

# Legal Advice Policy

## Section 1 - Key Information

<b>Policy Type</b>	Governance - Council
<b>Accountable Officer - Policy</b>	Chief Operating Officer
<b>Responsible Officer - Policy</b>	General Counsel
<b>Review date</b>	5 December 2025

## Section 2 - Purpose

(1) This policy outlines the role of Legal Services and the General Counsel in providing legal advice and related services to the University.

## Section 3 - Scope

(2) This Policy applies to:

- This Policy applies to all staff and Council members; and
- related entities of La Trobe University.

## Section 4 - Key Decisions

Key decision-making power/responsibility	Role
Provide legal advice to the University and its related entities	General Counsel and Deputy General Counsel
Approve external legal advice being obtained	General Counsel
Approve the commencement of legal proceedings by the University against a third party or parties	Vice-Chancellor or Chief Operating Officer

## Section 5 - Policy Statement

(3) Understanding legal risk to the University is a key element of due diligence. Staff are responsible for seeking legal advice where required to help inform decision making and protect the University's interests. Legal risk is one factor which must be considered as part of having regard to the University's Risk Framework which outlines Council's risk appetite. Legal advice should be sought as early as possible to facilitate the timely resolution of problems before they escalate and with a view to preventing matters being litigated unnecessarily.

(4) The University's in-house legal service (Legal Services) is responsible for providing all legal advice and other legal services to the University. These services are provided directly by the in-house legal team or via external lawyers.

Where appropriate, Legal Services may also provide legal advice to a related entity of the University.

(5) The key areas of advice provided include:

- a. contracts to which the University is a party;
- b. disputes and claims; and
- c. regulatory compliance.

(6) All Legal Services' lawyers are:

- a. admitted to practice in Victoria;
- b. hold current practising certificates;
- c. are required to act independently and in the best interests of the overall University (not just the specific interests of the University officer, employee or unit concerned); and
- d. are subject always to standards of conduct required by the legal profession.

(7) Legal Services cannot provide advice to University contractors, staff in their personal capacity or students.

(8) Legal Services will accept instructions from the business area with primary responsibility for the subject matter concerned. Where it is unclear who should act as Legal Services' internal client, Legal Services will make a determination having regard to University Policy, the nature of the matter and the University's [Contract Signing Instrument of Delegation](#). Legal Services may also escalate matters to senior executive staff or Council for instructions where there is concern about the overall interests of the University or significant risk.

(9) Except with the prior written consent of the University General Counsel, only Legal Services can engage external lawyers to provide the University with legal advice and other services.

(10) Legal Services may appoint external lawyers where:

- a. the expertise or resources to provide advice in the timeframe required is not available in-house;
- b. where a staff member is named in a claim in their personal capacity (subject to it being appropriate for the University to provide indemnification);
- c. where there is a potential conflict of interest involving the University; and
- d. other considerations support obtaining external legal advice (e.g. where there is significant risk or strategic value to the University).

(11) Costs for external legal advice will be borne by the business area requiring or primarily impacted by the legal advice.

(12) The General Counsel is authorised to accept legal service of documents on behalf the University (including subpoenas, warrants, applications, writs, summons and other documents relevant to legal proceedings). Staff must refer such documents to Legal Services immediately upon receipt.

(13) Legal advice is subject to legal professional privilege, which is a special type of confidentiality. Staff must not disclose legal advice either internally or externally without first consulting Legal Services. Only a member of the Senior Executive Group may waive legal professional privilege following advice from Legal Services.

## Section 6 - Procedures

## **Requesting Legal Advice and Other Services**

(14) Legal Services has developed a range of self-service tools and knowledge base articles to help staff with simple legal issues/queries. These are housed on the intranet and its online portal (LawVu). Staff are encouraged to review these resources in the first instance.

(15) All requests for legal advice and other services should be submitted to Legal Services by email to [legal.services@latrobe.edu.au](mailto:legal.services@latrobe.edu.au) or via Legal Services' portal LawVu.

(16) Requests for legal advice are dealt with in order of receipt or are prioritised according to their level of risk and strategic importance, as well as genuine urgency. It is therefore important to involve Legal Services as early as possible in any transaction, major project or where there is a potential or actual dispute or claim. Any known timeframes (e.g. Court or external regulatory deadlines, major project milestones, grant application and tender documents submission dates etc) should be notified to Legal Services at the earliest opportunity. Project planning must take into account and allow adequate time for the provision and consideration of legal advice.

(17) Requests for legal advice should be submitted by Legal Services' ongoing client (see paragraph 7 above). That person must be someone with decision-making power in accordance with University Policy and have the ability to provide Legal Services with complete and accurate instructions.

