



**State Archives
& Records**

Operational Policy

Privacy Management Plan

Version: 0.1

Date: 13 June 2019

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Document control

Author/Owner:	Manager, Strategy and Governance
Date of effect:	26/07/2019
Date last modified:	26/07/2019
Date for review:	July 2020
Approval (Executive Director)	Name: Adam Lindsay Date: 26 July 2019 Signature: 

Contents

1. Introduction	4
1.1 Purpose	4
1.2 The Privacy and Personal Information Protection Act.....	4
1.2.1 What is personal information?	4
1.2.2 What are the Information Protection Principles?	4
1.3 Privacy codes of practice	6
1.4 Public registers	6
2. NSW State Archives and Records Authority	6
2.1 The functions of NSW State Archives and Records Authority.....	6
2.1.1 Purpose	6
2.1.2 Functions	6
2.1.3 Duty of confidentiality	7
2.1.4 Policies, guidelines and procedures affecting privacy	7
3. Implementing the Privacy Management Plan	8
3.1 What personal information does NSW State Archives and Records Authority collect? 8	
3.1.1 Records relating to the provision of public access to State Archives	8
3.1.2 Records relating to corporate clients and suppliers	9
3.1.3 Administration records	10
3.1.4 Personnel records.....	10
3.1.5 Personal information in the custody of NSW State Archives and Records Authority11	
3.1.6 Compliance with the IPPs	12
4. The Internal Review Process	13
4.1.1 What do I do if I believe my privacy has been breached?.....	13
4.1.2 What does an internal review involve?	13
4.1.3 How will I be informed of the outcome of an internal review?	14
5. Staff Awareness.....	14
6. Review.....	14
7. Contacts.....	14
Appendix 1:.....	15

1. Introduction

1.1 Purpose

The *Privacy and Personal Information Protection Act 1998* (the Act) confers enforceable rights on the people of NSW in the way public sector agencies collect, store, use and disclose personal information. The Act protects personal information through 12 Information Protection Principles (IPPs). Under the legislation individuals have the right to complain about the possible misuse of personal information through non-compliance with the IPPs.

The purpose of this management plan is to identify:

- The policies and strategies the NSW State Archives and Records Authority (SARA) will employ to comply with its obligations under the Act, and
- Personal information collected and held by SARA

The plan also details how these strategies and practices will be made known to staff and outlines the procedures for internal review when breaches of privacy are reported.

While this plan focuses on personal information collected and used by SARA, its roles as the coordinating agency for standards of official recordkeeping in the NSW public sector and as the custodian of many SARA generated by other public sector agencies are also covered.

1.2 The Privacy and Personal Information Protection Act

1.2.1 What is personal information?

The Act defines personal information as:

Information or an opinion (including information or an opinion forming part of database and whether or not recorded in material form) about an individual whose identity is apparent or can be reasonably be ascertained from the information or opinion.

Personal information does not include information:

- Contained in a publicly available publication
- About people who have been dead for more than 30 years, and about individuals' suitability for public sector employment

The Act also allows for a number exceptions relating to law enforcement agencies.

1.2.2 What are the Information Protection Principles?

The Act sets out the 12 Information Protection Principles (IPPs) in sections 8-19. A brief summary of the IPPs is listed below. For a complete description please see the Act itself or 'A Guide to the Information Protection Principles' published by Privacy NSW.

Principle 1

Collection of personal information must be for a lawful purpose that is directly related to a function of an agency and must be reasonably necessary.

Principle 2

Collection of personal information must be directly from the individual.

Principle 3

When collecting personal information, the agency must make the individual aware of:

- the fact that the information is being collected
- the purpose for which the information is being collected
- the intended recipients of the information

- whether the supply of information by the individual is required by law or is voluntary and any consequences for the individual if the information is not provided, and
- the existence of any right of access to, and correction of, the information.

Principle 4

The agency must take reasonable steps to ensure that personal information collected is:

- relevant to the purpose
- not excessive
- accurate
- up to date, and
- complete

Principle 5

Personal information must be kept for no longer than is necessary for the purposes for which the information may be lawfully used, must be disposed of securely in accordance with any requirements for retention and disposal of personal information and must be protected against misuse.

Principle 6

Information about personal information held by the agency should be accessible so as to allow individuals to ascertain whether it relates to them and, if so, the nature of the information, the purposes for which it is used and individual's entitlement to access the information.

