

Our reference T93/926
T93/1420

18 October 1993

Date

Sub-Program Managers

c.c. Secretary
Deputy Secretary (Transport)
Deputy Secretary (Communications)
CMD Branch Heads
Dir ISS
Dir IA

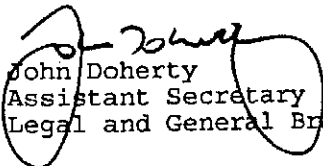
ARRANGEMENTS FOR ACCESS TO LEGAL SERVICES

The Secretary's minute of 25 August 1993 set out guidance to staff on obtaining legal services. The minute covered issues of when to seek legal advice, who to approach and how to go about it.

The attached minute (A) sets out further information on the respective roles of Legal and General Branch officers, the General Counsel and her officers, and other areas of the Attorney-General's Department. It is intended to form the basis for co-operative working arrangements among the officers providing legal services to this Department.

I also attach (B) a copy of a contact list for the General Counsel and legal staff in L&G Branch.

Further copies of the Secretary's minute of 25 August 1993 and the Guide for Obtaining Legal Advice are available from L&G Branch. I encourage officers to refer to it regularly to ensure an effective approach to dealing with legal issues in the Department.


John Doherty
Assistant Secretary
Legal and General Branch

Our reference T93-1420

Date

Secretary
Ms Mildern
Mr Ellis

c.c. Ms Wedutenko
L&G Section Heads

ARRANGEMENTS BETWEEN THE GENERAL COUNSEL AND L&G BRANCH

In its report on the Review of Legal Services, the review group identified a need for co-operative working arrangements between the General Counsel and Legal and General Branch. The review group suggested that the nature and bounds of this co-operative working relationship be spelled out clearly for there to be general understanding across the Department of the respective roles of the two sets of resources. Such understanding was seen to be a prerequisite for gaining maximum advantage from the range of legal resources available following appointment of the General Counsel.

Ms Wedutenko and I have discussed appropriate arrangements, as reflected in this minute. The arrangements cover not only the role of L&G and the General Counsel, but also the role of other officers of the Attorney-General's Department. (Clearly, the General Counsel appointment is not intended to supplant reliance on other A-G's officers in a wide range of circumstances.) The proposed arrangements have also been discussed with Dale Boucher, Australian Government Solicitor, and with our staff.

The broad division of responsibilities between L&G Branch, the General Counsel and other officers of the Attorney-General's Department is as set out in attachment A. The functions are spelt out in rather more detail than in the review report, but I believe the proposed division is entirely consistent with the arrangements suggested in the report.

We propose regular consultation about work on hand in each unit

- . swapping lists of current projects
- . frequent informal discussions about current tasks, and
- . more formal meetings on a regular basis
 - about once per month.

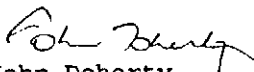
Legal and General Branch and the General Counsel will copy to each other significant legal advices prepared in their work and all advices obtained from other officers in the Attorney-General's Department.

Legal and General officers will seek to discuss any proposed request for advice from the Attorney-General's Department with the General Counsel or her legal staff before despatching the request, with a view to testing whether the advice might be provided by the General Counsel. This step is not essential, particularly if it would complicate timely despatch of an urgent request for advice. In all cases, the General Counsel should be provided with copies of the request to the Attorney-General's Department.

The General Counsel will consider involving L&G officers in projects, particularly where a knowledge of portfolio legislation is involved. This serves the interests of efficiency and will also assist in the development of Legal and General officers.

When referring matters to the General Counsel, L&G will seek to put together a brief of key documents and, where practicable, initial comments on relevant legislative provisions or legal issues. This will help focus issues for the General Counsel. Again, this arrangement should not be applied rigidly and may be abridged on where urgency or other factors require a different approach.

Subject to any comments, I propose to circulate copies of the arrangements to all sub-programs.


John Doherty
Assistant Secretary
Legal and General Branch

6 October 1993

ATTACHMENT A

LEGAL SERVICES FOR DEPARTMENT OF TRANSPORT & COMMUNICATIONS
BROAD DIVISION OF FUNCTIONS

1. Role of Legal and General Branch

- . Source of expertise in relation to key portfolio legislation.
- . Usual provider to the Department (other than the Executive) of general legal advice in the context of the Department's operations, including
 - advice/assistance in the early stages of policy, operational processes
 - development and processing of legislative proposals.
- . Facilitator in relation to day-to-day access to consultant or specialist legal services from A-G's, OPC, DPP
 - including day-to-day liaison with AGS on litigation.
- . Co-ordinator in relation to legal activities in DTC - legislative program/privacy/FOI
 - and usual adviser on FOI issues.

2. General Counsel

- . Provider of high level strategic advice on legal issues to the Executive and to other senior DTC managers as appropriate
 - using L&G assistance and A-G's if appropriate.
- . Avenue of "review" of legal advice provided by L&G or other A-G's officers as necessary and extra assistance in its implementation.
- . Provider of legal services on some critical policy/operational issues where that is appropriate in the context of resources/expertise
 - particularly on commercial matters.
- . Counsel to L&G on sensitive legal issues.
- . As A-G's National Client Service Manager, assist in facilitating the involvement of other A-G's officers as appropriate.

3. Role of Attorney-General's

- . Specialist advice on a wide range of legal topics arising in DTC functions - Corporations Law, Trade Practices, Intellectual Property, Constitutional Law, International Law, International Business Transactions.
- . Provider of legal services in specified areas reserved to A-G's:
 - litigation
 - legislative drafting
 - treaties.
- . In conjunction with the General Counsel, provider of consultant legal advice on critical, sensitive issues, issues with precedent value etc.
- . Source of legal expertise on legislation affecting Commonwealth agencies generally
 - Public Service Act
 - Audit Act etc.