INVENTOR GUIDE

Working in partnership with NHS Scotland to identify, protect, develop and commercialise healthcare innovations to improve patient care.
First, some terminology...

**Employer** - the organisation that you have an employment contract with. In most cases, but not all, this will be the organisation that pays your salary.

**Inventor** - a person who generates a piece of intellectual property.

**Service level/Framework agreement** - SHIL has an agreement in place with every NHS Scotland Health Board. This allows us to develop and commercialise IP generated. We refer to this as the Service Level Agreement (SLA).

**Intellectual Property (IP)** - any idea that is recorded in any way is intellectual property, including any novel idea or innovation that is a result of your creativity. This could be a device, service, system, app etc.

**Intellectual Property Protection** - there are different ways to protect intellectual property depending on what type of idea it is. Some forms of protection require a formal process, others do not. The different types of protection are patent, design rights, copyright, trademark and trade secret.

**IP Ownership** - under UK patent law, the employer automatically owns the right to any intellectual property created by employees unless a separate arrangement is put in place. We refer to this as the Service Level Agreement (SLA).

If your project has been selected for development by SHIL, congratulations!

Our Innovation team have assessed your idea against a robust selection criteria including:

- Viability of the idea
- Impact on NHS resources
- Novelty and inventiveness
- Technical considerations
- Commercial feasibility.

The project will now move to development. This guide will help you through the process and answer the most common questions.

**DEVELOPING YOUR INNOVATION**

Depending on the nature of the project, the team at SHIL will source the most appropriate organisations and suppliers to support the development of your innovation. This could range from product or software developers to manufacturers and packaging companies. SHIL work closely with the selected organisation(s) to develop your innovation from idea to finished product. As the liaison point we ensure effective communication, regular updates and adherence to key milestones.

**BRINGING YOUR IDEA TO LIFE**

Scottish Health Innovations Ltd (SHIL) work with inventors across NHS Scotland to translate ideas and innovations into viable products to improve patient care. Our aim is to support NHS inventors through a risk-free commercialisation process. Our experienced team, dedicated project management support and extensive network of contacts help bring ideas to life.

Absolutely! Inventor interaction is a key part of the most successful projects. We work collaboratively with the inventor at all times and decisions are discussed openly. As much input as possible is welcomed and encouraged. However, at no time will you be required to spend any money on the project.

Due to the inherently unique nature of each innovation, the development process is bespoke for each project and your dedicated Project Manager will be your contact point throughout.

Time pressures can be one of the biggest barriers to bringing an idea or innovation forward. SHIL uses years of experience in developing ideas and creating successful commercial products to guide healthcare professionals through the entire development process, which may otherwise be impossible to balance with clinical and personal commitments.

SHIL have developed and commercialised many products and spin-out companies so you can be confident in the management of your idea.

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**IP Policy** - this is the policy that your employer (Health Board) has that outlines how the IP which belongs to the Health Board is handled. It should detail what reward and recognition you can expect as an inventor. Every Health Board has its own distinct IP Policy. SHIL has no influence over this policy.

**Revenue** - the money that is generated from the sale, license or lease of a product. The Health Board will have a policy whereby someone who has an idea that generates revenue will have a share of this money.

**Commercialisation** - the process of taking an idea and developing it to a point where it can be placed on the market or made generally available for others to use.

Will I still be involved?

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PROTECTING YOUR INNOVATION

SHIL will establish the optimal method for protecting your idea, with input from your Health Board and patent attorneys. The type of protection depends on the novel element of the IP (if there is any). If SHIL do choose to protect your idea, it will be the property of the Health Board with the inventor cited.

There are four typical options for IP protection:

- **Trademark** – includes the name of your product and logo
- **Copyright** – includes text, code, artwork and photography
- **Registered design protection** – includes shapes, images and appearance
- **Patent** – protects novel aspects of your device stopping others from duplicating.

Sometimes a patent is not feasible or even useful – getting to market first with a great, innovative product can be the most effective deterrent to competition.

Important points:

- An employee using the employer’s equipment to create the idea is not sufficient to claim the employer owns the IP.
- The premises where the idea was created does not have a bearing on ownership.

**EXAMPLE 1: IT Support**
Your employer requires a software solution to fix a cumbersome patient self check-in system. In the morning you work on the system. In the afternoon (still at work) you work on a non-healthcare related app you plan to sell.

**Does the employer own the IP for the app?**
No. Creating the app is outwith your duties of employment, even though it was done on your employer’s time and equipment. The employee is the owner of the IP for the app.

**EXAMPLE 2: Nurse**
You work in a busy ward, managing patient check-in. One night at home you generate a solution to help the ward improve this process.

**Does the employer own the IP to this?**
Yes. Although not specifically instructed to develop this solution, managing patient check-in to the best of your ability is within your responsibilities as an employee so the employer will own the IP.

**Can I tell people about my idea? I know someone who can help!**
We strongly advise that you do not share your idea with others without the consent of SHIL, especially not in a public setting. Sharing your idea can have consequences with regards to IP ownership and protection. If you have a friend or contact that you think could help or contribute, please inform SHIL so the appropriate measures can be put in place.

**I came up with the idea, so why do I not own it?**
In Scots Law, if you create your invention as a result of your daily duties within your job then the IP is owned by your employer (in the absence of any agreement that states otherwise). However, if your idea is formed outwith your employment duties, or you are self-employed then typically the IP belongs to you. When trying to clarify if the IP belongs to you, consideration is given to your duties as outlined within your employment contract.

