



Intellectual Property Policy

This procedural document supersedes: CORP/COMM 26 v.1 – Intellectual Property Policy.



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Target audience:	All staff

Amendment Form

Please record brief details of the changes made alongside the next version number. If the procedural document has been reviewed **without change**, this information will still need to be recorded although the version number will remain the same.

Version	Date Issued	Brief Summary of Changes	Author
Version 2	29 October 2018	<ul style="list-style-type: none"> • Administrative changes to Trust name and removal of Care Group references 	Amy Bell
Version 1	4 December 2014	<ul style="list-style-type: none"> • This is a new procedural document, please read in full 	Amy Bell

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1. INTRODUCTION

Doncaster & Bassetlaw Teaching Hospitals NHS Foundation Trust encourages the creation of intellectual property (IP) in terms of service improvement and in relation to financial generation. The Trust is committed to ensuring that innovations (including improvements in working practices, devices and other materials) are circulated appropriately for the benefit of both patients and members of staff. This process may include publishing the IP in the public domain, or exploiting it through commercial channels in order to potentially acquire monetary gain. In order to ensure the benefits of these innovations are maximised, this policy gives details regarding the ownership and required protection in relation to IP.

This policy has the following objectives:

- To ensure that all IP is identified and appropriately protected
- To ensure all IP has ownership established
- To confirm the arrangements regarding IP, including those involving Medipex Ltd.
- To ensure that, where appropriate, IP is fully exploited in terms of patient and staff benefit
- To ensure that, where applicable, all monetary gains are divided appropriately between the Trust and the Inventor

2. DEFINITION

Intellectual Property (IP) - The novel or previously described tangible output of intellectual activity and includes those novel ideas or intentions arising from an Inventors work.

Intellectual Property Rights (IPR) - The legal rights that enable the owner of the IP to control or prevent unauthorised use of this IP and includes copyright, design rights (registered and unregistered), trademarks and patents. IPR can be sold or licensed like any other form of property and therefore it is important that IPR is properly managed.

The following list gives an indication of what subject matter is covered by the different types of IPR:

- Patents: New technical concepts, inventions including some computer software
- Copyright: Text, graphics, computer software, data compilations, art, music
- Design Protection: Form and appearance, decoration
- Trademarks: Brands (product or service), image and reputation
- Software and Databases: Databases

(Definition taken from Medipex Ltd.)

3. OWNERSHIP OF INTELLECTUAL PROPERTY

Doncaster & Bassetlaw Teaching Hospitals NHS Foundation Trust is committed to ensuring a balance between the legitimate needs of the Trust to protect its interests and the provision of a creative working environment for staff members. In order to maintain this balance, and in line with the NHS strategy for exploitation and commercialisation of IP, the Trust employs the services of Medipex Ltd. (the local NHS Innovation Hub) to exploit IP in conjunction with, and on behalf of, the Trust. Through this contract, if a Trust employee wishes Medipex Ltd. to advise or undertake commercialisation of IP for which they are the Inventor, it is done on the understanding that Medipex Ltd. is acting on behalf of Trust and in line with the Trust policy.

As a general rule, IP created by an individual during the course of his/her employment, or training arising out of his/her employment, belongs to their employer (the Trust) and any benefits accrued from such work will belong to the Trust, who will split them with the Inventor as outlined in Section 6 of this policy: 'Management of Intellectual Property and Equity Division'. In certain circumstances, however, the Trust may decide not to take up its rights to the IP, in which case the IP rights of ownership may be assigned to the employee; in these cases Medipex Ltd. may, with the explicit agreement of the Trust, continue to advise the Inventor.

4. PROTECTION OF INTELLECTUAL PROPERTY

IP can be protected by legal rights such as Patents, Copyright etc. Acquiring such rights can be costly and is only the initial step. Little or no benefit will accrue from protecting the IP unless they are then developed and commercialised. The NHS has set up the IP Hubs to advise Trust on whether or not the IP has commercial potential and how best to take it forward.

5. EXPLOITATION OF INTELLECTUAL PROPERTY

Exploitation of IP involves both costs and risks. Consequently, it will by no means always be appropriate or cost effective to seek to protect and exploit potential IP. In cases where patenting or licensing may be the most appropriate option, Medipex Ltd. will undertake the negotiations on behalf of the Inventor and the Trust. In some instances the IP may be a case of "best practice" which could be shared with other Trusts and the network of IP Hubs may be used to disseminate these innovations, either through their own network or via other NHS bodies.

