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Orders for papers

The Legislative Council has the power to **order the production of state papers** by the Executive Government. Such orders are commonly referred to as 'orders for papers' or 'SO52s', as the Legislative Council's procedure for making the orders is set out in **Standing Order 52** (SO52).

If the Legislative Council agrees to a motion for an order for papers, the Premier's Department is advised of the order. The Premier's Department then notifies the Ministerial offices and agencies named in the order.

As a senior executive, you may be responsible for coordinating searches for documents in response to an order for papers.

You may also be responsible for certifying that all documents held by your agency and lawfully required to be provided have been provided. Cabinet documents are not lawfully required to be provided, but all other documents are.

All documents lawfully required to be provided must be provided to the Premier's Department together with an index including:

- the date of creation of the document
- a description of the document
- the author (agency/organisation) of the document.

The index also needs to indicate whether a claim of privilege is made over any of the documents. You may be responsible for assessing whether such claims should be made, and may require legal advice.

If no claim of privilege is made over a document, it is tabled before the House and made public. If you wish to make a claim of privilege over a document, your agency must provide a legal submission detailing the basis for the privilege and the public interest against making the document public. Privileged documents are only available for inspection by Members of the Legislative Council, but any Member may dispute the validity of a claim of privilege. An independent legal arbiter then assesses the dispute based on the submissions made by the agency.

The timeline for responding to orders for papers is typically between 7-21 days and the time and effort to search for documents from your agency's records system, prepare the index and any privilege submissions will vary. You should consult as early as possible with relevant staff members to determine the volume of documents that may be responsive to the order so that you can allocate adequate resources to provide the documents to the Premier's Department by the specified deadline.

