

Case study

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Identifying your client when working in-house

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Related guidance

This is a case study. It should be read in conjunction with the following guidance: [Identifying your client when working in-house guidance \[https://higher-rights.sra.org.uk/solicitors/guidance/identifying-client-working-in-house-guidance/\]](https://higher-rights.sra.org.uk/solicitors/guidance/identifying-client-working-in-house-guidance/).

Contracting with a new supplier

You are the Head of Commercial Law in a well-known charity. The Head of Fundraising, who you work with regularly, has asked you to draw up a contract with a new provider of face-to-face fundraising services. They have worked with the supplier in previous roles and is convinced the new arrangement would lead to a substantial increase in the charity's revenue. Your instructions are to enter into contractual negotiations as soon as possible as the Head of Fundraising 'has the budget' to sign-off the deal.

Given the ongoing need to increase the charity's revenue, the Head of Fundraising does not want to delay the matter by going through 'the usual Procurement bottleneck'.

Identify the client

Your client is the charity. The charity trustees have delegated performance of the day-to-day management of the organisation to the CEO and the Senior Management Team, that does not include the Head of Fundraising.

Although most of your work is received from the Head of Fundraising, you do not act for them personally.

Interests

The charity wishes to increase its revenue, but it also needs to obtain best value from its suppliers and avoid reputational damage from appointing suppliers without due diligence. The charity agrees departmental budgets by reference to its strategic priorities. The Head of Fundraising also wants to increase the charity's revenue but wants to work with their chosen supplier. But it is also not clear whether this new approach to fundraising has been agreed with the Senior Management Team and can be funded from existing departmental budgets. The Head of Fundraising has not indicated how the impact of switching legal/financial/administrative resources to their project will be managed by the rest of the organisation.

Confidentiality

The Head of Fundraising has indicated that they wishes to avoid the charity's established procurement procedures to speed up the contracting process. Although you work with them regularly, you should seek confirmation from the Senior Management Team that the charity has chosen to depart from its established processes and understands the risks in so doing. You owe no duty of confidentiality to them personally in relation to the information they have provided with their instructions.