

# HILL DICKINSON

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THE COMPLETE LEGAL SOLUTION TO THE HEALTH SECTOR

# HEALTHCARE LEGAL SERVICES

As a long-standing provider of legal services to the health sector, Hill Dickinson understands the key issues and motivators facing trusts and other healthcare bodies today.

We act for over 80 healthcare organisations, providing an unparalleled range of legal services with a distinctly commercial approach.

With specialists in all areas of health-related law, we offer practical, timely advice and a proactive response to finding the best solution. Through our experience, we see the bigger picture, providing advice that is sensitive yet focused firmly on meeting our clients' commercial objectives.

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*The group provides NHS trusts with support in a range of areas, such as clinical negligence, information law, health service reforms, professional negligence and PPP projects, including developments using the LIFT model.*

*Extract from Chambers and Partners UK 2009*

**The health sector is ever evolving. Although these changes present much opportunity in progressing the standard of healthcare provision, there are also pitfalls for health organisations to navigate. Public sector spending is continually under the microscope; ambitious government targets need to be met; and there is increasing collaboration and competition creating procurement issues, as the NHS becomes more commercially focused.**

As a full service law firm, Hill Dickinson offers the complete and diverse range of legal services to health organisations. We have an unparalleled knowledge of the NHS, how it operates and what its challenges are. With a commitment to delivering excellence in client service befitting a top 40 UK law firm, we provide advice that is cost-effective and results-driven. Our philosophy is focused on being our clients' trusted adviser.



## Adding value

We understand the importance of providing immediate access to high quality legal advice on diverse health-related issues. Our 24 hour health helpline provides clients with direct access to our legal experts: 07715376624.

Because changes happen so rapidly in the law, we provide ongoing client updates, summarising new developments as and when they happen, with comment on how these may affect health bodies.



*This team “always goes the extra mile for clients,” providing informative seminars, weekly update bulletins and training. Clients were impressed by the “exceedingly high levels of communication and experience throughout the ranks”.*

*Extract from Chambers and Partners UK 2009*

## Care standards

Dealing with all aspects of care standards law, our specialist team is appointed to the Care Quality Commission's panel of solicitors.

We previously advised the Healthcare Commission and CSCI, the CQC's predecessors, and will continue to advise the CQC on:

- All matters arising from the interpretation and application of the Care Standards Act 2000 and all related legislation
- Regulatory and enforcement matters in relation to care homes and other care services
- Drafting of statutory requirement notices, notices of cancellation and other statutory notices
- Gathering of evidence to support such notices

We have represented the CSCI at hearings before magistrates' courts when applications for urgent closures are made and at hearings before the Health, Education and Social Care Chamber of the First-Tier Tribunal (previously the Care Standards Tribunal).

The team also advises on mental health and mental capacity issues arising from the provision of care services. This includes advice on the deprivation of liberty safeguards (DOLS).





## Child protection

We advise on the full range of legal issues covering child protection:

- Safeguarding policies and procedures
- Supporting staff attending court
- Sensitive and controversial issues
- Serious case reviews
- The Children Act 1989 and how it affects the NHS and private providers
- Representing the NHS in major children's inquiries
- Safeguarding of adults, in line with the Department of Health's No Secrets guidance

## Clinical negligence and employers' and public liability

**Our dedicated litigation team is a member of the NHS Litigation Authority's clinical negligence and employer and public liability claims panels. We operate at the cutting edge of clinical negligence defence work, bringing an unparalleled ability to understand the 'bigger picture'.**

Clinical negligence expertise includes:

- High-value brain damage cases
- Spinal and orthopaedic cases
- Claims involving allegations about MRSA
- Unlawful detention

Employers' and public liability expertise includes:

- Manual handling claims
- Industrial disease claims
- Tripping and slipping accidents
- Work-related stress and bullying/harassment
- Road traffic accidents

*Clients appreciate Hill Dickinson's "rapid system for identifying the expertise within the team and allocating work appropriately".*

*Extract from The Legal 500 UK 2008*



## Contracts

Our dedicated team of contract specialists advise, draft, interpret and enforce contracts and other trading and service delivery arrangements. These arrangements can be between NHS bodies or between NHS bodies and independent contractors and providers. The team also has extensive experience of advising on commissioning and procurement arrangements.

