

OBTAINING AND MANAGING LEGAL ADVICE: GUIDANCE NOTES

INTRODUCTION

1. This document has been prepared to set out the process that should be followed to commission and manage legal advice and clarify which staff are authorised to deal directly with the University Solicitors, Anderson Strathern.
2. A central budget for corporate legal services (excluding Property and Facilities matters) is managed by Governance Services (GS) who seek to ensure that budget expenditure is relevant, necessary and within budget parameters. GS monitor expenditure and oversee the approval of the monthly invoices received from the University's solicitors.

PROCESS FOR MANAGING LEGAL ADVICE

3. The process for managing legal advice is set out in flow chart form, included as **Appendices A & B**. The following guidance notes relate to steps in that process.

GUIDANCE NOTES

SECTION A: IDENTIFYING AND SPECIFYING THE NEED FOR LEGAL ADVICE

Initial considerations

4. Before seeking new external legal advice, every authorised instructor or their delegated staff member should consider and if necessary, consult internally on whether similar issues have been addressed in the past. A view should be taken on the circumstances of the case, as to whether or not the matter can be dealt with internally based on in-house knowledge and precedent without the need to seek external legal advice. GS will be able to advise on known areas of expertise within the University.
5. As it is clear that legal costs can mount up very quickly, it is the responsibility of all staff commissioning legal advice to use the resource advisedly.
6. In particular, the University's Solicitors should not be used as a drafting service in straightforward matters of contract, policy and/or regulation where initial drafts can be prepared by University staff in their respective areas of activity, based on existing knowledge and precedents, for review by the Solicitors. Nor will they be expected to respond to requests which are incomplete or not properly considered, structured or summarised.
7. The overriding principle is that the commissioning of new legal work must be on a basis of unavoidable need, should be properly approved and the work carried out should be monitored, checked and verified by the relevant authorised instructor.

Good practice measures in managing legal advice

8. The following should be considered as ways of effectively managing the obtaining of legal advice and limiting the need to seek new advice:

- Commissioning standard templates to deal with common contractual matters, which can be adapted and re-used within the University
 - Identifying common areas where legal difficulties arise requiring external legal advice and arranging for training/briefing sessions/workshops for relevant staff to mitigate the need to seek advice on these matters in future
 - Identifying a range of queries and issues in advance within a team e.g. relating to a new project, and addressing these issues with all involved at a single meeting with the relevant legal adviser. This may prove more efficient and effective than obtaining advice piecemeal
 - Keeping a log of advice received in a shared area accessible by authorised colleagues.
 - Sharing legal advice and guidance on good practice within a dedicated team/area
9. Where it has been identified that new external legal advice is needed, to limit costs and ensure focussed and relevant requests, it is important for the area seeking the advice to be as specific as possible about the points on which the University needs advice. If too general a legal opinion is sought it can lead to delays or unnecessary or unsolicited work. To aid this process staff should provide the following:
- A subject title and brief summary
 - Key points or issues identified
 - Other relevant staff consulted
 - Any concerns or queries about the practical application or import of what is being sought
 - Where relevant, any document or agreement which is to be reviewed or revised, with specific sections or clauses highlighted by the staff with direct responsibility for implementation or operation
 - The timescale for the advice to be received
 - The relevant budget code to be applied if the costs are not being met from the central budget for legal services
10. Staff should allow sufficient time for the request to be processed and advice received from the Solicitors.

Process for obtaining legal advice (Appendices A & B)

11. Depending on the type of legal advice being sought and the extent of the work, the following applies:

HR, Property & Facilities, Research, Innovation and Enterprise Office, Commercialisation, International Operations and Collaborative Agreements (Appendix A)

12. The truncated process in Appendix A should be followed. Instructors in these areas will deal directly with the Solicitors and will not be required to consult in advance with GS, nor copy advice received to them. They will retain their own records of advice sought and received, monitor trends and follow the good practice measures for managing legal advice outlined above.

Other Issues (Appendix B)

13. It is the responsibility of the area seeking legal advice to provide the information in section 9 above and send this together with any associated attachments and evidence of authorisation, to GS **before this is sent** to the solicitors. This is to give GS the opportunity to provide advice and assistance and to facilitate appropriate access to the solicitors.

