

**Agreement
FOR THE PROVISION OF
LEGAL SERVICES**

BETWEEN

SOUTHERN HSC TRUST

AND

**BUSINESS SERVICES ORGANISATION
2023/24**

1.

Service Introduction

The Directorate of Legal Services (DLS) is the sole provider of legal services for the public Health and Social Care Sector (HSC) in Northern Ireland. DLS is a modern and progressive legal practice comprising a team of more than 65 specialist solicitors and 64 support staff who provide a high quality, customer focused, cost effective legal service exclusively for HSC clients throughout Northern Ireland.

DLS has achieved both the ISO 9001 Quality Award and the Law Society's 'Lexcel' Quality Award. It has also contributed to BSO's Investors in People award. In the most recent client survey, DLS achieved a satisfaction rating from clients of approx. 90%.

The services offered by DLS comprise diverse areas of law and clientele which includes the HSC Trusts and other HSC organisations.

DLS' Vision is "To be recognised as a centre of excellence for legal services supporting the HSCNI through innovative legal solutions".

The main purpose of DLS is to

- Be a trusted partner of our HSC clients
- Be a specialist, responsive legal practice; and
- Add value to the HSC

DLS' strategic priorities for 2021/22 to 2023/24 are to

- Provide professional, agile legal services
- Strive to resource our service so it is fit for the future
- Modernise our legal practice
- Enable strong working relationships and partnerships across the system

2.

Services Provided Areas of Law

The Directorate of Legal Services provides legal services across a range of areas of expertise by utilising specialist teams, including:

1. Central Team
2. Clinical Negligence Team;
3. Commercial, Procurement & Property Team
4. Debt Recovery Team
5. Employment Team
6. Family Law Team
7. Litigation Team
8. Inquiries and Inquests Team

3.

Responsibilities

DLS Responsibilities

DLS is responsible for:

The provision of professional and efficient legal services across the range of areas set out in this SLA and in line with the resources made available to DLS by Customers. Subject to defined and limited exceptions, in providing these legal services, DLS will at all times seek and act in accordance with the instructions of the Customer, through the identified Customer contact for each case.

In certain circumstances, DLS holds standing authority from the Customer to take required steps. Examples include instructing counsel in an emergency situation or instructing counsel following service of a Statement of Claim in High Court cases. DLS will provide regular updates to Customers on the progress of cases.

DLS will furnish to the Customer on a regular basis detailed records showing the time spent by DLS in providing legal services to the Customer.

Customer Responsibilities

Customer responsibilities include to:

Refer legal matters to DLS and provide instructions and direction to DLS as required in a timely manner.

Identify a main point of contact for each case to facilitate efficient communication between DLS and the Customer.

Provide adequate resources to allow DLS to deliver the legal services required by the Customer and, in the event that the Customer's requirements exceed the resources available to DLS, the Customer will work collaboratively with DLS to either agree to provide additional resources or re-prioritise its requirements for legal services.

4.

See below for further detail regarding Customer Responsibilities for each area of law.

4. Service Index

Service Name	Ref	Service Provided? Yes / No	Manager
1. Central Team Services	Ref 1	Yes	Anthony Gilmore, Assistant Chief Legal Adviser (Acting)
2. Clinical Negligence and Inquests	Ref 2	Yes	Caoimhe Connolly, Assistant Chief Legal Adviser (Acting)
3. Commercial, Procurement and Property Law	Ref 3	Yes	Karen Brown, Assistant Chief Legal Adviser (Acting)
4. Debt Recovery	Ref 4	Yes	Eadaoin Ward, Assistant Chief Legal Adviser (Acting)
5. Employment Law	Ref 5	Yes	Eadaoin Ward, Assistant Chief Legal Adviser (Acting)
6. Family Law	Ref 6	Yes	Kathryn Minnis, Assistant Chief Legal Adviser
7. Litigation	Ref 7	Yes	Eadaoin Ward, Assistant Chief Legal Adviser (Acting)

8. Inquests and Inquiries	Ref 8	Yes (subject to commissioning of legal support for any relevant Public Inquiries)	Sarah Loughran, Assistant Chief Legal Adviser (Acting)
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Special projects:

