

## ACCESSING LEGAL ADVICE AND SERVICES PROTOCOL

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## **1. Background**

The UHB and its staff in the course of their duties, may need to access legal services from time to time. It is crucial that such services are of high quality and value for money, with governance arrangements in place to ensure appropriate, timely and cost effective access. This Protocol outlines the arrangements for accessing legal services in CAVUHB and also follows the requirements set out in the UHB's Standing Orders, Scheme of Reservation and Delegation and Standing Financial Instructions.

## **2. The Providers of Legal Services to NHS Wales**

There are two providers of Legal Services to NHS Wales:

### **2.1 NHS Wales Shared Services Partnership (NWSSP) – Legal & Risk Services (L&R)**

L&R was established under NWSSP by Welsh Government. They provide legal advice and representation for all of the health bodies in Wales and have specialist experience, knowledge and understanding of the legal, administrative and policy issues that affect the operation of the NHS in Wales.

The Health Board has in place a service level agreement with Legal & Risk Services (L&R) for the provision of comprehensive legal services. This includes but is not limited to the following areas of legal advice:

- Commercial Contract and Property
- Complex patient (Medical Treatment, Deprivation of Liberty, Court of Protection, Family Proceedings, Mental Health Act, Educational Tribunals etc)
- Corporate & Information governance
- Employment
- Health and Safety
- Litigation
- Procurement

### **2.2 The National Procurement Service (NPS)**

The NPS has established a framework contract for public sector legal services. The contract framework is available to use, where L&R are unable to assist. Consideration needs to be given to who the most appropriate commercial provider in accordance with the National Procurement Service is, in these instances please contact the Director/Head of Corporate Governance to discuss these matters.

### 3. Specialist Areas

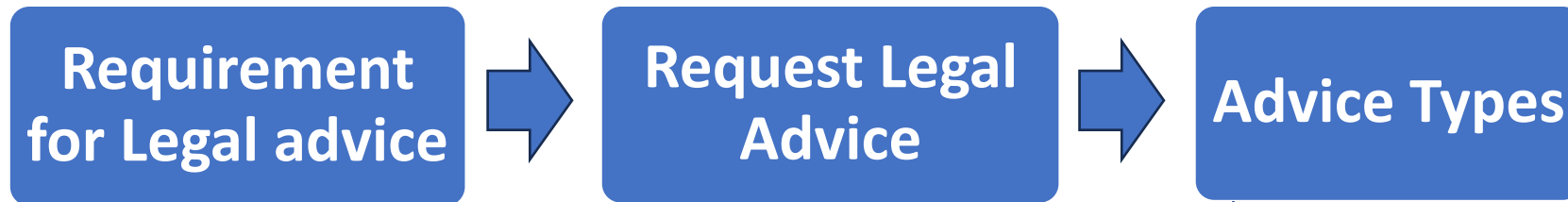
<b><u>Legal Advice by Type</u></b>	<b><u>Responsible Area</u></b>
<b>Employment Services</b>	Queries need to be directed to the People Services Team in the first instance - <a href="#">People Services Team</a>
<b>Clinical Negligence Claims Personal Injury Claims Putting Things Right</b>	Queries need to be directed to the Patient Experience Team in the first instance - <a href="#">Patient Experience - Home</a>
<b>Mental Health Act Legislation</b>	Queries in relation to the interpretation of Mental Health Act Legislation need to be directed to the Mental Health Act Team in the first instance - <a href="#">Contact Us</a>
<b>Mental Capacity Act Consent</b>	Queries in relation to the Mental Capacity Act and Consent need to be directed to the Mental Capacity Act team in the first instance - <a href="#">Mental Capacity Act Team</a>
<b>Estates Services &amp; Capital Planning</b>	Queries in relation to the UHB Estate need to be directed to the Capital Team in the first instance - <a href="#">Estate Services - Home</a>
<b>Judicial Review</b>	Should any staff be notified that the UHB is to be the subject of Judicial Review they must inform the <a href="#">Director of Corporate Governance</a> immediately and seek further advice on the next step.

### 4. Legal advice Protocol

All NHS organisations should engage with L&R as their 'first port of call' in relation to legal service provision. In exceptional circumstances, where it is deemed L&R may not be the best first port of call for advice, please contact the Corporate Governance Team to discuss exploring alternative options.

