



# Proposed Restructuring Plan

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## *Legal Services*

**2 March 2022**

# Proposed Restructuring Plan

## 1. Reason for the restructure

### Establishment of Legal Services

Until late September 2020, health liability matters were managed by the Illawarra Shoalhaven Local Health District (ISLHD) Clinical Governance Unit (CGU) under the supervision of legal counsel from South Eastern Sydney Local Health District (SESLHD).

Effective 11 January 2021, a dedicated ISLHD Legal Service was established, which now provides legal advice to the District across a broad range of matters including:

- coronial investigations and inquests
- civil litigation
- legal advice in employment matters under the Managing Concerns and Complaints about Clinicians (MCCC) Policy Directive
- guardianship including appearing in NSW Civil and Administrative Tribunal
- consent and substitute decision makers
- subpoenas and GIPA law advice
- privacy law advice
- privacy internal reviews
- contracts, leases and data sharing agreements
- general administrative law.

In establishing ISLHD Legal Services, the reporting lines of two 0.63 FTE Health Liability Officers (HLO) and a 0.63 FTE Administrative Services Assistant (ASA) were realigned from the Director, CGU, to Head of Legal (HL), Legal Services.

### Current challenges

Under the current structure, outlined below, the HL position is the only position requiring admission to the Supreme Court of NSW as a legal practitioner. The HLO positions do not require legal qualifications or admission to legal practice. Without legally qualified staff in Legal Services to support the HL, the legal and compliance risks to the organisation are high and uncontrolled:

- When the HL is on leave or unavailable there is no legal counsel for the LHD
- The HLO positions cannot operate independently on legal matters
- Demand for the service has evolved from managing health care claims and coronial matters to a more general in-house legal practice in the areas specified above.

A sustainable structure consisting of positions that require legal qualifications or admission to legal practice, will assist to avoid burnout and staff turnover within Legal

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Services, which is high risk due to the nature of medico-legal work, competing deadlines and the continuous requirement to perform at a high level. Further, there has been an increase in the number of privacy complaints requiring legal advice and privacy internal review, which has placed additional demand on Legal Services. The HLO positions are not responsible for general or privacy law advice.

In order to mitigate those risks, it is proposed to create two Lawyer positions, managed by the HL, through the decommissioning of the two 0.63 FTE HSM3 HLO positions. Given the recent successful trial of the temporary Lawyer position, the creation of the Lawyer roles will develop the capacity and sustainability of service delivery of the team and provide broader coverage of legal services across the LHD to meet demand.

## 2. Benefits or likely impact the restructure will have on services

The proposed restructure will better align work functions to ensure efficient and effective service delivery. Key benefits include:

- The creation of specific development opportunities for legal and ISLHD staff resulting in a network of specialised staff maximising the value and functions of the legal service. This will also support recruitment and retention of staff.
- Implementation of a robust reporting and governance structures for legal staff improving risk management.

## 3. Number of staff affected

	<i>Position Title</i>	<i>Classification</i>	<i>Location</i>	<i>FTE</i>
1.	Health Liability Officer	HSM 3	Warrawong	0.63
2.	Health Liability Officer	HSM 3	Warrawong	0.63

## 4. Current and proposed organisational charts

### 4.1. Current Structure

- 0.63 FTE HLO (recently returned from on annual and LSL) and,
- 0.63 FTE HLO on secondment until 31 March 2022 (backfilled).
- Temporary 0.63 FTE Lawyer (new position on trial)
- New and ongoing 0.37 FTE Privacy Contact Officer (PCO)
- Legal Services Assistant 0.63 FTE AO6 plus assistance of Executive Support Officer up to 0.37 FTE
- Head of Legal 1.0 FTE.

