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## Primary Navigation - link to other main sections from here

[Skip Navigation](#)

---

### You are here:

[DH home](#)

-

[News](#)

-

[Speeches](#)

-

[Speeches index](#)

- **Speeches article**

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# Speech by Lord Warner, Parliamentary Under-Secretary of State in the Lords, 21 April 2004: 4th National NHS Intellectual Property Conference

Good afternoon, ladies and gentlemen and thank you for inviting me to address your annual conference. As promoting innovation, R&D and the Modernisation Agency are all part of my Ministerial brief, I am particularly pleased to be here on the fourth anniversary of this event

I want to emphasise the point that intellectual property is right at the heart of the Government's plans for the new NHS but I equally recognise that everybody including the department has to raise its game in this area. Your conference is all about celebrating the past success but more importantly about maximising the future potential of intellectual property in the NHS, putting good ideas into practice to help modernise the NHS and to ultimately help get faster, improved services out to patients. The NHS is full of people with bright ideas, ideas that need to be captured, protected and developed. But our systems and approaches for doing this need improvement. The good news I see from the Financial Times today is that inventions in the health and security sectors are good for business.

Innovation is a key theme for this Government with the recognition that Britain's future success must be linked to an economy that is built on innovation and added value products and services. There is a real drive to encourage new thinking, and the adoption of new technology in all walks of life in this country. Health is an obvious area where the benefits of such an approach can be very dramatic. A good example is my visit to Chelsea and Westminster Hospital and Patientline, where there is an entertainment/phone service for patients and medical staff can access electronic patient records at the bedside.

This Government formally committed the NHS to becoming an innovative organisation when it published the NHS Plan back in 2000. But as you are all well aware, innovation in healthcare has two facets. Some innovations will lead to the development of service delivery improvements, process improvements if you like that will reduce waiting times, increase access to new diagnostic technologies or facilitate more efficient use of acute-care beds. These innovations need to be captured and disseminated throughout the NHS so that best practice is shared and service delivery is improved. And it is important for a mechanism to be in place whereby this can happen. The Modernisation Agency has played an important role in this and their legacy is now being moved forward by NHS Trusts themselves as they adopt these new approaches and build 'innovative thinking' into their everyday thinking and doing. But we need to keep funding and disseminating new ways of solving problems and delivering services in increasingly personalised ways for patients.

However, other innovations like many of those we have heard about today, result from the identification,

development and possible exploitation of new ideas and technologies that can lead to the production of innovative equipment and devices. Active management of these ideas, and the identification and management of the associated intellectual property is essential for promoting a culture of innovation in the NHS. Increasingly, Chief Executives recognise that all intellectual property generated within the NHS is an asset of value, with the possible potential of generating useful income from its exploitation. But there is still an awareness issue on this at Board level.

Intellectual property management in the NHS is still in its infancy and there is much to learn. That said, the latest returns suggest that the NHS in England, as a whole, published over fifty patents last year. And, perhaps what is more important, Trusts collectively reported receiving income of over £550,000 as a result, which of course they keep. Given the size of the NHS and its talents, this is pretty modest but it does represent a start. Any event, such as the one here today, that promotes this activity is most welcome and much needed.

The policy on intellectual property management by the NHS was first published in July 1998 along with a researcher's guide to handling inventions and other IP. This policy was extended in September 2002 to provide guidance on legal issues surrounding both the ownership of IP, and employment issues for NHS employees. The published guidance indicated that IP generated by NHS staff, in the normal course of their employment, should be owned by those best able to exploit it. This is generally the employing Trust. And as I have already indicated, the guidance also states that any income generated can be retained and used by the Trust to improve patient care. The income generated can, and should, also be shared with those staff responsible for the innovation. Incentives therefore exist for both staff and the employing authority to actively capture and manage any IP generated. This is a real win-win situation if we can only get the messages across at all levels in the NHS and avoid creating an innovation bureaucracy. One of my other roles is cutting bureaucracy in the NHS and there is plenty of it requiring cutting. We don't want a new innovation bureaucracy.

