

**East Midlands Ambulance Service NHS Trust**

**PROCEDURE FOR OBTAINING LEGAL ADVICE  
FROM THE TRUST'S SOLICITORS**

**Links to:**

- Risk Management Policy and Strategy
- Auditors Local Evaluation (ALE)

**Owner: Trust Secretary**

**Lead: Trust Secretary**

**Version: 1.1**

**Approved By: Healthcare Governance Committee**

**Date: 23 June 2008**

**Review Date: June 2010**

**Policy ID: CS/01.42.1**

# Version Control

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## ***Document Location***

The source of the document will be found in the 'Library' folder located in the EMAS public drive (S:)

## **Revision History**

Revision date	Previous revision date	Summary of changes
June 2008	N/A	New Procedure for EMAS Trust
August 2009	June 2008	Review date amended to reflect the move to a 2 year review cycle. Ownership moved to Secretariat.

## **Approvals**

This document requires approval from the following:

Name	Date of Approval	Version
Healthcare Governance Committee	23 June 2008	1.0
Governance Committee	07 August 2009	1.1

## **Distribution**

**This document has been distributed to:**

Name	Date
Library (EMAS Public Drive)	August 2009
Intranet	August 2009
All Staff	August 2009

## **Freedom of Information Act 2000 Access**

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## PROCEDURE FOR OBTAINING LEGAL ADVICE FROM THE TRUST'S SOLICITORS

### 1.0 Introduction

- 1.1 As Accountable Officer, the Chief Executive is responsible for all legal issues. In all Board reports Directors have a responsibility for ensuring that they consider and document the consideration of any legal issues and their proposed response is identified for Board approval. A template for 'Policy and Decision Making', has been developed to document this. The template is available in the public network drive <S:\Templates\EMAS Templates>
- 1.2 The Trust has contracted Browne Jacobson LLP to provide its legal services.

### 2.0 Authority to Instruct Solicitors

- 2.1 The following Officers of the Trust have authority to contact the Trust's solicitors for advice on those matters detailed below:
  - Chairman / Chief Executive – all legal issues
  - Non-Executive Directors – issues relating to Committees of the Board of which they are members
  - Directors/Assistant Directors – issues relating to their direct sphere of responsibility
  - Head of Governance and Risk – issues relating to risk management, health and safety and governance. In addition the Head of Governance and Risk is responsible for monitoring all requests for advice (with the exception of Employment Law) to gain assurance that the request and the associated cost to the Trust is justified.
  - Legal/Claims Advisor – issues relating to liability claims, including clinical negligence, employee liability etc.
  - General Manager Estates and Logistics – issues relating to estates and procurement advice, i.e., contracts, leases, deeds etc.
  - General Manager Fleet Services – issues relating to vehicles i.e. contracts, leases etc.
  - General Manager for Community Engagement – issues relating to communications, media and new media e.g., libellous material
  - Informatics Manager – issues relating to Data Protection, Caldicott, Freedom of Information etc.
- 2.2 Anyone requiring legal advice that is not included in the list above must contact the Head of Governance and Risk in the first instance.

## PROCEDURE FOR OBTAINING LEGAL ADVICE FROM THE TRUST'S SOLICITORS

### **3.0 Support / Expertise – Internal and External**

3.1 The Trust has designated officers to act as competent experts/advisors in certain fields. Advice from these individuals should be considered before taking advice from solicitors. The list of designated officers is at Appendix B

### **4.0 Procedure for Instructing Solicitors (See flowchart at Appendix A)**

4.1 The Head of Governance and Risk will provide Designated Officers with a system of numbering to be used when instructing solicitors. This will ensure that invoices and correspondence can be correctly identified to an individual Designated Officer and will facilitate monitoring

4.2 The single point of contact for legal advice at Browne Jacobson's (with the exception of estates, Informatics and HR matters) is Carole Ayre. Contact details: Email [cayre@brownejacobson.com](mailto:cayre@brownejacobson.com)

4.3 With the exception of the individuals highlighted in section 2.0 all other managers/staff must contact the Head of Governance and Risk before they make contact with the Trust solicitors.

