

Legal Operational Framework

Introduction

1. The purpose of this Legal Operational Framework (**LOF**) is to ensure effective management of legal risk across [the company] and to prioritise strategically important work that advances key organisational objectives. It covers:
 - The role of Legal Services.
 - Guidance for staff on how to manage legal risk.
 - Prioritisation and resourcing of requests for legal advice.
 - How to seek legal advice.
 - Risk based criteria for when staff should (and shouldn't) be seeking legal advice.
2. Detailed information on the [company] Legal Team, including templates, guidance documents and contact details can be found on the [company webpage].

Role of Legal Services

3. The role of Legal Services is to provide independent, robust and responsive legal advice to support [the company] decision making and operations. By doing this we help [the company] to achieve its vision and strategic objectives.
4. [Departmental] Units are responsible for managing the legal risks within their areas of work. We provide legal support and advice to enable them to do so effectively.

Risk management at [the company]

5. [The company]'s primary document relating to risk management is the Risk Management Framework. This Framework details how [the company] manages risk. Included within the Risk Management Framework is the Risk Appetite Statement, which summarises [the company]'s tolerances to various types of risk. The Risk and Assurance Team provides general advice and guidance on managing risk, including providing self-help tools on their Intranet Page.
6. [the company]'s Risk Management Framework requires all staff to be cognisant of all strategic and operational risks (including legal risks), with SLT members being the ultimate owners of such risks, including risk assessment and management.

Guidance on managing legal risks

7. Most legal risks for business-as-usual work should be managed by training, procedures, templates and other self-help tools provided to staff so that specific legal advice is not required. Residual legal risks may require legal advice (for example because the matter is potentially of medium to high legal risk and there is no relevant or legally robust procedure or other guidance in place).
8. Legal risk generally means any risk of court action, or the risk of any penalty or liability resulting from breach of legal requirements. For [the company], legal risk may also arise from investigation by a government agency (such as the Office of the Ombudsman, Office of Auditor General or Office of Privacy Commissioner). Losing a court action, or an adverse finding

following a formal investigation, may result in harm to strategic or policy objectives and financial or reputational loss.

9. Legal risk is only one of the factors to be weighed in decision making.

Prioritisation of legal resource

10. The in-house legal resource is limited, and it is not viable to involve [the company] Legal in managing all organisational legal risks

11. We do have a panel of external lawyers, which we may recommend engaging where:

- Specialist expertise is required that is not held by [the company] Legal.
- The size, nature, or complexity of the matter.
- The capacity of [the company] Legal to take on the new work within the timeframes required.

Only the General Counsel has delegation to instruct external lawyers.

12. [The company] legal team does not currently cross charge (Internal) Units for the legal advice that it deliver;, however external legal advice may be on-charged to a specific project where this is agreed with the relevant budget holder. [the company] legal team can assist with assessing whether provision within (Department) budgets is required for external legal advice.

13. The [company] Delegations mandate that [the company] legal team is consulted in specific instances (e.g. settlements of disputes). Staff should consult the relevant [company] Delegations requirements, and then use Legal Services Criteria (see: Appendix) to determine when to seek legal advice. This ensures that use of the legal resource is aligned with [the company]'s strategic objectives and predominantly focused on matters of medium to high legal risk or which will deliver high organisational value. If the [company] Delegations and the Legal Services Criteria conflict, the [company] Delegations shall prevail.

Using the Legal Services Criteria

14. If an issue requiring potential legal advice is identified, check the Legal Services Criteria and apply the following:

If the issue is categorised as " MUST seek legal advice"	Raise a Legal support request (see paragraph 18 below) or contact a member of the [company] legal team directly if there is imminent risk to [the company].
If the issue is categorised as " SHOULD CONSIDER seeking legal advice"	Follow the steps outlined below (see paragraphs 15 onwards).
If the issue is categorised as " SHOULD NOT seek legal advice"	These issues either are non-legal, or a template or other avenue of advice exists. Follow the guidance in the Legal Services Criteria and consult your manager if still unsure.

