

## CONTENTS

1	PURPOSE.....	1
2	SCOPE.....	1
3	POLICY STATEMENT .....	1
	Legal Office .....	1
	External legal providers.....	2
	University-controlled entities .....	2
	Engagement of legal services .....	2
	Costs .....	2
	Timeframes .....	3
	Legal professional privilege .....	3
4	RESPONSIBILITIES .....	3
	Compliance, monitoring and review .....	3
	Reporting.....	3
	Records management.....	3
5	DEFINITIONS .....	4
6	RELATED LEGISLATION AND DOCUMENTS.....	4
7	FEEDBACK.....	4
8	APPROVAL AND REVIEW DETAILS.....	4

## 1 PURPOSE

- 1.1 This policy provides clear guidance on when CQUniversity employees should engage legal services, and the process for doing so.

## 2 SCOPE

- 2.1 This policy applies to legal service offered at CQUniversity.

## 3 POLICY STATEMENT

### Legal Office

- 3.1 The CQUniversity Legal Office is responsible for providing legal services and advice to CQUniversity, whether provided in-house or by external lawyers. In some circumstances, the Legal Office may also provide legal services and assistance to CQUniversity controlled entities.
- 3.2 Any legal services or advice sought must relate to the overall interests and business of the University, and not just the individual interests of the University officer, employee, School, or Directorate concerned.
- 3.3 The University Solicitor and Legal Officers of the Legal Office are admitted to practice law and hold current practising certificates.
- 3.4 The Legal Office will, in appropriate circumstances, refer a particular matter or transaction to a more senior officer of the University for instructions where there is any issue about the overall interests of the University.
- 3.5 The Legal Office does not provide legal services or advice of a personal nature to officers, employees or students of the University.

## External legal providers

- 3.6 In some circumstances, the Legal Office may engage external legal providers on behalf of the University.
- 3.7 The University Solicitor, in consultation with the relevant head of Division, Directorate or School, will determine whether the legal work is to be undertaken by the Legal Office, or through the use of an external legal provider.
- 3.8 With a view to ensuring consistency and quality of service, avoiding conflicts of interest, maximizing value from the University's expenditure on external legal services, and maintaining legal professional privilege, the Legal Office will have overall responsibility for the management, oversight and coordination of all external legal providers and the legal requests referred to those providers. In accordance with section 3.7 above, this will be conducted in consultation with the relevant head of Division, Directorate or School concerned.
- 3.9 When engaging any external legal services on behalf of the University, the responsible officer or employee must provide the University Solicitor with the details of any correspondence between the external legal provider and the University, including instructions and letters of advice.

## University-controlled entities

- 3.10 The Legal Office may provide legal services to CQUniversity-controlled entities in the following circumstances:
- where there is no conflict between the interests of the University and that of the controlled entity in relation to the matter or transaction, and
  - the matter or transaction has sufficient connection to the core business and interests of the University.

## Engagement of legal services

- 3.11 Legal services or advice may only be requested by or with the prior approval of a University officer or employee that has the decision-making authority regarding the matter in accordance with the [Authorities and Delegations register](#).
- 3.12 All requests for legal advice must include detailed information about the matter or transaction (including copies of all relevant documents). The following information must be received before the Legal Office can commence reviewing a request:
- a summary of information pertaining to the matter or transaction, detailing any party negotiation to date, and
  - evidence that the matter or transaction has been authorised by a University employee that has the decision-making authority regarding the matter (including funding arrangements).
- 3.13 All requests will be made in writing to [legaladvice@cqu.edu.au](mailto:legaladvice@cqu.edu.au) or, if a research-related matter, [research-legal@cqu.edu.au](mailto:research-legal@cqu.edu.au).
- 3.14 All contracts to which the University is a signatory must be reviewed by the Legal Office before signing, unless:
- the agreement is in a form that has been approved by the University Solicitor and no changes have been made to any of the operative provisions (e.g. a change to the indemnity or intellectual property provisions, or
  - advice or assistance has been provided by an external legal provider regarding the agreement.

