





Legal professional privilege form – responding to formal notices

This form will help you make legal professional privilege (LPP) claims in accordance with the recommended approach as set out in the *Compliance with formal notices – claiming legal professional privilege in response to formal notices – LPP protocol* (LPP Protocol).

Complete this form to support your claim for LPP for each communication you claim is privileged. It will help us decide whether to accept, review or challenge your claim.

If you do not provide sufficient details supporting your claim, we may seek further information or evidence about your claim (including through our information-gathering powers, where appropriate) or commence legal proceedings to determine your claim.

-  You only need to answer the questions to the extent that they are relevant to your claim.
-  We will not argue that your responses to the questions in this form amount, by themselves, to an unintended waiver of your LPP.

Section A: Assessing your service or engagement giving rise to the communication

By making the claim, you have:

- considered the nature of your legal service or engagement in accordance with Step 1.1 of the LPP Protocol
- reviewed and determined the status of each communication in accordance with the law of LPP and Step 1.2 of the LPP Protocol, including whether you have waived privilege
- checked if any identified communications are of a type that needs more intensive scrutiny in accordance with Step 1.3 of the LPP Protocol (including where they are of a type where LPP is unlikely to arise).

Yes, I confirm I have done all of the above.

No, I have done something different [explained in question 4(a) of this form].

Section B: Explain your claim – particulars

1 Provide the following details to explain the basis of your LPP claim:

a document ID, file name or reference number

b name of privilege holder(s)

c date the document was prepared or communication made

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

d number of pages in the document

e title or subject line of the communication (except to the extent that disclosure of the title or subject line would also disclose the content of legal advice)

f form of the communication (for example, email, letter, file note)

g type of document (for example, advice, contract, invoice)

- h** identity and role of each person between whom the document or communication is made
- author(s) and, if different, sender (name, position, organisation), and
 - all people who have received the document (name, position, organisation); if the document is an email, this will include those in the 'cc' and 'bcc' fields

- i** whether the document is a copy

Yes No

- j** the dominant purpose for which the communication was made but not to the extent this discloses the content of legal advice

- k** the legal issue being advised upon or for which the advice is being sought, except to the extent that disclosure of the legal issue would also disclose the content of legal advice

- l** whether the communication was forwarded. If so, provide an explanation of

- the purpose of forwarding it
- how confidentiality in the communication was maintained
- how you assured yourself that privilege was not lost

- m** whether LPP is claimed in full or in part

- n** if there are attachments to the document, whether LPP is being claimed over the attachment(s). If yes, identify their reference number and provide the particulars for the attachment(s).

- !** In providing a response to the above where the answers are likely to be repetitive (particularly questions h, j, k and l), a separate attachment that details a comprehensive narrative can also be provided.

Section C: Explain your claim – in-house counsel


2 Provide the following particulars (in addition to the particulars in questions 1 (a) to (n) above) where the claim relates to a communication by, or to, an in-house advisor acting as a legal advisor:

a the name of the in-house legal advisor

b whether the in-house legal advisor has been admitted to practice and if so, the jurisdiction of admission

c as at the time of the communication, a description of all the functions, positions, roles and responsibilities of the person who is acting as the in-house legal advisor who prepared the communication

d if the advisor had multiple functions, positions, roles or responsibilities, a description of the capacity in which that person was acting in making the communication

 In providing a response to the above where the answers are likely to be repetitive, you can provide a separate attachment that details a comprehensive narrative.

Section D: Explain your claim – non-legal persons or legal practitioners not acting in the capacity of legal practitioners

3 If you have the kind of service or engagement identified in Step 1.1 of the LPP Protocol as involving non-legal persons or legal practitioners not acting in the capacity of legal practitioners, or where third-party advice was obtained other than from a legal practitioner, provide the following details (in addition to the particulars in questions 1(a) to (n) above).

Evaluation of the service, engagement or relationship

a Explain the steps taken to ascertain that the service, engagement or relationship was a legal one, given the involvement of non-legal persons.

Purposes of the communications

b State all main purposes of the communication, but not to the extent this would disclose the content of legal advice.


c Explain why the legal advice from the legal practitioner(s) is the dominant purpose of the communication, but not to the extent this would disclose the content of legal advice.

Role of non-legal persons

- d Where a communication was originally initiated or developed by non-legal persons:
- provide a copy of the terms of engagement (also referred to as a statement of work) that they are engaged under for the communication, but not to the extent this would disclose the content of legal advice, and
 - explain the reason for their involvement in the communication.

Preparation of the communication

- e For each person involved in the preparation of the communication provide:
- their name
 - their position, role and responsibility held in the organisation at the time of preparing the communication
 - the capacity the person was acting in when preparing the communication
 - whether the person held a current practising certificate at the time of preparing the communication.

 In providing a response to the above where the answers are likely to be repetitive, a separate attachment that details a comprehensive narrative can also be provided.

Section E: Additional details about how you approached your claim

4 Provide an explanation about the process you used for making your claim:

- a Did you follow Step 1 of the LPP Protocol? If no, provide a description of the process used to identify the communication over which you are making an LPP claim.

- b Did you use any computer-assisted processes to assess if LPP applies? If yes, provide details of the platform used and an explanation of the process undertaken.

- c Was the assessment of LPP based on any assumptions or pre-determined judgements around the context of the communication which guided the assessment of LPP? If yes, provide the assumptions or other parameters used.

- d If you are a legal practitioner or non-legal person making LPP claims on behalf of a client, did your engagement for the review of LPP allow you to particularise LPP in the way recommended in the LPP Protocol? Describe below.

Section F: Identity of person filling out this form

5 Name, position and organisation of the person(s) filling out this form.

a Name

b Position

c Organisation

Privacy

We are requesting the information on this form to assist in making a decision whether to accept, review or challenge your LPP claims. This includes the personal information of the individual signing this form or as the authorised representative. We may share this information with other government agencies. For further information about your privacy go to ato.gov.au/privacy

Signature (or electronic signature when submitting a claim electronically)

Date

Day	Month	Year
<input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>

— A person who makes a statement to a taxation officer that is false or misleading or omits from a statement any matter or thing without which the statement is misleading in a material particular may be guilty of an offence under sections 8K or 8N of the *Taxation Administration Act 1953*.