



<b>Policy:</b>	6.9.2
<b>Approved By:</b>	Management Group – November 23, 1992 Trust Council
<b>Approval Date:</b>	December 5, 1992
<b>Amendment Date(s):</b>	June 6, 1997, September 16, 2005
<b>Policy Holder:</b>	Chief Administrative Officer

## LEGAL SERVICES ACCESS

### Purpose

To maximize the efficient and effective use of legal counsel services on a consistent basis. This policy involves controlling access to legal services, managing the provision of legal services and monitoring the use of legal counsel.

### A. Definitions

n/a

### B. Policy

#### 1. Access

##### 1.1 Authority

- 1.1.1 A staff member or a Trustee has the authority to contact legal counsel to deal with matters of a potential conflict of interest regarding his or herself.
- 1.1.2 The following staff have the authority to consult with legal counsel: Chief Administrative Officer (CAO), Director of Local Planning Services, Director of Administrative Services, Islands Trust Conservancy Manager, Planners, and Bylaw Compliance and Enforcement Officers. A Legal Services Request must be used for services that are expected to exceed \$100.00.
- 1.1.3 Staff may contact legal counsel through the use of a Legal Services Request form which shall be completed without charge by legal counsel, and endorsed by the CAO, a Director or designate.
- 1.1.4 Directions from trust committees (except section 1.1.1) to staff to access legal counsel services should result from a trust committee resolution once they have been made aware of required legal service costs. Matters of initiating litigation must be reviewed by the Executive Committee.
- 1.1.5 Requests from Executive Committee, Trust Council and/or Council Committees (except clause 1.1.1) to staff to access legal services shall result from a resolution once they have been made aware of required legal service costs. The CAO's (or designate's) approval of such access may be subject to Executive Committee review, at the CAO's discretion. The Islands Trust Conservancy Board will operate under its own policy and procedures.

## **1.2. Request Form (See Attachment 1)**

The following provides guidelines and notes for the completion of the legal services request form.

### **1.2.1 To/From**

All request forms go to the contractor providing legal services, with a copy to the file lawyer who you are consulting with, and copies to staff who should be aware of the request. The originating staff is the staff person making the request and who will be responsible for processing the request and managing the file.

### **1.2.2 File Code**

1.2.2.1 All requests must identify the program unit requiring the legal services:

- 1.2.2.1.1 Trust Committee - specific matter and note which one on line
- 1.2.2.1.2 Executive Committee - specific matter identified by Executive Committee
- 1.2.2.1.3 Local Planning - planning unit or broad trust committee matter
- 1.2.2.1.4 Management - of an administrative nature
- 1.2.2.1.5 Policy/Research - of a legislative interpretation nature
- 1.2.2.1.6 Other - undefined under above terms
- 1.2.2.1.7 Islands Trust Conservancy Board - specific to the Islands Trust Conservancy and billed separately
- 1.2.2.1.8 Cost Recovery - to be paid by a third party and billed separately

1.2.2.2 Sub-Client Code

- 1.2.2.2.1 does it exist now? – name it
- 1.2.2.2.2 is it a new file? – give it a name
- 1.2.2.2.3 LYA code is the legal firm's reference code

### **1.2.3 Background**

- Provide some background, context or terms of reference for the request.
- Indicate if additional information is provided as an attachment or under separate cover and also list other information available upon request.

#### 1.2.4 Instructions

1.2.5.1 The request of services, or question to be addressed, or parameters must be stated very clearly to expect the lawyer to be able to provide a reasonable cost estimate. State if there are several stages involved, what the expected product is, and what are the expected time lines.

1.2.5.2 Identify who the lawyer should contact regarding questions if not the originating staff, and identify a target date for the lawyer to provide a cost estimate for the request.

#### 1.2.5 Lawyer Response

The lawyer, at no cost, is expected to state a course of action on a clear product with cost estimates for billable fees and extraordinary disbursements and a target or targets for billing in stages and/or upon completion.

#### 1.2.6 Request Approval

Approval by the CAO or designate Director indicates support for the request as to: the instructions; expected course of action or product; the matter has not been previously dealt with; and its importance to be addressed relative to their program unit.

#### 1.2.7 Service Approval

Service Approval by the CAO or signed by a Director on behalf of the CAO which authorizes legal counsel to proceed to bill for services and for staff to consult further with legal counsel.

#### 1.2.8 Completed Requests

Completed requests are distributed according to instructions provided to the CAO's office.