Principle 7

Personal information relating to an individual must be accessible to that individual without excessive delay or expense.

Principle 8

The agency, on the request of an individual to whom the information relates, must amend personal information (through the correction, deletion or additions) to ensure that it is accurate, up to date, relevant, complete and not misleading.

Principle 9

The agency must check the accuracy of personal information before use.

Principle 10

Personal information should not be used for purposes other than for the purpose that it was collected unless the individual concerned consents, the new purpose relates to the old purpose, or it is used to prevent or lessen a threat to the life and health of any individual.

Principle 11

The agency must not disclose personal information unless it directly relates to the purpose it was collected for, the person to whom it relates is reasonably aware that the disclosure usually occurs, or it is disclosed to prevent or lessen a threat to the life and health of any individual.

Principle 12

The agency must not disclose information relating to ethnicity, political opinions, religious or philosophical beliefs, trade union membership, health or sexual activities except to prevent death or injury. Personal information must not be disclosed to a jurisdiction outside NSW unless it has a privacy law approved by the Privacy Commissioner.

1.3 Privacy codes of practice

Under the *Privacy and Personal Information Protection Act*, a privacy code of practice is a statement of how an agency proposes to depart from the Information Protection Principles or the public register provisions of the Act. A privacy code of practice can substitute for compliance with the IPPs.

1.4 Public registers

A public sector agency that keeps a public register cannot disclose personal information except for the purposes for which the register exists. The Act also introduces a right enabling people to have personal details removed or hidden from view in certain circumstances.

2. NSW State Archives and Records Authority

2.1 The functions of NSW State Archives and Records Authority (SARA)

To understand why SARA collects personal information and why it holds personal information it is necessary to detail its purpose and functions. These determine the personal information that SARA collects and uses. They also provide background for the roles that SARA plays as a coordinating agency of Government and as custodian of other agencies' records which may contain personal information.

SARA operates under the *State Records Act 1998* (the SR Act). The SR Act provides for the creation, management and protection of the records of public offices of the State and for public access to those records. It also establishes the State Records Authority of NSW and its Board.

2.1.1 Purpose

SARA's fundamental purpose is to ensure that the business of the NSW public sector is properly documented and the resulting records are managed efficiently and effectively for as long as they are needed, and that the State Archives Collection is developed preserved and used.

SARA is concerned with all aspects of recordkeeping, ranging from measures to ensure that public officials create records in the course of their duties, through the management of State records in public sector bodies, to preserving and making records of continuing value accessible as State Archives.

SARA undertakes these roles variously as:

- a coordinating agency of Government
- a provider of services to the people and Government of New South Wales, and
- the protector and preserver of the State's official Archives.

Most State records have a finite value and can be destroyed when this value has passed. Some, however, are preserved because they are of enduring value to the Government and/or to the community at large or to groups and individuals within it. Records of enduring value are called archives and State records transferred to our control as archives of the State are called State Archives.

2.1.2 Functions

Section 66 of the SR Act provides that SARA has the following functions:

- to develop and promote efficient and effective methods, procedures and systems for the creation, management, storage, disposal, preservation and use of State records
- to provide for the storage, preservation, management and provision of access to any records in its possession under the Act
- to advise on and foster preservation of the archival resources of the State, whether public or private
- to document and describe State archives in their functional and administrative context, and
- such other functions as are conferred or imposed on it by or under the Act or any other law.

SARA performs its functions by:

- setting and monitoring standards for the creation, management and disposal of State records
- providing practical advice, guidance and training to NSW public sector bodies in all aspects of records management
- providing centralised and cost-effective storage and retrieval services for the semi-active records of public sector agencies
- identifying those State records which should be retained as State archives and authorising the disposal of those which should not
- documenting and 'cataloguing' State archives in their functional and administrative context
- storing State archives in appropriate environments and ensuring that those stored elsewhere are also stored to the necessary standards
- using 'micro-' and 'macro-preservation' techniques to preserve the State's archives
- making State records more than 30 years old available for public access and use
- guiding public sector bodies in administering public access to those State records for which they are responsible
- interpreting, prompting and enhancing public awareness of the State Archives Collection, and
- making the best use of information technology and communications to improve our services and business.

