

## PROCEDURE FOR OBTAINING LEGAL ADVICE

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<b>Document Purpose</b>	This policy describes the arrangements for seeking advice from the Trust's Solicitors
<b>Document Author</b>	Company Secretary
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<b>Responsible Group</b>	Quality and Safety Committee
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If you would like this document in other languages or formats (i.e. large print), please contact the Communications Team on 01905 760020 or email [communications@hacw.nhs.uk](mailto:communications@hacw.nhs.uk)

## Version History

Version	Circulation Date	Job Title of Person/Name of Group circulated to	Brief Summary of Change
v1	08/01/2013	Senior Management Team meeting	Points of clarification
v2	11/01/2013	Senior Management Team virtual	None
V2	23/01/2013	Quality and Safety Committee	None

## Accessibility

Worcestershire Health and Care NHS Trust has a contract with Applied Language Solutions to handle all interpreting and translation needs. This service is available to all staff in the trust via a free-phone number (0800 084 2003). Interpreters and translators are available for over 150 languages. From this number staff can arrange:

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

## 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.**

# WORCESTERSHIRE HEALTH AND CARE NHS TRUST

## Procedure for obtaining legal advice

### 1 Introduction

Worcestershire Health and Care NHS Trust (the Trust) has a contract for access to a firm of specialist health Solicitors, currently Mills & Reeve. This firm is one of a number that are included in a framework agreement for legal services tendered by the Healthcare Purchasing Consortium. The Trust pays for the services provided by Mills & Reeve in line with the hourly rates in this agreement. Where an instruction is made to the firm for specialist advice that is not covered by the terms of the framework agreement, the Trust will be charged at the hourly rate for the legal professional handling the matter.

The Solicitors operate a time charging policy with timed units of 6 minutes. Details of all instructions to the firm are identified by 'instigator' name, nature of instruction and the name of the member of the firm dealing with the matter. Monthly invoices and supporting time recording sheets are submitted to the Company Secretary for verification and authorisation for payment. The Company Secretary meets annually with a nominated partner of the firm to discuss the performance of the firm.

**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.**

### 2 Procedure for obtaining legal advice

The Company Secretary will provide the Trust's Solicitors with a list of senior staff who are authorised to obtain advice from them. This list will be subject to annual review. The individuals named on the list together with the Company Secretary are available within normal office hours and can offer advice and guidance and can be used as a sounding board to determine if legal advice is required and, if so, to clarify the advice that is needed. These colleagues include senior clinical staff, senior managers, medical, nursing and other directors. The Trust's solicitors run a duty system and employ at least one solicitor with particular expertise in mental health law. To access their services staff must abide by the following processes:

#### 2.1 During Office Hours

Staff who wish to access legal advice should, in the first instance, contact one of the individuals on the aforementioned list which is held in the Company Secretary's office. (01905 681558). In the event that individuals contact the Company Secretary directly he should be given as much information as he requires to enable him to assess whether or not legal advice is required. If so the Company Secretary will either obtain this directly, make arrangements for the Duty Solicitor to speak directly to the member of staff concerned or provide a contact name at Mills & Reeve and their telephone number.

#### 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 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**

Please refer to the ‘Inquests and Coroner’s Courts - Guidance on responding to requests from HM Coroner’. The Trust has nominated an individual to act as liaison officer with the Coroner’s Office. This individual will determine, in conjunction with Executive Directors/Service Delivery Unit Leads, when and if legal advice/representation should be obtained.

### **2.4 Responsibility for meeting the costs of Legal Advice**

The Trust will be responsible for meeting the costs of staff seeking advice from the Trust’s Solicitors. Similarly the Trust will meet the costs of any other direct instructions made by, or on the authority of, the Trust’s Directors or nominated officers.

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 Litigation Authority via their Panel of Solicitors.

## **3 Procedure for obtaining advice on employment and land and property matters on behalf of NHS Worcestershire**

The Trust provides facilities management and HR support to NHS Worcestershire under a service level agreement. One year’s notice has been given on this agreement with effect from 1 April 2012. Until the agreement terminates the Head of Facilities and his nominated officers, and the Associate Director of HR and Transformation and her nominated officers are authorised to contact the Solicitors directly for advice. The nominated officers must inform the Solicitors that they are instructing them on behalf of NHS Worcestershire. This will ensure that the Primary Care Trust is charged directly for the advice that has been sought. This arrangement will terminate on 31 March 2013.