

POLICY FOR SEEKING EXTERNAL LEGAL ADVICE

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Trust Lead:	Steve Murray - Assistant Director of Corporate and Legal Affairs
Lead Board Director:	Gilbert George - Interim Director of Corporate and Legal Affairs
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REVIEW DATES AND DETAILS OF CHANGES MADE DURING THE REVIEW

V4 – Update to include advice on out-of hours external legal advice and discouragement of staff contacting personal contacts for legal advice.

KEY WORDS

Lawyers, solicitors, counsel, barristers.

1 INTRODUCTION AND OVERVIEW

- 1.1 All actions of the Trust have both legal and therefore potentially financial implications. It is the responsibility of Directors and senior staff to seek legal advice where they are unsure of the legal position or if the situation has no precedent.
- 1.2 The Trust has a Legal Services Department which can provide legal advice in certain areas of the law. Where the Legal Services Department cannot provide the required legal advice then this policy sets out the requirements where external legal advice is required.
- 1.3 Staff wishing to obtain external legal advice which may result in a cost to the Trust may not do so without the express permission of the Director of Corporate and Legal Affairs or his Assistant Director. In the event that a member of staff should require legal advice outside of office hours then they should contact the Assistant Director of Corporate and Legal Affairs via UHL switchboard and in his absence contact the Director of Corporate and Legal Affairs via UHL switchboard.
- 1.4 This policy aims to instruct staff on the process for obtaining external legal advice, and to ensure that a paying budget is identified in all cases where the Trust is to be charged by external lawyers, and to ensure that all cases have a Costs Estimate provided by external lawyers so that budget holders can manage their legal costs in a planned way.

2 POLICY SCOPE- WHO THIS POLICY APPLIES TO AND ANY SPECIFIC EXCLUSIONS

This Policy applies to all Staff whenever they wish to obtain external legal advice including outside of normal office hours (see 1.3 above).

3 DEFINITIONS AND ABBREVIATIONS- IN ALPHABETICAL ORDER

Costs Estimate means the estimate provided by the external solicitors to undertake the work that they are instructed to undertake.

Out of Hours means outside of the hours 08h30-17h00 Monday to Friday or at any time on a Bank Holiday.

Personal Contact means a lawyer who is known to a staff member in their personal capacity rather than one who is instructed by the Trust.

Scope means the extent of the work that the external solicitors are instructed to undertake.

Trust Contact means the person authorised by the Assistant Director of Corporate and Legal Affairs to provide instructions to external lawyers on a particular matter. The Trust Contact cannot authorise an increase in the Costs Estimate or the Scope of instructions both of which are reserved to the Assistant Director of Corporate and Legal Affairs.

4. ROLES – WHO IS RESPONSIBLE FOR WHAT

4.1

- 4.1.1 The Trust Board Director with responsibility for this Policy is the **Director of Corporate and Legal Affairs** and they will keep the Trust Board informed of major developments in issues related to this Policy
- 4.1.2 **The Assistant Director of Corporate and Legal Affairs** shall act as Gatekeeper for requests from staff for external legal advice and shall have operational responsibility for this policy.
- 4.1.3 A **Director on Call** shall be entitled to seek external legal advice on a matter of urgency out-of hours as set out in paragraph 5.5 below.
- 4.1.4 **All Trust Staff** who wish to obtain external legal advice during normal office hours shall submit a completed proforma as appears in Appendix A of this policy to the Assistant Director of Legal Affairs. Outside of office hours such staff shall make contact as described in 1.3 above. In particular staff must not seek external legal advice, whether Free of Charge or otherwise, from a Personal Contact. Approved lawyers can be contacted as set out in paragraph 5.4 below.