2.1.3 Duty of confidentiality

SARA's employees handle, have access to and inspect the records of other public sector bodies. This means that they regularly have access to records that contain personal information. The SR Act recognises this and places a special duty of confidentiality on them (see Appendix 1).

2.1.4 Policies, guidelines and procedures affecting privacy

In addition to the *Privacy and Personal Information Protection Act*, SARA is subject to other legislation and Government policy and procedures that help to ensure privacy is protected.

Legislation that has impact on the handling of personal information include:

- *Freedom of Information Act 1989*
- *Health Records and Information Privacy Act 2002*
- *ICAC Act 1988,*
- *Protected Disclosures Act 1994,* and
- *State Records Act 1998.*

The following policies and procedures of SARA also enable compliance with the Act:

- Code of Conduct

- Corporate Policy on Records Management
- Corporate Policy on Use of computer network
- Corporate Policy on Internal Communications
- Personnel Handbook
- Procedures for Making Access Directions (Procedures for Public Offices 3), and
- Procedures for Disposal Authorisation (Procedures for Public Offices 4).

Many staff at SARA are archivists and as such are subject to professional and ethical duties. These are set out in:

- Australian Society of Archivists' code of ethics, and the
- Australian Society of Archivists' privacy statement.

3. Implementing the Privacy Management Plan

3.1 What personal information does NSW State Archives and Records Authority (SARA) collect?

SARA only collects personal information that relates to functions described in 2.1. This information primarily concerns the administration of personnel functions, providing access to State Archives in an accountable way that ensures the preservation of the State's archival heritage and maintaining contact with clients and research and professional bodies.

3.1.1 Records relating to the provision of public access to State Archives

Information collected

SARA operates a reading room in Western Sydney, where members of the public can view original State Archives. There are also 7 Regional Archive Centres operated by other institutions, where members of the public can access and view original State Archives. Before individuals can access original records, at any one of the 8 locations, they are required to complete an application for a reader's ticket. The application asks for name, address, and telephone contact. The information is collected directly from the individual. SARA requires individuals to show documentation that confirms their name, signature and address. Details of the documentation shown to confirm an individual's personal information are not recorded or kept.

Whilst the 7 Regional Archive Centres are not operated by SARA staff, each location adheres to the same SARA procedures.

The application can be submitted online via the SARA website or the application is completed in the reading room or at the 7 regional archive centres, and the individual is informed on the application of the reasons for requesting the information, how the information will be used, their rights of access to the information and their rights to correct any inaccurate information. The personal details are linked to a reader ticket number that tracks the issue of original records to the reading rooms.

Archives in Brief No. 13 Reading room rules and procedures, also details why personal information is collected. The Archives in Brief is available in SARA's reading rooms and on its Web site.

Members of the public also write to SARA with research and copying enquiries. These enquiries often contain not just the personal information details required for a reader's ticket, but sometimes they also contain personal information volunteered in relation to an

individual's genealogical heritage. Such unsolicited information is defined in s. 4(5) of the *Privacy and Personal Information Protection Act* as not 'collected'.

Overt closed circuit television (CCTV) is installed in the public areas at the Western Sydney Records Centre and the Sydney Records Centre. The cameras are visible and the public is notified of the use of CCTV through prominent signage. They operate between the hours of 9 am and 5pm. A monitor displays images from the cameras in staff areas. The cameras were installed in compliance with the code of practice for the Use of Overt Video Surveillance in the Workplace

Purpose of collecting the information

Protecting the State Archives: the reader ticket number tracks the issue of records to the reading rooms. Collecting contact details enables SARA to follow up with the reader if any problems, such as damage or theft, are identified. The use of CCTV protects records, exhibition material and property by providing a deterrent from potential damage and theft and by allowing on the spot policing through the use of monitors and capturing evidence in the event of theft or damage occurring.

Understanding uses of the State Archives: collecting information on type of research helps SARA to plan and allocate resources more effectively by monitoring interest in different parts of the collection.

Storage, security and disposal of personal information

Reader's ticket application forms are kept for 5 years before being destroyed under an approved disposal authority. The originals are kept, in an area accessible only by staff, for 12 months and then transferred to the Western Sydney repository before destruction. The information is also entered into a database located on a secure network. Only appropriate staff with an authorised password can access the database.