4.3 Instructions to the Trust's solicitors, to take action or provide advice on behalf of the Trust, must always be carried out in writing (email will be acceptable but due consideration should be given to data protection issues). Employment Law/HR advice is excepted. The instruction should include a request for an estimate of time and cost.

4.4 A copy of the instruction must be sent to the Head of Governance and Risk.

4.5 The solicitors' response in regard to the estimate of time/cost should be copied to the Head of Governance and Risk.

### **5.0 Authority**

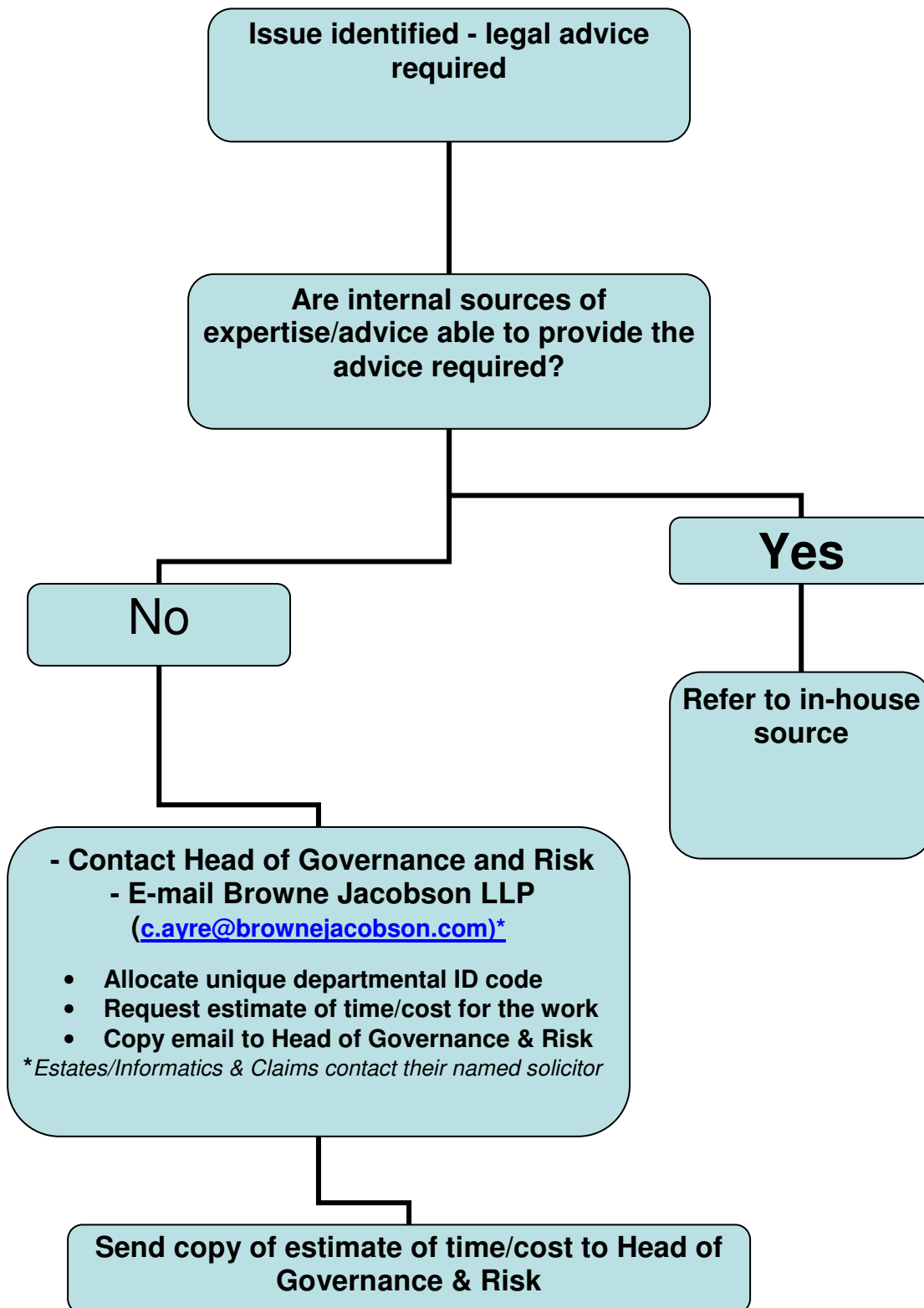
5.1 **Under no circumstances must officers of the Trust instruct other law firms to act on behalf of the Trust unless authority has been received, in writing, from the Chief Executive.**

