

Commissioning of Legal Advice Policy

V2.0

August 2025

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Data Protection Act 2018 (UK General Data Protection Regulation – GDPR) Legislation.

The Trust has a duty under the Data Protection Act 2018 and UK General Data Protection Regulations 2016/679 to ensure that there is a valid legal basis to process personal and sensitive data. The legal basis for processing must be identified and documented before the processing begins. In many cases we may need consent; this must be explicit, informed, and documented. We cannot rely on opt out, it must be opt in.

Data Protection Act 2018 and UK General Data Protection Regulations 2016/679 is applicable to all staff; this includes those working as contractors and providers of services.

For more information about your obligations under the Data Protection Act 2018 and UK General Data Protection Regulations 2016/679 please see the Information Use Framework Policy or contact the Information Governance Team.

Royal Cornwall Hospital Trust rch-tr.infogov@nhs.net

1. Introduction

- 1.1. The Trust sometimes requires legal advice on complex matters in order to protect its interests and/or to ensure that it is operating within the law.
- 1.2. The Trust's Standing Financial Instructions sets out the authority delegated to the Chief Executive from the Board to commission legal advice as follows:

“The Trust Board shall give delegated authority, within limits specified in the Scheme of Delegated Authorities, to the Chief Executive to agree contracts and framework arrangements for the provision of legal advice and services, through a suitable competitive tendering process. The legal service provider commissioned by the Trust must be regulated by the Law Society for England and Wales for the conduct of their business (or by the Bar Council for England and Wales in relation to the obtaining of Counsel's opinion) and be generally recognised as having sufficient expertise in the area of work for which they are commissioned.”

- 1.3. This version supersedes any previous versions of this document.

2. Purpose of this Policy/Procedure

- 2.1. The purpose of this policy is to set out the process and authorities for commissioning of legal advice. This will ensure the Trust achieves best value for public money.
- 2.2. Only a few role holders are authorised to commission legal advice, as delegated by the Chief Executive through this policy.
- 2.3. The limits as set out in the Scheme of Delegation apply in this regard.

3. Scope

This policy applies to all staff who consider that the Trust would benefit from legal advice other than clinical legal advice, which is subject to arrangements via NHS Resolution.

4. Definitions / Glossary

- 4.1. Legal advice – advice required from legal advisors on matters for the Trust.
- 4.2. Framework – the NHS Legal Services procurement framework.

5. Ownership and Responsibilities

5.1. Chief Executive

The Chief Executive is accountable for legal spend at the Trust, for delegating to authority to specific role holders to commission legal advice and for seeking assurance that appropriate commissioning arrangements for legal services are in place.

5.2. Executive Directors including: Director of Nursing, Midwifery and AHP, Director of Estates and Facilities and Company Secretary

All Executive Directors, including the Director of Nursing, Midwifery and AHP (who has the remit for Clinical Legal Services Team), Director of Estates and Facilities and the Company Secretary, have delegated authority from the Chief Executive to approve the commissioning of legal advice on behalf of the Trust, ensuring such advice is procured via framework to ensure best value.

Executive Directors, including the Director of Nursing, Midwifery and AHP and the Director of Estates and Facilities are responsible for advising the Company Secretary of all legal advice commissioned to enable a log of such advice to be kept.

Executive Directors, including the Director of Nursing, Midwifery and AHP and the Director of Estates and Facilities must carefully consider whether legal advice is required or whether any other officer of the Trust can advise on a particular matter (e.g. general solicitor in clinical legal team could be consulted on non-sensitive matters and the Company Secretary operates in a quasi-legal position).

5.3. Role of Company Secretary

The Company Secretary will log all requests for legal advice and will advise colleagues as appropriate on how to access the procurement framework (in liaison with the Chief Procurement Officer).

The Company Secretary will commission from the Chief Finance Officer a biannual report on legal spend (non-clinical) for consideration by the Chief Executive and Executive Leadership Team.

5.4. Role of Chief Finance Officer

The Chief Finance Officer will ensure arrangements are in place to report biannually on legal spend by category e.g. employment law, commercial/contract law, property law, governance law

5.5. Role of Individual Staff

All staff members are responsible for:

- Flagging to the relevant Executive Director if they believe legal advice would be required on a particular matter and seeking the Executive Director's approval on that basis.
- Individual staff must **not** commission legal advice without the relevant approval from the appropriate Executive Director.
- Directing all legal issues relating to clinical practice to the clinical legal team.