14. GS will maintain a central record of requests, not only for budget monitoring purposes but also as a resource for future reference. In addition, from this data it will be possible to identify trends or recurring themes which will help e.g. to inform the commissioning of standard templates, in planning relevant workshops and/or further staff guidance.
15. After GS have seen the request, and the need for legal advice is confirmed, the information provided and associated documentation should be sent to the relevant contact at the University's Solicitors (see section C below).
16. As the area seeking the legal advice will be expected to know how the proposed agreement or other legal document will operate in their area, relevant staff will be responsible for direct engagement thereafter with Anderson Strathern and/or the relevant third party in any negotiations or revisions which may be required. This will not be undertaken by GS.
17. If it is agreed with GS that the matter is one which can be resolved by a short phone call without invoking the more formal process, the information referred to in 9. above should be to hand and used, as relevant, by the instructor when making that call.
18. Any separate note of legal advice received, or advice summary, which could be useful for future reference should be copied to GS.

Monitoring and authorising advice received

19. Authorised instructors will receive monthly reports on the activities and costs related to the work they have authorised.
20. Before confirming that they are content for payment to proceed, instructors should:
 - check the costs billed
 - where relevant ask for invoices to be directed to other staff for approval
 - raise any other queries; and
 - monitor the amount of expenditure

SECTION B: EDINBURGH NAPIER UNIVERSITY AUTHORISED INSTRUCTORS

21. The posts with delegated operational responsibilities to act as official correspondents and deal directly with Anderson Strathern are listed at **Appendix C**.
22. All other members of staff who consider that they need to consult the University's Solicitors must obtain email authorisation from one of the above postholders to act as a delegated contact and must forward this to the University's Solicitors with the request for advice. The usual procedure as set out in the flow charts will then apply to the matter.

SECTION C: ANDERSON STRATHERN CONTACTS

23. To ensure that we can resolve most issues quickly and at the most appropriate level, a list of agreed main contacts for finance, tax & commercial matters, estates, specialist/general litigation and HR matters at Anderson Strathern should be used. The list of current contacts is given at **Appendix C**.

SECTION D: BUDGET CODES

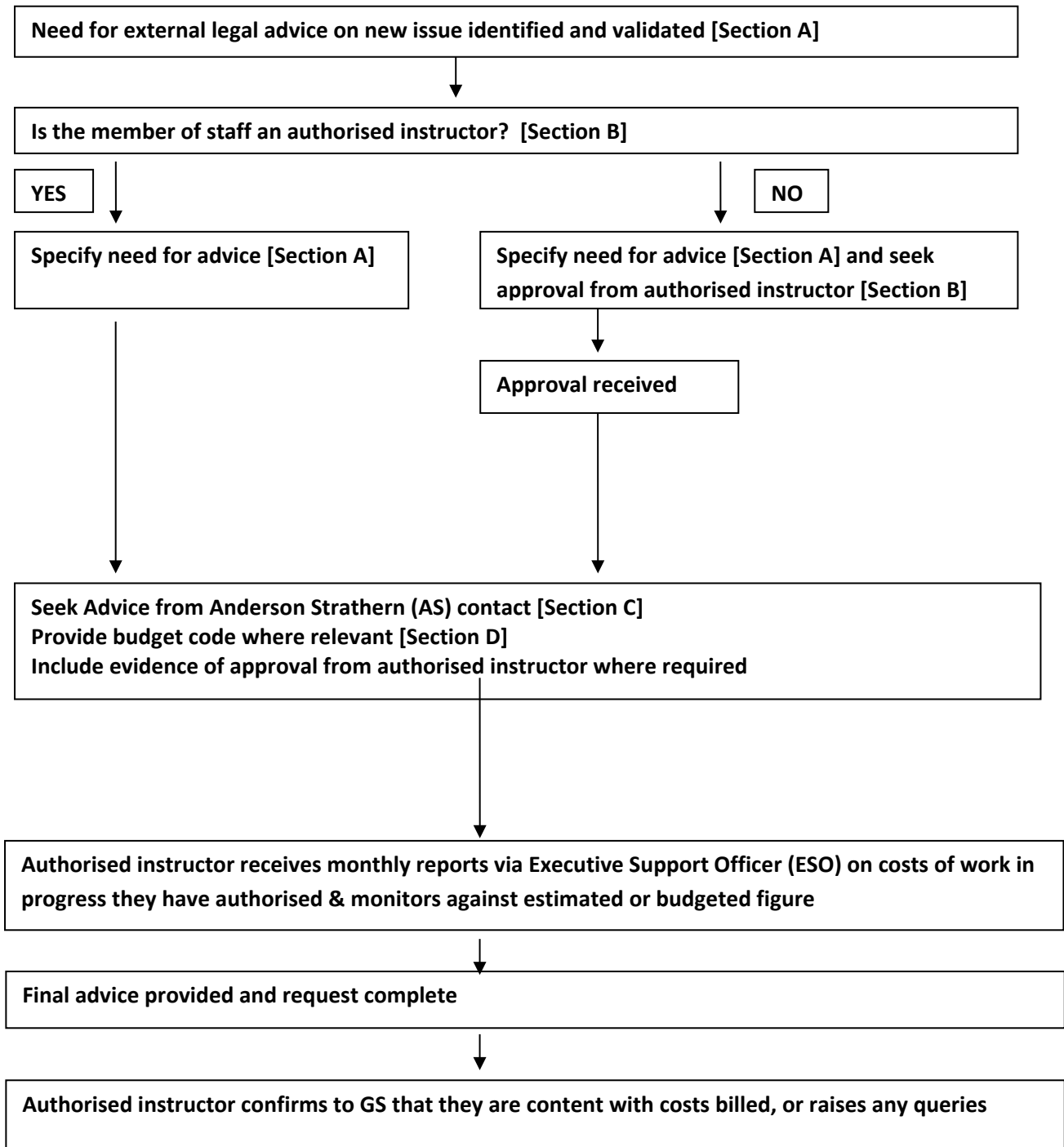
24. Any new request to Anderson Strathern for legal advice which does not come out of the central budget for legal services should quote the budget code to which the advice relates. This will ensure that legal charges are costed into the correct projects and will minimise the administrative burden of recharging once the advice has been provided.
25. If the advice relates to a specific, externally-funded project e.g. a research or teaching collaboration programme in receipt of external funding, then the legal fees should be charged to this project and costed into the project budget unless another arrangement has been agreed with GS.

