



Policy:

CG 003 Accessing Legal Advice

Executive Director Lead	Director of Strategy
Policy Owner	Associate director of communications and corporate governance
Policy Author	Senior corporate assurance officer

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Document Version Number	V9
Date of Approval By PGG	June 2025
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Ratified By	Audit and Risk Committee
Date of Issue	June 2025
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Summary of policy

This policy is available should any occasions arise where there is necessity for staff to access legal advice from the Trust solicitors.

Target audience	All SHSC Staff
Keywords	Legal advice, litigation, claims, insurance

Storage & Version Control

This is version 9 of this policy. This version replaces version 8

This policy will be available to all staff via the Sheffield Health & Social Care NHS Foundation Trust Intranet and on the Trust's website. The previous version will be removed from the Intranet and Trust website and archived. Any copies of the previous policy held separately should be destroyed and replaced with this version.

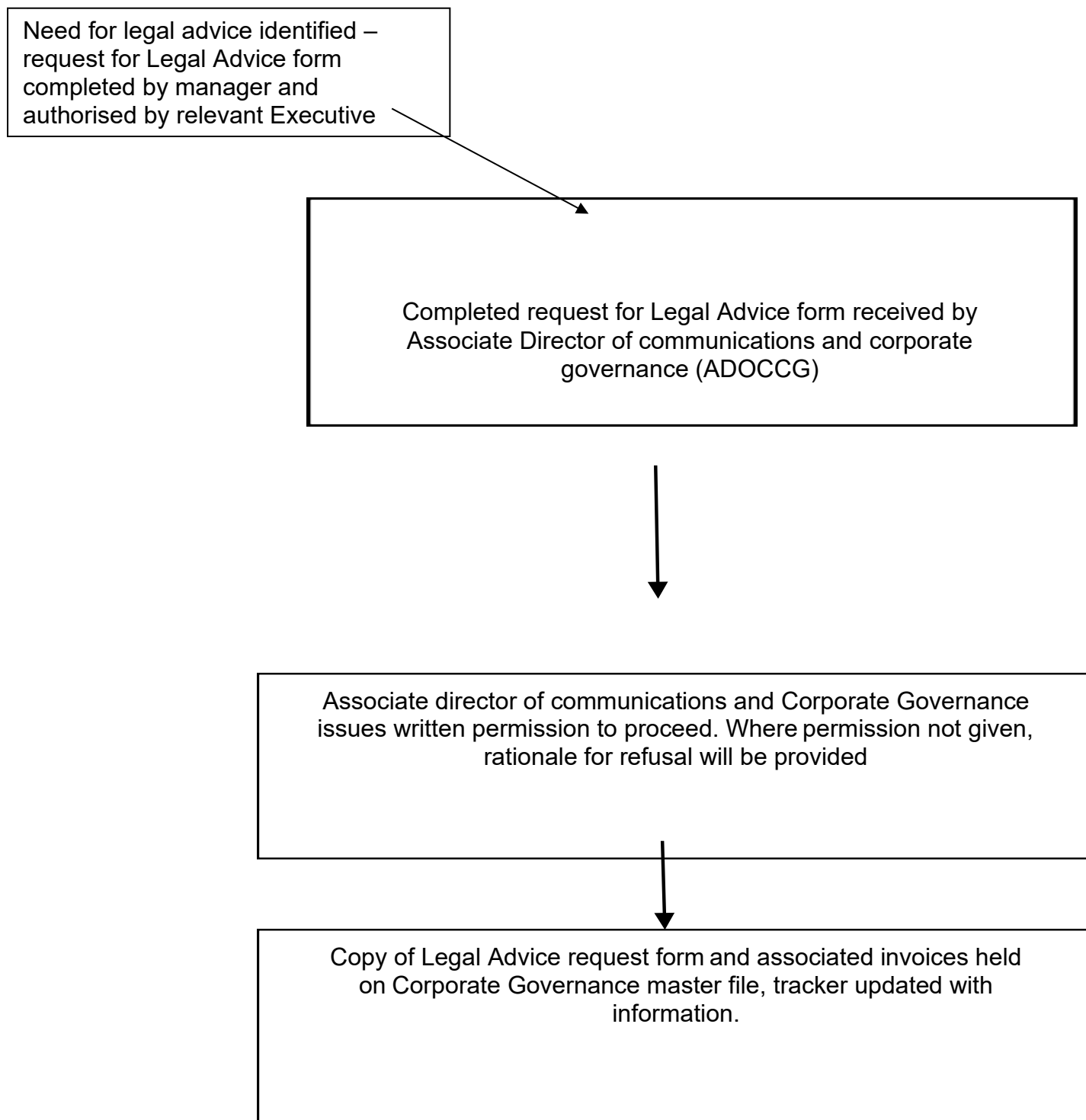
Version Control and Amendment Log

Version No.	Type of Change	Date	Description of change(s)
1.0	Ratification and issue	November 2007	New policy issued
2.0	Review	November 2008	Trust name updated
3.0	Review	June 2010	Dates updated
4.0	Review	October 2011	Dates updated
5.0	Review	April 2014	Job titles and NHS Panel members updated
6.0	Review	January 2018	Reference to inquests removed Frequency of Litigation Bulletin added Legal advice process no longer included in staff induction
6.1	Extension to Review Date	January 2021	Review date extended to 30/06/2021 as approved by PGG on 11 Jan 2021 and ratified by ARC on 19 Jan 2021
7	Review and full revision	June 2021	Brought up to date, revision for a more effective policy.
8	Review and full version	June 2022	Updated to reflect changes in roles. The policy is not due for re-review until June 2023 but may be reviewed earlier depending on business need and following any review by the new Director of Corporate Governance
9	Review and full version	June 2025	Reviewed and updated to reflect changes in roles. and minor changes to narrative

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Flowchart



1. Introduction

From time to time, it may be necessary for staff to access advice from the Trust solicitors.

