiting IP it is imperative that all correspondence, including emails, telephone conversations and meetings are logged to provide a detailed account of any discussions relating to the IP. This is in accordance with clinical governance, research governance and good clinical practice guidelines for R&D.

The Trust nominated person responsible for IP Management is also responsible for maintaining a register of all the IP owned by the Trust, including the date and time it was reported to the R&D Office. It is also their responsibility to keep safe any important original documents relating to IP, such as confidentiality disclosure agreements. It is advisable that key members of staff concerned should also retain copies of these documents.

11 MONITORING COMPLIANCE WITH THIS POLICY

The table below outlines the Trusts' monitoring arrangements for this policy/document. The Trust reserves the right to commission additional work or change the monitoring arrangements to meet organisational needs.

Aspect of compliance or effectiveness being monitored	Monitoring method	Individual responsible for the monitoring	Frequency of the monitoring activity	Group / committee which will receive the findings / monitoring report	Group / committee / individual responsible for ensuring that the actions are completed

Trust IP Audit of policy compliance	Audit	R&D Manager	Annually	Trust-wide Clinical Governance Group	Trust-wide Clinical Governance Group
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