SARA files requests for research on reference files and stores them in secure storage. Files on routine requests are destroyed after 5 years under an approved disposal authority.

CCTV tapes from the cameras are stored in secure storage accessible by only authorised staff. They are held for 3 months and then reused.

3.1.2 Records relating to corporate clients and suppliers

Information collected

SARA supplies services to a wide range of NSW public sector bodies and other organisations and purchases goods and services from many suppliers. Personal information collected for contacts in these organisations is restricted to normal work contact, such as position title, telephone and fax numbers and e-mail address. This information is collected directly from the individual, from published sources or from the organisation concerned.

The supply of SARA's goods and services also requires the collection of personal information. Client details such as name, address and credit card number are often supplied when purchasing publications or services such as seminars and copies of State Archives.

Purpose of collecting the information

SARA collects the information as part of legal obligations, for invoicing/billing and delivery.

Storage, security and disposal of personal information

The information held on files is kept in secure storage and the information held in databases is only accessible to authorised staff. The information is not used for any other purpose and is not released outside SARA. The information is destroyed or deleted under authorised disposal authorities, notably General Disposal Authority 7: Financial and Accounting Records, when no longer required.

3.1.3 Administration records

Information collected

SARA is currently in the process of rationalising its contact lists into a single database. When completed, the database will contain contact information for:

- recipients of SARA magazine and newsletters
- chief executives, corporate records managers and other key contacts in NSW public sector bodies
- office holders in professional bodies, research and community groups relevant to SARA's functions and services
- contacts in regional repositories, community access points and other holders of the Archives Resources Kit, and
- contacts in other archives institutions and similar organisations.

The information that makes up the contact databases is either collected directly from the individual or from publicly available sources.

SARA maintains contact details of members of its Board and advisory committees. Information about Board members includes private as well as work contact details.

Purpose of collecting the information

Contact list information is collected to enable SARA to distribute news and other information connected with its functions and to correspond with relevant people and organisations.

Contact details of members of the Board and advisory committees is used to support the administration of meetings. Private contact details of Board members are collected to enable them to be contacted in urgent cases or emergencies.

Storage, security and disposal of personal information

The database is accessible to all network users but only modified by a restricted number of authorised users. The information is kept as long as it is relevant, is updated when necessary and deleted when no longer required.

Contact details of Board members are held securely and are accessible to the Executive Director and Executive team, including the Strategy & Governance Manager (Secretary of the Board)

3.1.4 Personnel records

Information collected

SARA maintains information detailing home address and telephone number, any medical conditions of staff (if disclosed voluntarily) and next of kin details to be used in cases of emergency. Also maintained are details of all leave taken, information on each employee's

substantive and acting work and salary history; and details of qualifications submitted by the employee, together with a record of all internal and external training courses undertaken. These details are disclosed to other staff only on an as-needed basis and only for business or health and safety purposes. All staff are made aware of the existence of this information and the purposes for which it is used.

SARA also maintains attendance and performance management system records and, where relevant, records relating to disciplinary processes, medical matters and workers compensation. All such records are created and maintained in accordance with the requirements of the Personnel Handbook and of relevant legislation.

The curriculum vitae and resumes of applicants and/or preferred candidates are used to assist the recruitment process of staff.

From time to time individuals forward their curriculum vitae and resumes to SARA seeking work opportunities. This information is maintained on file and individuals are informed of this action.

SARA outsources its payroll function to People, Performance and Culture, a business unit of the Departmental agency SARA forms part of, and does not keep payroll records relating to employees.

Purpose of collecting the information

The collection of personal information is essential for SARA in administering human resources, financial services, office services and recruitment.

Storage, security and disposal of personal information

The files holding this information are subject to strict security and are only accessible by authorised staff. Personal information held in databases is accessible only to authorised staff and can only be altered by the Human Resources Officer. Personnel records are disposed of in accordance with General Disposal Authority 3: Personnel Records.

3.1.5 Personal information in the custody of NSW State Archives and Records Authority

As part of its functions, SARA has custody of the records of other public offices. These records can be divided into two categories:

- records transferred to SARA as State Archives, and
- records stored in the Government Records Repository.

Both categories can contain personal information.

Providing access to State records

Section 51 of the SR Act requires public offices to make access directions in relation to the records more than 30 years old for which they are responsible, including those held by SARA as State Archives, that either to open or to close them to public access.