This policy relates to advice requested for the following areas:

- Inquests
- Mental Health Act
- Court of Protection
- Deprivation of liberty
- General legal advice

Legal advice for estates and HR related enquiries are managed through their own processes and the relevant executive director should be contacted for guidance on this.

This Policy has been in force since 06 August 2007 to ensure financial probity, authorisation of appropriate requests, to create an audit trail, and to comply with external scrutiny.

All requests for legal advice must be authorised by an Executive Director on a case by case, or issue by issue basis before final approval by the Associate Director of Communications and Corporate Governance.

2. Scope

This policy applies Trust wide and to all those employed by, or work for the Trust in whatever capacity. This group will be referred to as '*staff*'.

All staff are expected to comply with this policy at all times.

3. Definitions

Legal advice - refers to any advice, with a legal element requested from the Trust solicitors, whether it be in written or verbal form. Written summary of advice will be expected to be provided by Trust's solicitors.

4. Purpose

The primary purpose is to ensure that all requests for legal advice are reviewed and authorised if appropriate and necessary.

The secondary purpose is to have in place an audit system that monitors the financial spend on legal advice and also audit the nature and extent of the legal advice sought.

5. Duties

The associate director of communications corporate governance (Trust Board Secretary ('TBS')) is the director with responsibility for management and auditing of litigation and will keep the executive management team, relevant committees and the Trust Board, informed of major developments.

The Associate director of communications and corporate governance oversees the litigation budget. They will maintain appropriate review procedures for both clinical and non-clinical requests for legal advice and will report on litigation issues via the [relevant assurance committee](#).

6. Process

6.1 Appointment of Legal Advisers

The Trust will appoint legal advisers from the firms appointed to the Panel, who are approved by the North of England Commercial Procurement Collaborative. At the present time the list includes Kennedys Law LLP, DAC Beachcroft LLP, Capsticks LLP and Browne Jacobson LLP. A full list can be obtained from the senior corporate assurance officer.

