

---

## INTELLECTUAL PROPERTY PROTECTION – TECHNOLOGY TRANSFER

---

### Introduction

---

Document Type	Policy
<a href="#">Function(s)</a>	Corporate Administration, Management and Governance
<a href="#">Directorate(s)</a>	ADHB Generic
Department(s) affected	All ADHB services
Patients affected (if applicable)	n/a
Staff members affected	All ADHB staff members
Key words	Intellectual property, technology transfer
Author – role only	Manager Research
Owner (see ownership structure)	Owner: Chief Executive Issuer: Chief Medical Officer
Edited by	Document Controller
Date first published	September 2001
Date this version published	21 February 2017 - updated
Review Frequency	3 yearly
Unique Identifier	PP01/STF/063 – v03.00

---

### Purpose

This policy outlines the standard ownership arrangement and intellectual property protection pathway arising from inventions or knowledge created by employees of Auckland District Health Board (ADHB).

---

### Scope

This policy applies to all employees of ADHB and may be varied only by written agreement\* between ADHB and the employee.

This policy does NOT apply to employees of the University of Auckland, who are obliged to act in accordance with relevant University policies.

**\*Note: “written agreement”** includes conditions that may be specified in an individual’s employment contract.

---

*Continued on next page*

---

Section:	Staff	Issuer:	Chief Medical Officer
File:	Intellectual-Property_2017-02-21.docx	Owner:	Chief Executive Officer
Classification:	PPO1/STF/063	Date Issued:	February 2017 - updated

---

---

## INTELLECTUAL PROPERTY PROTECTION – TECHNOLOGY TRANSFER

---

### Introduction, Continued

---

**Associated documents**

The table below indicates other documents associated with this policy.

Type	Document Titles
Board Policy Manual - Staff	<ul style="list-style-type: none"><li>Clinical Research</li></ul>
Reference	<ul style="list-style-type: none"><li>Individual Employment Contracts (IEA), Sections 10 &amp; 14</li></ul>

---

---

## INTELLECTUAL PROPERTY PROTECTION – TECHNOLOGY TRANSFER

---

### Intellectual Property (IP)

---

**Application**

In the event of any inconsistency concerning the ownership of research arising between this policy (or an agreement made under this policy) and an employee's individual employment contract, the terms which are most beneficial to the employee will apply (i.e. if the terms of this policy are more beneficial to the employee than those stated in their employment contract, then this policy shall take precedence).

---

**Definition**

Intellectual Property (IP) is defined as any new and useful process, machine, composition of matter, life form, article of manufacture, software, copyrighted work or tangible property.

It includes such things as new or improved devices, circuits, chemical compounds, drugs, genetically engineered organisms, data sets, musical processes or unique and innovative uses for existing inventions.

IP may or may not be patentable or copyrightable. It is created when something new and useful has been conceived or developed, or when unusual, unexpected or non-obvious results, obtained with an existing invention, can be practiced for some useful purpose.

One or more individuals, each of whom, to be an Inventor, must have conceived of an essential element or have contributed substantially to its conceptual development, can create IP.

---

---

## INTELLECTUAL PROPERTY PROTECTION – TECHNOLOGY TRANSFER

---

### Policy

---

#### Intellectual Property

The standard Medical and Non-medical Individual Employment Contract (IEA) assigns all copyrights, trademarks, and patents to ADHB, should these arise from the normal course of employment. Exemptions from such agreements to assign may be authorised when:

- ADHB elects not to file a patent application and the Inventor is prepared to do so, or
  - The equity of the situation clearly indicates such release should be given (e.g. when an employee works part-time for Auckland District Health Board). Further research or development of that invention involving the use of ADHB resources or patients would require standard ADHB research project approval.
- 

#### Expectations

- It is the employees' responsibility to notify ADHB, via email to the Research Office, of any patentable material likely to be developed. This notice will be circulated to the employee's General Manager and the ADHB Legal Department.
  - Acceptance of the rights of ownership will be at the discretion of the Chief Executive.
  - If ADHB declines to accept any rights of ownership by assignment or otherwise, then all rights will revert to the Inventor.
  - If ADHB chooses to proceed with patenting or copyrighting, then the ADHB's authorised representative will negotiate the terms of ownership with the employee on a case by case basis. These terms will specify the proportions of shared ownership and responsibility between Auckland District Health Board, its authorised representative and the employee.
  - In the case of externally sponsored research, it is the role of the Research Office to ensure that contracts and agreements between Sponsors and ADHB shall be made, which clearly set forth the IP position of all parties.
- 

Section: Staff  
File: Intellectual-Property\_2017-02-21.docx  
Classification: PPO1/STF/063

Issuer: Chief Medical Officer  
Owner: Chief Executive Officer  
Date Issued: February 2017 - updated

---

## INTELLECTUAL PROPERTY PROTECTION – TECHNOLOGY TRANSFER

---

### Policy, Continued

---

#### Patent Responsibilities and Administration

The Auckland District Health Board's delegated representative is responsible for implementation of this policy, including the following:

- Receiving and replying to written notices of potential inventions and discoveries.
  - Evaluating inventions and discoveries for patentability, as well as scientific merit and practical application, and requesting the filing and prosecution of patent applications.
  - Evaluating the patent or analogous property rights or equities held by Auckland District Health Board in an invention, and negotiating agreements with co-operating organisations, if any, with respect to such rights or equities.
  - Negotiating licenses and license option agreements with other parties concerning patent and/or analogous property rights held by Auckland District Health Board.
  - Directing and arranging for the collection and appropriate distribution of royalties and fees.
  - Assisting Auckland District Health Board in negotiating agreements with co-operating organisations concerning prospective rights to patentable inventions or discoveries made as a result of research carried out under grants or contracts.
  - Approving exemptions from the agreements to assign inventions and patents to Auckland District Health Board.
-