

	<h2>Intellectual Property Protocol</h2>	
Scope	<ul style="list-style-type: none"> • All Departments • All Staff 	
Responsible Department	Research and Development	
Approved By	Clinical Support Services Senior Leadership Group	December 2017
Authorised By	Group Executive, Policy Strategy & Risk	February 2018

PURPOSE

The purpose of this policy is to identify for the benefit of BHCG staff, contractors and other parties, BHCG policy on ownership and exploitation of intellectual property rights in which the Group claims either a total or partial interest.

DEFINITIONS

Intellectual Property: The ownership and exploitation of legal rights which the creator of a literary, artistic, industrial, scientific or similar work (this includes and is not limited to photographs/images, video recordings, sound recordings, software programs, broadcasts, business process maps, flowcharts, decision support aids, schemas, guidelines, presentations) and/or any licensee, assignee or transferee from such creator can protect by copyright, trademarking, patenting and the like.

Copyright: The exclusive right granted in Australian by the Copyright Act 1968 (Commonwealth) (hereinafter called 'the Act') to make and distribute copies of and otherwise control, a literary, artistic, industrial, scientific or like work.

POLICY

1. Employees

- 1.1 Intellectual property in any work created by a BHCG employee wholly in the course of his or her employment by BHCG, vests in the Group. Unless a contract of employment expressly makes a different provision, this effect is implied into every contract of employment to which BHCG is the employer party.

- 1.2 Any BHCG employee who creates a work in the course of his or her employment, to which he or she believes intellectual property rights attach, is obliged to notify their divisional Executive Director as soon as practicable. That employee must do all things reasonably required to facilitate any action which BHCG might decide to take in order to protect and/or exercise its intellectual property rights.

- 1.3 If a BHCG employee provides evidence on reasonable grounds that he or she is entitled to the whole or a portion of the intellectual property in a work which was partly, but not totally created in the course of his or her

employment by BHCG, an application to the Executive Director of the relevant division can be made to consider negotiation of joint ownership, protection and exploitation of such intellectual property with BHCG. The relevant Executive Director may refer the issue to the BHCG legal department to assist with joint ownership decisions.

- 1.4 BHCG will recognise any rights of attribution of authorship to which a BHCG employee is entitled by virtue of the Act.
- 1.5 Where a BHCG staff member is also engaged by another organisation by way of a joint appointment, BHCG must reach a mutually acceptable agreement with the co-employer and the employee to the proposed contract, as to how ownership of relevant intellectual property rights are to be held and exercised by the parties. BHCG will pursue implementation of this policy provision as part of the negotiation of the terms of employment of the joint appointee, irrespective of whether or not BHCG is the employer on the record of that joint appointee.

2. Contractors

- 2.1 In all cases where BHCG engages a third party contractor to provide services to or on behalf of BHCG (except where a specific exception has been made by authority of the CEO, it shall use its best endeavours to include in any relevant tender and/or contract a provision to the effect that all intellectual property rights arising from performance of the contract by or on behalf of any party thereto, shall vest in BHCG.
- 2.2 In all cases where BHCG enters into a contract to provide services to or on behalf of another party, it shall use its best endeavours to negotiate an agreement that all intellectual property rights created by BHCG or a sub contractor of BHCG, shall vest in the Group. In any event, the BHCG employee responsible for negotiating the contract shall ensure that the contract specifically addresses the issue of ownership and exploitation of intellectual property arising from performance of the contract by BHCG. Unless otherwise delegated, negotiation of clauses relating to intellectual property will be conducted by the Procurement Manager.

3. Research

- 3.1 In all cases where BHCG agrees that one of its employees may engage in research as part of his/her employment with BHCG, that agreement must be recorded in writing and make provision for ownership and exploitation as between BHCG and the employee, of any intellectual property rights which might arise as a consequence of the outcomes of that research.
- 3.2 In all cases where BHCG agrees to become involved with another entity or multiple other entities in a joint research project, BHCG must endeavour to ensure that:
 - (a) In the event that BHCG agrees that one of its employees involved in the project should be entitled to part proportion of ownership of any intellectual property rights which might arise as a consequence of the outcomes of the research, the relevant employee should be a

party to the written agreement establishing the research project and that agreement should record the apportionment of ownership and exploitation of intellectual property rights as negotiated between the participants in the research project;

- (b) In the event that no BHCG employee is involved in the ownership and exploitation of intellectual property rights as contemplated by paragraph 3.2 (a) above, BHCG will seek to negotiate and reduce to writing, an agreement with the other entity or entities which includes an agreed apportionment of ownership and exploitation of intellectual property rights as between the participants in the research project.

4. Copyright

- 4.1 Publication of every original literary, artistic, industrial, scientific or other similar work by BHCG or an employee of BHCG, in circumstances where intellectual property rights vest in the Group by virtue of operation of the Copyright Act and this policy, shall include a notation to the effect that copyright in the work is held by BHCG or by the Group and others as required to give effect to any relevant agreement to share intellectual property rights in the work, for example:

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*Director – Research and Development Bendigo Health Care Group
PO Box 126
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5. Primacy of the Act

- 5.1 Any provision of this policy which is inconsistent with any provision of the Copyright Act as constituted from time to time, shall be void and of no effect to the extent of that inconsistency.

REFERENCES and ASSOCIATED DOCUMENTS

Bendigo Health Policies and Protocols

- [Publications and Corporate Style Policy](#)
- [Consumer Publications Policy](#)
- [Public Comment and Media Policy](#)
- [Clinical Photography & Video Imaging Consent Protocol](#)
- [Photography and Filming Policy](#)
- [Social Media Use Policy](#)
- Contract of Employment

State and Commonwealth Legislation

- Copyright Act (Commonwealth) 1968.

Standards / Codes of Practice / Industry Guidelines

- [Code of Conduct for the Victorian Public Sector issued by the Commissioner for Public Employment](#)

Personal information and health information as defined in the relevant Victorian law, which is required to be collected, used, disclosed and stored by BHCG in order to achieve the Purpose of this policy, will be handled by the Group and its employees in accordance with their legal obligations.

When developing this policy, BHCG has taken all reasonable steps to make its content consistent with the proper discharge of its obligations under the Charter of Human Rights and Responsibilities Act 2006.