Areas of expertise include:

- Contracts between primary care commissioners and foundation trusts, taking into account Department of Health guidance and model form contracts
- Contracts with independent sector providers
- Joint ventures, consortium and partner arrangements
- Agency, distribution and supply contracts
- Standard terms of business
- IT, facilities management and outsourcing arrangements

## Corporate governance



We offer a confidential advisory service to the boards of NHS bodies on all governance, probity and accountability issues. A number of our partners hold the position of secretary to NHS boards. We advise on board meeting agendas and the applicability of board standing orders. We can also help with standing financial instructions and matters relating to conflicts of interest.

Areas of expertise include:

- Attendance and advice at board meetings
- The extent of the powers of NHS bodies
- Advice on procedural and legal requirements, including the interpretation of standing orders and standing financial instructions
- Advice on board policies and procedures and the terms of reference of board committees
- Advice on foundation trust status applications, the drafting of constitutions and governance arrangements for foundation trusts

We have also supported several foundation trusts with their applications for foundation trust status, providing advice on:

- Consultation requirements
- Formation of the trust's membership
- Drafting of an appropriate constitution
- The role and responsibilities of board members and governors
- The legal implications of foundation trust status

## Energy solutions for the NHS



**NHS bodies were set mandatory targets by the government to reduce their carbon emissions by 15% by March 2010. Many have opted for Combined Heat and Power (CHP) technology to achieve this reduction. This usually involves an outsourcing arrangement which can be contractually complex.**

Our team of energy experts have worked on 13 energy services projects involving CHP technology - more than any other law firm. These schemes have had a combined capital value of more than £50million. Each of the projects has delivered significantly improved energy efficiency, as well as reducing carbon emissions. This has led to total annual savings of around £6million.

We work with NHS and other public sector bodies at every stage in the process to achieve their energy objectives, from initiation and procurement and through to completion, commissioning and operation. We also draft complex sets of agreements and contracts with private sector organisations relating to energy services projects involving:

- Installing new CHP plant and equipment
- The delivery of electricity, steam, heat and cooling solutions
- Energy management services



## Foundation trusts

We have considerable experience in providing guidance and support to clients through the foundation trust application and transition process, and on attainment of FT status. This ranges from complex and lengthy matters involving, for example, the development of a constitution, through to ad hoc queries.

During the transition to foundation trust status, we advise on:

- Foundation trust legal framework
- Application process
- Constitution
- Advice on governance arrangements and structures
- The role of Monitor
- Financial powers
- Employment law issues

Having attained foundation trust status, we advise on:

- Compliance with constitution and terms of authorisation
- Governance arrangements
- Financial powers
- Commercial contracts and litigation
- Procurement
- Intellectual property
- Contracts with commissioners
- Commercial property
- Capital projects
- Charities and trusts

## General healthcare

**As legal advisers to over 80 healthcare organisations, we understand the NHS and private medical sector need immediate access to quality legal advice on the wide range of issues that can arise.**

We provide clients with an immediate telephone response service and practical advice on all health issues. Areas of expertise include:

- Support with preparation for inquests and representation
- Specialist advice on all health service advisory issues
- Specialist advice about funding issues and resource allocation
- Issues raised by continuing NHS healthcare
- Judicial reviews
- Data protection issues and medical records
- Involvement with police and regulators
- Consent

## Health and safety, criminal and corporate manslaughter

**We have extensive experience of advising NHS bodies on criminal law, with particular expertise in police investigations into incidents of patients suffering injury or death in hospital.**

Areas of expertise include:

- Liaising with the police, Health and Safety Executive and the Environment Agency
- Access to samples and medical records
- Data protection and confidentiality
- Employment law obligations and witness support
- Representation at police interviews, including those conducted under caution
- Advice on investigations by various agencies

We also advise and provide client training on the implications of the Corporate Manslaughter and Corporate Homicide Act 2007.

These issues often run alongside inquests and clinical negligence cases, and we are able to advise on all related issues as part of our broad health sector capability.





## NHS commercial services

**Commercial services are now higher than ever on the NHS agenda, and continue to grow in importance. New organisations - such as social enterprises - are becoming active in the market, and there is increasing collaboration and competition to deliver better services and improved patient care, and open competition between NHS organisations and between the NHS and independent providers.**

In addition, the autonomy of foundation trust status brings with it considerable and varied new commercial opportunities.

This backdrop requires a strong focus on regulation, governance, property portfolio issues, funding, IP opportunities and a whole range of procurement and contract matters to maximise opportunities and minimise risk.



Our commercial lawyers provide a wide range of advice, support and expertise specifically to the health sector. With a clear understanding of the market, its opportunities and risks, we provide commercially-driven advice on the full range of commercial matters, including:

- Procurement and competition rules
- Contracts
- Making the most of IP
- Infrastructure projects (e.g. ICT)
- Funding new projects
- Property portfolio management
- Income generation schemes and activities
- Mergers and acquisitions
- Outsourcing, franchising and joint ventures
- Selling services to other trusts or the private sector
- Contracting with the private sector
- Competition

## NHS employment

With a team of lawyers dedicated to public sector employment law, we provide quality advice and practical solutions on all employment-related issues in the health sector.

Areas of expertise include:

- Contracts of employment, policy documents and staff handbooks
- Equal pay, discrimination, victimisation and harassment
- Disciplinary, dismissal and grievance procedures
- Maternity and parental rights
- Working time
- Pay, benefits and pensions
- Trades unions and industrial action
- Transfers of undertakings (TUPE)
- Whistle blowing
- Employment tribunal proceedings



## NHS property

We provide advice on a wide range of NHS property matters. With specialist knowledge of the governance issues and internal workings of NHS bodies, we have extensive experience of all issues relating to the transfer of land and buildings to and from NHS bodies.

We act for a number of primary care trusts on the innovative NHS LIFT schemes.

Areas of expertise include:

- All general/commercial property matters including landlord and tenant issues, the acquisition and disposal of land and buildings, new developments and planning issues
- Public procurement rules and regulations
- Section 31 partnership arrangements
- Charities Act legislation and grant-making powers to charities and voluntary organisations
- Estates strategy





## Offender healthcare

**The provision of healthcare to offenders and prisoners was formally transferred to the NHS in 2006. We have acted for numerous primary care trusts, specialist mental health trusts and acute trusts handling prison healthcare services.**

We advise on all the obligations of a primary care trust in commissioning offender health services. This includes the risks of commissioning and contracting, and the issues involved in entering into contracts in the prison and detention setting. Advice has also been provided on complex data protection and freedom of information/confidentiality issues that can arise when treating detained patients.

Particular issues affecting offender healthcare include:

- **Mental health** – 90% of the prison population has a diagnosable mental health problem and 2% of remand prisoners will attempt suicide. It is therefore vital that prisoners' mental health needs are adequately assessed and identified.

Hill Dickinson can advise on policies and procedures for dealing with mental health issues, including training for staff on the Mental Health Act and the Mental Capacity Act 2005. We also advise on managing the complex needs of prisoners who are at risk of self-harm, and on hospital transfers under Section 47 orders.

- **Deaths, coroners' inquests and the police**

Our extensive experience of dealing with coroners' inquests means we can advise and support clients through the complex process of dealing with a death in custody.