The following Legal Protocol must be followed by all staff when accessing Legal Advice & Services.

## Accessing Legal Advice and Services Protocol



**Requirement for Legal advice**

**Request Legal Advice**

**Advice Types**

Discuss with Manager  
Obtain approval from Senior Lead (Director Ops/Nursing, Clinical Board Director, Executive Director or equivalent)

Link to Complete  
[Complex Patient Referral - Legal Advice](#)

**Complex Patient Advice**  
Deprivation of Liberty | Medical Treatment (Adult/Child) | Community Deprivation of Liberty | Court of Protection – Personal Welfare Application | Family Proceedings | Mental Health Act Tribunals & Appeals | Education Tribunals | Miscellaneous Complex Patient Advice

Link to Complete  
[Commercial-Team-Request-form.docx](#)

Ensure you CC in  
[Corporate.Meetingcav@wales.nhs.uk](mailto:Corporate.Meetingcav@wales.nhs.uk)

**Commercial Legal Advice**  
Commercial contracts | Procurement | Outsourcing treatment and services | Intellectual Property | Regulatory law | Public contract law (Public/Private partnership) | Judicial Review | Commercial Litigation | Disputes between public authorities regarding funding | Dispute resolution | Construction | Criminal | Injunctions | Information law (Data Protection and FOI issues)

**URGENT WORKING HOURS**

Urgent legal advice requests should be submitted to the [Corporate Governance team](#) via the Head of Corporate Governance.

Miscellaneous Advice requests to be discussed with Corporate Governance

OR  
Legal and Risk can be contacted via 02921 500 500 selecting option 1 for legal and risk.

**JUDICIAL REVIEW**

Should Staff be notified that the UHB is to be the subject of Judicial Review they must inform the Director of Corporate Governance immediately and seek further advice on the next step.

**OUT OF HOURS**

Urgent legal advice submitted to the Senior Manager On Call (SMOC) who will seek approval from the Executive On Call.

Exec on call to contact most appropriate commercial provider in accordance with the National Procurement Service list

## **5 Monitoring of Legal Advice Requests**

Corporate Governance will retain a register of all legal advice instructions and spend across the UHB to ensure they are proportionate and reasonable and Legal & Risk will provide feedback on the quality assurance and conclusion of cases. If unreasonable Legal Advice requests are submitted, feedback will be provided to explain why and sign post accordingly.

## **6 Billing / Payment Arrangements**

L&R billing arrangements will be managed via the Shared Services finance team.

External Legal Providers invoices will be managed by their internal financial Team.

Legal invoices under this protocol will be sent to the nominated legal budget holder within Corporate Governance in line with their delegated limits for approval and processing. All invoices above the Head of Corporate Governance's delegation will be submitted to the Director of Corporate Governance for authorisation of payment.

## 7 Useful Resources

Description	Resource
<p><b><u>Corporate Governance Team Contacts</u></b></p>	<p><a href="#">Corporate Governance Team - Cardiff and Vale University Health Board</a></p>
<p><b><u>Legal &amp; Risk Contact Details</u></b></p> <p>Legal &amp; Risk Services can be contacted during <i>working hours only</i>.</p>	<p><b><u>Telephone:</u></b> 02921 500 500 selecting option 1 for Legal and Risk.</p> <p><b><u>Email:</u></b></p> <p><b><u>Court of Protection Team:</u></b>  <a href="mailto:LegalandRiskCOPTeam@wales.nhs.uk">LegalandRiskCOPTeam@wales.nhs.uk</a></p> <p><b><u>Commercial Team:</u></b>  <a href="mailto:LegalAndRiskCommercialTeam@wales.nhs.uk">LegalAndRiskCommercialTeam@wales.nhs.uk</a></p> <p><a href="#">Contact Legal &amp; Risk Services - NHS Wales Shared Services Partnership</a></p>
<p><b><u>Legal Resources</u></b></p> <p>A Legal Advice Sharepoint page has been developed to assist staff with information and resources for accessing Legal Advice.</p>	<p><a href="#">Legal Advice Sharepoint</a></p>