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## 4.2. Proposed Structure

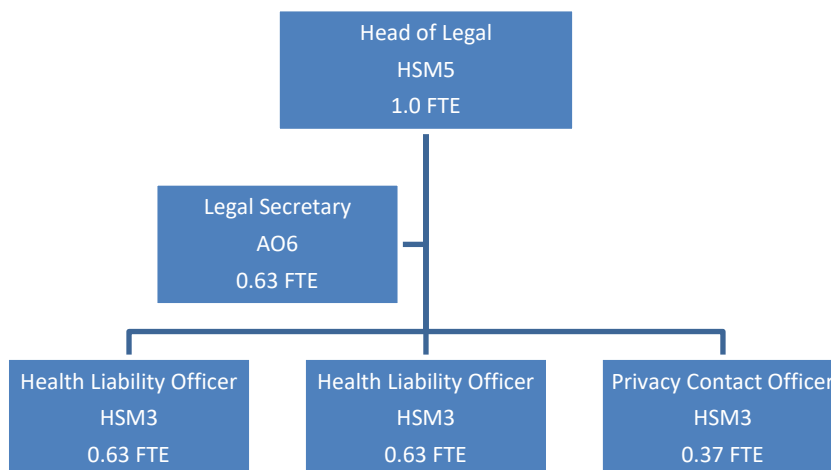
- Replace one HLO with a Lawyer at 0.63 FTE
- Replace one HLO with a Lawyer at 1.0 FTE which also has the 0.37 FTE PCO function (shared during periods of leave).
- Legal Services Assistant 0.63 FTE AO6 plus assistance of Executive Support Officer up to 0.37 FTE
- Head of Legal 1.0 FTE.

### The impact to staff

- The HLOs will be recommissioned with deployment or redundancies under the Managing Excess Staff Policy.
- Chances of redeployment are high with new positions created to assist with the COVID-19 response and which would allow current staff to be redirected if they are impacted by the change model.
- Reduced risk of burnout for Legal Services staff and staff retention.

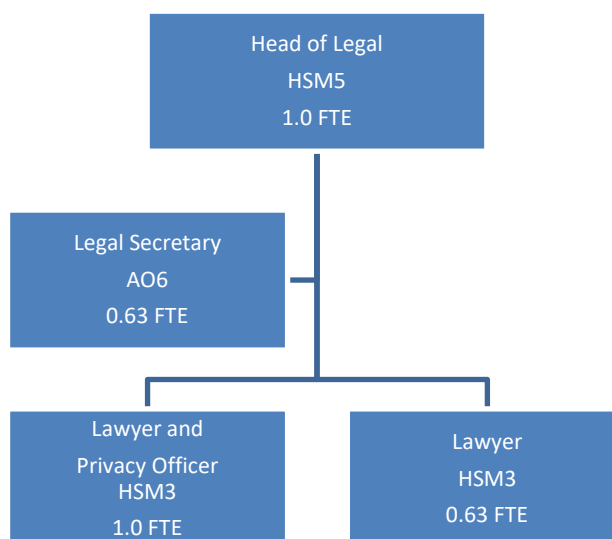
## 5. Current and proposed position descriptions

### Current Organisational Chart



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## Proposed Organisational Chart



HLO position descriptions will be decommissioned with the current position description of the temporary Lawyer position (attached).

## 6. Timetable for implementation

A meeting will be held to advise the affected employees of the proposed changes and a consultation period will be confirmed. On the same day of meeting with the employee ISLHD will send letter to the Health Service Union advising them of this restructure.

Step	Action	Date	Responsibility
1.	Affected staff advised individually	02/03/2022	Workforce & HL
2.	Team meeting held to advise of restructuring plan and consultation process	02/03/2022	Workforce & HL
3.	HSU advised of restructuring proposal for consultation with members	02/03/2022	HL
4.	Meeting with union and staff (if required)		Workforce
5.	Consultation period closes (two weeks)	15/03/2022	
6.	Brief to CE on consultation outcome	22/03/2022	Workforce & HL
7.	Team meeting held to advise of final structure and next steps	23/03/2022	Workforce & HL
8.	Affected staff advised in writing formally	30/03/2022	Workforce & HL
9.	Vacant positions advertised for recruitment, case management of affected staff commences	31/03/2022	HL

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10.	Appointment to vacant positions confirmed	TBC	
11.	Excess staff managed in accordance with the <i>Managing Excess Staff of the NSW Health Service PD2012_021</i>	TBC	

### 6.1 The availability of counselling and vocational assessment services for staff

The affected employees will be provided with support by the Workforce Support Manager during the restructure process, and will be provided with contact details for the Employee Assistance Program.

### 6.2 Estimated number of staff likely to be redeployed and the number of voluntary redundancy packages that may be offered

Two staff members will be impacted by this proposed restructure. Every endeavour will be undertaken to redeploy the affected staff members. Should they not be suitable to fill the Lawyer positions, the affected staff members will be granted access to suitable vacancies across ISLHD.

If it is determined no suitable permanent or vacant temporary positions are available in the organisation they will then be declared excess and will be offered an option to accept Voluntary Redundancy (VR) or a 3 month retention period. If not employed by the conclusion of the retention period, then a forced redundancy will follow. The Director Workforce Relations and Management has been alerted to the possibility of a VR in respect to this change and Ministry of Health have provided approval to proceed with the restructure proposal.