15. If an issue is not covered by the Legal Services Criteria, please follow the steps outlined below (see paragraphs 15 onwards).
16. When considering whether to seek legal advice, first:
 - Identify the question(s) for legal advice.
 - Check whether the question is already adequately answered by Legal Services procedures, templates or other guidance.
 - Check whether any subject matter experts in your team, including your manager can adequately answer the question.
17. If, having completed these initial steps, you believe legal advice is required, please then discuss this with your Head Department, Executive or Service Unit Director (as relevant) (**Manager**). All requests for legal advice to Legal Services require approval from the relevant Manager.
18. Your Manager should confirm that the above initial steps have been taken, that the matter is of sufficient operational risk that specific legal advice should be sought and that there is budget available (in the event that Legal Services recommend seeking external legal advice). The Manager also is responsible for any necessary briefing to their SLT member about the legal risk and its management.
19. If your Manager approves the request for legal advice, please submit a Legal Support Request. Further information on submitting this request is available on the Legal Services Intranet Page. Requests for legal advice via other channels or that do not contain all necessary information will not be actioned until a Legal Support Request is completed in full.
20. If we recommend seeking the legal advice from an external lawyer, and regardless of which budget the external advice is funded from, Legal Services will instruct and (unless otherwise agreed) manage the provision of this advice to ensure it is cost effective and fit for purpose.
21. After receiving the legal advice, we expect you to:
 - Read it.
 - Let us know if there are any factual errors, or if we have made any incorrect assumptions regarding the information you have provided to us.
 - Ensure that the decision maker receives the legal advice, considers it and either follows the advice or documents why it was not followed.
 - Let us know if you need any assistance incorporating the advice into another document, such as a report to Council or Committee (paraphrasing legal advice can inadvertently change its meaning or result in waiver of legal privilege).
 - Let us know if you want to apply the advice to a different situation.
 - Let us know if you need any follow up advice.
 - Keep the legal advice confidential to those who strictly need to know it, in order to maintain legal privilege.
 - Never disclose the advice externally, especially to a third party which the advice may be about.

Appendix: Legal Services Criteria

Procurement

[The company] Legal team primarily assists with the procurements which [the company] has designated as **high risk or of strategic importance**, namely:

- (a) Construction and consultancy (e.g. design) services which:
 - (i) involve **structural work or weather-tightness work** (or could compromise weather tightness); or
 - (ii) are **over \$500,000** in total contract value.
- (b) ICT goods or services which are (in the view of the Chief Digital Officer) **business critical** or are otherwise over **\$500,000** in total contract value.
- (c) Other goods and services which are (in the view of the Head of Procurement) **business critical** or are otherwise **over \$500,000** in total contract value.

All other procurements should be conducted on [the company] templates with assistance from the Procurement Team. Further detail about when to involve [the company] Legal team at each stage of the Procurement process is set out below.

Procurement – proposed contracts	
<i>NB: [The company] Legal team provides template contracts to be used as the Proposed Contract for RFPs, along with drafting instructions. These are intended to be used without the need for further guidance, subject to the exceptions listed below.</i>	
MUST seek legal advice	To approve the Proposed Contract for the high risk/strategically important procurements listed above.
SHOULD CONSIDER seeking legal advice	To approve the Proposed Contract for other types of procurements of goods or services which are considered (by the contract owner) to be complex or bespoke , but do not fall within the high risk/strategically important categories.
SHOULD NOT seek legal advice	To approve the Proposed Contract for all other procurements – instead refer to templates available via the Procurement Team and Legal intranet page and consult with the Procurement Team as required.

Procurement – RFPs	
<i>NB: [the company] Legal has approved the template Procurement RFP, pre-conditions and terms and conditions. No further legal input is required, subject to the exceptions listed below.</i>	
MUST seek legal advice	To approve any pre-conditions relating to the Proposed Contract, or any changes to the [company] RFP standard terms and conditions.
SHOULD CONSIDER seeking legal advice	For review of RFPs which are in the high risk or strategically important category, if Head of Procurement believes legal involvement is required.

SHOULD NOT seek legal advice	For any other input into or review of RFPs or related documents.
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Procurement – contract negotiation

NB: [the company] Legal primarily supports contract negotiation on high risk/strategically important contracts, and responses to tags with legal implications. Other negotiations do not need legal input, subject to the exceptions listed below.

