Protocol for Dealings with External Legal Advisers

Legal Services is an in-house solicitors’ office. It advises Colleges, Schools, Departments and Corporate Services within the University and liaises with external bodies and solicitors and barristers, as required. The Director reports directly to the Registrar and Secretary.

The Legal Services’ team currently comprises 7 solicitors and 2 paralegals. Further details are found on its webpage at www.bham.ac.uk/legal-services.

Requests for legal advice should be sent to Legal Services via legalservices@contacts.bham.ac.uk using the Advice Request form found at https://intranet.birmingham.ac.uk/legal-services/index.aspx. Legal Services is not authorised by the Solicitors Regulatory Authority to advise staff or students on personal matters.

Legal Services does not charge Colleges, Schools or Departments directly for the advice and assistance that it provides in-house, but Legal Services’ budget does not include provision for consulting external lawyers. Therefore authorisation to commence work that will attract legal fees must be obtained from either the Head of the Budget Centre who will be responsible for the fees (where the matter is solely for the School/ Budget Centre) or the Director of Legal Services (where the matter is important for the University as a whole). Legal Services has budget to pay for external legal fees only in the case of a matter being of strategic importance for the University as a whole. The Director of Legal Services makes such decisions in consultation with the Registrar and Secretary, when necessary.

Following competitive tender, the University has service level agreements with a panel of external solicitors. Generally litigation matters are referred to them, together with some substantial matters where specific expertise is required. Solicitors within Legal Services can also directly obtain opinion from Counsel, when appropriate.

Instructions from the University to external legal advisers must be directed through Legal Services. This will enable accurate, relevant and timely advice to be obtained and costs to be monitored in accordance with the agreed service level statements.

In order to expedite the appointment process, members of the University are requested to follow the following steps:

1. Please initially consult with a solicitor within Legal Services as soon as possible to establish whether the University can deal with the matter internally, or whether there are steps which must be taken prior to instructing external lawyers (e.g. whether more information on the matter in hand is required, or whether there are internal processes which must be followed). This can be by email or telephone.

2. If it is agreed that the matter should be referred to external lawyers, please prepare a briefing letter, including all relevant information and referencing all relevant documentation, internal legislation (e.g. Ordinances or Regulations) reports letters etc.
3. Incorporate within the briefing letter an indication of the level of legal complexity of the matter (i.e. if it involves an unusual/complex issue at partner level or if it is more routine work which can be carried out by a more junior level), and whether or not a specific fees structure or arrangement is required. Legal Services will advise on these points, or draft if necessary.

4. Send the draft to Legal Services who may request further information, and/or clarify the legal instructions. Having decided which external lawyers to instruct Legal Services may amend the letter and incorporate matters arising from the relevant service level statement.

Depending on the issues raised, Legal Services may request that all correspondence is either directly with the member of staff concerned, or that all correspondence must be solely with Legal Services. Occasionally it may simply be appropriate for Legal Services to be copied in on correspondence.

Where there is a series of similar transactions an agreed method of instruction could be formulated, with a simple notification to Legal Services of the nature and title of the matter, so that all invoices can be accounted for and reconciled. Periodic reviews of outstanding matters will be provided to Legal Services under the relevant service level agreement with external lawyers.

Authority

By virtue of the University’s Charters, Statutes, Ordinances and Regulations the Registrar and Secretary has authority to instruct external solicitors or counsel and to obtain such advice as is necessary in order to protect the University’s interest. The Council will expect the Registrar and Secretary or, through him or her, his or her officers, to advise the Council on relevant issues arising in the use of public funds, accountability and legal matters, including exceptional cases where the propriety of the actions of any University officer may be in question. This authority includes the ability to prosecute or defend any matter before a court of law, or other appropriate authority. At the time of initial instruction, Legal Services will endeavour to obtain an indication of the likely costs to be incurred. Where these costs are estimated to exceed £100,000 per matter, the Registrar and Secretary will consult with the Vice-Chancellor before initiating instructions or proceeding with the legal action. Where the anticipated expenditure on external legal services is estimated to exceed £250,000 the Registrar and Secretary shall consult with both the Vice-Chancellor and the University Treasurer, or designated Deputy.

In all cases where the Registrar and Secretary has been required to consult with either the Vice-Chancellor alone, or the Treasurer and the Vice-Chancellor, the matter shall be reported to the next Council meeting.

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