

RM6240 Public Sector Legal Services

**Lot 2a – General Service
Provision (England &
Wales)**

Capsticks LLP

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SUPPLIER INTRODUCTION



Capsticks aims to be the firm of choice for organisations who work to make a difference. With over 40 years' experience across a full range of legal services, we have resolved some of the most ground-breaking, high value and politically sensitive cases in the UK. Capsticks delivers commercial, market-driven solutions that reflect the unique pressures faced by those who provide health or social care, develop or manage social housing, deliver emergency services or regulate complex professions.

Like the organisations we represent, making a positive impact on people's lives is important to us and the work we carry out speaks up for fairness and inclusion; treating all clients, employees and stakeholders with kindness and respect.

With over 340 lawyers, Capsticks is not just knowledgeable, but we ensure our solutions are incisive, timely and practical. We take into account commercial interests and provide answers to legal implications without the use of jargon. We like to collaborate with our clients on the topics most important to them to transfer skills and knowledge through bespoke training regular webinars and assisting in the development of in-house teams.

Our Values

People first

How we treat our clients and each other says everything about who we are. Decency, respect, fairness and inclusion are what we live by

Doing the right thing

We review all angles and challenge ourselves to do the right thing, even if the right thing isn't easy

Forward thinking

We listen and proactively plan for what's ahead, seeking new ideas and being thoughtful to the needs of the people we work with

SUPPLIER CONTACT INFORMATION



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All our teams specialise in public sector work as this is our core business. We have significant capacity in teams that frequently work together in multi-disciplinary projects.

- Healthcare – 298 people
- Property – 151 people
- Employment and Pensions – 71 people
- Regulatory – 129 people

Capsticks has embarked on significant changes in the way it delivers social value with the launch of its Responsible Business Plan. In addition, our five-year EDI strategy and plan sets out how we will address workplace inequality through structured and targeted talent development opportunities for our Black, Asian and Minority Ethnic colleagues and women; inclusive recruitment training and guidance for all hiring managers; and EDI-specific awareness raising and training initiatives aimed at all levels. Some of our activities include:

- setting up a reverse mentoring programme for our ethnically diverse staff to support their career development;
- establishing a women's network group providing access to mentoring opportunities and career development workshops; and
- running apprenticeships for legal administrators, paralegals and solicitors to attract people from diverse socio-economic backgrounds.

We also partner with various organisations including the Black Solicitors Network and The Ahead Partnership to attract diverse early careers talent and support access to Capsticks and the wider legal sector from underrepresented groups.

We have a strong track record of fundraising with a number of our clients, including a "sleep out" event as well as the Rod Constanti trophy that we run each year with a large number of clients for a major autism charity.

Capsticks has an established interview skills programme with Trinity Winchester, run by a number of volunteer staff. Alongside this, we have a "JobSkills" workshop provided to the residents of a number of our social housing clients.

Capsticks has a well-established week long work experience "scholarship" programme in conjunction with the Harris Academy. These meaningful experiences involve a carefully crafted structure to the day/week long programme with an end of week assessment as well as designating experienced mentors to support the individuals who attend. Our London-based "Gadget workshop" was awarded the British Legal Awards 2019 CSR/Diversity Initiative of the Year and involves a rota of around 30 volunteers providing weekly training sessions for older people in the community to improve their ability in using modern electronic devices. The scheme connects our employees to vulnerable people in the community and tackles social exclusion and loneliness a key contributor to poor mental health in the elderly.

Sustainability

Capsticks is committed to year-on-year sustainability performance improvements and undertakes annual monitoring of this by means of external audit through the governments Streamlined Energy and Carbon Reporting (SECR). Through the firm's Director of Responsible Business, Capsticks focuses on environmental stewardship and climate change mitigation, including measures to strengthen our environmental policies and practices, re-evaluate a number of our working practices to seek ways to reduce our impact on the environment and the setting of an annual carbon target for the firm by at least 2025. We are also a member of the Legal Sustainability Alliance (LSA), who share our vision and are an inclusive movement of law firms committed to taking action collaboratively to improve the environmental sustainability of their operations/activities, to support us on this journey.

PROPERTY AND CONSTRUCTION PLANNING AND ENVIRONMENT



Our national team provides pragmatic and commercial advice across all of our sectors. We support healthcare clients on new hospital developments, hospital retail concourses and private sector healthcare facilities. We deal with complex and high-value land sales and commercial leases, as well as all day-to-day asset management and general estates work. We represent emergency services providers in connection with new station developments, redundant site disposals, co-location and joint ventures with local authorities and other emergency services organisations. Our work for local authorities includes major mixed use urban regeneration schemes, site acquisitions and disposals and portfolio management work.

Case studies

- Acting for a NHS Foundation Trust on all legal aspects in the construction of a centre for the research and mental health care of young people and children. The legal issues involved in the development were highly complex - we secured and aligned multiple elements in our suite of documents, giving our client peace of mind regarding important aspects such as funding, long-term arrangements and collaborative use.
- Representing a NHS Foundation Trust in the £90 million development of a former industrial estate into 50,000 square feet of clinical and office space. We dealt with a complex exclusivity agreement in relation to the site which was agreed back to back with the developer's £17 million acquisition of the freehold interest in the site and are now dealing with the development agreement for lease and associated leases.
- Advising a NHS Trust on a major site reconfiguration to develop new housing with the proceeds being used to develop clinical and office space. The deal involved the sale of two parcels of land for 260 housing units and four associated leases back to the Trust so that individual parcels of the site can be handed over in stages as they are vacated and developed.

SOCIAL HOUSING



Capsticks advises over 200 registered providers of varying size and location across the country on all areas of social housing. Our growing housing team advises on matters from development and regeneration to asset and housing management. We assist our clients in securing funding for development projects as well as ensuring they have good governance in place. Our housing management team represents national providers on all aspects of housing and leasehold management from anti-social behaviour to disrepair, rent and service charge recovery and full scale review of policies.

Case studies

- Our team advised a major housing association on the multi-million pound acquisition of shared ownership apartments. The properties are to be developed into the first LGBT+ affirmative affordable residential community in the UK aimed at retired people.
- Capsticks acted for a G15 Registered Provider in connection with a s106 agreement and associated planning advice relating to a major residential development involving a mixed use scheme with the delivery of over 700 residential units. This also secured the delivery of a new train station in order to meet sustainability requirements.
- Our team obtained the first Ground 7a possession order and the second largest Unlawful Profit Order in the country. We won a case on terminating tenancies on death, successfully cleared a site for development, undertook full tenancy reviews and obtained an out of hours emergency injunction on a Saturday in the High Court to remove a tenant from a dangerous property.
- We have acted for a registered provider in the security charging required to support a new £145m private placement, to be delivered in tranches over a 3 year period. We also worked with the client to achieve a MV-STT in relation to units already in charge to two different funders to enable the release of surplus units that can then be charged to the private placement.

LITIGATION AND DISPUTE RESOLUTION



We have extensive expertise in helping and supporting clients to resolve disputes whether they relate to procurements, contracts, reputation, property or construction. Our highly skilled and experienced team work with clients to minimise risk and prevent escalation of disputes if they can be resolved quickly and decisively. We focus hard on our clients' objectives and aim to deliver bad news at an early stage consistent with a realistic and pragmatic approach. We guide our clients through negotiations, mediations, adjudications, arbitrations, expert determination and/or litigation.

Case studies

- We advised an acute hospital trust on structural defects and lack of clinical functionality of a new modular build multi-use building with structural oscillation in operating theatres and consultation/treatment rooms, where sensitive procedures and equipment were being used. Our task was to resolve the dispute by negotiation and remedial works as the building was closed until the defects were remedied.
- We obtained an injunction to prevent nuisance in an extremely complex Anti-Social Behaviour case against a Defendant diagnosed with Tourette's Syndrome. We obtained medical evidence as to how Tourette's Syndrome affected the Defendant and the causal link between the Defendant's disability and his behaviour prior to taking legal action, and advised the client on the need to take careful steps to consider their obligations under the Equality Act, including the Public Sector Equality Duty and the proportionality of any action.
- We acted in a dispute between a local authority and a housing repairs contractor in the context of a procurement for repairs and void works to the client's housing stock (value £50m over 10 years). The provider initially alleged a conflict of interest (breach of procurement rules) but changed its allegations to breach of contract and misfeasance in public office ("blacklisting") following the termination by our client of works orders.

EMPLOYMENT AND PENSIONS



Capsticks can advise on the full range of employment and pensions law issues, from employee relations matters, TUPE, pay disputes to claims including large-scale litigation in the Employment Tribunal, civil and appellate courts. In addition, we can advise on pension issues arising from the transfer of services. Our advice addresses not only legal risk, but the other factors which can impact on our work for you. This includes the scrutiny of external regulators and reputational issues, which are often a key concern for our clients who operate services in the public domain. Many of our lawyers also have first-hand experience working in-house for clients in our key sectors, enabling us to ensure our service is tailored to each client's individual needs.

Case studies

- Capsticks has supported NHS England in providing guidance to all NHS organisations (and other affected healthcare organisations) in England on the implementation of regulations introducing mandatory vaccinations for healthcare. Despite mandatory vaccines not coming into force, our input has included working with NHS England and the Department for Health and Social Care on the development of Phase One and Phase Two Guidance for employers, as well as advising on national webinars with hundreds of attendees and virtual round tables.
- Capsticks represented a NHS Trust in relation to various whistleblowing and discrimination claims brought against it by a consultant. We successfully defended the initial claims at first instance and on appeal. However, the Claimant lodged five further claims, two of which were heard over 16 days and involved a huge volume of whistleblowing and discrimination allegations against dozens of individuals, many of whom were senior consultants.
- We were instructed by two neighbouring NHS Trusts to prepare an agreement enabling staff from both Trusts to work alongside one another on either of the Trusts' sites. This was to enable them to create integrated clinical pathways, leading to high quality services and outcomes for patients.

As healthcare specialists working with the NHS for over 40 years, we understand the unique challenges and opportunities that face NHS providers, commissioners and regulators. We strive on finding pragmatic solutions to complex legal issues faced by organisations dealing with financial constraints, clinical pressures and changing policy landscape. Our extensive team is able to assist with matters from claims handling and clinical negligence to inquiries and NHS governance.

Case studies

- We advised a NHS Foundation Trust on entering a master research collaboration agreement with the Institute of Psychiatry, Psychology and Neuroscience at King's College London and a mental health care company. We advised on a multitude of issues including real estate, intellectual property, data protection and clinical trials.
- We are advising the NHS Trusts that make up a pathology ICS on its procurement process for a pan pathology managed service contract across the region. With a contract worth hundreds of millions of pounds, we are advising them on the appropriate route to market, the procurement documents and drafting the contract and assisting with the KPIs as well as working alongside the procurement consultants.
- The team at Capsticks has assisted NHS England and Improvement with setting national policy and providing guidance on compliance with the proposed requirements for NHS staff to be able to show proof of vaccination status (VCOD). Vaccination status is confidential health information and sensitive personal data for the purposes of data protection law.
- We advised a NHS Foundation Trust in connection with the Kirkup Independent Inquiry into the care of an eleven month old child provided by multiple agencies. We were also instructed in relation to the claims arising from this report.

Capsticks has wide expertise in supporting GP and dental practices and other primary care networks (PCNs). Our group of knowledgeable lawyers understand the legal and commercial challenges facing PCNs and are therefore best placed to advise on premises issues, managing partnerships and making succession arrangements. Our team will enable you to collaborate with other organisations, agree funding options, set up commissioning arrangements and stay on top of the latest policies and regulations impacting PCNs.

Case studies

- We acted for numerous GP practices in documenting their occupancy at a wide range of venues across the county for use as Covid-19 vaccination centres. This included a converted former night club, golf club and a theatre.
- Capsticks acted for the owners of a medical practice and subsequent tenants on the sale of the surgery to Assura Aspire and leaseback in a time critical transaction with important deadlines relating to financial savings. Completion was achieved within a few weeks of terms being agreed. This was made possible by the experience of the Capsticks team in dealing with CCG approaches on other similar transactions.
- We acted for two individuals in relation to the sale of their dental practice to a large, specialist corporate dental provider company. The matter involved negotiating a complex asset purchase agreement and the grant of loan notes as part of the deal structure. Our clients also held a General Dental Services (GDS) contract in their personal capacities.
- Capsticks has been advising NHS England on the parameters for spending the Estates and Technology Transformation Fund money pledged by the government, which has been ear-marked for GPs to improve their surgery premises. As part of this, we have prepared a suite of grant documents and legal charges for various types of GP premises developments, acquisitions and improvements.

MENTAL HEALTH AND COURT OF PROTECTION



Whether you are concerned with patients who are detained in high-secure hospitals or living in the community, our mental health lawyers have a proven track record in giving clear guidance on sensitive legal issues. The team frequently advises NHS service providers and commissioners, as well as private health and social care organisations, on consent to treatment, complex decision-making under the Mental Capacity Act (MCA), the Mental Health Act (MHA), the Deprivation of Liberty Safeguards (DoLS) and the transition to the Liberty Protection Safeguards (LPS).

Case studies

- Capsticks successfully defended a Clinical Commissioning Group in the Supreme Court in relation to a claim brought by a mental health patient for failure to provide s.117 after-care funding for short trips out of the mental health hospital with his mother. The court ruled there is no arguable case and our client was entitled to recover its appeal costs from the Lord Chancellor.
- Representing a Clinical Commissioning Group in the case of an adult patient who is reliant on the use of a wheelchair, has significant visual impairment and a history of seizures. The patient receives nutrition through a PEG feed and is non-verbal. We were initially instructed on very short notice by the CCG, and supported them to produce detailed evidence and amass the facts which enabled finely balanced decisions to be taken on whether a trial of care in the community should proceed (and on what terms).
- Capsticks successfully defended a judicial review application by a family whose adult son was detained in a section 136 suite at a mental health trust because there were not appropriate community placements. We defended the claim using mediation as a way to enable each side to see the difficulties and eventually the individual was transferred to a specialist placement out of area so that he could get appropriate care to transition back home in the community. Capsticks' extensive knowledge of both the requirements of the mental health legislation and judicial review applications enabled us to deal with this very sensitive, complex case.

