

NSW Government Lawyers Network

Terms and Conditions of Use

The NSW Government Lawyers Network (Network) is a secure online portal designed for information sharing among NSW public sector government lawyers. By accessing and using the Network you agree to the following:

1. Users agree to comply with all user's responsibilities and obligations as stated in these Terms and Conditions of Use.

Membership and access rights

2. All users represent and warrant that they have approved access as provided by Legal Services Coordination, Department of Justice.
3. At the time of access and use of the Network, all users represent and warrant that they:
 - a) Provide legal advice as part of their role;
 - b) Are employed by the Crown;
 - c) Provide legal advice for an agency/agencies that represent/s the Crown (i.e. a NSW Department, NSW Government Agency and/or a statutory body representing the Crown);
 - d) Hold a current NSW or interstate practising certificate.
4. Users who no longer satisfy the above criteria must inform Legal Services Coordination immediately. This includes users who are:
 - resigning from service with the NSW public sector, or
 - transferring or being seconded to a different role, which is not a legal role by nature, in a NSW Government agency which represents the Crown.
 - transferring or being seconded to a legal role within a NSW Government agency that does not represent the Crown.

Access to the Network is strictly prohibited in these circumstances and the username and password will be disabled by Legal Services Coordination once notified.

5. Users agree that, from time to time as required, Legal Services Coordination may conduct an audit of members to ensure currency of the membership list.

Security

6. Users must keep their Network username and password secure and confidential.

Confidentiality and legal professional privilege

7. Unless indicated otherwise, all legal advices, precedents and other information on the Network are confidential and may be subject to legal professional privilege/client legal professional privilege.
8. Access to the Network and use of all legal advices, precedents and other information on the Network ("Confidential Network Information") is strictly limited to approved users within the Crown in right of the State of New South Wales ("Crown").
9. Users must keep all Confidential Network Information strictly confidential.
10. Users must not disclose Confidential Network Information to any other person within the Crown who is not an approved user, or to any other person outside the Crown (including a NSW Government statutory corporation that does not represent the Crown or a legal professional in private practice) without prior written permission from the relevant contact officer or Director of Legal Services/ General Counsel of the agency/agencies for whom the advice/precedent was prepared, unless legally required to do so. If a relevant client agency has been abolished or no longer has responsibility for the relevant subject matter, assistance should be sought from Legal Services Coordination as to the appropriate agency from which to seek permission for disclosure.

11. Users represent and warrant that they will not waive confidentiality or privilege in any Confidential Network Information posted by other users.
12. Users must immediately notify Legal Services Coordination and the relevant agency/agencies to which Confidential Network Information relates should they become aware of any unauthorised use or disclosure of Confidential Network Information.

Posting legal advice, precedents and other information on the Network

13. Users are encouraged to post legal advice, precedents and other information on the Network prepared by or for the Crown provided they do so in accordance with the Sharing Principles and these Terms and Conditions and in compliance with any applicable legislative and policy requirements. Users warrant that any legal advice, precedents or information they post on the Network comply with these Terms and Conditions of Use.
14. Before posting Confidential Network Information, users must ensure that they have the requisite internal approval to do so, and must ensure that appropriate security, confidentiality and copyright notices appear on the material being posted.
15. Users must not post legal advice, precedents or other information prepared for or concerning another agency without that other agency's prior written permission.
16. Since the Network is only open to members who fall within the Crown, posting legal advice, precedents or other information on the Network will not constitute disclosure outside the Crown. Strict confidentiality and security requirements also apply to the supply of IT services for the Network to the Department of Attorney General and Justice. Confidentiality and legal professional privilege/client legal privilege should therefore not be waived by posting legal advice, precedents or other information on the Network. Strict compliance with the Terms and Conditions of Use by all users is, however, necessary to avoid any subsequent waiver of privilege.
17. Should a legal advice, precedent or other information posted by a user subsequently lawfully lose its confidentiality or otherwise become public knowledge so that it is no longer necessary for that particular Confidential Network Information to be kept confidential, the user agrees to update the confidentiality and security notices on the Confidential Network Information accordingly.

Using Confidential Network Information

18. Users may only view, copy and print Confidential Network Information posted by other users, and must not forward or otherwise communicate or publish any such Confidential Network Information.
19. Users must only use Confidential Network Information posted by other users for the purposes of the user's own legal work in their capacity as a practising legal professional employed by and advising the Crown.
20. Unless indicated otherwise, all material on the Network is protected by copyright under the *Copyright Act 1968* and is either owned by or licensed to the Crown.
21. Users must retain all of the following notices which may appear on, attached to or embedded in any Confidential Network Information posted by other users:
 - a) any dissemination limiting marker (DLM) eg. Sensitive: Legal or security classification or security caveat;
 - b) any confidentiality and/or privilege notice;
 - c) any copyright notice and/or trade mark; and
 - d) any disclaimer notice.

22. Users must not alter or modify or remove any Confidential Network Information or technological protection measure or other information embedded in any Confidential Network Information posted by other users.

Accuracy, currency of information on the Network

23. Legal Services Coordination does not endorse and takes no responsibility for the accuracy, currency, completeness, reliability or correctness of any legal advice, precedent or other information contained on the Network.
24. Changes in legislation, case law, policy or other circumstances may render even recent advices or precedents inaccurate or incorrect.
25. Users are responsible for making their own assessment of the legal advices, precedents and other information on the Network and their relevance for their own particular purpose.

Misuse of the Network

26. Users must not use this Network as a means to distribute advertising or other unsolicited material.
27. Users must not upload material that is unlawful, obscene, defamatory, threatening, harassing, abusive, slanderous, hateful or embarrassing to any other person or entity as determined by Legal Services Coordination.
28. Users must not create any links or tag, frame, or reformat any material on this Network.

Breach

29. Users found to have failed to comply with all or any of the said Terms and Conditions may have access terminated without notice, and, depending on the circumstances, may be the subject of disciplinary or other legal action.

Variation of Terms and Conditions of Use

30. Legal Services Coordination reserves the right to vary these Terms and Conditions of Use from time to time. Variations will be notified to users, and each user will be responsible for making themselves familiar with those variations.

Jurisdiction

31. These Terms are governed by and must be construed in accordance with the laws in force in the State of New South Wales. Each user submits to the exclusive jurisdiction of the courts exercising jurisdiction in the State of New South Wales and the courts of appeal therefrom.

Sharing principles

The following principles are designed to provide some guidance to members as to what material is suitable for sharing on the NSW Government Lawyers Network. Please consider the following principles when sharing documents and information:

1. Shared content should be of a good to high standard and current, although perfection is not required. The rule of thumb is that you would be happy to share it with your own legal team.
2. At the same time, no lawyer or agency legal team posting legal advice on the Network will be taken to be providing 'legal advice' to other users merely through sharing that content. Users are responsible for making their own assessment of the legal advices, precedents and other information on the Network and their relevance for their own particular purpose.
3. Before sharing content with a particular dissemination limiting marker ("DLM"), security classification and/or security caveat, you should check your agency's information

security policies and procedures as to whether such content may be included on the Network.

4. Strong caution should be used when posting the following types of content on the Network:
 - a) 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;
 - b) advices on sensitive matters, or constitutional or security issues;
 - c) advices concerning matters 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 inquiry proceedings;
 - d) advices 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 governmental policy, concerns national security, international affairs and inter-state relations, concerns the identity of police informers, the identity of informers to child welfare bodies, information relating to an ongoing investigation, or information provided to professional disciplinary bodies);
 - e) 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
 - f) 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).

The above types of legal advice should only be shared with the consent of your agency's General Counsel or Director of Legal Services, and in compliance with your agency's information security policies and procedures. However, it is for each user's agency (e.g. General Counsel or Director of Legal Services) to determine the process and extent to which approval is needed for release of content that is to be shared on the Network.

5. Care should also be taken in relation to advices that refer directly or indirectly to other legal advices (for example quoting or paraphrasing other advices) and confidential information, or that contain gratuitous comments, or comments that are able to be misinterpreted or misapplied, and which for those reasons may not be suitable for sharing on the Network.
6. Before posting legal precedents which are in the nature of sample or example transactions, the issues mentioned above at 3 and 4 above should be considered and relevant confidentiality arrangements checked.
7. Before posting content on the Network you should check whether any copyright in the content has been assigned or licensed to your agency (Crown). If not, posting the content in accordance with the Terms and Conditions of Use will likely be covered by the State's statutory licence under s.183 of the *Copyright Act 1968* (Cth) and/or by the fair dealing defence under s.43 of the *Copyright Act*.
8. Site users are responsible for checking the currency and accuracy of the documents that are shared and accessed. Changes in legislation, case law, policy or other circumstances may render even recent advices or precedents inaccurate or incorrect or obsolete. Site users should aim to reduce out-dated content to increase the usefulness of the site for other users.

9. These sharing principles may be reviewed and updated by Legal Services Coordination. Uploaded content will also be reviewed by Legal Services Coordination periodically to ensure that content is appropriately housed under the relevant headings/areas in the Online Portal.