



ADMINISTRATION POLICY AND GUIDELINES

SUBJECT	CONFIDENTIAL ADVICE / DRAFT LEGISLATION
CHAPTER	1. CORPORATE ADMINISTRATION
REFERENCE NO.	
RELEASE NO.	2004/09
AUTHOR	CHIEF EXECUTIVE OFFICER
	Approved by Corporate Management Group Date: 17 September 2004

Purpose

To ensure staff deal with internal memoranda / draft legislation appropriately and where necessary confidentially.

APG Statement

Confidential Advice

1. One of the most important duties of employees of the Administration is to provide assistance and advice to executive members and to other officers within the Administration.
2. It is an essential aspect of providing such advice that it be, and be kept, confidential. Advice that is not kept confidential may have an adverse effect upon legal processes that concern the Administration and/or officers and such breach shall be considered a serious breach of our ethical standards and shall be dealt with accordingly.
3. Memoranda from the Legal Services Unit is usually marked as "Client in Confidence" which must be taken as an indication to the recipient, and any person who gains access to it, that it is not to be circulated or provided to persons other than those to whom it is addressed or who may be directly assisting the addressee. Much of it is subject to legal professional privilege.
4. If an officer wishes to pass internal memorandum of advice to a person to whom it is not addressed (or who is not directly assisting that officer with the matter concerned), approval to do so must be sought from the officer sending the advice, or if the officer is not available, then Crown Counsel.
5. Advice that is placed upon the "public record" is clearly exempt from these restrictions.
6. If at any stage there is doubt about the release of confidential information, clarification should be sought from Crown Counsel, or in his or her absence, from the Chief Executive Officer.
7. There are serious penalties for the breach of confidentiality.

Draft Legislation

8. Legislation prepared in the Legal Services Unit is prepared at the request of Ministers or senior officers of the Administration. The process is often tedious and involves considerable consultation and the preparation of numerous drafts. The procedures involved in both providing instruction and suggestions during the drafting process have to be channelled through the persons directly involved to be properly managed.
9. Persons directly involved in the process of preparation of a particular piece of legislation are required to keep drafts to themselves and not circulate them to others. Members of Boards or committees that are involved must only deal through the Board or committee which in turn will deal with the officer or Minister responsible for instigating the legislation.
10. If an officer wishes to provide a draft Bill or regulation to a person who is not concerned in the legislative drafting process, approval should be sought from the responsible Minister who will consult with Legislative Counsel or Crown Counsel to decide if the release is appropriate.
11. As with confidential information any, unauthorised premature release of draft legislation or regulations will be considered a serious breach of our ethical standard and will be dealt with accordingly.
12. Once a piece of legislation is either released by a Minister as a discussion draft or it is tabled in the House, submissions concerning the legislation should be directed to the responsible Minister for consideration.