### **6.0 Monitoring**

6.1 The Head of Governance and Risk will monitor this procedure on an annual basis in respect of:

- The type of advice being sought from solicitors
- How often internal advice was sought prior to solicitors being instructed
- Estimates of time/cost vs actual time/cost

Procedure for Obtaining Legal Advice



**Support/Expertise – internal and external**

**Risk Management / Health & Safety / Corporate Governance**

Head of Governance & Risk  
Risk and Safety Manager  
Governance Manager  
Risk and Safety Advisors

**Responsibility for the strategic development of risk management and corporate governance in the Trust and implementation of risk, safety and corporate governance policies and procedures. Responsible for coordination of the Annual Healthcheck, NHSLA Risk Management assessment. Provides advice to the Trust Board and Managers in relation to risk management, health and safety and corporate governance.**

**Fire Safety**

Head of Governance & Risk  
Risk and Safety Manager  
Governance Manager  
Risk and Safety Advisors  
Estates Manager  
Assistant Estates Manager  
FSE Ltd (external)

**Responsible for providing the Trust with advice on all matters of fire safety, including training. Responsible for annual programme for risk assessment and fire safety training.**

**Clinical Governance / Infection, Prevention and Control**

Clinical Director (Medical Practitioner)

**Responsibility for the strategic development of clinical governance within the Trust. Advice on clinical issues to managers and staff.  
Director for Infection, Prevention and Control (DIPC)**

**Estates & Environmental**

Estates Manager  
Assistant Estates Manager

**The Estates Management functions are responsible for the coordination of contractors in relation to the maintenance and upkeep of the EMAS estate, Six Facet Survey, advice on legislative updates and requirements, asbestos and specialist testing, risk assessment and health and safety.**

**Pressure Systems**

Estates Manager  
Assistant Estates Manager

PROCEDURE FOR OBTAINING LEGAL ADVICE FROM THE TRUST'S SOLICITORS  
**Programme of maintenance and testing of all pressure systems within EMAS. Advice on changes in legislation that may affect the Trust is provided by an external source (NifES) as and when required.**

### **Security Management**

Security Advisor (Local Security Management Specialist)

**Qualified professional LSMS. Responsible for all security matters including personal safety and premises security. Legal advice pertaining to security issues. Statement taking.**

### **Fleet Risks**

General Manager Fleet Services

Assistant Fleet Manager

Fleet Engineer

**Responsible for managing risk issues relating to vehicles. Advice to managers and staff, liaison with the Police, HSE and other agencies in relation to vehicles and fleet issues.**

### **Legal Advice**

Trust Solicitors – Browne Jacobson LLP

Legal/Claims Advisor

**The Trust solicitors provide advice to the Trust on legal matters.**

**The Legal/Claims Advisor provides legal advice in regard to employee liability, public liability, product liability, property liability and medical negligence matters, liaising with the Trust solicitors and the National Health Service Litigation Authority (NHSLA) on matters of claims and significant risk. The Legal Claims Advisor also provides advice on Coroners Inquests, statement –taking/report preparation and**

### **Medical Equipment**

General Manager Estates/Logistics

Medical Physics, Derby City Hospital

Service Level Agreements with individual manufacturers/suppliers

**Responsible for annual maintenance and testing of medical devices and advice in relation to medical devices.**

### **Occupational Health**

Team Prevent

**Provide health screening, advice and other occupational services to all EMAS staff.**

### **Information Technology**

ICT Services Manager (IT Disaster Recovery)

**Responsible for developing and implementing disaster recovery plans for IT services within EMAS**

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**Information Governance**

Informatics Manager

Provides competent advice on information governance, Freedom of Information, Caldicott and Data Protection.

**Emergency Planning / Business Continuity**

Assistant Director of Operations Support

General Manager Operations Support

Emergency Planning Officers

**Provide specialist advice to the Trust in emergency planning for major incidents, outbreaks, CBRN emergencies and for Business Continuity and Disaster Recovery**