The guidance also describes powers by which NHS Trusts can create, and own equity in, spin out companies generated as part of the IP exploitation process. I guess there are two important points to make here, both of which may be patently obvious to many of you here. Nevertheless, they are still worth making but not too heavily. First, creating a spin out company is not always straightforward and it needs some careful thought and a proper business case.

The second point is that creating a spin out company generally represents a long term investment. I am not advocating that the NHS should not go down this route. It is already too conservative and a notorious slow adopter of new technology. However, I am saying that no one, neither the Trust nor the inventor, should expect riches overnight. No dot com millionaires I'm afraid. The NHS needs mechanisms in place that encourage innovation and entrepreneurs but expectations should not be exaggerated.

I believe we have made a reasonable start in putting in place the mechanisms needed to implement our policy and guidance on intellectual property management. We have come from a very low base, as most NHS organisations do not have access to the necessary skills to undertake the task of IP management. Equally, NHS employees are frequently unaware of their opportunities in this area. The creation of the IP Hubs, through the joint funding initiative of the Department of Health with the DTI has been an important first step in ensuring that IP is given the importance and focus it needs and deserves.

The Hubs mission is to provide a service to NHS Trusts for protecting and commercialising NHS IP. Unless IP is properly protected through patents and copy righting then commercialisation, and the realisation of the maximum benefit for the NHS will be problematic, or impossible. Hubs are undertaking a key role in building relationships with commercial partners, including SMEs and funding organisations.

A recently commissioned KPMG report that has reviewed NHS IP and the progress of the Hubs. This revealed that to date 36 license deals have been signed, 228 patents have been granted and almost 500 IP items are in the Hub pipeline. This is an encouraging start, and I think that all of you involved in the work of the Hubs should be congratulated for the pioneering work you have done so far.

I believe that the Hubs have a strong future, but some regrouping and strengthening of the system is required if we are to deliver the results we all want. I have therefore recently passed responsibility for the Hubs to the Department's Commercial Directorate, headed by Ken Anderson. Ken and his team can bring a tremendous amount of private sector and commercial knowledge to help move the IP mission forward more rapidly and enhance our collective performance in this area.

One of the Commercial Directorate's first actions has been to recommend that we appoint a Director of Intellectual Property within the DH who will have responsibility for the continuation and development of the Department's IP strategy. I am pleased to say that we are moving ahead with this recommendation and we expect to appoint a candidate within the next month to six weeks. This new director will come with significant IP experience and help us to ensure that we bring forward those ideas and concepts that

are being developed through the Hubs, and turn them into commercial reality, and help them deliver benefits for the NHS.

The new director of IP will of course be building on the valuable work that has been started by Dr Tony Bates. It would be remiss of me not to take this formal opportunity to say a very warm thank you to Tony for all of his efforts in helping to turn the capture of NHS IP from an idea into reality. He has been a tireless pioneer in this work, and is now taking a well-earned retirement, and we wish you every happiness with your future.

I also want to see us do more to celebrate and give recognition to those who innovate. I was much impressed by the Medical Futures Innovation Awards pioneered by Dr Andy Goldberg with lottery funding from NESTA and Industry. We need a regular Oscars ceremony in this area and I want to put this on a more secure and permanent footing. I have discussed this with the Chairman of NESTA and I am committed to the Department of Health helping to fund these arrangements on a more consistent basis. The Commercial Director agrees with this and one of the first jobs of the new Director of IP will be to set up arrangements with Medical Futures and NESTA for what I envisage will be an annual event starting in 2005.

So this fourth anniversary event is another milestone to be celebrated, but it also represents a new phase in our mission to maximise IP and help the NHS become more innovative in the process. We are committing more resources and focus to ensuring that IP is brought on more quickly. We are looking to step up the pace of commercialising and capturing IP in the NHS by working more closely with DTI, NESTA and others in the NHS. We are looking to the Hubs to help us achieve this and we want to do more to celebrate success.

There are some clear demonstrations of taking simple ideas or innovations and turning them into something that has or could have major consequences for patient treatment and care and also offer commercial advantage. Intellectual property and innovation are qualities for the NHS to use and celebrate. We must encourage NHS staff and Trusts to support these qualities and not be against commercially developing good ideas. Thank you.