



## GOVERNANCE SERVICES

### OBTAINING AND MANAGING LEGAL ADVICE: GUIDANCE NOTES

#### INTRODUCTION

1. This document has been prepared by Governance Services (GS) to set out, for ease of reference, 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 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. The following response times have been agreed with Anderson Strathern:

We will endeavour to respond to communications in the following time periods:

- Telephone calls will be returned within 4 hours but we target 100 minutes. If this is not possible a time will be agreed the same day for the call to be returned the following day.
- Emails will be responded to within 4 hours but we target 100 minutes. If this is not possible a time will be agreed the same day for the email to be responded to the following day.
- We aim to provide initial advice and an estimate of the time involved in turning round drafts and providing detailed advice, within 48 hours. If it takes longer than that to research a matter or to assemble information we will agree with the sender an appropriate time to provide a full response.
- Emergency or urgent communications will be responded to within 100 minutes.

- Lead Partners and the Contract Manager will be available to take calls outwith normal working hours (contact details provided to authorised instructors) to ensure responses to out of hours or emergency situations.

### **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 and Innovation 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. If the matter on which the advice is sought can be reasonably defined and quantified at the outset and will involve more than a few hours of legal work, the Solicitors should be asked to produce a start-up report. This is intended to help by giving instructors a tool to agree the scope of initial work with the Solicitors, with knowledge of the estimated costs involved.

19. 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**

20. Authorised instructors will receive monthly reports via the University Secretary's Executive Support Officer (ESO) on the activities and costs related to the work they have authorised.

21. Before confirming to the ESO 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**

22. The following posts have delegated operational responsibilities to act as official correspondents and deal directly with Anderson Strathern. A list of current post holders is given at **Appendix C**.

23. The posts from whom Anderson Strathern should accept instructions are:

- Principal
- Vice Principal
- University Secretary
- Assistant Principals
- Assistant University Secretary
- Director, Human Resources & Development
- Director, International Operations
- Director, School Support Service
- Director, Information Services
- Director, Finance
- Director, Property & Facilities
- Head, Academic Quality
- Head/Director, Research and Innovation Office
- Head, Commercialisation
- Contracts Officer, Research and Innovation Office
- Head, Capital Developments

