

Title:	Procedure for Accessing Legal Advice
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Owner:	Assistant Chief Officer
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Consultation Process	Operational Executive AQuA
Ratified and approved by:	AQuA
Distribution:	All staff and GP members of the CCG.
Compliance:	Mandatory for all permanent and temporary employees of Rotherham CCG.
Equality & Diversity Statement:	In applying this policy, the Organisation will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

Procedure for Accessing External Legal Advice

Background Statement

The aim of this procedure is to ensure staff have guidance on the likely circumstances where access to legal advice would be required and also the appropriate procedure to follow.

Responsibilities

This procedure applies to all employees of the organisation, lay members and third parties.

Training

There are no training implications.

Dissemination

All staff will be able to access copies of this procedure via the Policies section of the NHS Rotherham Clinical Commissioning Groups intranet.

Resource implications

The correct adherence to the procedure will minimise expenditure in relation to legal advice.

Consultation

The Operational Executive Committee and AQuA.

PROCEDURE FOR ACCESSING EXTERNAL LEGAL ADVICE

- 1 When considering the use of external solicitors for legal advice/services, it is important to strike a balance between the sensible use of public funds and the need to minimise risk to the organisation.
- 2 The aim of this procedure is to ensure staff have guidance on the likely circumstances where access to legal advice would be required and also the appropriate procedures to follow.
- 3 This procedure relates to all legal or potential issues other than Clinical Negligence matters. Any clinical negligence allegations, claims or potential claims are the subject of separate procedures and should be directed to the Assistant Chief Officer.

Scope

- 4 This procedure applies to:
 - All employees of the organisation
 - Lay members
 - Contracted 3rd parties

Example situations

- 5 It is inevitable that situations may occur where it is necessary or appropriate to seek legal advice. It may be a routine issue relating to the management of the organisation or, it may be relating to potential litigation against the organisation which can be costly and damaging to its reputation. In such cases, early intervention may prevent situations escalating.
- 6 Reasons to seek legal advice may include the following:
 - A situation may arise that has not been encountered before and is beyond the technical knowledge of any internal subject expert.
 - To obtain confirmation that the organisation's thinking or intended action is correct and legal.
 - To enable the organisation to formally state that legal advice has been obtained.
 - Where an individual has advised that they have involved solicitors or intend to do so.
 - There is significant financial, contractual, clinical or reputational risk to the organisation.

Authority to Access

- 7 All staff should discuss their requirements with their line manager/OE lead and then the Chief Officer.

The Assistant Chief Officer should be contacted to advise which solicitor should be contacted for a particular issue and may have knowledge of similar advice already having been provided which could save unnecessary expenditure.

- 8 RCCG has arrangements with the following solicitors for legal advice:
 - Gordons LLP
 - Capsticks Solicitors LLP
 - Browne Jacobson LLP
 - DAC Beachcrofts LLP
- 9 Any advice or guidance should ideally be given in writing. Copies of the advice should be forwarded to the Assistant Chief Officer to maintain a central register.

Advice When Contacting Solicitors

- 10 If the input of solicitors is to be effective, it is important that they are given clear, accurate information regarding the situation in question. It may be helpful to consider the following prior to contacting the solicitors.

- Have you consulted the organisation's 'specialist'? Depending on the nature of the advice required, help may be available in-house. For example Health and Safety lead, Human Resources lead.
- Collate any relevant documentation and prepare a brief outline of the main events, including details of the parties involved, dates, records of conversations etc.
- Establish any relevant information regarding individuals involved (e.g. age, date of employment, contractual relationship etc.).

11 Although communication with solicitors for the seeking or provision of legal advice is generally covered by legal privilege (i.e. exempt from disclosure under the Freedom of Information Act 2000), care should be taken not to include personal opinions or statement that may be discriminatory or defamatory – keep all communication factual.

Verification of Accounts and Invoices

12 Where staff have accessed to legal advice, the activity will be recorded on the relevant company's invoices. As solicitors charges usually relate to time spent in conversations or correspondence written, it is helpful to retain a note of dates and timings of any advice given, along with brief details of the advice that was given.

13 The RCCG holds a central budget for legal advice which is held by the Assistant Chief Officer.

14 While it would be useful to obtain upfront costs, in urgent situations the OE member has the authority to waive this requirement.

Review date: April 2023

PROCEDURE FOR ACCESSING LEGAL ADVICE