## 2. Managing Services

### 2.1. Relationship

Any concerns that cannot be dealt with at a lawyer/staff level or general concerns regarding the legal counsel/Trust relationship should be communicated to the CAO or designate on the part of the Trust and to a partner at the legal contractor.

### 2.2. Request Estimate Changes

2.2.1 It is the responsibility of the originating staff to solicit updates to the Legal Services Request estimates (and billing month) from the file lawyer and submit the request form as an update to previously quoted estimates.

2.2.2 It is the responsibility of the CAO's office or designated approving authority to forward copies of the approved request form to the Islands Trust staff secretary responsible for maintaining legal files.

### **2.3. Legal Firm Correspondence**

- 2.3.1 The legal firm will forward correspondence directly to the originating staff with a copy of all correspondence to the CAO or designate.
- 2.3.2 It is the responsibility of the originating staff to internally distribute copies of legal correspondence to appropriate trustees and staff as well as to the relevant manager and to the central file system.

### **2.4. Legal Opinion Inventory**

- 2.4.1 It is the CAO's or designate's office responsibility to forward appropriate legal correspondence for the staff secretary's inclusion in the legal opinion inventory.
- 2.4.2 It is the staff secretary's responsibility to coordinate and maintain a legal opinion inventory system that is readily accessible for trustees and staff.
- 2.4.3 Originating staff shall check the legal opinion inventory before making legal service requests.

## **3. Monitoring Services**

The contract law firm provides individual invoices for each file by using an individual file code and marked attention to the originating staff in a monthly invoice package sent to the Director of Administrative Services.

### **3.1. File Review**

The Director of Administrative Services distributes each file invoice to the appropriate originating staff Directors and managers for review, signature of approval, and return to the Director of Administrative Services.

### **3.2. Work in Progress System**

The Director of Administrative Service's office maintains a registry of active legal files and records estimate billings from approved legal service requests on a calendar spreadsheet.

- 3.2.1 It is the responsibility of the Director of Administrative Service's office to distribute the active legal services chart to all legal service access designates (see 1.1.2.) on a monthly basis.
- 3.2.2 It is the responsibility of all designates to immediately advise the Director of Administrative Services of any corrections, edits, missing files, and/or fee estimates.

### **3.3. Legal Service Appraisal**

The Director of Local Planning Services will advise the Management Group, and the Executive Committee quarterly the status of files subject of litigation proceedings.

### **3.4 Legal Service Refusal**

The CAO, a Director or designate may, at any time, refuse to authorize the approval of a legal service request or legal service approval because:

- the service is not deemed to be required because the subject of the service request has been previously dealt with, it can be handled by staff and/or it is not of a legal nature; and/or
- the legal services budget does not have the capacity to accommodate the request.

Such a decision may be reviewed by the CAO or designate upon request of a local trust committee and, if required, by the Executive Committee.

#### **C. Legislated References**

Policy and Procedures Manual: Legal Services Management Policy (6.9.1)

#### **D. Attachments/Links to Supporting Forms, Documents, Websites, Related Policies and Procedures**

Attachment 1: Legal Services Request



## LEGAL SERVICES REQUEST

- For legal counsel consultations exceeding \$100.00 billable costs
- Completed by legal counsel without billable fees
- See Legal Services Access Procedure for details

LSR File #:

IT Account #:

Description:

TO:

Copy To:

DATE:

FROM:

(← Originating Staff)

URGENT:

UNIT NAME:

(← i.e. billable costs to which unit?)

FILE CODE:

Existing

New File

File Name

LYA Code:

**BACKGROUND (Description or Context Matter):**

**Additional Information:**

Attached

  

Available Upon Request:

  

**Is this Legal Services Request a Cost Recovery:**

Yes

No

### INSTRUCTIONS (to File Lawyer)

If this is a Cost Recovery, legal services work must not commence until written confirmation from the relevant Islands Trust staff that a cost recovery agreement has been finalized and signed. Please quote the following file number on all correspondence:

Legal service work must not commence prior to written authorization from the Director of Local Planning Services or his designate.



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Designate Staff Contact

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Target Response Date

*for Cost Estimate*

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Target Response Date

*for Legal Services Completion*

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LAWYER RESPONSE

FEES

DISBS.

BILLING  
MONTH

\$

\$

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File Lawyer

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LYA Partner

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HAVE CHECKED LEGAL OPINION INVENTORY FOR SIMILAR OPINIONS:

YES

NO

Comments:

FUNDING APPROVAL:

DATE: