

Memo to Counsel to Establish Solicitor-Client Privilege



Using privilege to shield internal OHS audits and investigations from disclosure.

One of your primary functions as OHS coordinator is to audit the effectiveness of your company's current health and safety policies and procedures. This also happens to be the job of the government OHS officials who inspect your company to determine if it's compliant. But their interest isn't so much in correcting but gathering evidence to prosecute you for the things you did wrong. So, you want to ensure that while doing your own job, you don't end up also doing the investigators' job. You can do a thorough internal investigation without building the legal case against your own company is by relying on a legal doctrine called 'solicitor-client privilege.' To do that, you must position the internal audit as part of your relationship with and effort to get legal advice from counsel. The simplest approach is to ask the lawyer to prepare or review the audit report for purposes of offering legal advice. Here's a model memo to counsel illustrating the right buttons to push that you can adapt for your own situation: