



Policy:	6.9.2
Approved By:	Trust Council
Approval Date:	June 9, 2021
Amendment Date(s):	
Policy Holder:	Chief Administrative Officer

LEGAL SERVICES ACCESS AND MANAGEMENT

Purpose

To outline the process to access and manage the provision of legal services, and instruct and monitor the use of legal counsel in a manner that is efficient and cost effective.

A. Definitions

n/a

B. Policy

1. Legal Counsel Access

- 1.1 Opening and/or extending legal files with legal counsel shall only be initiated through staff using established legal services management procedures.
- 1.2 A staff member or an individual trustee has the authority to contact Islands Trust legal counsel to deal with matters of a potential conflict of interest regarding his or her self when approved by the Chief Administrative Officer (CAO).
- 1.3 Trustee requests for opening new and/or extending existing legal files must be initiated by a resolution of the appropriate local trust committee, Executive Committee, Trust Council, or Islands Trust Conservancy Board.
- 1.4 Trustee requests for consultation with legal counsel may be facilitated by staff in a manner that permits obtaining of legal advice such that it is available to others concerned, and /or the Trust in general.
- 1.5 Subject to the Islands Trust indemnification bylaw, where a trustee is a named defendant in a litigation matter, he/she shall be able to access Islands Trust's legal counsel on matters related to the litigation. In this instance, instructions to legal counsel must be provided by the CAO or a Director, following consultation with the trustee.

2. Authority to Consult with Legal Counsel

- 2.1 The following staff have the authority to consult with legal counsel: Chief Administrative Officer (CAO), Director of Local Planning Services, Director of Administrative Services, Director of Trust Area Services, Legislative Services Manager, Islands Trust Conservancy Manager, Planners, and Bylaw Compliance and Enforcement Officers.

- 2.2 Staff must contact legal counsel through the use of a Legal Services Request (LSR) form which shall be completed without charge by legal counsel, and endorsed by the CAO, a Director or designate. A Legal Services Request form must be used for services that are expected to exceed \$100.00.
- 2.3 Directions from a local trust committee (except section 1.2) to staff to access legal counsel services must result from a local trust committee resolution.
- 2.4 Matters of local trust committees initiating litigation must be approved by resolution of the Executive Committee.
- 2.5 Requests from Executive Committee, Trust Council and/or council committees (except section 1.2) to staff to access legal services shall result from a resolution. The CAO's (or designate's) approval of such access may be subject to Executive Committee review. The Islands Trust Conservancy Board will operate under its own policy and procedures.

3. Legal Service Request Form (See Attachment 1)

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

3.1 To/From

All request forms go to the contractor providing legal services, with a copy to the file lawyer who staff 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.

3.2 File Code

3.2.1 All requests must identify the Program Unit requiring the legal services:

3.2.1.1 Local Trust Committee - specific matter and note which committee

3.2.1.2 Executive Committee - specific matter identified by Executive Committee

3.2.1.3 Local Planning - planning unit or broad trust committee matter

3.2.1.4 Management - of an administrative nature

3.2.1.5 Policy/Research - of a legislative interpretation nature

3.2.1.6 Other - undefined under above terms

3.2.1.7 Islands Trust Conservancy Board - specific to the Islands Trust Conservancy and billed separately

3.2.1.8 Cost Recovery - to be paid by a third party and billed separately

3.2.2 Sub-Client Code

3.2.2.1 Does it exist now? – name it

3.2.2.2. Is it a new file? – give it a name

3.2.2.3 LYA code is the legal firm's reference code

3.3 Background

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

3.4 Instructions

- 3.4.1 The request for 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.
- 3.4.2 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.

3.5 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.

3.6 Request Approval

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

3.7 Service Approval

Service Approval is given when an LSR is approved/signed by the CAO or approved/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.

4. Legal Counsel Instruction

- 4.1 All resolutions requesting staff to access legal services should be clear in providing: instructions to legal counsel as to the key question(s) to be addressed, expected product, time-frame to respond, and materials to be provided to legal counsel.
- 4.2 All requests for legal counsel services should be initiated by staff using a LSR form processed according to established procedure.
- 4.3 Legal services requirements of an urgent nature may be initiated by staff and although established procedure may not initially be followed, a LSR form shall be processed immediately.

5. Legal Service Approval

- 5.1 Only the CAO and Directors can approve staff access to legal counsel to initiate the opening of a new litigation file and/or extension of an existing file (obtain an estimate).
- 5.2 The advancement of any bylaw enforcement litigation file to the Courts, shall be initiated by a resolution of the relevant local trust committee, and approved by the Executive Committee.
- 5.3 The initiating local trust committee owns the bylaw enforcement litigation, and by resolution and through staff, provides direction to legal counsel as required. Authorization to legal counsel to settle a claim, or discontinue a claim, is made by resolution of the initiating local trust committee. If the settlement or discontinuance has a financial implication, approval of the Executive Committee is also required.
- 5.4 Where a claim is made against a local trust committee, local trustees, or staff, approval of defending shall be approved by the Executive Committee, in consideration of the indemnification policy and legal counsel advice and estimates of costs.
- 5.5 All legal service bills shall be approved by the Director of Administrative Services for payment subject to a satisfactory reconciliation with the relevant LSR cost estimate and the designated staff member's verification.
- 5.6 The Director of Local Planning Services shall be responsible to monitor and supervise the use of legal services as per the conditions of the Legal Services Contract.
- 5.7 The Executive Committee may, at any time, on matters where it deems it necessary, access legal counsel directly through the Chair, with notification to the CAO.

6. Managing Services

6.1. 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 designated Director on the part of the Trust and to a partner at the legal contractor.

6.2. Request Estimate Changes

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

6.2.2 It is the responsibility of the CAO's office or designated staff to file copies of the approved request form in the Islands Trust's electronic storage area network.

6.3. Legal Firm Correspondence

6.3.1 The legal firm will forward correspondence directly to the originating staff.

6.3.2 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.

6.4. Legal Opinion Inventory

6.4.1 It is the Corporate Secretary's office responsibility to forward appropriate legal correspondence for the Legislative Services Clerk's inclusion in the legal opinion inventory.

6.4.2 It is the Legislative Services Clerk's responsibility to coordinate and maintain a legal opinion inventory system that is readily accessible for trustees and staff.

6.4.3 Originating staff shall check the legal opinion inventory before making legal service requests.

7. 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.

7.1. 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.

7.2. 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.

7.2.1 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 2.1) on a monthly basis.

7.2.2 It is the responsibility of all designated staff to immediately advise the Director of Administrative Services of any corrections, edits, missing files, and/or fee estimates.

7.3. Legal Service Appraisal

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

7.4 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:

- 7.4.1 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
- 7.4.2 the legal services budget does not have the capacity to accommodate the request;
- 7.4.3 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 Access (2.1.6)

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

Attachment 1: Legal Services Request form

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.

Designate Staff Contact

Target Response Date
for Cost Estimate

Target Response Date
for Legal Services Completion

LAWYER RESPONSE

FEES

DISBS.

**BILLING
MONTH**

\$

\$

File Lawyer

LYA Partner

HAVE CHECKED LEGAL OPINION INVENTORY FOR SIMILAR OPINIONS:

YES

NO

Comments:

FUNDING APPROVAL:

DATE: