

Protocol – Dealing with Legal Enquiries and Court Orders

This protocol is to be used when receiving any legal enquiries or Court Orders.

1. Individual receiving any written communication from a solicitor or legal adviser to inform and provide communication to their Director.
2. Director to ensure letter of acknowledgement is sent within 2 days and copied with the original communication to Sharon Church at sharon.church@nhs.net to record on Chief Officer log.
3. Director to assess whether legal advice is required in order to provide a full response.
4. If legal advice is needed, Director or delegated named manager to seek guidance from the Contracts
5. Team as to who is recommended to be instructed as:-
 - a. There is good internal knowledge over who to instruct and the appropriate level to pitch a particular legal issue.
 - b. Reference will be made to the national framework <http://ccsagreements.cabinetoffice.gov.uk/contracts/rm919> where the costs for instructing trigger a requirement for this CCG to tender the work and the Contracts team are aware of the firms where the CCG has set fee arrangements.
6. Following the benefit of this advice, the Director or delegated manager to seek approval from Director of Finance, Contracting and Performance and where unavailable the Chief Officer to instruct the agreed solicitors within their delegated powers.
7. Director or delegated manager to set out succinct instructions to the agreed selected legal advisers, setting out the key areas to be addressed in bullet point form and stipulating that the advice should address each of the points raised in a clear and succinct manner, and that the legal adviser is required to highlight any other factors the CCG should consider and that the advice is going to be relied on by West Essex Clinical Commissioning Group, and should be directed at a lay reader.
8. These instructions should also include who will be paying for the advice e.g. if the costs are going to be split between the CCG and one or more other organisations.
9. Confirm who the contact person is within the CCG – which clearly needs to be a person with the best knowledge of the issue and who the legal adviser should channel or communications through.
10. To confirm that a regular update on legal costs is required.
11. (The legal representative will tend to charge on a unit basis (one unit equalling 6 minutes). However a fixed fee arrangement can be negotiated and agreed, further the law firm should be able to estimate how much a piece of work will cost e.g. it will take approx. 5 hours at £x (plus VAT). There will be a charge for every email, telephone call etc. and also for preparation.
12. The Director of nominated manager needs to be clear on what expectations so be prepared and focused in all communications.
13. Receive from the legal advisers a client care letter which will set out the terms of their practice, this will usually include the summary of the advice sought.

14. Director of delegated manager to seek any amendments required if any areas cited are inaccurate.
15. Progress on the legal matter should be provided for the Chief Officer log which will be drawn to the attention of the Director of Corporate Services who will provide an alert where actioning a request appears not to have been progressed in the timely way.

Ian Tompkins

Director of Corporate Services

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