

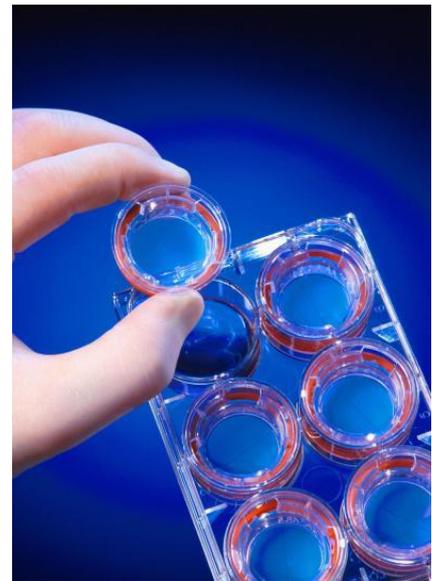
Laboratory Sample testing Service Confidentiality lessons

What is the innovation?

New laboratory protocols (also known as Standard Operating Procedures) that are in effect a new way of performing an experiment, test or laboratory procedure. Associated with this was considerable know-how around providing specialist diagnostic laboratory tests on patient samples for metabolic and genetic diseases.

Who came up with the innovation?

The innovation was developed as a result of team effort in a Metabolic Services Laboratory at a hospital in the Yorkshire & Humber region. The laboratory team members were all employees of the Trust and co-developed the protocols together as part of their ongoing commitment to improve the services they were offering.



What problem does it solve?

The new protocols allowed a regular laboratory service at a hospital to perform certain tests with far more efficiency and accuracy than elsewhere. The freeing up of time and increased accuracy meant that the Trust was able to offer these services to other hospitals in order to generate a £1m+ income every year. This allows the lab to not only be self-sustaining but also generate profit for the Trust.

What was the inspiration for the idea?

The tests were required in order to provide part of their service in response to changes in disease occurrences and demographics, but nothing suitable was already available commercially. This gave the team the opportunity to develop their own way of performing the tests.

How did the innovation journey start?

This came to the attention of Medipex when a former employee of the laboratory approached the Trust for help in getting one of the Trust's proprietary protocols to work in their new employment – with a private company offering laboratory testing services! The Trust contacted Medipex to ask for advice on whether we could stop this rival company using the protocol and potentially damaging their business. In essence, the employee would have allowed the company to set up as a direct competitor to the NHS.

Was there any IP? How was it protected? Were there any complications (infringement/FtO?)

The IP was essentially the copyright in the protocols, the know-how surrounding getting the tests to work consistently and just as importantly, interpreting the data. This should have been protected by confidentiality clauses in the employment contract. Medipex looked into this and found that there was no clause written in to employment/student contracts – especially as the person in question had been a student from overseas.

The big issue that had to be resolved was: How does the Trust stop the private company from using these protocols and stealing their customer base and thus damaging the income to the laboratory and Trust? In the first instance, we recommended that the Trust not give out the request for protocol information as although there were no contracts in place, the copyright on the written protocols was still valid.

Any lessons learned?

The complications around the IP leakage prompted the laboratory manager to get in touch. There is not much that can be done about the protocols that have been leaked as there were no contracts in place and the other private company could develop their own work-around to get them to work for them. Until all parties are aware of exactly what protocols have been replicated and to what extent (knowhow or copyright), it is impossible to tell whether the company are infringing copyright. However Medipex are going to help the Trust future-proof the lab by:

- (a) Providing some IP training to laboratory members to prevent future disclosures and protocols being given away for free
- (b) Providing some agreements that can be put in place with employees (if the latest employment agreements do not already cover it) that spell out that they cannot remove confidential information from the lab, or use confidential information after they have left.