24. 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**

25. 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**

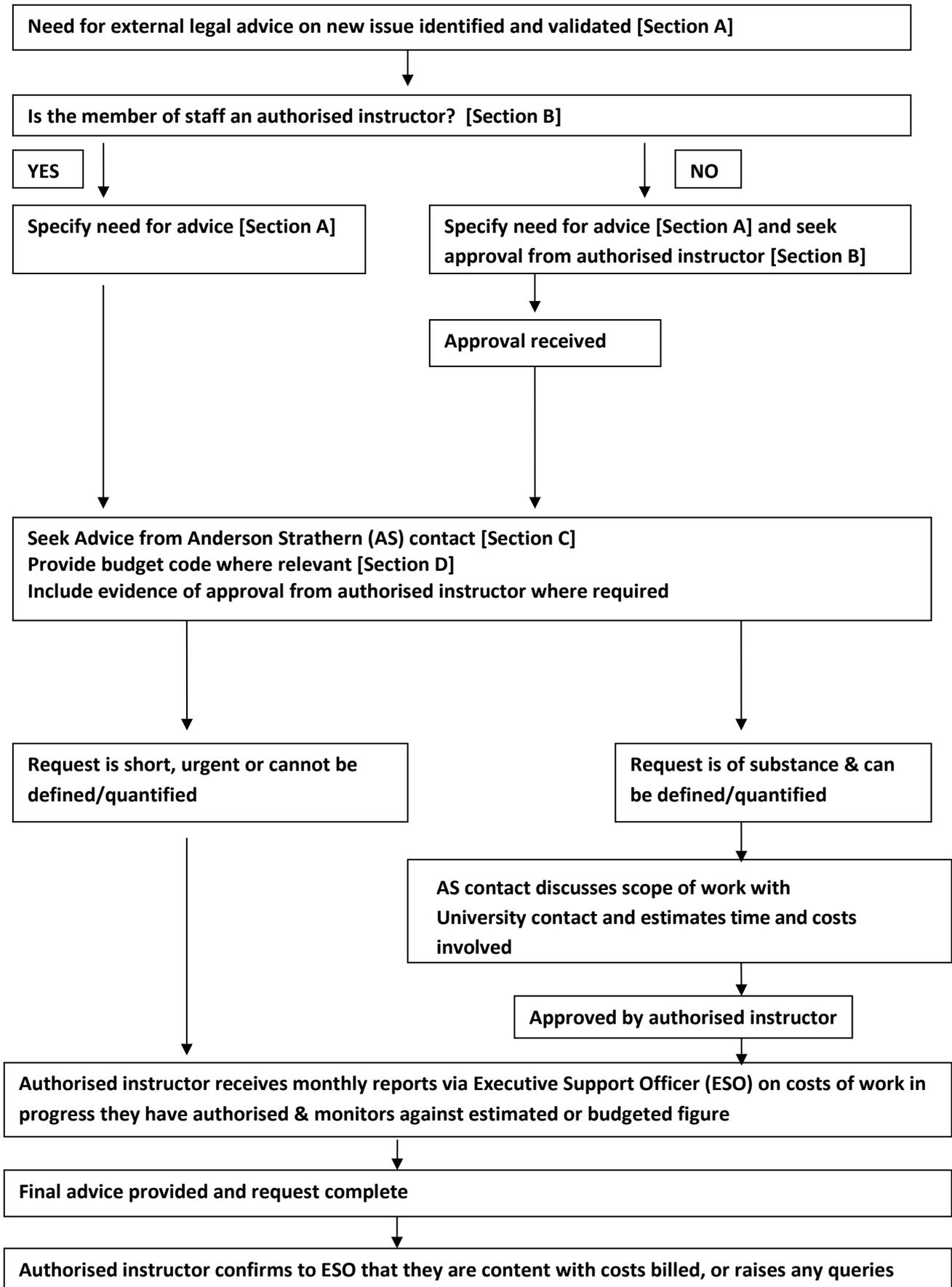
26. Any new request to Anderson Strathern for legal advice which does not come out of the central budget for legal services should quote the budget code to which the advice relates. This will ensure that legal charges are costed into the correct projects and will minimise the administrative burden of recharging once the advice has been provided.
27. 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 the Assistant Secretary.

## **ADVICE AND ASSISTANCE**

28. For advice and assistance on this process, please contact [Governance Services](#)
29. Further information, including general guidance for staff on Seeking and Obtaining Legal Advice is available on the [Governance Services intranet pages](#).