Exploitation of the Trust IP will be the responsibility of the relevant Division and Corporate Functions, in conjunction with the Research and Development (R&D) Department, who will retain management responsibility for IP generated by Trust staff. All developments of IP should be channelled through Medipex Ltd. who have a contract to manage the Trust IP rights. They will assess the potential of the IP and decide whether or not it is worth protecting and exploiting.

6. MANAGEMENT OF INTELLECTUAL PROPERTY AND EQUITY DIVISION

If the Trust chooses to protect IP rights then it is considered appropriate that members of staff who have developed the IP should have a share in any benefits e.g. through a royalty income.

The net benefits to the Trust (after deductions of the costs due to Medipex Ltd. associated with protection and commercialisation) will be split as follows:

Net Income	Percentage
First £50 000	%
Inventor	50.0
Directorate	25.0
R&D Department	20.0
Corporate Services	5.0
Next £200 000	%
Inventor	33.3
Directorate	33.3
R&D Department	26.7
Corporate Services	6.7
Next £250 000	%
Inventor	25.0
Directorate	37.5
R&D Department	30.0
Corporate Services	7.5

If IP arose from research which was funded by an external, non-NHS or University agency, whose policy on the commercialisation of IP was different from the Trust and which formed part of the research contract, then the distribution of financial benefit would be negotiated by Medipex Ltd. on behalf of the Trust with the funding body.

If the Trust does not wish to own a certain piece of IP then it may be assigned to the member of staff who would then assume ownership. The member of staff would then take up responsibility for protection and commercialisation. In this case, the Trust may wish to retain a residual share of the financial benefits, for example 20%, with the actual figure to be decided case by case.

Under the terms of which the Trust has engaged Medipex Ltd. to lead or assist with the exploitation of IP, an annual membership will be levied on the Trust, and a proportion of any income generated will be retained by Medipex Ltd.

7. GUIDANCE FOR STAFF

If an employee develops an idea or concept, which may have commercial potential, they must report this to their Director or Manager, who should contact the R&D Department at the earliest opportunity and, in any event, before disclosure of the idea to any party outside the Trust, either orally or in writing. Examples include the development of new techniques, devices, software, pharmaceutical products, formulae and writings.

It is often difficult to protect IP and advice is needed at the earliest stages. If an employee thinks they have an item of IP there are a few simple guidelines which will help maximise the chances of being able to protect it:

- Keep it secret and resist pressure to announce or publish details until the matter has been discussed with either the R&D Department or Medipex Ltd. Public disclosure (other than under explicit terms of confidentiality) will invalidate any subsequent patent application and severely diminish both potential commercial value and benefits accruing to the Trust and the originator. Disclosure without entering into an undertaking of confidentiality may prejudice negotiations of commercial arrangements with a company.
- Notify the relevant Director or Manager and also the Director of R&D in order to discuss how to take the IP forward.
- Confidentiality Agreements must be used whenever information that is considered to have commercial potential and is not already in the public domain is shared with another party. A confidentiality agreement is a legal document, binding the signed parties to hold in confidence any information pertaining to the field described within the agreement. The rights of the Trust (and by extension the interest of the Inventor) are thus protected. These can be obtained from Medipex Ltd. (see Section 12 of this policy: 'Further details and technical guidance for contact details').
- Avoid giving away or selling samples.
- Do not involve external organisations or companies in testing or prototyping without a written agreement together with confidentiality agreement being in place. These agreements must be reviewed by the R&D Department with input from Medipex Ltd. prior to signature.
- Do not sign any contracts or agreements until you have contacted the R&D Department and they have reviewed and confirmed the appropriateness of the contract/agreement being entered into.

8. JOINT EMPLOYEES

Where employees have joint contracts with other organisations, for example universities, a partnership agreement on IP issues will need to be developed with each such

organisation. Similarly these partnership agreements will need to cover situations in which the NHS would be considered a secondary employer, or where more than one member of staff is involved.

In general, the organisation with the main contract will be responsible for protecting the property rights and for any commercialisation. Agreement will need to be reached as to the way the costs and benefits will be apportioned between the two organisations. These working arrangements may differ with each particular organisation.

Partnership agreements will be appended to this policy as and when they are developed and will be deemed to form part of this policy.

9. MONITORING AND AUDIT

The R&D Department, with the assistance of Medipex Ltd. will, from time to time, arrange for an audit of Trust activity to identify IP of potential commercial value. Staff members are required to co-operate fully with this activity.

An IP register will be maintained centrally within the R&D Department and this will be made available to the auditors, as required.