## Costs

- 3.15 The Legal Office does not charge for in-house legal services provided to Divisions, Directorates or Schools of the University.

- 3.16 The Legal Office has an approved budget for the engagement of external lawyers which is reviewed annually. However, in some cases the Division, Directorate or School may be responsible for payment of external legal costs. The Chief Operating Officer, in consultation with the University Solicitor, Vice-Chancellor and President and/or relevant Deputy Vice-President, has authority to decide whether payment of the external legal costs will be met from the Legal Office's external legal expenses budget or whether these must be paid for directly by the Division, Directorate or School concerned.
- 3.17 The costs of any external legal advice obtained by the Legal Office for and on behalf of a University-controlled entity will be payable by that controlled entity, unless the University Solicitor, after first consulting the Chief Operating Officer, agrees otherwise. The Legal Office will consult with that controlled entity before engaging any external legal services.

### **Timeframes**

- 3.18 The Legal Office ordinarily deals with matters in order of receipt, unless there is genuine importance and urgency which must be specified in writing.
- 3.19 It is the responsibility of those seeking legal assistance to do so as soon as practicable, and to advise the Legal Office of any relevant timeframes.
- 3.20 The Legal Office will acknowledge receipt of a request for advice. The timeframes of when this will occur are set out in the Legal Office Service Charter.

### **Legal professional privilege**

- 3.21 Employees must treat communications with the Legal Office as strictly confidential in order to avoid inadvertent waiver of legal professional privilege. This is particularly important in the event of any actual or potential disputes or litigation.
- 3.22 Such communications should only be shared internally on a strictly 'need-to-know' basis.
- 3.23 Such communications must not be shared with external parties without the approval of the University Solicitor.

## **4 RESPONSIBILITIES**

### **Compliance, monitoring and review**

- 4.1 The University Solicitor is responsible for monitoring, reviewing and ensuring compliance with this policy.
- 4.2 The University Solicitor and Legal Officers are responsible for ensuring that this policy remains compliant with professional standards.
- 4.3 Divisions, Directorates or Schools of the University are responsible for ensuring compliance with this policy.

### **Reporting**

- 4.4 The Legal Office must maintain a panel of appropriate external legal services which must be reviewed and reported to the Administrators of this policy annually.
- 4.5 Each Division, Directorate or School must maintain records of any engagement with external legal services, including trust account ledgers, and provide these to the University Solicitor on a quarterly basis.

### **Records management**

- 4.6 Employees must manage records in accordance with the [Records Management Policy and Procedure](#). This includes retaining these records in a recognised University recordkeeping information system.

- 4.7 University records must be retained for the minimum periods specified in the relevant [Retention and Disposal Schedule](#). Before disposing of any records, approval must be sought from the Records and Privacy Team (email [records@cqu.edu.au](mailto:records@cqu.edu.au)).

## 5 DEFINITIONS

- 5.1 Terms not defined in this document may be in the University [glossary](#).

### Terms and Definitions

**Contract:** includes, but is not limited to, an agreement, exchange of letters, heads of agreement, response to tender, grant application, trust deed and any other document which creates, or which may create legally binding obligations on the University.

**External legal provider:** a provider of legal services external to the University and includes a law firm, barrister, or industrial association.

**Legal office:** the team of internal lawyers of the University, regardless of their employing Division or Directorate.

**Legal professional privilege:** protection provided to communications between a person or organisation and a practising lawyer for purposes of providing legal advice or discussion of litigation.

## 6 RELATED LEGISLATION AND DOCUMENTS

[Australian Solicitors Conduct Rules](#)

[Contract Management Policy and Procedure](#)

[Delegation of Authority Policy](#)

[Legal Profession Act 2007](#) (Qld)

[Legal Profession Regulation 2017](#) (Qld)

[Procurement Policy and Procedure](#)

## 7 FEEDBACK

- 7.1 Feedback about this document can be emailed to [policy@cqu.edu.au](mailto:policy@cqu.edu.au).

## 8 APPROVAL AND REVIEW DETAILS

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