

NSW Government Lawyers Network

Fact Sheet

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What is the NSW Government Lawyers Network Portal?

The Lawyers Network portal is a secure platform for NSW Government lawyers employed within NSW agencies that represent the Crown to share advice and precedents prepared for their agency and that may be of value or benefit to other legal teams across the public sector. It is expected that the resource will reduce demand for legal advice and assist agencies in deciding when to defer legal services externally. The resource is also intended to provide greater coordination between legal teams across government and promote greater internal collaboration with the ultimate goal of achieving less external legal services expenditure and maximising potential for consistency in service across government.

How to use the site?

The Lawyers Network is reliant upon individuals sharing information. To ensure the website is used to its full potential we encourage members to upload advices that may be relevant across the sector and share precedents that could be adapted for use by other legal teams. By signing the membership form users agree to abide by the Sharing Principles which provide guidelines for users determining what information to share on the site. Members can read, upload, download and print documents from the site. Instructions on how to use the site are provided to members.

Who can access the site?

The NSW Government Lawyers Network is designed wholly and exclusively for NSW Government legal officers from agencies and departments across the sector. Membership of the site is limited to government lawyers who satisfy the following criteria:

a) The user provides legal advice as part of their role;

b) The agency where they are employed represents the Crown; and

c) The user holds a current practising certificate.

Members must also acknowledge that they will abide by the; Terms and Conditions of Use, the conditions of confidentiality and legal professional privilege and the sharing principles association with material subject to the site.

Members are only provisioned on the site by the Legal Services Coordination and only when they have signed and returned a signed membership application acknowledging agreement with the above requirements. The membership form is [available here](#).

What are the risks?

While steps have been taken to keep information on the site confidential you should always consider whether an advice is suitable for inclusion on the site. Circulating legal advice amongst employees of the Crown would not constitute disclosure of that advice by the Crown and would therefore not waive privilege however due to inherent risks associated with making legal advices available on the site, it is not possible to completely exclude the possibility of waiver of privilege. Accordingly users should have regard to the classes of advice that may or may not be suitable for posting on the site. Further information on the how the site mitigates risks is available at the [Legal Services Coordination website](#).

What advices can I share?

Below is some guidance of the classes of advices that may be suitable for posting on the site:

- Advice on the interpretation or application of NSW legislation which has application to NSW Government agencies generally (for example public finance legislation, or general de-identified advice on *Government Information (Public Access) Act 2009* requirements)

- Advices on the interpretation or application of Commonwealth legislation which had application to NSW Government agencies generally (perhaps, for example the application of GST legislation to various activities of NSW Government; and
- Advices on principle of common law which has application to NSW Government agencies generally (for example, power to contract, or delegation or authorisation arrangements).

It is recommended that members first consult with both the solicitor who prepared the advice and their agency's contact office for that advice (if the advice was prepared for more than one agency, those other agencies contact officers) as to the suitability of uploading the advice on the site before uploading the advice.

Members should also check whether they are permitted to include advices with a particular dissemination limiting marker (DLM), security classification and/or security caveat on the site.

What advices are not appropriate to share?

Below is some guidance of the classes of advices that may not be suitable for posting on the site:

- Advices where a security failure could result in loss of life or injury, significant fraud, affect the delivery of major services, result in significant damage to government reputation or undermine regulatory or law enforcement activities
- Advices on sensitive matters, or constitutional or security issues
- Advices concerning matter the subject of or relating specifically to current or pending or likely litigation or contentious matters and other advices concerning liability, where it is critical that legal professional privilege or client legal privilege be maintained or where publication of which may be prejudicial to pending court or injury proceedings
- Advice containing confidential information which may be privileged from disclosure on the grounds of public interest immunity (for example on the grounds that it was prepared for Cabinet or contains material concerning Cabinet deliberations, contains high level government communications directed to the formulation of government policy, concerns national security, international affairs and inter-state relations, concerns the identify of police informers, the identity of informers to child welfare bodies, information relating to an ongoing investigation,

or information provided to professional disciplinary bodies)

- Advices containing information protected from disclosure under the *Government Information (Public Access) Act 2009*, *Privacy and Personal Information Protection Act 1998*, or *Health Records and Information Privacy Act 2002*; and
- Advices containing information which is the subject of confidentiality agreements or undertakings or duties (for instance advices concerning confidential contractual terms or confidential procurement processes).

Members should consider deleting names and other identifying facts from advices before uploading them onto the site, both for privacy reasons and to avoid potential risk (for instance in relation to defamation) should privilege be lost.

With respect to legal precedents relevant confidentiality arrangements with respect to any agreements, understandings or memoranda of understanding should first be checked to ascertain whether they may be uploaded onto the site.

Will Copyright be an issue?

Where the legal advices uploaded onto the site have been prepared by a member of the private bar or another private legal practitioner, it is recommended that the member check whether copyright in such advices has been assigned to their agency (the Crown in right of the State of NSW) in the relevant retainer agreement before uploading the advice. Any assignment of copyright should be shown in an appropriate copyright notice.

Where copyright is not assigned or expressly licensed to the Crown, the Crown's statutory licence under s.183 of the *Copyright Act 1968 (Cth)* (the Act) would permit site members employed by the Crown in the right of the State of NSW to upload, access, download and print such advices for the services of the State. Such use would normally be subject to payment of remuneration under s.183 and s.183A of the Act. However, posting legal advices prepared for the Crown by a private legal practitioner on the site will be non-remunerable if it is a fair dealing for the purposes of the giving of professional advice by a legal practitioner (s.43 of the Act).

For more information

Visit the [Legal Services Coordination website](#)