6.2 Legal Advice Requests

The associate director of communications and corporate governance will advise on which firm is to be appointed. It will be left to the appointed law firm, to 'triage' the request and appoint a suitable lawyer of the appropriate experience and seniority. They will also require the law firm to quote a base price for the work, with any possible excess costs if the matter becomes more complex.

It will be the responsibility of the law firm to communicate with the Trust, if the initial fee for the work is going to be over run. No additional payment will be made, unless it has been agreed in writing between the Trust and the law firm. The intention is that all legal advice sought in this manner, will be for a fixed fee only, unless the matter proves to very complex.

Where costs are expected to exceed £10,000 for any given piece of work, three tenders should be sought from firms on the Panel. This is something that should be discussed with the associate director of communications and corporate governance **before** the legal advice request form is submitted. The tender document will be drafted by the associate director of communications and corporate governance Director of Governance. Where tenders are issued, all paperwork will be kept for a minimum of 6 years, from the date of success or tender, as per NHS England corporate records Retention Guidance.

All staff requiring legal advice must complete the appropriate request form (see Appendix A). A copy can be found as a document link in the Claims section of the Jarvis Trust Intranet. Hard copies are available from the Corporate Assurance team on request.

The form must be signed by the relevant Executive Director of the Service in which the member of staff seeking advice is based and forwarded to the associate director of communications and Corporate Governance. This must take place **before** legal advice is sought.

6.3 Request Handling Procedures

On receipt of the authorisation form signed by the relevant Executive Director, the request will be countersigned by the associate director of communications and corporate governance. An assigned reference number will be allocated, and the request logged on the appropriate database. This database will be managed by the staff who at the time manage the claims and work with NHS Resolution at the current time Claims Management Team (Capsticks).

Where costs for a piece of work are expected to exceed £10,000, three tenders should be sought from any of the firms on the Panel. The associate director of communications and corporate governance is happy to advise in terms of the firms/individuals best placed to advise the Trust on any specific issue.

Initial contact with the solicitor appointed will be made by either the associate director of communications and corporate governance or the member of staff requesting the advice required, once authorisation has been received. **Staff should not instruct solicitors in respect of pieces of work until written authorisation to proceed has been received from the associate director of communications and corporate governance.**

On receipt of solicitors' monthly invoices, each item for which payment is requested

will be cross-referenced to ensure that the requirements regarding authorisation were complied with prior to advice being sought.

Any requests for payment of items not authorised will be brought to the attention of the relevant Executive Director. Invoices will **not** be paid until all items for which payment has been requested have the relevant supporting authorisation duly signed.

6.3 Learning

The nature of requests for legal advice will be closely monitored and the associate director of communications and corporate governance (or an assigned member of their team) will hold a master file of legal advice received, ensuring that duplicate requests for legal advice are not made. Learning will be captured on the most commonly requested pieces of legal advice and advice given to aid learning and reduce costs.

The number and nature of requests for legal advice will be reviewed on a six-monthly basis by the associate director of communications and corporate governance.

Any excessive requests for legal advice will be reviewed by the associate director of communications and corporate governance

7. Dissemination, Storage and Archiving (Control)

The policy will be made available to all staff via the Sheffield Health & Social Care NHS Foundation Trust intranet. All staff will be advised that the policy is available via Connect (the weekly staff e-newsletter).

Previous versions of the policy will be deleted from the intranet and website. The Trust staff will be informed when a new policy is released. Electronic and hard copies of the previous version will be held in the relevant Trust archive. The retention period will be ten years from date of new policy version. Version control is the responsibility of the associate director of communications and corporate governance.

8. Training and Other Resource Implications

To facilitate continual improvement in the handling of requests for legal advice, one-to-one training will be provided throughout the year for relevant managers on request.

In addition, the associate director of communications and corporate governance (or via outsourced legal support) is available to work with groups of staff to address their specific training and learning needs. See Section 12 Contact Details.