MUST seek legal advice	<ol style="list-style-type: none"> 1. On high risk/strategically important procurements: <ul style="list-style-type: none"> • To negotiate any supplier tags to the Proposed Contract. • To approve and negotiate a contract on a non-[company] template (e.g. vendor terms, Marketplace etc) 2. On non-high risk/strategically important procurements: <ul style="list-style-type: none"> • To negotiate supplier tags to the Proposed Contract where such tags have legal implications (e.g. changes to liability or indemnity provisions, or increased compliance obligations)
SHOULD CONSIDER seeking legal advice	<p>On non-high risk/strategically important procurements:</p> <ul style="list-style-type: none"> • To negotiate supplier tags to the Proposed Contract which have non-legal implications, if the Head of Procurement believes legal involvement is required. • To contract and negotiate using a non-[company] template agreement (e.g. vendor terms, Marketplace etc) – contract owner to consider whether to involve [the company] Legal team.
SHOULD NOT seek legal advice	<ol style="list-style-type: none"> 1. To negotiate supplier contract tags to the Proposed Contract on non-high risk/strategically important procurements which are operational in nature. 2. On supplier contract tags or queries regarding insurance – please consult with the Risk and Assurance Team. 3. On standard terms for low risk/low value (under \$100,000) IT vendor contracts (e.g. SaaS contracts) – please consult Digital Services.

Procurement – general

MUST seek legal advice	<ol style="list-style-type: none"> 1. For review of panel agreements. 2. Prior to submitting a request to the CPE to approve a departure from the Strategic Procurement Process
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<p>SHOULD CONSIDER seeking legal advice</p>	<ol style="list-style-type: none"> 1. If a procurement gives rise to complaints/issues of probity – if directed by the Strategic Procurement Manager. 2. Prior to issuing a notice to tenderers regarding the Proposed Contract
<p>SHOULD NOT seek legal advice</p>	<ol style="list-style-type: none"> 1. General queries relating to use of [the company] contract templates, for example: <ul style="list-style-type: none"> • which template to use • insurance queries or • explanation of standard terms
	<ol style="list-style-type: none"> 2. For the above queries, please read the Legal Team’s Intranet Page and User Instructions for each [company] approved template and consult with the Procurement Team, as necessary. 3. On matters relating to signing of contracts – see [the company] Contract Delegations and the [company] Delegations Policy. 4. On matters relating to storage or access to signed contracts – please contact the Procurement Team.

Facilities Management

[The company] Legal primarily supports:

- (a) **Large construction projects** (see Procurement above).
- (b) The **legal aspects of property transactions** (e.g. sale and purchase agreements, leasing/licencing, easements etc).
- (c) Ancillary **property legal matters**, e.g. third-party consents, compliance with the legislation and resource/building consent matters.

Specific detail of when to engage with [the company] Legal is set out below.

Land sale and purchase
[The company] Legal MUST be consulted at the earliest opportunity if the sale or purchase of any [company] land is contemplated.

Demolition	
MUST seek legal advice	1. Demolition of assets that may have any cultural significance, heritage status, or were bequeathed or gifted to the [company].
SHOULD CONSIDER seeking legal advice	If demolishing assets, where the asset is deemed strategic or valuable to [the company] after consultation with the Director of Facilities Management.
SHOULD NOT seek legal advice	If demolishing assets, where the asset is not deemed strategic or valuable to [the company] after consultation with the Director of Facilities Management.

Maintenance	
MUST seek legal advice	1. If the maintenance contract involves completing substantial maintenance work to roofing or may impact the integrity of the building envelope regarding water ingress or structural integrity.

	<ol style="list-style-type: none"> 2. If a weathertightness warranty is required from the Contractor. 3. If any part of the maintenance services and/or ancillary project work incorporates any design elements. 4. If the maintenance contract involves a maintenance programme for any high-value and/or integral assets at [the company]. For example, [the company]'s boiler system. If you are unsure what constitutes a high-value and/or integral [the company] asset, then please discuss with Facilities Management.
SHOULD CONSIDER seeking legal advice	<ol style="list-style-type: none"> 1. Undertaking routine maintenance using a [the company] approved template, where the anticipated works are over \$500K and/or involve ancillary project work. 2. Undertaking non-routine maintenance using a [the company] approved template, where the anticipated works are over \$250K and/or involve ancillary project work.
SHOULD NOT seek legal advice	<ol style="list-style-type: none"> 1. Undertaking routine maintenance using a [the company] approved template, where the anticipated works are under \$500K.