Including DLS

Transformation Programme
and IT Modernisation
Project

June Turkington,
Interim Chief
Legal Adviser

Finance (Legal Payments) and Business
Support

Owen Nicholson,
Business

Manager **Services provided by the Directorate of Legal Services**

Service	1. Central Team;
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<p>What the BSO will deliver</p>	<p>DLS' Central Team represents the Health and Social Care Bodies in a variety of areas of law which includes: Judicial Review (which relates to the legality of any HSC Body's processes, acts or omissions).</p> <p>The Mental Capacity Act (NI) 2016 (certain provisions of which came into effect on 2nd December 2019)</p> <p>Declaratory Orders which relate to necessary interventions (such as medical interventions) to protect those who lack relevant capacity and where the intervention is in the best interests of that person. Such applications can only, currently, be made to the High Court under its inherent jurisdiction.</p> <p>The Central Team is responsible for the litigation processes where court proceedings within the above areas of law are required. Working in close collaboration with the client and counsel, this may encompass a number of legal services, namely;</p> <ol style="list-style-type: none"> 1. Drafting of pleadings and draft Orders; 2. Instructing counsel and experts, if appropriate; 3. Consultations with counsel, witnesses, experts and other related bodies such as the Official Solicitor 4. Attending court reviews 5. Resolution of matters and ensuring that cases are brought to hearing without delay 6. Attending the hearing of the case 7. Ensuring that costs are scrutinised and challenged as applicable. 8. Provision of training on an ongoing basis

Customer Responsibilities	<p>To facilitate DLS in providing its legal services in accordance with the applicable Court, Tribunal or Committee Rules, clients are required to:-</p> <ul style="list-style-type: none"> • Provide DLS with instructions and directions promptly when required • Furnish records and discoverable documents to DLS in good time • Identify and make relevant witnesses available for consultation with DLS and counsel as required • Communicate promptly to DLS any relevant information or changes in relation to cases • Process promptly requests for payments in respect of damages and fees for counsel and experts
Contact Details	<p>Anthony Gilmore, Assistant Chief Legal Adviser (Acting) anthony.gilmore@hscni.net 028 95363637</p>

Service	2. Clinical Negligence
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<p>What the BSO will deliver</p>	<p>In <i>Clinical Negligence</i>, upon initial instruction, Solicitors in the CN team work closely with Trust litigation departments, involved clinicians and staff across Trusts gathering medical records, reports, consulting with clinicians, senior Trust personnel and carrying out an extensive investigation into the treatment or care in question. Advice is given by the team in relation to breach of duty, causation and also quantum (the value of the case). This assists Trusts in determining whether to repudiate liability and defend the case where the treatment appears to be reasonable, in accordance with a body of responsible medical opinion and withstands logical analysis. Detailed advice from the team on quantum is provided to help clients with financial forecasting.</p> <p>In the event that court proceedings are commenced, DLS deals with all matters which arise during the course of litigation, including:</p> <ol style="list-style-type: none">1. Drafting court pleadings2. Instructing counsel and experts3. Interlocutory hearings4. Consultations with witnesses and experts5. Attending reviews6. Negotiations, (where appropriate)7. Trials in the High Court and County Court8. Robustly challenging third party costs including attendance at taxation hearings9. Coroner requests10. Provision of up to date training
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	<p>NB As outlined in correspondence to the Trust, DLS will be furnishing a Service Commissioning Proposal in respect of the following areas and cannot commit to providing legal support for these areas without agreement on the commissioning of these services:-</p> <ul style="list-style-type: none"> • HIA claims, • urology claims and • mesh claims.
<p>Customer Responsibilities</p>	<p>To facilitate DLS in providing its legal services in accordance with the applicable Court Rules, clients are required to:-</p> <ul style="list-style-type: none"> • Process initial requests for records from claimants in appropriate cases in line with GDPR requirements • Provide DLS with instructions and directions promptly when required • Furnish records and discoverable documents to DLS in good time • Identify and make relevant witnesses available for consultation with DLS and counsel as required • Communicate promptly to DLS any relevant information or changes in relation to cases • Process promptly requests for payments in respect of damages and fees for counsel and experts
<p>Contact Details</p>	<p>Caoimhe Connolly, Assistant Chief Legal Adviser (Acting) Caoimhe.connolly@hscni.net 028 95363672</p>