Directors, Associate Directors, Deputy Directors, Service, Ward and Team Managers are responsible for making sure that their staff are aware of and comply with this policy.

9. Audit, Monitoring and Review

Monitoring Compliance Template						
Minimum Requirement	Process for Monitoring	Responsible Individual/group/committee	Frequency of Monitoring	Review of Results process (e.g. who does this?)	Responsible Individual/group/committee for action plan development	Responsible Individual/group/committee for action plan monitoring and implementation

Six monthly	Review of data and learning	associate director of communications and corporate governance	3 yearly or when changes to legislation regulation or internal personal occurs	associate director of communications and corporate governance	associate director of communications and corporate governance reporting via the Audit and Risk Committee	associate director of communications and corporate governance Governance/Audit and Risk Committee
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10. Implementation Plan

Action / Task	Responsible Person	Deadline	Progress update
Upload new policy onto intranet and website and remove old version	Corporate Assurance Officer	Following ratification	
Make staff aware of new policy via Connect	Corporate Assurance Officer	First issue of Connect following ratification	

11. Links to other policies, standards and legislation (associated documents)

Complaints Policy, Claims Policy, Duty of Candour and Being Open Policy, Learning from Deaths Policy, PREVENT Strategy Policy, Incident Policy, Confidentiality Code of Conduct, Managing Conflicts of Interest in the NHS Policy, Disciplinary Policy, Safeguarding Adults Policy, Safeguarding Children Policy, Bullying and Harassment Policy, Whistleblowing Policy and Procedure.

12. Contact Details

Title	Name	Email
Senior Corporate Assurance Officer	Bethan Devonald	Bethan.devonald@shsc.nhs.uk
associate director of communications and corporate governance	Dawn Pearson	Dawn.pearson@shsc.nhs.uk

13. References

Audit Commission's Inspection Report on Sheffield Care Trust Autumn 2007 (*former Trust name*)

Appendix A – Dissemination Record

Version	Date on website (intranet and internet)	Date of “all SHSC staff” email	Any other promotion/ dissemination (include dates)
1.0	November 2007	November 2007	
2.0	November 2008	November 2008	
3.0	June 2010	June 2010	
4.0	October 2011	October 2011	
5.0	April 2014	April 2014	
6.0	March 2018	March 2018	
6.1	N/A – Administrative Amendment Only	N/A – Administrative Amendment Only	
7.0	July 2021	July 2021	
8.0	June 2022	June 2022	
9.0			

Appendix B

Equality Impact Assessment Process and Record for Written Policies

Stage 1 – Relevance - Is the policy potentially relevant to equality i.e. will this policy **potentially** impact on staff, patients or the public? This should be considered as part of the Case of Need for new policies.

NO – No further action is required – please sign and date the following statement.
I confirm that this policy does not impact on staff, patients or the public.

I confirm that this policy does not impact on staff, patients or the public.
Name/Date:

**YES, Go
to Stage 2**

Stage 2 Policy Screening and Drafting Policy - Public authorities are legally required to have 'due regard' to eliminating discrimination, advancing equal opportunity and fostering good relations in relation to people who share certain 'protected characteristics' and those that do not. The following table should be used to consider this and inform changes to the policy (indicate yes/no/ don't know and note reasons). Please see the SHSC Guidance and Flow Chart.

Stage 3 – Policy Revision - Make amendments to the policy or identify any remedial action required and record any action planned in the policy implementation plan section

SCREENING RECORD	Does any aspect of this policy or potentially discriminate against this group?	Can equality of opportunity for this group be improved through this policy or changes to this policy?	Can this policy be amended so that it works to enhance relations between people in this group and people not in this group?
Age	No	No	No
Disability	Yes - Access to legal advice is done to electronic form and is not accessible to all disabilities	No	Contact details are included in the policy and reasonable adjustments will be made with additional support on an individual basis.
Gender Reassignment	No	No	No
Pregnancy and Maternity	No	No	No

Race	Yes	No	If there is need for information and communication in a different language this can be requested to the policy author.
Religion or Belief	No	No	No
Sex	No	No	No
Sexual Orientation	No	No	No
Marriage or Civil Partnership	No		

Please delete as appropriate: - **Policy Amended / Action Identified**(see Implementation Plan) / no changes made.

