



London Ambulance Service **NHS**
NHS Trust

Intellectual Property Policy

DOCUMENT PROFILE and CONTROL

Purpose of the document: The objective of this policy is to provide a framework and programme for the development of IP management for the Trust to assert its rights over IP owned by the LAS.

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Links to Related documents or references providing additional information

Ref. No.	Title	Version
	The NHS as an Innovative Organisation A Framework and Guidance on the Management of Intellectual Property in the NHS, DoH, September 2002. http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4002660	
	'The NHS Plan 2000' A Plan for Investment A Plan for Reform http://www.nhs.uk/nationalplan/nhsplan.pdf	
	NHS Innovations Management Training: Unlock Your Potential, 22 nd February 2007 'NHS Innovations London 2006-7' http://www.nhsinnovationslondon.com	
	A Framework and Guidance on the Management of Intellectual Property in the NHS' http://www.nhsinnovationslondon.com	
	'Health and Social Care Act 2001' 2001 Chapter 15 http://www.legislation.hmso.gov.uk/acts/acts2001/20010015.htm	
	'Research Governance Framework for Health and Social Care' http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4108962	
	'Handling Innovation and other Intellectual Property': A Guide for NHS Researchers http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4008102	
	The Management of Intellectual Property and Related Matters: An Introductory Handbook for R&D Managers and Advisors in NHS Trusts and Independent Providers of NHS Services' http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4003101	

Document Status: This is a controlled record as are the document(s) to which it relates. Whilst all or any part of it may be printed, the electronic version maintained in P&P-File remains the controlled master copy. Any printed copies are not controlled nor substantive.

Introduction

Intellectual Property (IP) is the generic term for a diverse range of rights including patents, copyright, trade marks, design rights and know how which are capable of being owned. IP allows people to own their own creativity and innovation in the same way they can own physical property. The owner of IP can control and be rewarded for its use, which encourages further innovation for the benefit of society. IP can be bought and sold as any other property. However, it requires legal protection to allow this process to occur effectively. In certain situations it is not possible to protect IP and gain IP rights unless they have been applied for and granted, but some IP protection, such as copyright arises automatically, without any registration, as soon as there is a record in some form of what has been created. The main forms of IP are defined in Appendix 1.

IP rights are a tradable commodity: people can transfer ownership and benefits relating to the IP. IP is of commercial value to its owner and it is important that IP generating organisations such as the London Ambulance Service NHS Trust (LAS) properly provide for its regulation and protection. Protection of IP gives legal recognition to the ownership of IP and enables the owner the right to exert monopoly control over the exploitation of their property, usually for commercial gain. IP protection also gives the owner the right to stop others exploiting their property.

'The NHS Plan 2000' commits the NHS to ensuring that innovations are identified and developed in the interests of patients and society. In line with this, the Department of Health's 'Framework and Guidance on the Management of Intellectual Property in the NHS' and the 'Health and Social Care Act 2001' encourage NHS Trusts to capture innovations that can lead to new or improved products, interventions and services and to develop as innovative organisations. Additionally, the Department of Health's 'Research Governance Framework for Health and Social Care' highlights the protection and exploitation of intellectual property as a key responsibility of an organisation undertaking high quality Research & Development (R&D). Speaking at the NHS IP Conference in 2004, Lord Warner declared "*The NHS is full of people with bright ideas, ideas that need to be captured, protected, and developed. But our systems and approaches for doing this need improvement.*"

The Trust does carry out activities that may create IP, such as:

- Input into the design of vehicles and equipment
- Computer software development
- Development of training materials
- Treatment guidelines
- Clinical audit and research projects

Objective:

The objective of this policy is to provide a framework and programme for the development of IP management for the Trust to assert its rights over IP owned by the LAS.

1.0 Establishing and Safeguarding Ownership

- 1.1 In accordance with UK law, IP generated by Trust employees normally belongs to the Trust so long as the IP is generated in the course of the employee's normal, specified or assigned duties; subject to any legal agreements that override the above. It is the intention of the Trust to include suitable provisions in employment or other contracts to this effect.

The DH guidelines for revenue sharing are as follows:

Net Revenue £	Trust Share %	Inventor Share %
0 – 5000	85	15
5,000 – 25,000	75	25
25,000 – 100,000	50	50
100,000 +	70	30

This varies from Trust.

- 1.2 For IP generated through collaborative development, the Trust will seek to establish a share of IP ownership with other parties or other benefits, such as royalties or royalty payments.
- 1.3 For IP generated by personnel not employed by the Trust, but where there is input by the Trust leading to the generation of the IP, the Trust will seek to establish IP ownership or a share of IP ownership with other parties or other benefits, such as royalties or royalty payments.
- 1.4 Where the Trust is seeking to establish a share of IP ownership (or royalties or royalty payments) with other parties, this will be by way of a formally documented agreement between the relevant parties.

2.0 Exploiting IP

- 2.1 The Trust will follow government guidelines, in particular, 'A framework and guidance on the management of intellectual property in the NHS' and the speech by Lord Warner to the NHS IP Conference in 2004, to identify and manage, develop and exploit IP in a cost-effective way to ensure the NHS and LAS gains a share of the profits from the commercial exploitation of IP and acts in accordance with applicable UK laws.

- 2.2 The Trust will engage the services and assistance of the London NHS Innovation London (NHSIL), who provides advice and financial assistance towards the protection of IP generated within the NHS. The NHSIL identifies and commercialises viable patient centred innovations generated by NHS employees.