Leasing and Licencing

[The company] Legal **MUST** be consulted on any issue related to the leasing of, or otherwise affecting, [the company]'s high country assets. All other leasing and licensing follows the framework below.

MUST seek legal advice	<ol style="list-style-type: none"> 1. If entering or renewing any lease or licence that is not on a [company] approved template. 2. If entering into an Agreement to Lease. 3. Issuing a default notice to the tenant/licensee or any notice under the Property Law Act 2007 (i.e. cancellation notice or notice of re-entry). 4. Terminating a lease or licence. 5. Assigning a lease to a third party, whether a related party of the tenant, or due to a sale of the tenant's business. 6. Enforcing any guarantee under a lease or licence – must consult with Finance.
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SHOULD CONSIDER seeking legal advice	<ol style="list-style-type: none"> 1. Issuing a demand for rent arrears or charging penalty interest – must also consult with Finance. 2. If entering or renewing any lease or licence on a [company] approved template for a term of more than 5 years – must consult also with [the company]’s Facilities Management and Space Use Teams, including [the company]’s Commercial Property Manager.
	<ol style="list-style-type: none"> 3. Entering any of the following documents, if after consultation with the Commercial Property Manager, [the company] Legal input is required: <ul style="list-style-type: none"> • Deed of Rent Review; • Deed of Variation of Lease; • Deed of Surrender of Lease.
SHOULD NOT seek legal advice	<p>If entering or renewing any lease or licence on a [the company] approved template for a term of no more than 5 years – must consult with [the company]’s Facilities Management and Space Use Teams, including [the company]’s Commercial Property Manager.</p>

Easements and LINZ Matters

MUST seek legal advice	<ol style="list-style-type: none"> 1. If requested to enter into an Agreement to Grant Easement whether in gross (i.e. with a utility company), or with a private party (i.e. access across [company] land in favour of a third party). 2. To enforce the terms of any Easement Instrument. 3. Advice on the status of any [company] land, or interests registered against the land (i.e. a Report on Title), where the advice is required for a proposed development, or has been requested by a third party. 4. Any subdivisions. Whether a leasehold subdivision due to the grant of a lease, or a proposed freehold subdivision (i.e. subdividing [company] land into 2 or more parcels).
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SHOULD CONSIDER seeking legal advice	<ol style="list-style-type: none"> 1. To amend or vary the terms of any existing easements registered against [the company]'s property portfolio, provided that such amendments are low risk, and the easement is not complex – must consult with the Director of Facilities Management. 2. Advice on the status of any [company] land, or interests registered against the land (i.e. a Report on Title), where the advice is required for general [company] purposes, or feasibility studies, if the information is not already held by Facilities Management. 3. Obtaining Title searches from LINZ, if not available from Facilities Management.
SHOULD NOT seek legal advice	Confirmation of the status of any [company] land, or interests registered against the land (i.e. a Report on Title), where legal advice has previously been obtained and that advice is not older than 3 years.

Other Interests Relating to Land (i.e. caveats, covenants, or any interests required by a Local Authority or third party)

MUST seek legal advice	<ol style="list-style-type: none"> 1. If requested to register a covenant under the Building Act 2004, where the proposed building will be built over 2 separate [company] parcels of land – this will be made known during the consenting phase and [the company] Legal must be consulted. 2. If requested to register any interests against [the company]'s land. 3. If notice is given that a caveat will be lodged or is likely to be lodged against any of [the company]'s land. 4. If [the company] is negotiating or proposing to enter any contract that grants the other party a caveatable interest in [the company]'s land. Common caveatable interests that may affect [the company] are created under: an Agreement to Mortgage; Agreement for Sale and Purchase; Agreement to Lease/Deed of Lease; Agreement to Grant Easement; and/or an Option to Purchase.
SHOULD CONSIDER seeking legal advice	N/A
SHOULD NOT seek legal advice	N/A

Research & Innovation

[The company] Legal primarily supports:

- (a) Legal advice on **“high risk”* funding applications** (e.g. applications which involve TR-PSR issues or are with new international funders)
- (b) Contract negotiation of **high value or non-standard research funding and consultancy agreements** (e.g. non-NZ [company] or government funders, agreements not on [the company] templates)
- (c) Legal advice on **transactional/commercial projects** (e.g. shareholder agreements, licensing, assignments etc)

**refer to Research Risk Identification Form*

Specific detail of when to engage with [the company] Legal is set out below.