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Service	3. Commercial, Procurement & Property Team
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What the BSO will deliver	<p>The Commercial Procurement and Property Team provide legal advice on the following matters;</p> <p>1.Contractual Matters</p> <ul style="list-style-type: none">• Advice on issues arising out of the content, delivery and management of contracts and contractual disputes, including representing clients in contentious matters. <p>2. Information Governance</p> <ul style="list-style-type: none">• Advice on data protection legislation, including GDPR and the Data Protection Act 2018, guidance and policy within the commercial environment;• Advice on the Freedom of Information Act 2000 and requests for information within commercially sensitive and confidential environments <p>3. Governance / Legislation</p> <ul style="list-style-type: none">• Advice in relation to matters pertaining to legislation / regulations including the roles and statutory functions of our clients. <p>4. Procurement</p> <ul style="list-style-type: none">• Provision of advice in respect of compliance with the Public Contracts Regulations 2015 and compliance with NI public procurement policy;• Representing our clients in procurement challenges.• Advice on tender documents.
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	<p>5. Property</p> <ul style="list-style-type: none"> • Advice and representation in property related matters to include the sale and purchase of lands, options, leases, licences, wayleaves, boundary issues and any other land related issues, • Advice on capital projects and involvement in the planning of Business Cases
<p>Customer Responsibilities</p>	<p>To facilitate DLS in providing its legal services as efficiently and effectively as possible, clients are required to:-</p> <ul style="list-style-type: none"> • Provide DLS with clear instructions and directions in relation to advisory matters <p>In contentious cases</p> <ul style="list-style-type: none"> • provide full and detailed instructions to DLS in the early stages of any dispute providing all documents and clarifications required to allow DLS to advise properly on strengths and weaknesses of the case and to work collaboratively on the case progression • furnish discoverable documents to DLS in good time • Identify and make relevant witnesses available for consultation with DLS and counsel as required • Communicate promptly to DLS any relevant information or changes in relation to cases • Process promptly requests for payments in respect of damages and fees for counsel and experts
<p>Contact Details</p>	<p>Karen Brown, Assistant Chief Legal Adviser (Acting) karen.brown2@hscni.net 028 95363610</p>

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Service	4. Debt Recovery Team
What the BSO will deliver	<p>The following are examples of the work carried out by the DLS Debt Recovery Team</p> <p>Provision of clear and concise legal advice and assistance to HSC bodies, as required, including on matters such as recovery of salary overpayments, residential and patient charges.</p> <ul style="list-style-type: none"> • Issuing court proceedings and follow-up enforcement procedures, as required to secure recovery of monies for the public purse. • Provision of ongoing dedicated legal advice to HSC bodies in respect of financial assessments for clients in Residential & Nursing homes in line with relevant legislation and Departmental guidance; • Supporting the Health and Social Care Trusts in fulfilling their statutory duties in respect of those vulnerable adults who lack capacity to look after their own financial affairs which includes making submissions to and attending before the Master of the Office of Care & Protection. • Provision of training as required to Trust Social work and finance staff in relation to the areas of financial capacity and financial abuse. <p style="text-align: center;"><u>Special project</u></p> <p>1. Residential charges/debt recovery – ¼ share of 2 x solicitor consultants shared between 4 x Trusts (1 post funded recurrently, 1 post funded non recurrently)</p>

Customer Responsibilities	<p>To facilitate DLS in providing its legal services as efficiently and effectively as possible and in accordance with Court Rules as appropriate, clients are required to:-</p> <ul style="list-style-type: none"> • Provide DLS with clear instructions and directions in relation • furnish discoverable documents to DLS in good time • Identify and make relevant witnesses available for consultation with DLS and counsel as required • Communicate promptly to DLS any relevant information or changes in relation to cases • Process promptly requests for payments in respect in respect of EJO, Court or other relevant fees
Contact Details	<p>Eadaoin Ward, Assistant Chief Legal Adviser (Acting) eadaoin.ward@hscni.net 028 95363577</p>

Service	5. Employment Team
What the BSO will deliver	<p>The employment team provides advice and representation including</p> <ul style="list-style-type: none"> • Defending Employment Tribunal claims, including multiple claims, from the claim form through to Tribunal Judgement, including advocacy at the Tribunal and, if necessary, providing advice about settlements and negotiating settlement of such claims. • Providing advice, as required, to HR clients to ensure that internal hearings and other processes such as grievance and disciplinary hearings and harassment investigations are conducted fairly. • Providing advice on policies and procedures to ensure that these are legally compliant whilst also being effective. • Providing advice about workplace disputes, including guidance on the most appropriate steps to take to resolve the dispute and provision of advice about settlement agreements including the use of mediation. • Providing advice on all areas of employment law, as required. • Provision of training to clients ensuring that they are up to date with employment law changes and that they have the practical skills to help them deal with employment issues.
Customer Responsibilities	

	<p>To facilitate DLS in providing its legal services in accordance with the applicable Tribunal and Court Rules, clients are required to:-</p> <ul style="list-style-type: none"> • Provide DLS with instructions and directions promptly when required • Furnish discoverable documents to DLS in good time • Identify and make relevant witnesses available for consultation with DLS and counsel as required • Communicate promptly to DLS any relevant information or changes in relation to cases • Process promptly requests for payments in respect of damages and fees for counsel and experts
Contact Details	<p>Eadaoin Ward, Assistant Chief Legal Adviser (Acting) Eadaoin.ward@hscni.net 028 95363577</p>

Service	6. Family Law Team
What the BSO will deliver	<p>Provision of extensive legal services to child care teams in the HSC Trusts including</p> <ul style="list-style-type: none"> • General advice in relation to children at risk • Advice and representation (in hours) on EPOs • Representation in FPC and FCC courts throughout NI and in the High Court in public law applications • Advice and representation in relation to freeing and adoption