## Primary care contracts

**We provide legal advice on all aspects of primary care contracting relating to primary medical, dental, ophthalmic and pharmaceutical services, from interpreting and applying the applicable regulations and directions, to drafting primary care contracts in accordance with the applicable legislation.**

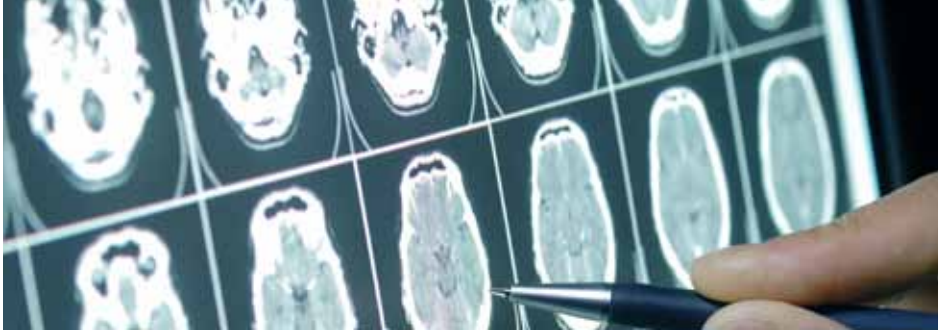
Areas of expertise include:

- Advising on the commissioning and procurement of primary care contracts and on the eligibility criteria for entering into such contracts
- Drafting primary medical, dental and ophthalmic service contracts and contracts for local pharmaceutical services
- Assisting primary care trusts and local health boards to enforce such contracts
- Assisting with the dispute resolution process and applications to the Family Health Services Appeal Authority and Welsh Assembly
- Assisting primary care trusts and local health boards to manage performance under such contracts
- Taking action under the contracts for non-performance or poor performance



*Extremely detailed health  
service knowledge and  
commitment to strengthening  
client relationships.*

*Extract from Chambers and Partners UK 2009*



## Primary care regulatory

Acting for a range of NHS bodies, our regulatory experts provide advice on all NHS regulatory matters. This includes advising primary care trusts and local health boards on their role in the regulation of GPs, dentists, ophthalmic practitioners and pharmacists.

Areas of expertise include:

- Advising primary care trusts and local health boards on the process of considering and granting, or refusing, applications for inclusion in a performers list
- Advising on the processes for investigating concerns about a performer and on the content of investigating officer reports
- Advising on the process for suspending performers, contingently removing and removing performers from performers lists
- Handling and responding to appeals to the Family Health Services Appeal Authority or Welsh Assembly
- Advising on the interaction between the performers lists regulatory process and police investigations, and the processes of other regulatory bodies such as the GMC and GDC
- Advising on the pharmacy control of entry process under the National Health Service (Pharmaceutical Services) Regulations 2005 and associated Department of Health guidance
- Advice on pharmacists' terms of service

## Projects – PFI and PPP

Our projects team has extensive experience in providing advice to public authorities and developers on public-private partnerships. This can include the Private Finance Initiative, Design Build Finance Operate and NHS LIFT schemes and outsourcing. The team has a strong track record in advising on all matters relating to PFI/PPP schemes, including procurement, evaluation of bidder responses, business cases, contract award and financial close.

Areas of expertise include:

- Advice on efficient and innovative deal structures
- Advice on procurement and application of the public contracts regulations
- Preparation of invitations to tender, evaluation of bidder responses and selection of preferred bidder
- Contract preparation, negotiation and award
- Project management and stakeholder co-ordination



## Contacts

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## About Hill Dickinson

The Hill Dickinson Group offers a comprehensive range of legal services from offices in Liverpool, Manchester, London, Chester, Piraeus and Singapore. Collectively the firms have over 150 partners and a complement of more than 1,100 staff.

A recognised leader in healthcare and public sector law, Hill Dickinson is a major force in insurance and is well respected in the company and commercial arena. It has an award winning property practice, is widely regarded as a leader in the fields of commercial litigation, intellectual property, professional risks and wealth management, and its marine expertise is internationally renowned.

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