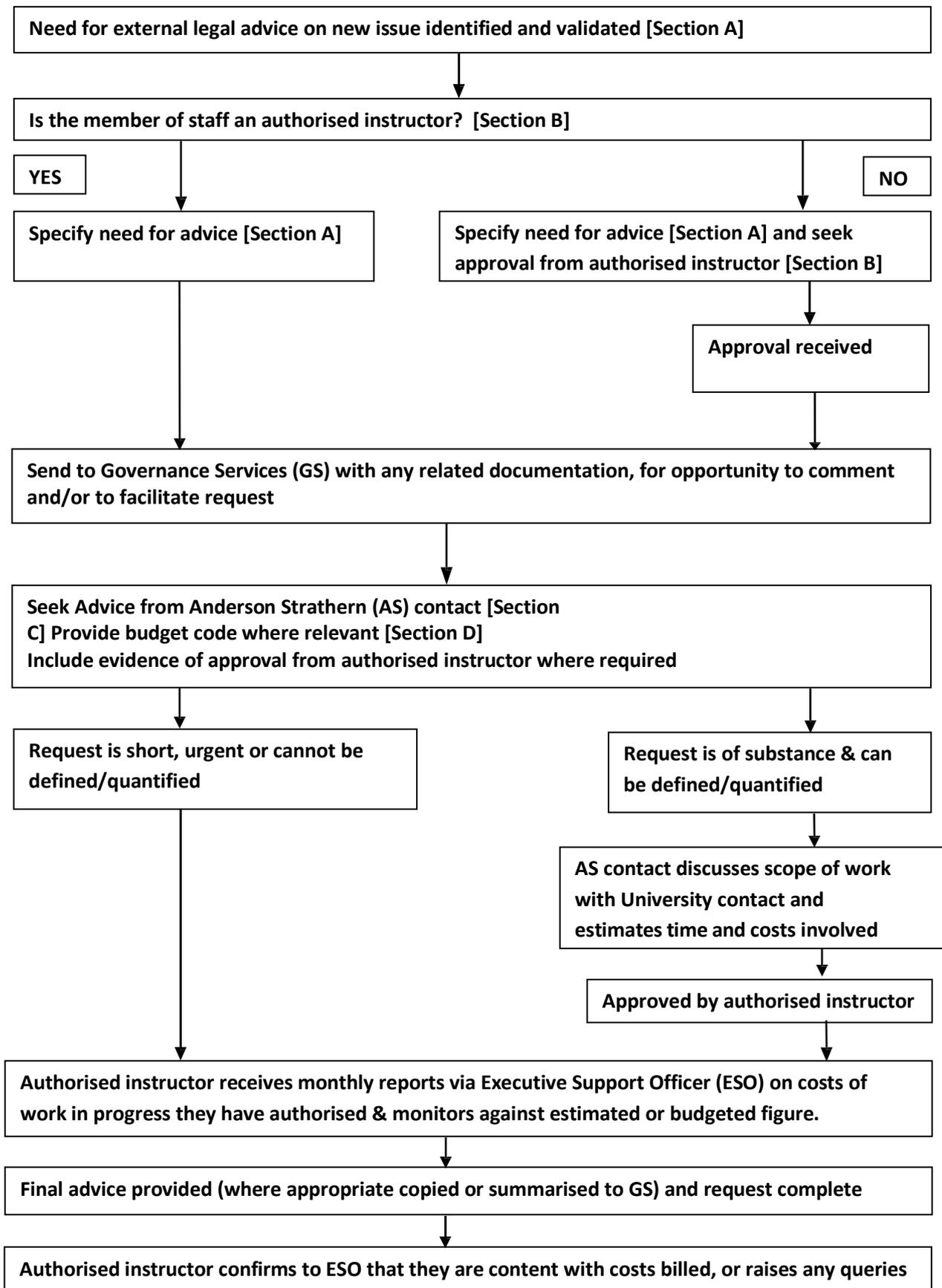
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**PROCESS FOR MANAGING LEGAL ADVICE**  
(HR, Property & Facilities, Research & Innovation Office, Commercialisation,  
International Operations and Collaborative Agreements)



## 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 and current post holders from whom Anderson Strathern should accept instructions are:

- **Principal:** Professor Andrea Nolan OBE
- **Vice Principal:** Professor A Sambell
- **University Secretary:** Dr Gerry Webber
- **Assistant Principals:** Dr Sandra Cairncross, Iain McIntosh
- **Assistant University Secretary:** David Cloy
- **Director, Human Resources & Development:** Kerry Dewar
- **Director, International Operations:** Naomi Graham
- **Director, School Support Service:** Dr Steven Logie
- **Director, Information Services:** David Telford
- **Director, Finance:** Andy McGoff
- **Director, Property & Facilities:** Eric Munro
- **Head, Academic Quality:** Katrina Swanton
- **Dean, Research and Innovation Office:** Professor Jessie Kennedy
- **Head, Research & Innovation Office:** Norman Turner
- **Head, Commercialisation:** TBC
- **Contracts Officer:** Gavin Davies
- **Head, Capital Developments:** Stuart Carberry

## **ANDERSON STRATHERN AGREED CONTACTS**

### **Account Manager/Lead Partner**

- Alun Thomas: Employment Lead  
Tel: 0131 625 7245 Email: [alun.thomas@andersonstrathern.co.uk](mailto:alun.thomas@andersonstrathern.co.uk)

