

Legal Services Policy

Section 1 - Purpose and Context

(1) The Office of General Counsel (OGC) is responsible for the provision of legal advice and a range of other legal services (including drafting contracts), whether provided in-house or obtained from external lawyers, to Western Sydney University. In some cases, OGC may also provide legal services and advice for controlled entities of the University.

(2) OGC also assists with the development and review of University policies, as part of its contribution to the overall governance of the University and compliance with laws.

(3) This policy outlines the principles and procedures to be followed when requesting legal services or advice.

(4) This policy applies to all officers and staff of the University and to University controlled entities.

Section 2 - Definitions

(5) For the purposes of this policy, the following definitions apply:

- a. OGC means the Office of General Counsel;
- b. GC means the person appointed as the General Counsel (including any person acting in that position).

Section 3 - Policy Statement

Role of OGC

(6) OGC lawyers provide independent legal advice and services that take into account the overall interests and business of the University - not just the specific interests of the University officer, employee or unit concerned.

(7) All OGC lawyers are admitted to practice in New South Wales and hold current practising certificates.

(8) OGC will, in appropriate circumstances, escalate a particular matter or transaction to a more senior officer of the University for instructions where there is any concern about the overall interests of the University or significant risk.

In-House Legal Services - General Overview

(9) Any legal services or advice requested from the OGC or from external lawyers engaged on behalf of the University, must relate to the business and interests of the University.

(10) OGC does not provide legal services or advice of a personal nature to officers, employees or students of the University.

External Lawyers

(11) In some cases, the University retains external lawyers to provide legal services or advice. Only OGC lawyers or

other positions specifically named in the [Delegations of Authority Policy](#) (after first consulting the GC) have authority to retain external lawyers on behalf of the University.

Legal Services to Controlled Entities

(12) OGC may provide legal services to controlled entities in the following circumstances:

- a. where there is no conflict between the interests of the University and that of the controlled entity in relation to the matter or transaction;
- b. the matter or transaction has sufficient connection to the core business and interests of the University.

(13) Before agreeing to provide services to a controlled entity, the GC must also be satisfied that:

- a. the matter or transaction is within the expertise of OGC; and
- b. the matter or transaction will not unreasonably burden or divert the resources of OGC to the detriment of the University.

Section 4 - Procedures

Request for Legal Services or Advice

(14) Legal services or advice may only be requested by or with the prior approval of:

- a. a senior officer of the University (that is, the Vice-Chancellor and President, a Deputy Vice-Chancellor, a Vice-President, a Pro Vice-Chancellor, a Dean or a Deputy Dean, the Executive Director, Library Services, the Chief Marketing and Experience Officer, the Chief Information and Digital Officer or an Executive Director);
- b. the director of a Research Centre or a Research Institute of the University;
- c. in the case of a controlled entity, the chief executive officer or general manager of that controlled entity.

(15) All requests for legal services or advice should be directed to the OGC using the online Request for Legal Services available at [Office of General Counsel website](#).

(16) All requests for legal services or advice must include detailed information about the matter or transaction (including copies of all relevant documents) to OGC at the time a request for services is made. The following information is required before the OGC can commence work:

- a. a summary of what the matter or transaction is about and, if a contract, details of what has already been negotiated with the other party;
- b. evidence that the transaction has first been authorised by the person(s) with appropriate authority (including funding arrangements);
- c. the name of the person who will be instructing the OGC [who must be a person listed in clause (14)];
- d. any other information requested by OGC; and
- e. all documents (including approvals) and background information relating to the matter or transaction, including any requested by OGC.

(17) Before instructing OGC in any commercial transaction, the officer or employee instructing OGC should ensure that any procedures or approvals required under other University policies (for example, the University's [Procurement Policy](#) and [Commercial Activities Guidelines](#)) have been, or are in the process of being, followed and obtained.

External Legal Services

(18) OGC has established a panel of external lawyers who have been chosen for their expertise in relevant areas of law and for their knowledge of the University's statutory and operating regime.

(19) OGC will coordinate the instruction of any external lawyers engaged on behalf of the University.

Costs

(20) OGC does not charge for in-house legal services provided to the University or its controlled entities.

(21) OGC has an approved budget for the engagement of external lawyers, which is reviewed annually. However, in some cases the academic or administrative unit may be responsible for payment of external legal costs, for example, if that unit has a project budget that includes legal expenses, or where the matter involves a dispute (including litigation) that has arisen because of the failure of that academic or administrative unit to comply with University policy. In the latter case, the Senior Deputy Vice-Chancellor or Vice-President, Strategy and Governance, in consultation with the GC, has authority to decide whether those costs will be met from the OGC external legal expenses budget or whether these must be paid for directly by the academic or administrative unit concerned.

(22) The costs of any external legal advice obtained by OGC for and on behalf of a controlled entity are payable by that controlled entity, unless the GC (after first consulting the Senior Deputy Vice-Chancellor or Vice-President, Strategy and Governance) first agrees otherwise. OGC will consult with that controlled entity before engaging any external lawyers.

Section 5 - Guidelines

When to Contact OGC

(23) Instructions received within OGC are normally dealt with in order of receipt, but are prioritised according to level of importance and genuine urgency. Accordingly, it is important to involve OGC as early as possible in any transaction or matter where legal advice or services are required, including where:

- a. there is an actual or potential dispute (even if it has not yet escalated to litigation); or
- b. when it is proposed to procure goods or services for the University.

(24) Where a transaction involves a tender with a specified timeframe, that timeframe should take into account any need for OGC to prepare documentation (such as contracts).

Legal Professional Privilege

(25) As a general rule, the University and its controlled entities are entitled to claim legal professional privilege for any communications between lawyers (including OGC lawyers) and officers and staff, provided those communications are for the dominant purpose of seeking or receiving legal advice or services, or where those communications relate to litigation that has already commenced or is anticipated. For more information about legal professional privilege, visit the [OGC website](#).

(26) All University officers and staff must treat all communications between them and OGC (and any external lawyers) as strictly confidential, and only disclose them to others within the organisation on a "strictly need to know" basis. This is to ensure that any claim for legal professional privilege can be maintained. This is particularly important in any disputes or litigation in order to minimise the risk of inadvertent waiver of legal professional privilege.

(27) Under no circumstances should any communications from or to OGC or external lawyers be disclosed to anyone

outside the organisation, without first obtaining the approval of the General Counsel.

Disputes and Litigation

(28) From time to time, the University or a controlled entity may be a party to disputes or litigation with another person, either as a claimant or plaintiff or as a respondent or defendant.

(29) Refer to the [Litigation, Claims and Disputes Policy](#) for more information.

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Unit Head	Martine Forrester General Counsel m.forrester@westernsydney.edu.au
Author	Nicole Bannerman General Counsel
Enquiries Contact	Martine Forrester General Counsel m.forrester@westernsydney.edu.au