Commissioning Support Services
Capsticks has been providing legal and consultancy services across the healthcare sector for more than 30 years. We’ve built up a specialist team with unrivalled knowledge of issues including service reconfiguration, high-cost treatments, joint working arrangements and procurement.

Understanding your needs
In a nutshell, we understand commissioning. (So much so that we were named law firm of the year in 2011 by GP Business magazine).

That means we understand the challenges facing clinical commissioning groups and their support organisations in a fast-changing NHS.

We believe they will need access to high quality legal services and training as the healthcare market becomes more complex and less familiar.

And they will need cost-effective professional partnerships that are tailored to their requirements – whatever their size or budget.

Here we’ve set out some of the services Capsticks can provide for CSUs and CCGs and the flexible ways we can work with them to provide legal support as new commissioning arrangements evolve.

Please do not hesitate to contact us if you would like to discuss in more detail what we can do for you.

“Their understanding of the NHS is second to none”
Chambers Legal Directory 2013
We know that commissioning healthcare is about people as well as contracts. From service reconfiguration to high-cost drug therapies, from patient safety to data protection, commissioners deal with emotive issues. Often there are political sensitivities involved, too.

That’s why CSUs and CCGs need the best quality legal advice from people who understand healthcare commissioning at ground level. Who understand, as we do at Capsticks, that relationships between commissioners and providers are based on more than business transactions.

And who know that guarding against legal dispute is as important for your reputation as it is for your finances.

We can support and advise you on issues including:

- individual patient funding and treatment
- reconfiguration and consultation processes
- decommissioning services
- safeguarding children and vulnerable adults
- patient information and data handling
- Freedom of Information requests
- compliance with the Equality Act

If it becomes necessary (and we can help make sure it doesn’t), our team has unparalleled experience in defending healthcare organisations at judicial review.

We can also advise on internal and external inquiries.

Case study

We have advised several PCTs, and are currently advising a CSU, on the review of out of hours and minor injuries services to ensure that care is delivered in the right place at the right time and to generate financial efficiencies and better services for patients. Our advice has included the consultation requirements and procurement implications of restructuring these services. We have also helped to design interim/pilot arrangements so that a properly planned and robust procurement process can take place after the transition of PCTs to CCGs.
Procurement

*Procurement is often complicated but it doesn't have to be painful.*

Capsticks can offer expert advice from the moment commissioners identify a service need.

We can help negotiate European laws on procurement and tendering, as well as newer Department of Health competition regulations, so that you know exactly what your obligations are (and you don’t waste resources on unnecessary procedures).

Our advice on procurement isn’t limited to healthcare, as EU rules also cover services such as IT, audits and facilities management.

Our team includes specialists in commercial law, clinical services, employment, regulation and consultation – and for the most complex procurement processes, we’ll draw on the expertise of every one of them.

That way we can help you make the right decision - in every sense - and minimise any risk of problems when the contract is awarded.

We can supply you with a toolkit to help you identify and manage potential conflicts of interest during the procurement process.

And once you’ve reached a conclusion, we can help you handle communications with unsuccessful bidders.

Contracting

*Successful commissioning relies heavily on expert contracting support – particularly as new and unfamiliar commercial providers enter the healthcare market.*

Commissioners need absolute confidence that contracts are drafted and monitored effectively to produce their required outcomes.

And they need to know that if performance indicators are not met, they have the tools to identify the problem quickly and to act appropriately.

Capsticks’ experts can advise on:
- drawing up contracts
- monitoring and managing performance
- handling breaches of contract, from initial correspondence with providers through mediation to adjudication and final sanctions (including termination)
- joint CCG/local authority working protocols

We can provide web-based tools including password-protected access to all CCGs’ contract documents, enabling CSUs to offer full contract management support.

And we can advise on recovering losses that result from contractor fraud – something we do regularly as the sole approved national provider of fraud response services for NHS bodies.
Workforce

Some commissioning support organisations will be large employers; some clinical commissioning groups will have a single-figure workforce.

Because their needs will be very different, with a whole spectrum in between, Capsticks offers varying degrees of support in this area.

Our human resources advisory service can take on day-to-day HR functions for your organisation or we can help with one-off projects.

We can advise on:

- specific disciplinary and grievance issues, dismissals and performance management
- staffing issues connected with service reconfiguration, including contractual changes, redundancy and TUPE transfers
- the requirements of the Equality Act in relation to recruitment
- employment agencies’ claims for transfer or introduction fees

Property

Commissioners may need support with property-related issues including planning applications and objections, covenants governing the use of buildings and the transfer of premises to new providers.

Our team can provide specialist advice in this complex field.
Governance

*Healthcare commissioners must maintain and demonstrate the highest standards of governance in order to avoid challenge or dispute.*

We can provide a template constitution of the kind CCGs are legally required to adopt, setting out clear procedures and decision-making structures.