10. DISPUTES AND POLICY BREACHES

In the event of any dispute about the interpretation of this policy, Trust employees have recourse to the Trust grievance procedure to resolve the dispute.

Breaches of this policy and misuse of IP will be investigated and may result in the matter being treated as a disciplinary offence under the Trust's disciplinary procedure and/or for referral to the Local Counter Fraud Specialist (LCFS).

11. TRAINING AND SUPPORT

The training requirements of staff will be identified through a training needs analysis. Role specific educations will be delivered by the service lead (R&D).

12. FURTHER DETAILS AND TECHNICAL GUIDANCE

The details for Medipex Ltd. can be found on the Research and Development (R&D) intranet page, or by contacting the R&D Department.

13. EQUALITY IMPACT ASSESSMENT

An Equality Impact Assessment (EIA) has been conducted on this procedural document in line with the principles of the Equality Analysis Policy (CORP/EMP 27) and the Fair Treatment For All Policy (CORP/EMP 4).

The purpose of the EIA is to minimise and if possible remove any disproportionate impact on employees on the grounds of race, sex, disability, age, sexual orientation or religious belief. No detriment was identified. (See Appendix 1).

14. ASSOCIATED TRUST PROCEDURAL DOCUMENTS

CORP/EMP 2 Disciplinary Procedure (including employee copy and Managers Guide)

CORP/EMP 4 – Fair Treatment for All Policy

CORP/EMP 27 – Equality Analysis Policy

CORP/FIN 1 (D) Fraud, Bribery and Corruption Policy & Response Plan

CORP/FIN 4 Standards of Business Conduct and Employee Declarations of Interest Policy

15. REFERENCES

- [Copyright, Designs and Patents Act 1988](#)
- [Trade Marks Act 1994](#)
- The Fraud Act 2006
- The Bribery Act 2010

APPENDIX 1 - EQUALITY IMPACT ASSESSMENT PART 1 INITIAL SCREENING

Service/Function/Policy/Project/Strategy	Division	Assessor (s)	New or Existing Service or Policy?	Date of Assessment
Intellectual Property Policy	Research and Development (R&D)	Amy Bell, Clinical Research Development Manager	Existing	10/10/2018
1) Who is responsible for this policy? Name of CSU/Directorate: Research and Development (R&D)				
2) Describe the purpose of the service / function / policy / project/ strategy? Who is it intended to benefit? What are the intended outcomes? The policy is being introduced to ensure there is clarity on the arrangements for intellectual property (IP) ownership arising from innovations developed by staff, during the course of their employment with the Trust.				
3) Are there any associated objectives? Legislation, targets national expectation, standards This policy has the following objectives: <ul style="list-style-type: none"> To ensure that all IP is identified and appropriately protected To ensure all IP has ownership established To confirm the arrangements regarding IP, including those involving Medipex Ltd. To ensure that, where appropriate, IP is fully exploited in terms of patient and staff benefit To ensure that, where applicable, all monetary gains are divided appropriately between the Trust and the Inventor 				
4) What factors contribute or detract from achieving intended outcomes? – R&D Strategy and Trust commitment in respect to encouraging innovative thought and practice, contribute to achieving outcomes detailed in policy.				
5) Does the policy have an impact in terms of age, race, disability, gender, gender reassignment, sexual orientation, marriage/civil partnership, maternity/pregnancy and religion/belief? Details: [see Equality Impact Assessment Guidance] - NO <ul style="list-style-type: none"> If yes, please describe current or planned activities to address the impact [e.g. Monitoring, consultation] – N/A 				
6) Is there any scope for new measures which would promote equality? [any actions to be taken] N/A - Trust wide policy with no specific impact on particular groups, and applies across the board to all staff equally				
7) Are any of the following groups adversely affected by the policy?				
Protected Characteristics	Affected?	Impact		
a) Age	No			
b) Disability	No			
c) Gender	No			
d) Gender Reassignment	No			

e) Marriage/Civil Partnership	No	
f) Maternity/Pregnancy	No	
g) Race	No	
h) Religion/Belief	No	
i) Sexual Orientation	No	

8) Provide the Equality Rating of the service / function / policy / project / strategy – tick (✓) outcome box

Outcome 1 ✓	Outcome 2	Outcome 3	Outcome 4
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**If you have rated the policy as having an outcome of 2, 3 or 4, it is necessary to carry out a detailed assessment and complete a Detailed Equality Analysis form in Appendix 4*

Date for next review: November 2021

Checked by: Emma Adams, Research Management and Governance Manager

Date: 10/10/2018