<p>Customer Responsibilities</p>	<p>To facilitate DLS in providing its legal services in accordance with the applicable Court Rules, clients are required to:-</p> <ul style="list-style-type: none"> • Provide DLS with instructions and directions promptly when required • Furnish records and discoverable documents to DLS in good time • Identify and make relevant witnesses available for consultation with DLS and counsel as required • Communicate promptly to DLS any relevant information or changes in relation to cases • Process promptly requests for payments in respect of fees for counsel and experts
<p>Contact Details</p>	<p>Kathryn Minnis, Assistant Chief Legal Adviser (Acting) Kathryn.minnis@hscni.net 028 95363591</p>
<p>Service</p>	<p>7. Litigation Team</p>

<p>What the BSO will deliver</p>	<p>The DLS Litigation team represent HSC clients in relation to personal injury claims, to include the following</p> <ul style="list-style-type: none"> • Providing advice and assistance in relation to relevant legislation and case law including risk assessments, internal investigations, records management and statutory obligations of HSC bodies. • Providing advice and assistance in relation to legal liability, valuation and assessment of costs and damages in Employer's Liability and Occupier's Liability claims and, where appropriate, negotiating settlement of such claims. • Defending Employer's Liability and Occupier's Liability cases and providing representation at both County Court and High Court level. • Work closely with clients to ensure that all advice and representation at court is conducted in a fair, pragmatic, relevant and consistent manner while safeguarding public money • Provision of training in relation to all litigation matters including lessons learned from claims to ensure a safe working environment for both HSC staff and visitors.
<p>Customer Responsibilities</p>	<p>To facilitate DLS in providing its legal services in accordance with the applicable Court Rules, clients are required to:-</p> <ul style="list-style-type: none"> • Provide DLS with instructions and directions promptly when required • Furnish records and discoverable documents to DLS in good time

	<ul style="list-style-type: none"> • Identify and make relevant witnesses available for consultation with DLS and counsel as required • Communicate promptly to DLS any relevant information or changes in relation to cases <p>Process promptly requests for payments in respect of damages and fees for counsel and experts</p>
Contact Details	<p>Eadaoin Ward, Assistant Chief Legal Adviser (Acting) eadaoin.ward@hscni.net 028 95363577</p>
Service	<p>8. Inquests and Inquiries Team</p>

<p>What the BSO will deliver</p>	<p>The <i>Inquests</i> team works in close collaboration with the Trusts who notify DLS when the Coroner opens an investigation into a death in which the Trust may have had an involvement.</p> <p>Upon initial instruction, Solicitors in the Inquests team work closely with Trust colleagues, involved clinicians and staff gathering medical records, statements, consulting with clinicians, senior Trust personnel and gathering the necessary evidence to present to the Coroner to enable their investigation into the treatment or care in question. DLS deal with staff in a sensitive manner throughout the course of the Inquest process and work closely with our panel Counsel to ensure the staff involved feel supported and prepared for any Inquest hearing they attend.</p>
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Where DLS has been commissioned to provide legal support in relation to a Public Inquiry, our ***Inquiries*** team work to support the HSC bodies in fulfilling their statutory duties in respect of Inquiries. The team provide dedicated legal advice to HSC bodies in respect of their disclosure obligations and the drafting and provision of witness statements to the Inquiries. They support witnesses called to give evidence to the Inquiries working closely with panel Counsel to ensure the staff involved feel supported and prepared for any Inquiry hearing they attend.

9. Reviewing and assistance in drafting witness statements;
10. Instructing counsel and experts, if appropriate;
11. Consultations with counsel, witnesses, experts and
12. Attending court reviews and preliminary hearings
13. Attending the hearing of the Inquest or Inquiry
14. Ensuring that costs are scrutinised and challenged as applicable.
15. Provision of training on an ongoing basis

Inquiries

Provision of legal advice and representation for the Trust in relation to the following Public Inquiries:-

1. **Muckamore Abbey Hospital Inquiry** - ¼ share of funding for 1 x Solicitor consultant + Band 4

	support together with counsel at agreed hourly rate (as per signed Customer Growth Proposal)
Customer Responsibilities	<p>To facilitate DLS in providing its legal services as efficiently and effectively as possible, clients are required to:-</p> <ul style="list-style-type: none"> • Provide DLS with instructions and directions promptly when required • Furnish records and discoverable documents to DLS in good time • Identify and make relevant witnesses available for consultation with DLS and counsel as required • Communicate promptly to DLS any relevant information or changes in relation to cases • Process promptly requests for payments in respect of fees for counsel and experts
Contact Details	Sarah Loughran, Assistant Chief Legal Adviser (Acting) sarah.loughran@hscni.net 07741836134