FUNDING YOUR INNOVATION
On meeting established criteria, SHIL will fund your innovation through the process of research, development and commercialisation. There will be occasions where outside funding will be necessary to make sure an innovation reaches its full potential, and development of concepts and prototypes can be accelerated.

Funding will vary depending on the nature and ambition of the project. If required, the SHIL team will manage the applications for funding, suggest the most appropriate funders to pitch to and tailor applications to provide your innovation the best possible chance of receiving financial backing.

Within the UK, SHIL work with a number of high-profile organisations such as Scottish Enterprise and Innovate UK, and when necessary can apply for funding at an international level. We also have strong links with academia, and with investors and funders of health and medical technology innovation.

**Is SHIL motivated by profit?**
No. SHIL is a company limited by guarantee that is not allowed to distribute any profit to its shareholders. Any profit made by SHIL is retained to support the funding of other innovative projects. SHIL is funded by the Scottish Government, which along with NHS Tayside and the Golden Jubilee National Hospital, owns the shares in the company.

**Why support innovation?**
Providing opportunities for talented, inventive health professionals to develop their ideas and innovations to healthcare challenges is a direct and effective way to tackle problems and improve our NHS. SHIL has been working in partnership with NHS Scotland since 2002 to to identify, protect, develop and commercialise these ideas with the dual aim of improving patient care and optimising IP to ensure a financial return to NHS Health Board’s and inventors.

**Equity Gap is a group of private individuals set up to invest in and support emerging and growing businesses. The group are particularly interested in assisting young companies that have gone through a pre-investment commercialisation process. The role that SHIL plays in the healthcare sector in bringing innovations of substance and scale to market in investor ready form is important to the Scottish entrepreneurial funding ecosystem. We value the unique position of SHIL as a two way interface between the funding market and the NHS in Scotland.**

Jock Millican, Director, Equity Gap www.equitygap.co.uk

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**TRI Capital is based in the Scottish Borders but works with young companies throughout Scotland. We have an existing relationship with SHIL as a co-investor in Aurum Biosciences Limited, a company that is developing a therapeutic stroke management drug with global potential. The strategic positioning of SHIL as a commercial interface between the NHS and the healthcare investment community is unique. The ability of SHIL to bring innovations to market in investor-ready form and to help TRI Cap validate healthtech ideas that we see is of significant value.**

Kathy Kinder, Investment Manager, TRI Capital www.tricapital.co.uk
There are three ways to commercialise an innovation:

**Direct sale:** Sold to customers through SHIL’s own online store. This is the most direct way for an innovation to be brought to market. This way 100% of the revenue is collected, which is then divided per contractual terms.

**License:** Where it is deemed beneficial, SHIL will license your innovation to other organisations and wholesalers in return for a royalty on every unit sold. This provides permission to sell the product on your behalf, taking advantage of that organisation’s large network of customers and their ability to promote the product. The licensees will take most of the revenue for selling through their networks.

**Spin-out:** If it is thought to be commercially viable, SHIL can assist in creating a separate company to develop, promote and sell your innovation whether this be a product or service. This is known as a spin-out, and is often determined by whether there are likely to be different iterations of the one product or where the innovator has a number of ideas for different products. The defining attribute of a spin-out company is that it must be self-sustaining. This can be through making a profit from sales or securing sources of funding from other organisations. If a spin-out is viable, SHIL will take a seat on the newly created company’s board as a shareholder, to best represent the interest of the supporting Health Board.

**REVENUE RETURN EXPLAINED**

SHIL supports NHS Scotland to acquire and manage its IP, to ensure a return on investment for the health service. Any revenue generated from commercialising ideas and innovations from healthcare professionals is shared with the inventor and the Health Board. The revenue system involves two phases and three parties – SHIL, the Health Board and the inventor – and ensures all parties are fairly rewarded and recognised for their investment and contribution to develop the innovation.

**Cost Recovery**
SHIL recovers expenditure on your projects once revenue starts to flow. This includes the value of elements such as staff time, legal fees, commercial costs or design fees.

**After Recovery**
All of the revenue generated is split 70:30. The Health Board then divides the revenue as per its own IP policy.

**What if there is more than one inventor?**
The inventor portion of the revenue will be split between all inventors dependent on their relative contribution. If the inventors are from different Health Boards then inventors will receive revenue based on the terms and conditions present in their own Health Board’s IP policy, regardless of the fact they are working on the same project or of their respective contributions.

**Commercialising Your Innovation**
Commercialisation is the end goal. It generates revenue not only for the inventor but also the employing Health Board, generating vital funds for the NHS to reinvest in healthcare while simultaneously spreading improvements in patient care.

**A record of success...**
Working in partnership with NHS Scotland since 2002, SHIL has:
- Protected the Intellectual Property, Trademark, Copyright and Design Right for over 250 NHS inventions
- Successfully negotiated 25 commercial license deals with companies both within the UK and internationally
- Successfully developed and commercialised a variety of products and technologies, available to purchase via SHIL and selected licence partners
- Helped form 6 new spin-out companies.

**What happens next?**
SHIL continues to support and endorse the product after launch, promoting uptake, working with partners, adapting to changes required and ensuring the project goes from strength to strength.
For further information and advice

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The R&D Department of your NHS Health Board
The innovation champion of your NHS Health Board

While every effort is made to ensure that the information given here is accurate, no legal responsibility is accepted for any errors, omissions or misleading statements.

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