ADVICE AND ASSISTANCE

26. For advice and assistance on this process, please contact [Governance Services](#)

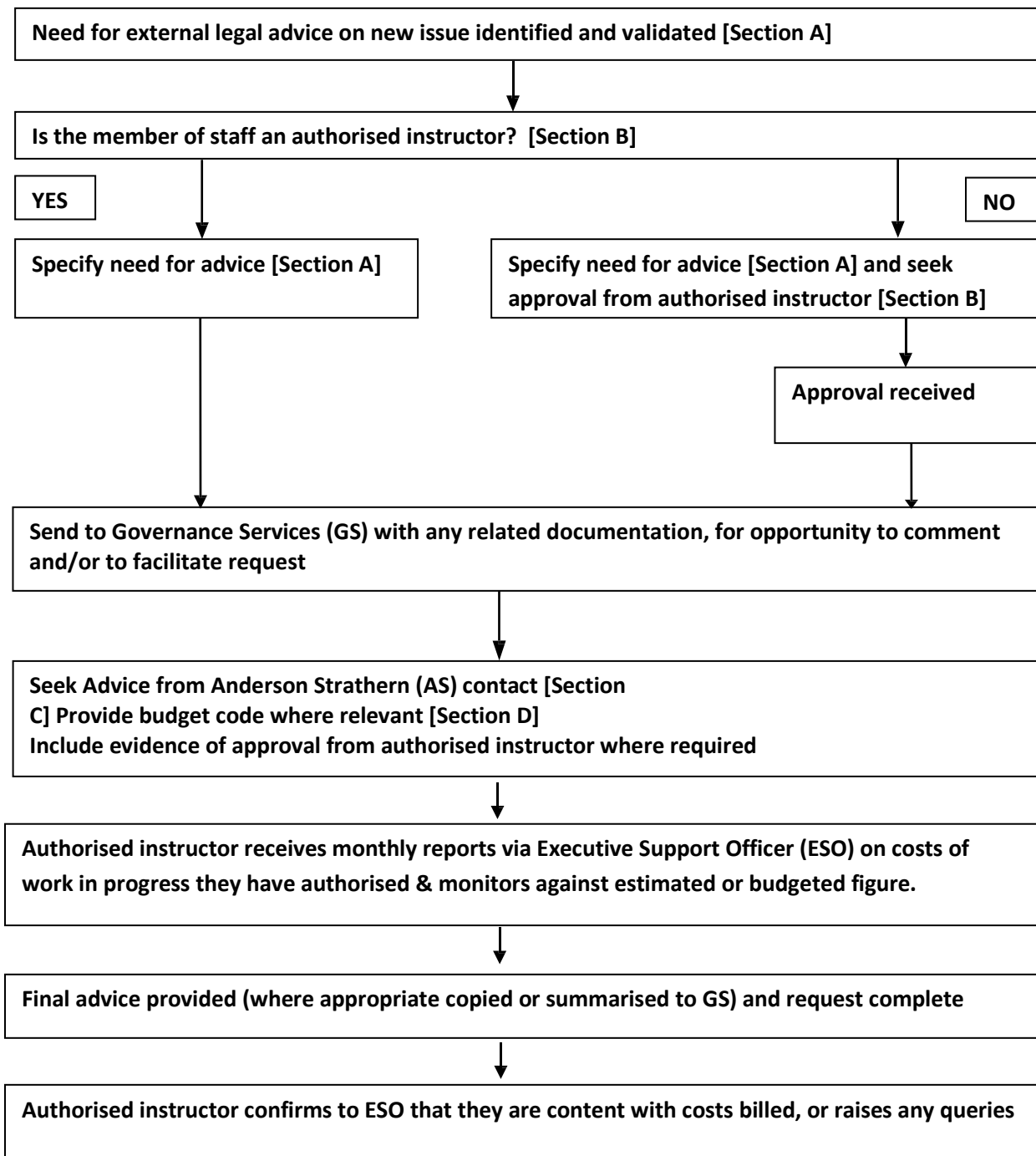
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PROCESS FOR MANAGING LEGAL ADVICE
(HR, Property & Facilities, Research, Innovation & Enterprise Office,
Commercialisation, International Operations and Collaborative Agreements)