Funding applications	
MUST seek legal advice	<ol style="list-style-type: none"> 1. To review any binding legal terms attaching to “high risk”* funding applications 2. To review any binding legal terms attaching funding applications with new international funders.
SHOULD CONSIDER seeking legal advice	To review binding legal terms attaching to any other type of funding applications, where terms (or funder) are unusual or outside of the ordinary course – consult with Funding Team Leader or Deputy Director if unsure.
SHOULD NOT seek legal advice	To review legal terms attaching to any other funding application terms – use RFP wording provided by [the company] Legal instead.

Funding agreements	
MUST seek legal advice	<ol style="list-style-type: none"> 1. To review “high risk”* funding agreements. 2. To review funding agreements with new international funders if agreements are not on [the company] templates. 3. To review funding contracts with new domestic funders where these contracts are not on [the company] templates.
SHOULD CONSIDER seeking legal advice	<ol style="list-style-type: none"> 1. To review provisions in other types of funding contracts which are unusual or outside of the ordinary course (e.g. amendments to a previously accepted liability position or inclusion of new/onerous obligations) - consult with Funding Team Leader or Deputy Director if unsure. 2. To review choice of IP provisions on MBIE Endeavour contracts.

	3. To review liability provisions in funding agreements designated as “ medium risk ”* if required (consult the relevant [company] Legal guidance note first).
SHOULD NOT seek legal advice	To review the following funding contracts/subcontracts (unless new and material changes to IP or liability provisions are requested): <ul style="list-style-type: none"> • On [the company] templates • On GMC templates (see [the company] Legal guidance note) • On AoG service order template (see [the company] Legal guidance note) • On inter-(organisational) templates – provided these are being used as intended (see [the company] Legal guidance note) • From NZ government departments (whether on the above templates or otherwise) • From other funders where changes have previously been endorsed by [the company] Legal (e.g. BRANZ, EQC, CRIs)

Consultancy	
MUST seek legal advice	<ol style="list-style-type: none"> 1. To review consultancy agreements on third party terms (other than GMC/AoG service order templates – see [the company] Legal guidance note). 2. To review expert witness engagements (whether on [the company] template or third-party form).
SHOULD CONSIDER seeking legal advice	For guidance liability provisions on funding agreements designated as “ medium risk ”* if required (consult the relevant [company] Legal guidance note first).
SHOULD NOT seek legal advice	To review the following funding contracts/subcontracts (unless meaningful changes to IP or liability provisions are requested): <ul style="list-style-type: none"> • On [the company] templates • On GMC templates (see [the company] Legal guidance note) • On AoG service order template (see [the company] Legal guidance note)

Commercial	
MUST seek legal advice	<ol style="list-style-type: none"> 1. To review pre- incorporation or corporate documentation (e.g. shareholder agreements, subscription agreements, binding term sheets etc) 2. To review transaction agreements (e.g. subscription agreements, share sale/transfer agreements, licensing agreements)
SHOULD CONSIDER seeking legal advice	<ol style="list-style-type: none"> 1. To review non-binding heads of terms/term sheets if terms are unclear, unusual or involve material risk to [the company]. 2. To review material changes to IP assignments or share of benefit deeds on [company] templates
SHOULD NOT seek legal advice	To review IP assignments or share of benefit deeds on [company] templates (including non-material changes to the same).

Other	
MUST seek legal advice	<ol style="list-style-type: none"> 1. Immediately on notification of dispute (see Disputes section below). 2. Immediately on notification of third-party breach of contract, IP disclosure or if legal action is otherwise contemplated.
SHOULD CONSIDER seeking legal advice	To review miscellaneous agreements which are binding and contain some IP/data risk, or other material risk to [the company] (e.g. material transfer agreements, data sharing or licensing agreements).
SHOULD NOT seek legal advice	<ol style="list-style-type: none"> 1. To review miscellaneous agreements which are nonbinding or have low/no value or are otherwise low risk (e.g. MOUs, NDAs or collaborations agreements – see [the company] Legal guidance instead). 2. On agreements between a staff member and a third party, where [the company] is not a signatory. Staff member should confirm this is in their personal capacity and if so, should be advised to seek independent advice.