6. Standards and Practice

- 6.1 All legal advice required in relation to clinical negligence claims or inquests to be referred to the clinical legal team and is not the subject of this policy.
- 6.2 Legal advice required must be approved by the relevant Executive Director and copied to the Company Secretary to log.

As demand for legal advice cannot be accurately anticipated, it is difficult to set a realistic budget and therefore expenditure on such advice and services must be properly controlled. Legal advice must therefore **only** be sought when absolutely necessary and from a firm that is on the NHS Legal Services procurement framework. This is to ensure best value for money for the Trust.

- 6.3 There is no specific legal services contract for the Trust; accessing advice is via the legal services framework (which can be obtained via the Procurement Department) as and when required is the flexible commissioning model that the Trust currently employs.
- 6.4 Associated policies:
- [Standing Orders, Standing Financial Instructions and the Scheme of Delegation](#)
 - [Claims Management Policy](#)
 - [Management of Inquests Policy](#)

7. Dissemination and Implementation

- 7.1. The Policy will be submitted to Executive Leadership Team for endorsement and noting to ensure all senior staff are aware of the policy. Care Group Boards and Directorate meetings will be advised to take the policy to their meeting to ensure knowledge at management levels and disseminated via Leadership forums.
- 7.2. No specific training is required for this policy.

8. Monitoring compliance and effectiveness

Information Category	Detail of process and methodology for monitoring compliance
Element to be monitored	Legal advice spend. Legal advice commissioning log and authorising officer.
Lead	Company Secretary.
Tool	Excel spreadsheet for log of legal advice – held by Company secretary. Legal advice spend – to be provided by finance colleagues.
Frequency	Biannual reporting.

Information Category	Detail of process and methodology for monitoring compliance
Reporting arrangements	Biannual reporting to the Chief Executive for assurance and ELT for information.
Acting on recommendations and Lead(s)	Company Secretary.
Change in practice and lessons to be shared	Change in practice required to enhance internal control in relation to commissioning of legal advice: • Preventing staff below Executive Director commissioning legal advice without appropriate approval. • Regular monitoring of total legal spend (currently is just clinical legal spend) – action finance colleagues.

9. Updating and Review

- 9.1. Policy to be reviewed and fully updated every three years from date of approval.
- 9.2. Minor administrative amendments to be actioned by Company Secretary with approval of the Chief Executive.

10. Equality and Diversity

- 10.1. This document complies with the Royal Cornwall Hospitals NHS Trust service Equality and Diversity statement which can be found in the [Equality Diversity And Inclusion Policy](#) or the [Equality and Diversity website](#).
- 10.2. Equality Impact Assessment

The Initial Equality Impact Assessment Screening Form is at Appendix 2.

Appendix 1. Governance Information

Information Category	Detailed Information
Document Title:	Commissioning of Legal Advice Policy V2.0
This document replaces (exact title of previous version):	Commissioning of Legal Advice Policy V1.0
Date Issued/Approved:	July 2025
Date Valid From:	August 2025
Date Valid To:	August 2028
Directorate / Department responsible (author/owner):	Lynsey Neave, Company Secretary
Contact details:	01872 256343
Brief summary of contents:	The purpose of this policy is to set out the process and authorities for commissioning of legal advice.
Suggested Keywords:	Legal, advice, commissioning.
Target Audience:	RCHT: Yes CFT: No CIOS ICB: No
Executive Director responsible for Policy:	Chief Executive
Approval route for consultation and ratification:	Policy approved by Chief Executive and endorsed by Executive Leadership Team.
General Manager confirming approval processes:	Company Secretary
Name of Governance Lead confirming approval by specialty and care group management meetings:	Company Secretary
Links to key external standards:	None required
Related Documents:	Trust Standing Financial Instructions
Training Need Identified?	No

Information Category	Detailed Information
Publication Location (refer to Policy on Policies – Approvals and Ratification):	Internet and Intranet
Document Library Folder/Sub Folder:	Chief Executive / Corporate Governance

Version Control Table

Date	Version Number	Summary of Changes	Changes Made by
February 2022	V1.0	Initial issue	Sian Millard, Company Secretary
July 2025	V2.0	Review undertaken as Policy scheduled to expire – minor amends	Lynsey Neave, Company Secretary

All or part of this document can be released under the Freedom of Information Act 2000.