### **Deputy Lead Partner**

- John Kerr  
Tel: 0131 625 7240 Email: [john.kerr@andersonstrathern.co.uk](mailto:john.kerr@andersonstrathern.co.uk)

### **Estates**

- Deborah Lovell  
Tel: 0131 625 7249 Email: [Deborah.lovell@andersonstrathern.co.uk](mailto:Deborah.lovell@andersonstrathern.co.uk)
- Gavin Thain  
Tel: 0131 270 5356 Email: [gavin.thain@andersonstrathern.co.uk](mailto:gavin.thain@andersonstrathern.co.uk)
- Karyn Watt  
Tel: 0131 625 8154 Email: [karyn.watt@andersonstrathern.co.uk](mailto:karyn.watt@andersonstrathern.co.uk)
- Martin Whiteford  
Tel: 0131 270 7940 Email: [martin.whiteford@andersonstrathern.co.uk](mailto:martin.whiteford@andersonstrathern.co.uk)
- Alastair McKie Planning and Environment  
Tel: 0131 625 7257 Email: [alastair.mckie@andersonstrathern.co.uk](mailto:alastair.mckie@andersonstrathern.co.uk)
- Fiona Stephen Property Litigation  
Tel: 0131 625 7281 Email: [fiona.stephen@andersonstrathern.co.uk](mailto:fiona.stephen@andersonstrathern.co.uk)
- Karyn Watt Procurement and Construction Contracts  
Tel: 0131 625 8154 Email: [karyn.watt@andersonstrathern.co.uk](mailto:karyn.watt@andersonstrathern.co.uk)

### **HR Matters / Employment**

- Barry Nichol  
Tel: 0131 625 7238 Email: [barry.nichol@andersonstrathern.co.uk](mailto:barry.nichol@andersonstrathern.co.uk)
- Alun Thomas  
Tel: 0131 625 7245 Email: [alun.thomas@andersonstrathern.co.uk](mailto:alun.thomas@andersonstrathern.co.uk)
- Andrew Brown  
Tel: 0131 270 7938 Email: [andrew.brown@andersonstrathern.co.uk](mailto:andrew.brown@andersonstrathern.co.uk)

### **Finance, Tax & Commercial Activities**

- John Kerr: Commercial Activities (including KT & C)  
Tel: 0131 625 7240 Email: [john.kerr@andersonstrathern.co.uk](mailto:john.kerr@andersonstrathern.co.uk)
- James Blair: Finance Tax and Commercial Activities  
Tel: 0131 270 7951 Email: [james.blair@andersonstrathern.co.uk](mailto:james.blair@andersonstrathern.co.uk)
- Douglas McLachlan; IP / Commercialisation  
Tel 0141 242 7952 Email: [douglas.mclachlan@andersonstrathern.co.uk](mailto:douglas.mclachlan@andersonstrathern.co.uk)

## Specialist / Litigation

- Jonathan Guy: Litigation and Health and Safety  
Tel: 0131 625 7299 Email: [jonathan.guy@andersonstrathern.co.uk](mailto:jonathan.guy@andersonstrathern.co.uk)
- Fraser Geddes: Litigation  
Tel 0141 242 7974 Email: [fraser.geddes@andersonstrathern.co.uk](mailto:fraser.geddes@andersonstrathern.co.uk)
- Fiona Killen: Governance and Compliance  
Tel: 0131 625 7296 Email: [fiona.killen@andersonstrathern.co.uk](mailto:fiona.killen@andersonstrathern.co.uk)
- Catriona Watt: Regulatory/ POVG  
Tel: 0131 625 7215 Email: [catriona.watt@andersonstrathern.co.uk](mailto:catriona.watt@andersonstrathern.co.uk)
- Victoria Simpson: Charity Law  
Tel: 0131 625 8162 Email: [victoria.simpson@andersonstrathern.co.uk](mailto:victoria.simpson@andersonstrathern.co.uk)

Edinburgh Napier University/Anderson Strathern  
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