



Intellectual Property Policy

1. Purpose

Intellectual Property (IP) refers to creations of the human intellect, the rights to which are protectable by law, and that can have financial value.¹

IP is recognised as an intangible asset which can potentially be exploited for economic benefit. As such it aligns with the *WA Health Financial Management Manual* definition of an Asset as being a resource controlled by a WA health entity, from which future economic benefits are expected to flow to the health entity. Future economic benefits can be in the form of cash, cash equivalents or the potential to provide goods and services to achieve the health entities' objectives.

The purpose of the Intellectual Property Policy is to specify processes that must be followed for the management of IP by WA health system entities in order to facilitate compliance with:

- i. the *Western Australian Government Intellectual Property Policy 2015*, which requires that IP created with government resources is identified, captured, suitably protected, responsibly managed and transparently disposed of. This includes optimising the economic, social or environmental benefits for the State from the use and commercialisation of IP
- ii. sections 13(2)(d) and 36(3)(f) of the *Health Services Act 2016*, which state that the Minister, and the Health Service Providers, may develop and turn to account any technology, software or other intellectual property that relates to their functions and, for that purpose, apply for, hold, exploit and dispose of any patent, patent rights, copyright or similar rights
- iii. Chapter 7: Asset Management, of the *WA Health Financial Management Manual*. Section 701 of this manual refers to intangible assets, which would include IP with commercial potential. It requires that all WA Health officers are to ensure that the policy and its procedures relevant to this section are complied with, and will be held accountable for any non-compliance.

This Policy is also consistent with Strategy 8, Recommendation 28, of the 2019 Final Report of the *Sustainable Health Review*, which recommends the establishment of a WA health system central unit to provide advice and guidance on innovation such as intellectual property, legal, marketing and commercialisation protocols; and facilitate sharing and connecting of innovative work across the health system.

¹ Adapted from the *World Intellectual Property Organisation*

This Policy is a mandatory requirement under the *Research Policy Framework*, pursuant to section 26(2)(l) of the *Health Services Act 2016*.

This Policy is a mandatory requirement for the Department of Health pursuant to section 29 of the *Public Sector Management Act 1994*.

This Policy supersedes IC 0228/15 *Intellectual Property Management in WA Health*.

2. Applicability

This Policy is applicable to all WA health system entities, as defined in this Policy.

3. Policy requirements

3.1 IP Contact Points

The Chief Executive of each WA health system entity must nominate an IP Contact Point within their entity. The IP contact point will report to their Chief Executive or nominated representative.

Each WA health system entity will require that any significant IP which their staff have developed, or have contributed to the development of, is brought to the attention of the IP contact point through formal written notification.

Each WA health system entity IP contact point must:

- receive, and appropriately forward, information regarding significant IP either arising within their health system entity, or from external sources, including information:
 - provided by staff of their health system entity regarding significant IP matters, to be forwarded to the WA health system Intellectual Property Advisory Committee (IPAC) by their Chief Executive or nominated representative
 - from the IPAC to their Chief Executive (or representative) and the staff involved in the IP matter under consideration
 - related to IP matters that involve external parties, such as universities, medical research institutes or funding bodies
 - report any potential or actual breaches to accepted IP policy and practice to relevant officers of the WA health system entity, and in cases of particular concern, to the IPAC
- represent their WA health system entity on the IPAC.

3.2 WA health system IP Advisory Committee

The IPAC provides advice on best practice management of significant IP developed in the WA health system entities and makes recommendations on the allocation of very early stage funding support that could be provided by the Department to specific IP initiatives.

Although the IPAC represents a system-wide approach to IP management, each Health Service Provider is an independent statutory body, and therefore within legislatively, legally and administratively prescribed activities, is ultimately and solely responsible for the management, exploitation, commercialisation and disposition of IP developed within the entity, as well as the distribution of any benefits, whether financial, material, or otherwise, arising from such activities. Where applicable, and according to internal Health Service

Provider processes, these activities will generally be overseen by the Health Service Boards.

The Department of Health participates in the IPAC in its capacity as an administrative division of the State of Western Australia.

