

# Intellectual Property

## Department of Health Standard

QH-IMP-009-1:2022

### 1. Statement

The Department of Health (the Department) will manage intellectual property in a way that maximises the performance of the agency through creation of positive public health outcomes, whilst minimising legal, reputational and financial risk.

### 2. Scope

This standard applies to all intellectual property created, acquired, or used by the Department.

This standard applies to all employees, contractors and consultants within the Department of Health divisions and business units.

### 3. Requirements

#### 3.1. Responsibilities & Accountabilities

The following responsibilities relate to the management of intellectual property including its creation, use, protection and commercialisation

Position	Responsibilities
Developers of Intellectual Property	<ul style="list-style-type: none"> <li>Maintain confidentiality of intellectual property that may be considered for protection (e.g. patenting) and/ or commercialisation.</li> <li>Maintain accurate and detailed laboratory notebooks evidencing creation of intellectual property.</li> <li>Report inventions and original product designs (which may potentially be protected through registration) to the Intellectual Property Officer using the Innovation Disclosure Form: <a href="https://www.health.qld.gov.au/hiiro/html/rcpu/intel_prop">https://www.health.qld.gov.au/hiiro/html/rcpu/intel_prop</a></li> <li>Report significant intellectual property developments to the Intellectual Property Officer for inclusion in the Department's Intellectual Property Register (ip_officer@health.qld.gov.au).</li> <li>Provide reasonable assistance to the Intellectual Property Officer in processes related to protection and commercialisation.</li> <li>Take appropriate steps to avoid the infringement of intellectual property owned by third parties, including conducting searches of patent and trade mark registers to ascertain rights held by third parties (freedom to operate), and obtaining permission for use when required.</li> </ul>

Position	Responsibilities
	<ul style="list-style-type: none"> <li>• Take steps to avoid infringement of the statutory moral rights of creators of copyright material. For example, by acknowledging correct authorship and avoiding altering the work in a manner that may prejudice the reputation of the creator.</li> </ul>
<p>Intellectual Property Officer</p> <p>Office of Precision Medicine and Research</p>	<ul style="list-style-type: none"> <li>• Provide advice and education on intellectual property ownership, use and protection to departmental staff members.</li> <li>• Record significant intellectual property in the Department's Intellectual Property Register.</li> <li>• Manage and respond to copyright requests from third parties in consultation with content managers.</li> <li>• Review trade mark applications and assist with their submission to the Australian Trade Marks Office.</li> <li>• Review innovation disclosures and intellectual property ownership assessment requests and support the related decision-making process.</li> <li>• Facilitate access to contracted specialists in intellectual property protection and commercialisation for appropriate projects (subject to budget).</li> </ul>
<p>Project Managers</p>	<ul style="list-style-type: none"> <li>• Consider intellectual property before commencement of projects, including the right to use background (pre-existing) IP, ownership of new project IP and the purpose and intended use of the IP.</li> <li>• Ensure that, where appropriate, intellectual property clauses are included in contracts with third parties (e.g. procurement or collaborative research contracts). Review IP clauses to ensure suitability to the circumstances surrounding the project and compatibility with intended project outcomes (i.e. will the Department and Hospital and Health Services have the right to use the IP as intended?). Seek advice from the IP Officer and/ or Legal Branch where required.</li> <li>• Understand Queensland Health's intellectual property rights under existing contracts and review the performance of the obligations of the other party (such as monitoring payment of commercialisation royalties).</li> <li>• Report suspected infringements of the Department's intellectual property rights to the Intellectual Property Officer and/ or the Legal Branch for assessment of appropriate action.</li> <li>• Prior to publishing copyright material owned by the Department, select and apply copyright statements and appropriate Creative Commons licences in accordance with the requirements of the Queensland Public Sector Intellectual Property Principles Version 2. Director level approval should be obtained for use of the selected licence.</li> <li>• Identify and attribute third party owners of copyright material incorporated into departmental publications and obtain copyright clearance where required (even if the copyright owner</li> </ul>

Position	Responsibilities
	<p>has published their material on the internet).</p> <ul style="list-style-type: none"> <li>Ensure that intellectual property is evaluated for commercial potential. Commercialisation is encouraged if it is in the best interests of the Department, considering its core functions and service delivery obligations. Commercialisation should be consistent with the Queensland Public Sector Intellectual Property Principles Version 2, and should be conducted in an open, accountable and competitive manner.</li> </ul>
Directors	<ul style="list-style-type: none"> <li>Approve trade mark applications.</li> <li>Approve appropriate Creative Commons licence to apply to copyright material owned by the Department.</li> </ul>
Director-General	<ul style="list-style-type: none"> <li>Delegated officer for the management and use of Queensland Health intellectual property (received from the Director-General Public Works and Housing in the capacity of Administrator Crown Copyright and Intellectual Property) dated 12 June 1996.</li> </ul>

## 4. Legislation

- *Copyright Act 1968* (Cth)
- *Designs Act 2003* (Cth)
- *Trade Marks Act 1995* (Cth)
- *Patents Act 1990* (Cth)
- **Queensland Government Policy**  
Queensland Public Sector Intellectual Property Principles, Version 2: 2013  
[https://www.forgov.qld.gov.au/data/assets/pdf\\_file/0024/182706/qps-ip-principlesfinal-v.2.pdf](https://www.forgov.qld.gov.au/data/assets/pdf_file/0024/182706/qps-ip-principlesfinal-v.2.pdf)

## 5. Supporting documents

- Policy: Intellectual Property [QH-IMP-009-1:2022]

## 6. Definitions

Term	Definition
Intellectual Property	Intellectual property includes a wide range of intangible assets that are the result of creative, intellectual or administrative effort, for example, copyright material (such as rights associated with original literary material, databases, software, artwork, photographs, music and audio-visual material), know-how, confidential information, patents, trade marks and designs.

Term	Definition
Commercialisation	Commercialisation is the act of making a product, process or service available to external parties, generally for financial gain or other advantage. This may include, for example, manufacturing and selling a product, using intellectual property in a fee for service arrangement or licencing or assigning intellectual property rights to third parties.
Creative Commons Licence	A Creative Commons Australia licence that permits the public to use copyright works in accordance with the terms and restrictions of the selected licence. See <a href="https://creativecommons.org.au/know-your-rights/">https://creativecommons.org.au/know-your-rights/</a>
Significant Intellectual Property	Significant Intellectual Property includes intellectual property owned by the Department which is: <ul style="list-style-type: none"> <li>- of significant financial, strategic or operational value;</li> <li>- registered with a relevant authority such as IP Australia; or</li> <li>- commercialised by the Department; and</li> </ul> third-party intellectual property in which the Department has a significant interest, such as a contractual right to a share of commercialisation proceeds.
Moral rights	Moral rights are personal legal rights granted to creators (e.g. authors, artists, architects and photographers) of copyright material under the <i>Copyright Act 1968</i> and include the right of attribution (right to be identified as the author of the work), right against false attribution (right to stop somebody else being credited as the author of the work) and right of integrity (right to ensure the work is not subject to derogatory treatment (i.e. an act such as an alteration that is harmful to the author's reputation).

## Version control

Version	Date	Comments
1	01/09/2006	<i>New document</i>
2	05/07/2010	Review and editorial update
3	23/06/2015	Policy Rationalisation Project
4	12/08/2022	Reviewed and updated by the Office of Precision Medicine and Research