5. DELIVERING/IMPLEMENTING THE POLICY – WHAT TO DO AND HOW TO DO IT

- 5.1 Staff who wish to obtain external legal advice shall complete the Request Form which appears as Appendix A to this policy and send it to the Assistant Director of Corporate and Legal Affairs for his consideration. If required Staff may contact the Assistant Director of Corporate and Legal Affairs (Ext 8960) for advice on completing the Request Form. The only exceptions to the above are the Trust Board and Audit Committee who each have a right to seek independent legal advice as and when required and this policy shall not be interpreted as interfering with that right. In the absence of the Assistant Director staff shall liaise with the Director of Corporate and Legal Affairs in his stead.
- 5.2 The Assistant Director of Corporate and Legal Affairs shall ensure that all relevant information is contained on the Request Form (including details of the paying budget) and shall thereafter liaise with the external lawyers who are to be instructed for the purposes of setting up a free initial telephone consultation with the Trust Contact so as to identify the scope of the work to be undertaken by the external lawyers and their Costs Estimate for undertaking that work.
- 5.3 Upon receipt of the Costs Estimate from the external lawyers the Assistant Director of Corporate and Legal Affairs shall ascertain whether this estimate is acceptable to the budget holder who is paying for the legal advice. If the Costs Estimate is acceptable to the budget holder then the Assistant Director of Corporate and Legal Affairs shall formally instruct the external lawyers to commence the work in question. If the estimate is not acceptable to the budget holder then the Assistant Director of Corporate and Legal Affairs and budget holder and Trust Contact (if different) shall agree a way forward which might include proceeding without the benefit of legal advice.

5.4 If staff, using their professional connections, contact external lawyers seeking free advice then they must make it clear to the external lawyers that they are seeking free advice and ensure that the external lawyers agree to provide the advice free of charge. If there is any doubt on this issue then the staff member shall terminate the conversation.

5.5 Out of Hours Advice

Where a Director on Call requires urgent legal advice out of hours they should contact Browne Jacobson Solicitors on 0330 045 2560. This takes you through to a 24/7 answering service and they then contact the on call lawyers (2 on call at all times).

6. EDUCATION AND TRAINING FOR THIS POLICY

There are no Education and Training requirements arising because of this policy.

7. PROCESS FOR MONITORING COMPLIANCE

7.1 The audit criteria for this policy and the process to be used for monitoring compliance are given in the table below:

Element to be monitored	Lead	Tool	Frequency	Reporting arrangements
Invoices from External Lawyers to ensure formal instructions provided.	Assistant Director of Corporate and Legal Affairs.	Audit	Monthly	Director of Corporate and Legal Affairs

8. EQUALITY IMPACT ASSESSMENT

The Trust recognises the diversity of the local community it serves. Our aim therefore is to provide a safe environment free from discrimination and treat all individuals fairly with dignity and appropriately according to their needs.

As part of its development, this policy and its impact on equality have been reviewed and no detriment was identified.

9. SUPPORTING REFERENCES, EVIDENCE BASE AND RELATED POLICIES

None


10 PROCESS FOR VERSION CONTROL, DOCUMENT ARCHIVING AND REVIEW

10.1 This document will be uploaded onto SharePoint and available for access by Staff through INsite. It will be stored and archived through this system.

10.2 This document will be reviewed every 3 years, or sooner in response to reported risks or incidences

Request for External Legal Advice

To be completed and Returned to the Head of Legal Services

University Hospitals of Leicester 
NHS Trust

Name of Person Making Request :
CMG/Directorate :

Firm of Solicitors to be considered:
Browne Jacobson/DAC Beachcrofts/Mills and Reeve/ Capsticks/Other- State Other

Are these **new** instructions or related **to a matter currently open**? If a current matter please provide Datix reference eg (SM/J69/BW/FMC/1682)

Trust Employee (Insert Name of Trust employee if this is a HR Matter)

Scope of Instructions (i.e. what do you want them to do)

Name of person(s) authorised to provide instructions to the external lawyers:

Paying Budget

CMG/Directorate :
Budget Code (eg K21, J43) :
Name of Budget Holder :
paying for advice.

Confirmation that Budget Holder is in agreement Y/N

Date Request Made: