



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.

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 Intellectual Property Policy (the policy) sets the minimum requirements for the management of IP by the WA health system.

This policy supports the requirements of the following:

- [Western Australian Government Intellectual Property Policy 2023 \(WAGIPP\)](#)
- Section 36(3)(f) of the [Health Services Act 2016](#)
- [Chapter 7: Asset Management, of the WA Health Financial Management Manual.](#)

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

This policy is also a mandatory requirement for the Department of Health pursuant to section 29 of the [Public Sector Management Act 1994](#).

2. Applicability

This policy is applicable to WA health entities.

3. Policy Requirements

3.1 WA Government IP Policy 2023 (WAGIPP)

WA health entities must:

- ensure compliance with the requirements of the WAGIPP
- ensure that internal policies, guidelines and procedures are in place to meet the intent, responsibilities and obligations of the WAGIPP.
- implement WAGIPP Position Statements, with the exception of Employee Recognition for IP Creation, which is discretionary.

The WAGIPP Position Statements refer to:

- ownership of IP
- management and Protection of IP
- commercialisation
- IP Assignment, Licensing and other forms of Disposal
- employee recognition for IP Creation (noting that this will depend on the particular circumstances of each agency)
- copyright, IP legislation, Government policies and professional advice.

The Position Statement regarding the ownership of IP specifies that “The State owns IP rights created by its employees in the course of their employment. However, in some circumstances, agreements may be entered into to vary these arrangements”. This signifies that Health Service Providers, as agents of the State, will be the owners of any IP that they generate, unless otherwise agreed. In the case of the Department of Health the ownership of IP is vested in the State of Western Australia.

WA health entities must complete a Certification Statement to confirm they have implemented WAGIPP Position Statements that are relevant to its management of IP, as well as providing evidence that internal policies, guidelines and procedures are in place to meet the intent, responsibilities and obligations of the WAGIPP.

The WAGIPP encourages each agency to develop its own internal IP policy and procedures, and states that any such policy should be consistent with the WAGIPP.

WA health entities must, to the extent possible, ensure consistency between any individual policies that are developed, recognising that WAGIPP states that agencies will have different objectives and responsibilities that will impact on their treatment of IP.

3.2 Section 36(3)(f) of the *Health Services Act 2016*

Health Service Providers that develop and turn to account any technology, software or other intellectual property must ensure that this relates to their functions.

3.3 Chapter 7: Asset Management, WA Health Financial Management Manual

WA health entities must:

- comply with Chapter 7 Asset Management, WA Health Financial Management Manual that refers to Intangible Assets (that include IP with potential value)
- ensure compliance with policy and procedures relevant to this Chapter.

4. Compliance Monitoring

The Office of Medical Research and Innovation, on behalf of the System Manager, will monitor compliance with this policy by requiring that WA health entities report annually on how they are complying with the policy requirements.

This reporting will require the submission of a Certification Statement (template provided by the Office of Medical Research and Innovation).

Evidence will also be required to demonstrate compliance with the requirements of Chapter 7 of the WA Health Financial Management Manual, and Section 36(3)(f) of the *Health Services Act 2016* which applies to Health Service Providers only.

The Certification Statement should be provided to the Office of Medical Research and Innovation via email at DOH.OMRI@health.wa.gov.au by 28 February of each year.

The System Manager may also request that WA health entities provide additional information on internal policies, guidelines and procedures that meet the intent, responsibilities and obligations of the WAGIPP.

5. Related Documents

The following documents are mandatory pursuant to this policy:

- [WA Government IP Policy 2023](#)
- [WA Health Financial Management Manual: Chapter 7 Asset Management](#)

6. Supporting Information

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

- [WA Government IP Policy: Agency Toolkit](#)

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.
WA health entities	WA health entities include: (i) Health Service Providers as established by an order made under section 32 (1)(b) of the <i>Health Services Act 2016</i> . (ii) 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> .
WA health system	The WA health system is comprised of: (i) the Department; (ii) Health Service Providers (North Metropolitan Health Service, South Metropolitan Health Service, Child and Adolescent Health Service, WA Country Health Service, East Metropolitan Health Service, PathWest Laboratory Medicine WA, Quadriplegic Centre and Health Support Services); and (iii) contracted health entities, to the extent they provide health services to the State.

8. Policy Contact

Enquiries relating to this policy may be directed to:

Title: Executive Director, Research & Innovation

Directorate: Office of Medical Research and Innovation

Email: DOH.OMRI@health.wa.gov.au

9. Document Control

Version	Published date	Review date	Amendment(s)
MP 0156/21	15 April 2021	April 2024	Original version
MP 0156/21	8 January 2025	January 2028	Policy review and amendments as listed below.
<ul style="list-style-type: none">• Purpose section refined for clarity and inclusion to align with the WA Government Intellectual Property Policy 2023.• Policy requirements updated to require WA health entities to implement WAGIPP Position Statements, as appropriate, and to ensure that internal policies, guidelines and procedures are in place to meet the intent, responsibilities and obligations of the WAGIPP.• Policy requirements: removal of the following sections that required WA health entities to nominate an IP contact point; an IP Advisory Committee (IPAC); IP notification; an IP register; and recommended IP procedures and guidelines.• Compliance monitoring section: updated to reflect the WAGIPP requirements and policy owner's responsibility to monitor policy compliance.• Related documents sections: Inclusion of WAGIPP and WA Health Financial Management Manual: Chapter 7 Asset Management.• Supporting Information section: Removal of procedures, guidelines and current state review. Inclusion of WAGIPP Agency Toolkit.• Definitions section: Removal of definition 'Significant intellectual property' and inclusion of the definition 'WA health system'.• Policy contact updated to reflect change in Directorate and email address.			

Note: Mandatory policies that exceed the scheduled review date will continue to remain in effect.

10. Approval

Approval by	Nicole O'Keefe, Assistant Director General, Strategy and Governance, Department of Health
Approval date	13 April 2021

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