All Policies, Strategies and Operating Procedures, including Business Plans, are to be kept for the lifetime of the organisation plus 6 years.

This document is only valid on the day of printing.

Controlled Document.

This document has been created following the Royal Cornwall Hospitals NHS Trust [The Policy on Policies \(Development and Management of Knowledge Procedural and Web Documents Policy\)](#). It should not be altered in any way without the express permission of the author or their Line Manager.

Appendix 2. Equality Impact Assessment

Section 1: Equality Impact Assessment (EIA) Form

The EIA process allows the Trust to identify where a policy or service may have a negative impact on an individual or particular group of people.

For guidance please refer to the Equality Impact Assessment Policy (available from the document library) or contact the Equality, Diversity and Inclusion Team
rcht.inclusion@nhs.net

Information Category	Detailed Information
Name of the strategy / policy / proposal / service function to be assessed:	Commissioning of Legal Advice Policy V2.0
Directorate and service area:	Trust Head Office
Is this a new or existing Policy?	New
Name of individual completing EIA (Should be completed by an individual with a good understanding of the Service/Policy):	Lynsey Neave, Company Secretary
Contact details:	01872 256343

Information Category	Detailed Information
1. Policy Aim - Who is the Policy aimed at? (The Policy is the Strategy, Policy, Proposal or Service Change to be assessed)	All staff who believe the Trust would benefit from commissioning legal advice. Executive Leadership Team to ensure knowledge on how to commission advice and authorised officers.
2. Policy Objectives	To clarify how legal advice can be commissioned and who has authority in this regard.
3. Policy Intended Outcomes	To improve internal controls in relation to the commissioning of legal advice and oversight of spend.
4. How will you measure each outcome?	Monitor biannual legal spend and maintain log of legal advice commissioned.
5. Who is intended to benefit from the policy?	All staff where legal advice will be commissioned appropriately with best use of public money.

Information Category	Detailed Information
6a. Who did you consult with? (Please select Yes or No for each category)	- Workforce: No - Patients/ visitors: No - Local groups/ system partners: No - External organisations: Yes - Other: Yes
6b. Please list the individuals/groups who have been consulted about this policy.	Please record specific names of individuals/ groups: Chief Executive. Executive Directors. Other Trusts who have a legal advice policy.
6c. What was the outcome of the consultation?	Clarification of different legal advice models and policies in existence at other Trust's informed detail of this policy.
6d. Have you used any of the following to assist your assessment?	National or local statistics, audits, activity reports, process maps, complaints, staff or patient surveys: No.

7. The Impact

Following consultation with key groups, has a negative impact been identified for any protected characteristic? Please note that a rationale is required for each one.

No negative impacts identified. Legal advice is commissioned based on the needs of the Trust and is not influenced by protected characteristics.

Where a negative impact is identified without rationale, the key groups will need to be consulted again.

Protected Characteristic	(Yes or No)	Rationale
Age	No	
Sex (male or female)	No	
Gender reassignment (Transgender, non-binary, gender fluid etc.)	No	
Race	No	
Disability (e.g. physical or cognitive impairment, mental health, long term conditions etc.)	No	

Protected Characteristic	(Yes or No)	Rationale
Religion or belief	No	
Marriage and civil partnership	No	
Pregnancy and maternity	No	
Sexual orientation (e.g. gay, straight, bisexual, lesbian etc.)	No	

A robust rationale must be in place for all protected characteristics. If a negative impact has been identified, please complete section 2. If no negative impact has been identified and if this is not a major service change, you can end the assessment here.

I am confident that section 2 of this EIA does not need completing as there are no highlighted risks of negative impact occurring because of this policy.

Name of person confirming result of initial impact assessment: Lynsey Neave, Company Secretary.

If a negative impact has been identified above OR this is a major service change, you will need to complete section 2 of the EIA form available here:
[Section 2. Full Equality Analysis](#)