(18) Where a Contract is involved, the instructing client should be from within the business area of the relevant Authorised Signatory for that type of Contract. The University's [Contracts Policy](#) must also be followed.

(19) All requests for legal advice must be accompanied by detailed background information about the matter or proposed transaction (including copies of all relevant documents). At a minimum, the following information is required before Legal Services can begin work on a matter:

- a. a summary of what the matter or transaction is about;
- b. any checklists for legal instructions required by Legal Services for that type of matter (where applicable);
- c. if a Contract is or will be involved, how the arrangement is intended to work in practice, including the proposed roles and responsibilities of the respective parties;
- d. the name of the person who will be acting as Legal Services client (i.e. the person who will provide instructions); and
- e. any other information requested by Legal Services.

## **Engaging External Lawyers**

(20) All external lawyers must only be engaged by the General Counsel or Deputy General Counsels. Legal Services will be responsible for briefing and coordinating the instructions provided to any external lawyer engaged and for all ongoing communication, except where the General Counsel has specifically approved otherwise.

(21) Legal Services has established a panel of external lawyers chosen for their expertise in relevant areas of law, knowledge of the University's operations and competitive pricing. Legal Services is not restricted to engaging external lawyers from its panel lawyers/firms.

(22) Where the General Counsel approves the engagement of an external lawyer, Legal Services may make a recommendation to the internal client having regard to:

- a. the external lawyer's field of expertise, knowledge of University operations and current capacity;
- b. the hourly rate or cost estimate provided; and
- c. other factors relevant to the needs and best interests of the University.

(23) Costs for external legal advice will be borne by the business area requiring or primarily impacted by the legal advice and must be paid in a timely manner and in accordance with the relevant invoice(s) rendered.

## **Disputes, Claims, and Litigation**

(24) Any staff member or University officer who becomes aware of an actual or potential legal dispute or claim (including litigation) should contact Legal Services as soon as practicable to obtain advice and so that the University's Insurer can be notified if required.

(25) Similarly, if any staff member or University officer believes the University may have a dispute or claim against a third party, Legal Services should be notified to assist in the early resolution of the matter if possible. All litigation commenced by the University against a third party must be approved in advance by either the Vice-Chancellor or Chief Operating Officer.

(26) Where a matter involves or is likely to result in a dispute, claim or litigation, caution should be exercised in relation to communication and the disclosure of information. This is to limit the risk of individuals inadvertently admitting liability on behalf of the University, waiving of legal professional privilege and/or any other action which may compromise to the University's legal position.

(27) Where a staff member is named as a party to a proceeding relating to their role or University activities, Legal Services' lawyers will be unable to act for the staff member directly. Where appropriate, however, external lawyers may be engaged to provide legal assistance and support. Such an arrangement will be subject to approval by the General Counsel, the consent of the staff member concerned and agreed terms.

(28) Staff and University officers must disclose all information relevant to a dispute, claim or legal proceeding even if it may not be favourable to the University's position. All documents and communications relating to such matters must be retained in accordance the University's [Records Management Policy](#) to ensure the University can comply with directions of any court or law enforcement agency.

## **Section 7 - Definitions**

(29) For the purpose of this Policy:

- a. claim: a demand or formal request for payment, compensation or the assertion of other legal rights.
- b. dispute: a disagreement as to the interpretation or meaning of something e.g. a contractual term.
- c. external lawyers: accredited legal practitioners, including sole practitioners, law firms and barristers.
- d. related entity, in relation to a person, means:
  - i. if the person is a company within the meaning of the [Corporations Act 2001 \(Cth\)](#) - a related body corporate within the meaning of section 50 of the Corporations Act; or
  - ii. if the person is not a company within the meaning of the [Corporations Act 2001 \(Cth\)](#) - a person specified or described in the Uniform Rules for the purposes of the definition.

## **Section 8 - Authority and Associated Information**

(30) This policy is made under the [La Trobe University Act 2009](#).

(31) Associated information includes:

- a. [University Delegations Framework](#)

- b. [University Risk Framework](#)
- c. [Legal Professional Privilege Factsheet](#)

## Status and Details

<b>Status</b>	Current
<b>Effective Date</b>	12th December 2022
<b>Review Date</b>	4th December 2025
<b>Approval Authority</b>	University Council
<b>Approval Date</b>	8th December 2022
<b>Expiry Date</b>	Not Applicable
<b>Responsible Manager - Policy</b>	Linda Robertson General Counsel & Director of Assurance
<b>Enquiries Contact</b>	Legal Services +61 3 9479 2495

## Glossary Terms and Definitions

**"staff"** - Staff means any person employed by the University as per the definition in the La Trobe University Act 2009 (Vic).