

Protecting our ideas A Guide to Intellectual Property



A guide to Intellectual Property and how it affects your work with Health Education England in Yorkshire and the Humber

What is Intellectual Property?

Intellectual property (IP) refers to creations of the mind, such as: inventions, literary and artistic works, designs and symbols and names and images used in commerce. Just like any other form of property, IP can be developed, bought and sold, traded or licensed to other individuals for development and usage. However in order to go through these processes IP must be properly protected in order to prevent another entity from using it without due compensation or acknowledgement.

Examples of IP in ideas or materials that you may generate as an NHS employee are: new medical devices, educational materials (whether printed or digital), software, toolkits, diagnostic tests, data sets, databases, proforma, outcome measures, websites, diagrams and images.

Who owns Intellectual Property created in the workplace?

As a general rule, IP created by any person during the course of their employment belongs to the employer and not to the individual that creates it; in the case of NHS employees the NHS Trust in which they are employed is usually the legal owner. However, in some circumstances, another organisation such as Health Education England across Yorkshire and the Humber (HEE YH) may contribute towards the cost of a Trust employee's time and in return for the funding may mandate that they own, or have rights to, any IP generated utilising those funds. HEE YH is putting agreements in place directly with regional Trusts regarding ownership and dissemination of IP in such cases.

The NHS is committed to sharing the proceeds from commercial exploitation of any IP with the employee that generates it and these terms can be found in the IP policy of the relevant organisation. Many NHS organisations in the region, including Trusts and HEE YH, use Medipex Ltd. (www.medipex.co.uk) to help with protection and exploitation of NHS-derived IP. Medipex Ltd. can provide expert advice and support on a case-by-case basis to maximise the potential of NHS-derived IP.

What types of IP protection exist?

Intellectual Property	IP Right	How to protect
New technical concepts, methods & inventions including some computer software	Patents	Register with the UK IPO, must be kept secret (not disclosed to the public) and capable of industrial application.
Know-how & trade secrets (how to accomplish something), often tacit knowledge	Law of Contract	Keep confidential through not disclosing to anyone or using appropriate legal agreements if you do
Form, appearance, decoration	Design Right	3D designs automatically protected through Unregistered Design Rights <u>but</u> greater protection if registered. 2D designs must be registered.
Text, graphics, computer software, art, music	Copyright	Automatic right, no need to register. Include copyright statement: "Copyright © Employer Organisation, Year"
Data compilation, database <i>(where substantial investment (time/money) was made in obtaining, verifying or presenting the data)</i>	Copyright, Database Right	Automatic right, no need to register. Include copyright statement: "Copyright © Employer Organisation, Year"
Brands (product or service), image and reputation	Trade mark	Can be used unregistered (mark with "TM") or registered (mark with "®" once granted). Must not be too similar to an existing mark in the same field

Further information can be obtained from:

<http://www.medipex.co.uk/services/free-information-resources/intellectual-property/>

What should I do if I think I will create, or have created, IP?

The production of new and innovative IP is commonplace within the NHS due to its large, specialised and diverse workforce. For employees of HEE YH, and other NHS personnel that have at least a portion of their salary paid by HEE YH, this is most likely to be in the form of educational materials that may have wider application and value outside of the organisation in which it was created. In order to capture the value of this IP and to determine the best method of dissemination it is essential that any potential new products are reviewed by IP experts.

Contact Medipex Ltd. in the first instance (enquiries@medipex.co.uk), who can quickly assess your idea and signpost you to the relevant person(s) within your Trust or HEE YH who can help you manage the created IP. Please include a brief description of your idea/creation, what problem does it solve, who it could be used by and whether you have received any funding from HEE YH.

Who are Medipex Ltd?

Medipex Ltd., a not-for-profit company established in 2002, is the NHS Innovation Hub for Yorkshire and the Humber. They provide assistance and guidance for NHS organisations, universities and companies either through a membership services scheme or through funding for discrete pieces of work. This assistance spans from the initial appraisal of the idea/concept all the way through to production of a commercial product either in conjunction with a partner company or by setting up a dedicated spin-out company.

Medipex can also provide detailed market research reports, advise on clinical trials and regulatory affairs where appropriate and can assess IP landscapes in order to make recommendations to the IP owners on the best way to protect and exploit their ideas and materials.

Frequently Asked Questions:

I plan to develop IP with an independent contractor, what should I do?

It is essential that NHS IP rights in any materials produced or delivered by a third party are protected using appropriate agreements (ideally put in place before any work commences). These agreements should state, as a minimum, the agreed price and timeframe, and that any IP generated will belong to the contracting NHS organisation. That NHS organisation should also have full rights to use, modify and disseminate the materials (including for commercial gain) and the contractors should be obliged to keep any novel ideas or materials confidential. Contact Medipex Ltd. if you think you require such an agreement, even if the work has already started.

Can I discuss my idea with anyone?

Most employment contracts address confidentiality therefore it is generally safe to talk to someone employed by the same organisation about any idea as long as that person understands that they must not discuss the idea outside of the organisation.

Disclosure of ideas can prevent future protection of those ideas (for example it could stop you applying for a patent). If disclosure is necessary, use a non-disclosure agreement (also known as a confidentiality agreement) to protect you (Medipex Ltd. can supply a suitable template). Ideas for copyright materials are not in themselves protectable, therefore it is good practice to commit the idea to paper or digital document before discussing with anybody outside of your organisation. Copyright prevents people copying and modifying the way you have expressed an idea but does not prevent them being inspired by your idea so caution should still be applied when discussing externally.

I have produced a training manual and DVD, how should I protect it?

You must put copyright on all printed and visual information including Powerpoint® slides. Copyright only needs to be stated on one page but it is often easier to include a copyright statement (see below) on any part of a product that may get separated:

Copyright © Name of IP owner (Organisation/HEE YH), Year

e.g. Copyright © Health Education England across Yorkshire and the Humber, 2016

Remember: If you have created copyright material during the course of your normal duties, or duties specifically assigned to you, it is the name of the IP owner that should appear in this statement rather than your own name.

Can I publish my work?

HEE YH encourages quality publications but publication may need to be delayed to meet the IP owner's commercialisation plans. For example it may be necessary to delay a publication until a patent application has been filed or some commercially sensitive parts of the publication may need to be revised.

Another NHS organisation wants to access some data I have generated that I have not published, what should I do?

Data that you have made significant investment in generating or arranging may be protected by database rights, a form of copyright. You may wish to allow access to this data, subject to any restrictions on the use of patient data, but you can also specify the terms of this data use. e.g. restrict to anonymised data, non-commercial research use only and instruct that the data must be kept confidential. The IP owner (Trust/HEE YH) may want to charge a fee to cover its administration costs and recoup some of the initial investment.

Does my work have commercial potential?

If there is a genuine need for a product or material that either does not already exist or if the current solutions are not optimal, then it is possible that there is commercial potential in the idea. Speak to Medipex Ltd. for an initial appraisal of the idea, IP landscape and market.

Useful Links

- [UK Intellectual Property Office: \(www.gov.uk/government/organisations/intellectual-property-office\)](http://www.gov.uk/government/organisations/intellectual-property-office)
- [Medipex IP Factsheets: \(www.medipex.co.uk/services/free-information-resources/intellectual-property/\)](http://www.medipex.co.uk/services/free-information-resources/intellectual-property/)

This leaflet has been produced in conjunction with:

Medipex Ltd.
4100 Park Approach
Thorpe Park, Leeds
LS15 8GB
enquiries@medipex.co.uk

