



# Obtaining Legal Advice Policy

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## 1. Purpose

The purpose of this Policy is to outline the process to be followed by Health Service Providers for obtaining legal advice.

Hospitals and health services within the WA public health system have traditionally obtained legal advice from the Department of Health's Legal and Legislative Services or the State Solicitor's Office. Health Service Providers have also obtained legal advice from their General Counsel, where General Counsel has been appointed.

This Policy is a mandatory requirement under the *Legal Policy Framework* pursuant to section 26(2)(l) of the *Health Services Act 2016*.

This Policy is a mandatory requirement for the Department of Health pursuant to Section 29 of the *Public Sector Management Act 1994*.

## 2. Applicability

This Policy is applicable to all WA health system entities as defined in this Policy.

## 3. Policy requirements

### 3.1 Seeking Legal Advice

3.1.1 Health Service Providers and Divisions of the Department of Health must only seek legal advice directly from Legal and Legislative Services, that Health Service Provider's General Counsel or the State Solicitor's Office (via the Legal and Legislative Services or the Health Service Provider General Counsel).

3.1.2 Health Service Providers and Divisions of the Department of Health must not obtain legal advice directly from private law firms. Any legal advice obtained from private law firms must only be obtained through the State Solicitor's Office or the legal panel of the Insurance Commission of Western Australia (Government Insurance Division).

### 3.2 Seeking Legal Advice from Legal and Legislative Services

3.2.1 Where Health Service Providers and Divisions of the Department of Health seek legal advice from the Legal and Legislative Services, legal advice must be sought (except in urgent or exceptional circumstances) in the manner outlined below in 3.2.1.1 or 3.2.1.2.

3.2.1.1 Submitting the completed 'Request for Legal Advice or Legislative Assistance Form' (approved by the relevant authorised officer identified in the applicable Authorisations

Schedule) with relevant supporting documentation, to Legal and Legislative Services at [legal.services@health.wa.gov.au](mailto:legal.services@health.wa.gov.au).

- 3.2.1.2 Contacting the Legal and Legislative Services' Duty Solicitor service for verbal advice on urgent matters.
- 3.2.2 'Request for Legal Advice or Legislative Assistance Form' are available from the Legal and Legislative Services intranet page.
- 3.2.3 All legal advice provided by the Legal and Legislative Services is free of charge.

## 4. Compliance monitoring

WA health system entities are responsible for ensuring compliance with this Policy.

The Department of Health is responsible for conducting periodic audits of policy compliance on behalf of the Department CEO as the System Manager. As deemed necessary, the Department CEO as the System Manager may request compliance evidence be submitted by Health Service Providers and Divisions of the Department of Health to the Legal and Legislative Services in relation to the requirements of this Policy.

## 5. Related documents

The following documents are mandatory pursuant to this Policy:

- ['Request for Legal Advice or Legislative Assistance Form'](#) – must be used when requesting advice from the Legal and Legislative Services in accordance with paragraph 3.2.1.1 above.

## 6. Supporting information

The following information is not mandatory but informs and/or supports the implementation of this Policy:

- [Government of Western Australia, Department of Justice WA, State Solicitor's Office, The Office Briefing and Engagement 2024](#)

## 7. Definitions

The following definition(s) are relevant to this Policy.

Term	Definition
WA health system entity	<ul style="list-style-type: none"><li>• All Health Service Providers as established by an order made under section 32(1)(b) of the <i>Health Services Act 2016</i>;</li><li>• The Department of Health as an administrative division of the State of Western Australia pursuant to section 35 of the <i>Public Sector Management Act 1994</i>.</li></ul> <p>Note: Contracted health entities are not considered WA health system entities.</p>

## 8. Policy contact

Enquiries relating to this Policy may be directed to:

Title: Director Legal and Legislative Services  
Directorate: Legal and Legislative Services  
Email: [legal.services@health.wa.gov.au](mailto:legal.services@health.wa.gov.au)

## 9. Document control

Version	Published date	Effective from	Review date	Amendment(s)
MP 0023/16	1 July 2016	1 July 2016	1 July 2017	Original version
MP 0023/16 v2.0	12 August 2021	12 August 2021	August 2024	Major amendment (details below) <ul style="list-style-type: none"><li>• Policy transitioned to the current policy template.</li><li>• As a full policy review was undertaken, a new review cycle will commence.</li></ul>
MP 0023/16 v.2.1	23 April 2024	23 April 2024	August 2024	Minor amendment as listed below. <ul style="list-style-type: none"><li>• Supporting information title and hyperlink updated.</li></ul>

## 10. Approval

<b>Initial approval</b>	Dr David Russell-Weisz, Director General, Department of Health
	28 June 2016
<b>Current version approved</b>	Nicole O'Keefe, Assistant Director General, Strategy and Governance, Department of Health
	8 August 2021

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