Engagement

[The company] Legal primarily supports the Engagement team with **significant** third-party agreements, namely those which:

- have **long term implications** for [the company]; or
- carry a **high degree of reputational or other risk** or otherwise have **institution wide impact**; or • involve a material level of [company] expenditure (**over \$200,000 total contract value**).

Specific detail of when to engage with [the company] Legal is set out below.

Third party agreements (including MOAs, MOUs, recruitment, collaboration, sponsorship, location and hire agreements)	
MUST seek legal advice	To review significant third-party agreements (whether on [the company] templates or otherwise).
SHOULD CONSIDER seeking legal advice	To review non-significant agreements on non-[the company] templates which have unusual or onerous terms (consult Manager if unsure). To review changes to [the company] templates where such changes have legal implications (e.g. changes to liability or indemnity provisions, or increased compliance obligations).
SHOULD NOT seek legal advice	To review non-significant agreements on [the company] templates To review changes to [the company] templates where such changes: <ul style="list-style-type: none"> • are operational in nature, or • relate to changes to the insurance provisions – please consult with the Risk and Assurance Team.

Other

[Company] Delegations require [the company] Legal to be consulted on the following contractual matters:

- **Non-research revenue contracts valued at over \$500,000** (if signed by Director of Finance) or over **\$1 million** (if signed under other delegations)
- **Enabling agreements** (e.g. confidentiality agreements) **if not on [the company] templates**.
- **Contract terminations**.
- **Deeds** requiring the common seal to be affixed.
- Approval of **templates**.
- **Engagement of external legal counsel**.
- **Dispute settlements** (see Disputes section below).

Disputes/conflict management and staff issues

The [company] Delegations require [the company] Legal to be consulted prior to entering into any settlement agreement to resolve a dispute. We also support:

- (a) Dispute management and negotiation (e.g. IP/copyright infringement or breach of contract).
- (b) Protected disclosure investigations.
- (c) Privacy breach allegations.
- (d) Employment related matters (e.g. misconduct, investigations, grievances or complaints).
- (e) Appropriate management of complex Conflicts of Interests. Guidance on how to obtain assistance with these matters is below.

Threat (or potential threat) of legal action against [the company] (including receipt of claims against [the company] from a third party or lawyer)	If threat is imminent or involves material risk to [the company], immediately notify the General Counsel or a Senior Legal Counsel. Otherwise, raise a Legal Support Request as soon as possible.
Action (or potential action) by [the company] against a third party	If action is imminent or involves material risk to [the company], immediately notify the General Counsel or Senior Legal Counsel. Otherwise, raise a Legal Support Request as soon as possible.
Notice to appear (summons) from the coroner's office / courts	If appearance is imminent, immediately notify the General Counsel or a Senior Legal Counsel. Otherwise, raise a Legal Support Request as soon as possible.
Breach (or suspected breach) by [the company] of privacy obligations	Notify the Privacy Team (Privacy Team) who will involve [the company] Legal if required
Staff related complaint, misconduct or other related matter	Notify the appropriate People and Culture Business Partner, who will involve [the company] Legal as required.
Conflicts of Interest	Refer to the COI Intranet Page for guidance in the first instance.

Other resources

[The company] Legal maintains a number of commonly used templates on the [company] Legal Intranet Page. These can be used without consulting [the company] Legal, provided they are used in accordance with their instructions.

Legal queries falling outside of the above criteria are generally better resolved by other parts of [the company]. Specifically:

- supplier contracts and purchasing: contact Procurement.
- financial and tax matters: contact Financial Services.
- HR and employment law matters: contact People and Culture.
- privacy and personal information: contact Information and Records Management.

- research and funding: contact Research & Innovation.
- insurance queries: contact Risk & Assurance.
- property matters and [company] tenancies: contact Facilities Management.
- copyright licensing: contact [the company] Library.