There are currently nine Innovation Hubs around London. The title “hub” derives from the way in which NHSI acts as a central point for the liaison between inventors, trust R&D managers and IP leads and commercial companies. These Hubs control the budget for patent protection, market research and business plan development (in London these are funded by the Department of Health, London Development Agency and the Office of Science and Technology).

3.0 Policy Implementation

- 3.1 The Director of Finance will be responsible for ensuring that the Trust:

- Is an established member of the London NHS Innovation London Hub
- Develops a prioritised programme with the assistance of the London Innovation Hub for identifying, protecting, and commercialising the Trust’s IP. The programme will include developing:-
 - awareness raising and training on IP issues for the Trust’s staff;
 - procedures to review when and whether IP is involved or not. Initially the priority will be to review the contracts for Information Management and Technology services, collaboration and input into the design of vehicles and equipment, research and development projects, and education and training courses.
- Guidelines for assessing how the benefits of IP will be retained or distributed.

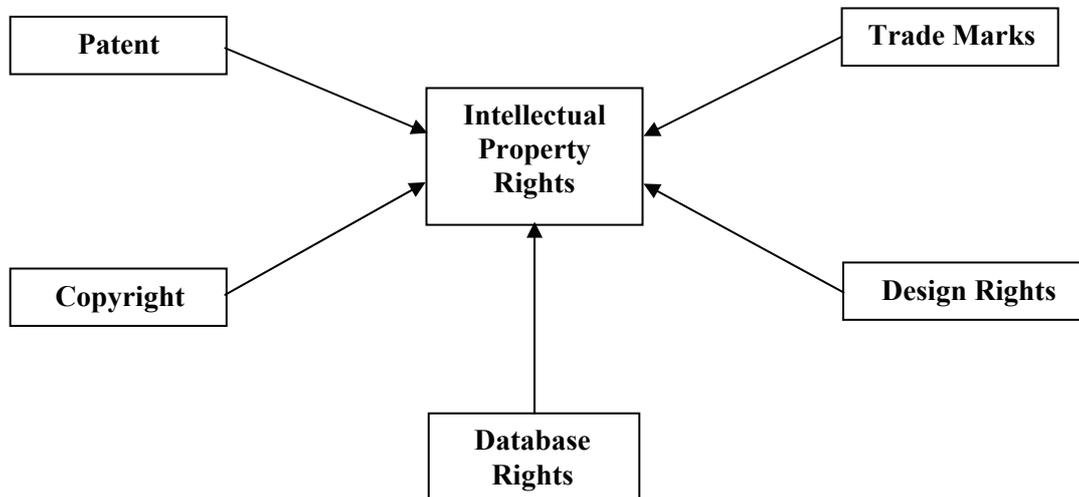
- 3.2 The Director of Finance will provide an annual report to the Trust Board on the progress with implementing the IP policy.

- 3.3 The Director of Finance will be supported and assisted by the Director of Human Resources and Organisation Development in the review of contracts with employees, and others engaged as independent contractors etc, who are not employees of the Trust, and ensuring that the model employment conditions on the ownership of IP and confidentiality are adopted.

- 3.4 The Trust will engage internal audit to monitor the level of compliance with the IP policy.

IMPLEMENTATION PLAN	
Intended Audience	For all LAS staff
Dissemination	Available to all staff on the Pulse
Communications	Revised policy to be announced in the RIB and a link provided to the document
Training	
Monitoring	

Types of Intellectual Property Rights



1. PATENT

A patent gives an inventor the right to stop others from making, using or selling an invention without the permission of the inventor. This right is provided by the state and lasts for 20 years from the date of filing to the governing body (in UK). This can be extended for up to 5 years.

The entitlement of the patent will run from the moment the invention rather than the moment of filing for a patent. Therefore documented evidence is necessary.

However, a patent can only be granted in respect of inventions which meet certain conditions, including being “novel”, having an inventive step and capable of “industrial application”. i.e. “a product or a process”.

2. TRADE MARKS

A trade mark is any sign/symbol which is directly associable with a product or service and can distinguish the goods or services of an individual or organisation from those of another. A “sign” includes words, logos, slogans and three-dimensional shapes. To be registrable, a sign must meet certain conditions, including being capable of being represented graphically, i.e. in words and/or pictures.

- TM indicates that a company claims an unregistered trademark would require legal action to be enforced.
- [®] indicates that a company has registered their trademark and infringements can be prosecuted in a court of law

3. © COPYRIGHT

Copyright arises in certain original works, including literature, computer software, art and music and allows the owner of the copyright to prevent others exploiting that work without the permission of the copyright owner. Copyright protection does not depend on registration; it arises automatically as soon as the work is created.

The creator of a copyright work also has “moral rights” including the rights to be identified as the creator of the work and to object to any distortion of the work.

There are exceptions, however, including research, private study and reviews.

4. DESIGN RIGHTS

Design rights are to protect the general appearance, shape and colour of the whole or part of a product and its features. Designs can be protected by registered for a term of 5 years and renewable up to 25 years or unregistered design rights for a 10 year period. This generally allows the owner of those rights, to stop others from making, using or selling a product to which the design has been applied, or in which it has been incorporated, without the design right owner’s permission.

5. DATABASE RIGHTS

A database, in this case, is defined as “any data arranged in a systematic way that are individually accessible, electronically or otherwise.” e.g. clinical trial data. These rights protect the extraction of valuable database contents, which is available whether database contents are copyright protected or not.

6. OTHER ‘IP’ RIGHTS

Trade secrets and other forms of confidential information are also usually considered to be forms of Intellectual Property as they are other forms of intangible property which are protected by legal right.