PROCESS FOR MANAGING LEGAL ADVICE

(For areas of the University without fully delegated instructing arrangements)



APPENDIX C

AUTHORISED INSTRUCTORS & CONTACTS LIST

EDINBURGH NAPIER UNIVERSITY AUTHORISED INSTRUCTORS

The posts authorised to instruct legal advice from Anderson Strathern are:

- **Principal & Vice Chancellor**
- **Deputy Vice Chancellors & Vice Principals**
- **Vice Principal (International)**
- **Director of Strategy & Planning and Secretary to Court**
- **Director of People and Services**
- **Director of Finance & Operations**
- **Director of HR**
- **Head of Governance & Risk**
- **Director of Student Services & Academic Registrar**
- **Director, Information Services**
- **Director, Property & Facilities**
- **Head, Department of Learning & Teaching Enhancement**
- **Head of Quality & Enhancement**
- **Head of Research Funding and Services**
- **Head of Knowledge Exchange**
- **Contracts Officer**

ANDERSON STRATHERN AGREED CONTACTS

Account Manager/Lead Partner

- Alun Thomas: Lead Partner - Student Issues
Tel: 0131 625 7245 Email: alun.thomas@andersonstrathern.co.uk

Estates

- Deborah Lovell
Tel: 0131 625 7249 Email: Deborah.lovell@andersonstrathern.co.uk
- Conor Whittaker
Tel: 0131 270 5379 Email: Conor.whittaker@andersonstrathern.co.uk
- Karyn Watt Procurement and Construction Contracts
Tel: 0131 625 8154 Email: karyn.watt@andersonstrathern.co.uk
- Martin Whiteford
Tel: 0131 270 7940 Email: martin.whiteford@andersonstrathern.co.uk
- Alastair McKie Planning and Environment
Tel: 0131 625 7257 Email: alastair.mckie@andersonstrathern.co.uk
- Fiona Stephen Property Litigation
Tel: 0131 625 7281 Email: fiona.stephen@andersonstrathern.co.uk
- Shirley Evans, Property Litigation
Tel: 0131 270 7836 Email: Shirley.evans@andersonstrathern.co.uk

HR Matters / Employment

- Barry Nichol
Tel: 0131 625 7238 Email: barry.nichol@andersonstrathern.co.uk
- Alun Thomas
Tel: 0131 625 7245 Email: alun.thomas@andersonstrathern.co.uk
- Andrew Brown
Tel: 0131 270 7938 Email: andrew.brown@andersonstrathern.co.uk
- Steven Dunn – Pensions and Immigration
Tel; 0141 242 7954 Email: steven.dunn@andersonstrathern.co.uk
- Molly McGrady
Tel: 0131 270 7735 Email: molly.mcgrady@andersonstrathern.co.uk

Finance, Tax & Commercial Activities

- Nick Howie; Finance
Tel 0131 270 7945 Email; nicholas.Howie@andersonstrathern.co.uk
- Douglas McLachlan; IP / Commercialisation
Tel 0141 242 7952 Email: douglas.mclachlan@andersonstrathern.co.uk

Specialist / Litigation

- Fraser Geddes: Litigation
Tel 0141 242 7974 Email: fraser.geddes@andersonstrathern.co.uk
- Catriona Watt: Regulatory/ POVG
Tel: 0131 625 7215 Email: catriona.watt@andersonstrathern.co.uk
- Victoria Simpson: Charity Law
Tel: 0131 625 8162 Email: victoria.simpson@andersonstrathern.co.uk
- James McMillan: Health and Safety, criminal issues, fatalities and financial regulatory
Tel: 0141 242 6060 Email james.mcmillan@andersonstrathern.co.uk