The functions and responsibilities of the IPAC include:

- facilitating the application of, and communication regarding, the requirements of the 2015 WA Government IP policy, or its successor, in the WA health system
- assisting in the responsible management of significant IP assets across the WA health system
- providing feedback/recommendations on significant IP matters submitted by the WA health system entities
- consulting as required with an Ad Hoc IP Expert Group, convened by the Department
- make recommendations on the allocation of any funding that the Department may make available for very early-stage support of significant IP initiatives.

3.3 IP Notification

Each WA health system entity must ensure that their staff are made aware of the requirement to advise their Chief Executive, through their IP contact point, of any significant IP that they have developed, or have been involved in developing. This ensures that employees of the WA health system entities:

- comply with the reporting/registration requirements of the WA health system
- provide relevant information for the IPAC, and potentially the ad hoc IP expert group, to advise on the potential benefits (e.g. operational and commercial) and risks (e.g. legal, administrative and financial) that this IP might signify
- provide information that could potentially support requests for funding by the Department of Health of very early stage development of significant IP.

3.4 IP Register

Each WA health system entity must record any significant IP developed in, or in collaboration with, their entity in an *IP Register*, which will be maintained by the Research and Innovation Office (formerly the Research Development Unit) of the Department of Health. This register will be populated through the notifications received from the IP contact points of the WA health system entities.

Significant IP is considered to be that which:

- potentially has strategic and/or commercial value
- risks being unlawfully copied or otherwise misappropriated or misused by external parties thus potentially resulting in loss and/or risk for the WA health system.

3.5 Recommended IP Procedures and Guidelines

WA health system entities will ensure that their staff are made aware of the Supporting Information to this Policy:

- [Intellectual Property Management in the WA Health System: Intellectual Property Procedures](#)
- [Intellectual Property Management in the WA Health System: Intellectual Property Guidelines](#).

4. Compliance monitoring

WA health system entities are responsible for ensuring complying with this Policy.

The system manager, through the Research and Innovation Office, will carry out annual audits to ascertain the level of Health Service Provider compliance with this Policy and will provide updates to the IPAC, the Assistant Director, General Clinical Excellence Division and other relevant persons regarding the findings of compliance monitoring activities.

The Department of Health (Research and Innovation Office), as a Department of State, is responsible for monitoring and reporting Department of Health compliance with this Policy to Executive.

Annual audits of compliance with this Policy will be outcomes-based for each WA health system entity, and will take into account:

- establishment of the IP contact points, and the undertaking by these of the required activities
- participation in the functions and responsibilities of the IPAC
- compliance with IP notification requirements
- compliance with the requirement to report IP to the IP register
- dissemination of the IP supporting information to their staff.

Annual monitoring audits will be reported by the IPAC to the Director General and Assistant Director General, Clinical Excellence Division, on an annual basis.

5. Related documents

The following documents are mandatory pursuant to this Policy:

- NA

6. Supporting information

The following information is not mandatory but informs and/or supports the implementation of this Policy:

- [Intellectual Property Management in the WA Health System: Intellectual Property Procedures](#)
- [Intellectual Property Management in the WA Health System: Intellectual Property Guidelines](#)
- [Intellectual Property Policy and Management in the WA Health System: Current State Review; Interjurisdictional Overview; Options for a Future State IP Strategy](#)

7. Definitions

The following definition(s) are relevant to this Policy.

Term	Definition
Intellectual Property	IP is a category of property that is classed as an intangible asset and which refers to the creations of the human intellect, the rights to which are protectable by law, and which can have financial value.

Significant Intellectual Property	IP that potentially has strategic and/or commercial value and/or risks being unlawfully copied or otherwise misappropriated or misused by external parties, thus potentially resulting in loss and/or risk for the WA health system.
WA health system entities	<ul style="list-style-type: none"> All Health Service Providers as established by an order made under section 32(1)(b) of the <i>Health Services Act 2016</i>. The Department of Health as an administrative division of the State of Western Australia pursuant to section 35 of the <i>Public Sector Management Act 1994</i>. <p>Note: Contracted health entities that provide health services to the State are not considered WA health system entities.</p>

8. Policy contact

Enquiries relating to this Policy may be directed to:

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9. Document control

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10. Approval

Approval by	Nicole O'Keefe, Assistant Director General, Strategy and Governance, Department of Health
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