Impact Assessment
Completed by: Bethan
Devonald

Appendix C

Review/New Policy Checklist

This checklist to be used as part of the development or review of a policy and presented to the Policy Governance Group (PGG) with the revised policy.

		Tick to confirm
	Engagement	
1.	Is the Executive Lead sighted on the development/review of the policy?	<input type="checkbox"/>
2.	Is the local Policy Champion member sighted on the development/review of the policy?	<input type="checkbox"/>
	Development and Consultation	
3.	If the policy is a new policy, has the development of the policy been approved through the Case for Need approval process?	n/a
4.	Is there evidence of consultation with all relevant services, partners and other relevant bodies?	<input type="checkbox"/>
5.	Has the policy been discussed and agreed by the local governance groups?	<input type="checkbox"/>
6.	Have any relevant recommendations from Internal Audit or other relevant bodies been taken into account in preparing the policy?	n/a
	Template Compliance	
7.	Has the version control/storage section been updated?	<input type="checkbox"/>
8.	Is the policy title clear and unambiguous?	<input type="checkbox"/>
9.	Is the policy in Arial font 12?	<input type="checkbox"/>
10.	Have page numbers been inserted?	<input type="checkbox"/>
11.	Has the policy been quality checked for spelling errors, links, accuracy?	<input type="checkbox"/>
	Policy Content	
12.	Is the purpose of the policy clear?	<input type="checkbox"/>
13.	Does the policy comply with requirements of the CQC or other relevant bodies? (where appropriate)	n/a
14.	Does the policy reflect changes as a result of lessons identified from incidents, complaints, near misses, etc.?	n/a
15.	Where appropriate, does the policy contain a list of definitions of terms used?	<input type="checkbox"/>
16.	Does the policy include any references to other associated policies and key documents?	n/a
17.	Has the EIA Form been completed (Appendix B)?	<input type="checkbox"/>
	Dissemination, Implementation, Review and Audit Compliance	
18.	Does the dissemination plan identify how the policy will be implemented?	<input type="checkbox"/>
19.	Does the dissemination plan include the necessary training/support to ensure compliance?	<input type="checkbox"/>
20.	Is there a plan to i. review ii. audit compliance with the document?	<input type="checkbox"/>
21.	Is the review date identified, and is it appropriate and justifiable?	<input type="checkbox"/>

REQUEST FOR LEGAL ADVICE		
Name and Directorate of Person Making the Request		
<p>Where significant pieces of work are anticipated (£10,000 or over), three quotes should be obtained from firms who are approved to supply legal services under the terms of the NHS North of England Commercial Procurement Collaborative (see the Head of Corporate Affairs for advice in this regard). There is an extremely competitive market for legal services and, while the hourly rates of suppliers on the framework agreement have been pre-tendered, experience shows that putting any established provider in a competitive situation will help to drive best value in terms of the quoted number of hours (and hence costs) to undertake any given piece of work.</p>		
Date request made:		
Name of Solicitor Firm:		
Nature of request:	One Off Advice: <input type="checkbox"/> Ongoing Case: <input type="checkbox"/>	
Reason for Request:	Please outline the reasons for your request for legal advice in sufficient detail for audit purposes.	
<p>Contact should not be made with solicitors until the legal advice request has been approved/signed off by the relevant Executive Director and Head of Corporate Affairs</p>		
What services will you require?	Telephone Advice <input type="checkbox"/> E-mail Advice <input type="checkbox"/> Letter <input type="checkbox"/> Review of Papers <input type="checkbox"/> Liaison with third party (eg ACAS) <input type="checkbox"/>	
Signature of Executive Director:		Date:
Countersigned by Budget Holder – David Walsh Director of Corporate Governance		Date: