



**Worcestershire
Health and Care**
NHS Trust

Procedure for Obtaining Legal Advice

**Working together
for outstanding care**

Guideline / Policy on a Page – Summary of Key Points

- Staff are able to access legal advice on Trust issues as and when required, including out of hours for emergency situations.
- During normal working hours all requests for legal advice should be made through the Company Secretary's office (legal team) telephone 01905 681558. Out of hours, if the matter is urgent, legal advice can be obtained through the Level 3 on call director.
- The Trust will fund any external legal advice which is obtained or authorised through this policy.

Procedure for Obtaining Legal Advice

Document Type	Corporate
Unique Identifier	To be set by Web and Systems Development Team
Document Purpose	This policy describes the arrangements for seeking advice from the Trust's Solicitors
Document Author	Company Secretary
Target Audience	All staff
Responsible Group	Quality and Safety Committee
Date Ratified	January 2018
Expiry Date	January 2021

The validity of this policy is only assured when viewed via the Worcestershire Health and Care NHS Trust website (hacw.nhs.uk). If this document is printed into hard copy or saved to another location, its validity must be checked against the unique identifier number on the internet version. The internet version is the definitive version.

If you would like this document in other languages or formats (i.e. large print), please contact the Communications Team on 01905 681770 or by email to WHCNHS.Communications@nhs.net

Accessibility

Interpreting and Translation services are provided for Worcestershire Health and Care NHS Trust including:

- Face to face interpreting;
- Instant telephone interpreting;
- Document translation; and
- British Sign Language interpreting.

Please refer to the intranet page: <http://nww.hacw.nhs.uk/a-z/services/interpreting-and-translation-services/> for full details of the service, how to book and associated costs.

This process has been subject to an equality impact assessment.

Training and Development

Worcestershire Health and Care NHS Trust recognises the importance of ensuring that its workforce has every opportunity to access relevant training. The Trust is committed to the provision of training and development opportunities that are in support of service needs and meet responsibilities for the provision of mandatory and statutory training.

All staff employed by the Trust are required to attend the mandatory and statutory training that is relevant to their role and to ensure they meet their own continuous professional development.

Co-production of Health and Care – Statement of Intent

The Trust expects that all healthcare professionals will provide clinical care in line with best practice. In offering and delivering that care, healthcare professionals are expected to respect the individual needs, views and wishes of the patients they care for, and recognise and work with the essential knowledge that patients bring. It is expected that they will work in partnership with patients, agreeing a plan of care that utilises the abilities and resources of patients and that builds upon these strengths. It is important that patients are offered information on the treatment options being proposed in a way that suits their individual needs, and that the health care professional acts as a facilitator to empower patients to make decisions and choices that are right for themselves. It is also important that the healthcare professional recognises and utilises the resources available through colleagues and other organisations that can support patient health.

Contents:

1. Introduction	7
2. Procedure for Obtaining Legal Advice	7

1. Introduction

Worcestershire Health and Care NHS Trust has in-house legal provision which all requests for legal advice should be directed through. There may be occasions in which external legal advice is required which during normal office hours will be through the Company Secretary's office (legal team).

Staff whose contracts of employment are held by Worcestershire County Council, eg social workers/approved mental health professionals should obtain legal advice from the Council's legal department if it relates to a County Council function.

2. Procedure for obtaining legal advice

Staff within the Company Secretary's office will receive any requests for legal advice and will determine if they are able to advise or whether external legal advice is required. The majority of advice will be given from the in-house team but if external advice is required, this will be arranged by the Company Secretary staff. During office hours, staff are not authorised to approach external solicitors for advice.

2.1 During Office Hours

Staff who wish to access legal advice should, in the first instance, contact the legal team in the Company Secretary's office (01905 681558, 01905 681378, 01905 681380).

2.2 Out of Hours

Staff who wish to access legal advice should, in the first instance, contact the Senior Manager on-call via the switchboard operator on 01905 763333. The senior manager on-call should liaise, as necessary, with the Director on call. The Senior Manager or Director will either speak directly to the on-call solicitor who is available via an external firm of solicitors on tel: 0845 630 7718 to obtain advice and relay this to the member of staff or will provide the telephone number of the member of staff concerned to the on-call solicitor to enable the solicitor to talk directly to the member of staff.

2.3 Legal advice/representation – Coroner's Inquests

The legal team which is part of the Company Secretary's office will liaise between staff and the Coroner's office, as well as determining if legal representation is required at the Inquest.

All staff will be offered legal support through the Inquest process and a discussion will take place as to whether legal representation is required.

In accordance with our incident reporting processes all unexpected, sudden or violent deaths will be reported through our incident reporting processes.

2.4 Legal advice/representation – Employment Tribunal

If paperwork is received either from Advisory, Conciliation and Arbitration Service (ACAS) or the Employment Tribunal offices, this should be shared as soon as possible with the Company Secretary's office.

Discussions will take place between the legal team, relevant managers and human resources (HR) representative to discuss the most appropriate way in which to manage the claim, whether internally or with external legal advice.

In complex HR matters there is the opportunity for complex panel discussions to take place at an early stage to bring together appropriate managers, HR staff and legal advice to consider how to address particular situations.

2.5 Legal advice/representation – Other Courts

If a Court Order or official documentation is received this should be shared as soon as possible with the legal team in the Company Secretary's office. Court Orders are most commonly received from Family Courts or the Court of Protection. Advice and assistance in responding to such matters will be provided through the legal team in the Company Secretary's office.

2.6 Miscellaneous Advice

If any legal advice is felt to be required which is not covered by this policy, contact should be made with the Company Secretary's office who will advise as to the appropriate way in which to proceed. Contact can be made on telephone 01905 681558, 01905 681378 or 01905 681380 .

2.7 Responsibility for meeting the costs of Legal Advice

The Trust will be responsible for meeting the costs of staff seeking advice from external sources authorised in accordance with this policy. Similarly the Trust will meet the costs of any other direct instructions made by, or on the authority of, the Company Secretary or the legal team.

Please note that claims made against the Trust are handled in line with the Trust's Policy on Handling of Claims. Under this policy, and as required, Solicitors are instructed by the NHS Resolution via their Panel of Solicitors; if staff are asked to liaise with external solicitors, the request will be made through the Company Secretary's office.

If staff are subject to proceedings before their professional body, the Trust will not provide independent legal advice and this will usually be obtained by their medical defence union, or trades union. The Trust will provide in-house legal support to staff in terms of explaining the process and expectations, but will not provide legal representation.

2.8 NHS Indemnity

Staff who are employed by the Trust, volunteering or working on a placement, receive the benefit of the NHS indemnity for any clinical claims made against them, alleging negligence in the course of their employment. Further details relating to the Indemnity can be found at:

<http://www.nhsla.com/claims/Documents/NHS%20Indemnity.pdf>

The indemnity will cover the cost of legal costs and damages associated with any such claims. If any member of staff has any intimation of a claim they should speak to the legal team or the Company Secretary as soon as possible.

If staff are undertaking private clinical work, category 2 work (as defined in the consultant contract), or work outside of their employment they have a professional obligation to ensure that they have appropriate professional indemnity insurance.