We can advise CCG board members on managing potential conflicts of interest when they commission and procure services, and on compliance with anti-bribery and corruption laws.

Case study

We are supporting a local health economy, including seven CCGs, with the planning and implementation of public consultation in respect of major service changes. As the changes include the downgrading of an acute hospital they are being subjected to considerable scrutiny by MPs, local authorities and members of the public. Our clients are therefore relying on us to ensure that the structure for their joint working is legally-robust, and that the consultation process and document will withstand a legal challenge.

And we can help draw up agreements between CCGs, whether they want to work collaboratively with each other or put in place more formal joint arrangements.

For CSUs, it will be crucial that they can evolve if necessary from their initial status as NHS-hosted bodies into more commercial entities.

With that in mind, we can help ‘future-proof’ their internal operations and structures.

Case study

We recently advised a CCG on procurement, competition and conflicts of interest on its progressive out of hospital planned care programme. The CCG is aiming to move five major clinical service lines into the community. This requires groups of providers to network, with the CCG taking a piloting / managed approach to the market. The benefits of the project are significant financial savings, and improved access to services for patients.
Case study

We are currently advising a CCG on how to address the procurement, competition and conflict issues that arise from rearranging c.£2.5 million of Local Enhanced Services. These arrangements illustrate the complexities of the relationships between CCGs, their member practices and the Local Area Teams of the NHS Commissioning Board. Expert guidance will become increasingly important as the new arrangements for developing local services, including the introduction of Any Qualified Provider, take shape.

Training

We’re very much in favour of passing on our expertise. That means as well as being on hand with the right advice when you need it, we’re always ready to train you and your team.

We’ll tailor our training to your requirements, taking into account your experience and understanding of commissioning issues.

We can provide you with template documents for use in drawing up contracts, CCG constitutions and joint working agreements with local authorities.

And we can offer specific training in any or all of our specialist areas including procurement, contracting, employment and performance management.

We can work in partnership with commissioning support organisations who want to offer training to the CCGs they support, or CCG governing bodies can come straight to us.

We’re flexible.

What matters is that our team can equip commissioners with the skills to achieve what they need from their contracts and their providers, efficiently and with confidence.
At Capsticks, we're big on quality and flexibility. We believe both will prove crucial for healthcare professionals seeking support in the new and uncharted NHS landscape.

If your CSU wants to offer ‘in-house’ legal services to its clinical commissioning groups, guaranteeing continuous access to a member of our specialist team working alongside your staff, we’d be delighted to come on board.

If you’re looking for a lower level of commitment – both financially and in partnership terms – we’re equally happy to provide a more traditional ad hoc legal support service.

What won’t change, whatever you choose, is the quality of our advice.

Our unique status as a law firm specialising exclusively in healthcare means there will always be someone at Capsticks with the knowledge you need, when you need it.

When you call us, we’ll have an answer.

You won’t ever have to explain to us how commissioning works, or why you need to make a decision now rather than tomorrow or next week.

“The members of this team are universally helpful, constructive and innovative”

Chambers Legal Directory 2013
Case study
We have advised many NHS bodies on how to obtain benefits of scale and efficiency by sharing support services. These arrangements are complex, requiring careful structuring to take advantage of the exemption from the procurement regulations for in-house services. It is also necessary to consider joint venture structures, governance arrangements, employment liabilities and providing for each participant to retain the required level of control.

Don’t take our word for it
What is it really like to work with us? The best people to ask are our clients:

“Capsticks was responsive, able to get to the nub of the issues quickly and give sound, practical advice – we enjoyed working with them.”
Andrew McMylon, Director of Delivery & Development, Wandsworth CCG.

“The CCG has sought legal advice on both governance and contractual issues from Capsticks in recent months and has been impressed with their responsiveness and their ability to quickly identify the key issues and offer sound advice from a legal and pragmatic perspective.
Paula Swann, Chief Officer Designate, Croydon CCG

“Cumbria PCT have been using the services of Capsticks for almost 12 months. We have instructed their commercial and employment team on some very high profile issues and have been impressed with their knowledge of the health sector, their proactive and strategic approach and their fast response.”
Ross Forbes, Director of Corporate Affairs, Cumbria PCT

“Extremely capable but more importantly able to adapt to and empathise with the needs of the client and thus provide pragmatic useful advice that can be put into practice. Capsticks’ ability to listen to and hear what the client is saying is extremely valuable and this skill is evident in their staff and their ethos.”
Rick Strang, Senior Project Officer, Commissioning Support for London (CSL)
To find out more about our Commissioning Support Services please call one of our team on the attached teamsheet.

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