Access directions are based on the known or likely contents of a series, group or class of records. The Attorney General has issued guidelines on Making Access Directions under Part 6 of the SR Act 1998, under s. 52(3) of the Act. The guidelines are intended to promote consistency in the making of access directions by identifying the types of information in a record series or class that may make them open or closed to public access after 30 years.

They address issues such as personal information, privacy, passage of time, security and confidentiality. Passage of time is an important issue when decisions are made to make State records available for public access. As noted in 1.2.1 personal information does not include information relating to an individual who has been dead for 30 years. The guidelines do, however, identify types of sensitive personal information that should not be released to public access about deceased individuals until a suitable passage time.

SARA ensures that records transferred to its custody as State Archives are made available to the public only in accordance with the relevant access direction. SARA monitors access directions to assist in identifying and rectifying any inconsistencies, including access directions to records containing personal information.

Access to records closed to public access is at the discretion of the responsible public office. SARA does not facilitate such access unless that access has been properly authorised, for example, under the 'special access' provisions (s. 58) of the Act.

Records in SARA's custody

Under s. 4(4) of the *Privacy and Personal Information Protection Act*, information contained in records in SARA's custody is defined as 'held' by the public sector agency responsible for the records, not by SARA.

Nonetheless, SARA helps protect personal information in such records. Both categories of records noted above are held in secure environments at the Western Sydney Records Centre. Only authorised staff have access to the records.

3.1.6 Compliance with the IPPs

Collection - principles 1 to 4

SARA collects all personal information directly from the individual except in some cases when compiling information for public sector contacts. When not collected directly from the individual, the information is collected from publicly available sources such as the Government Directory and telephone books.

Public clients are made aware the information is being collected and why it is collected by information on the application for a reader's ticket and in the rules and procedures for the reading rooms. Address and contact information is collected only from readers who wish to use original records. Clients are informed of the use of CCTV through prominent signage in the public areas at both record centres.

Retention and security - principle 5

The database containing the personal information of public clients issued with readers' tickets is on a secure location on the computer network and access is restricted to authorised staff. The tapes of CCTV monitoring are held in a secure storage accessible by only authorised staff and the information erased through the reuse of the tapes every 3 months.

Notification, access and correction - principles 6 to 8

As SARA collects most personal information directly from the individual, it is reasonable to assume that individual is aware that the information is held by SARA and that the information is accurate at the time it is collected. SARA alerts clients of the existence of the information by publishing the Privacy Management Plan on its website and by making it available in the Western Sydney reading room.

SARA encourages individuals to advise of any change in personal information they have supplied. SARA alerts public clients of their rights of access to this information on the reader's ticket application form and also of their rights in relation to alteration of the information.

Use - principles 9 to 10

SARA does not use personal information for a purpose other than for the reason it was collected unless the individual concerned consents, the new purpose relates to the original purpose, to prevent death and illness or it is otherwise permitted under an exemption under the Act. The use of personal information within SARA is governed by policies and guidelines listed in 2.3.

Disclosure - principles 11 to 12

SARA does not disclose personal information, including the ethnicity, political opinions, religious or philosophical beliefs, trade union membership, health or sexual activities unless it is to prevent a threat to the life or health an individual, and unless otherwise exempted under the Act.

Compliance with the Public Register Provisions

SARA is responsible for the public register of access directions. The register details the title and description and location of records covered by an access direction. If an access direction closes records to public access the register also details why the records are closed and for how long. The register does not contain personal information.

4. The Internal Review Process

4.1.1 What do I do if I believe my privacy has been breached?

If an individual has a complaint about the conduct of SARA or a member of its staff in relation to the collection, storage, use or disclosure of personal information, a written request should be sent (on paper or by e-mail) to SARA so that an internal review may be undertaken. An application for an internal review can address a breach in the IPPs, a privacy code or the improper disclosure of personal information from a public register.

Under s. 53(3) of the *Privacy and Personal Information Protection Act*, an application for an internal review must:

- be in writing
- be addressed to SARA
- specify an address in Australia to which a notice may be sent
- be lodged with SARA within six months (or such later date as SARA may allow) from the time the applicant first became aware of the conduct the subject of the application, and
- comply with such other requirements as may be prescribed by the regulations to the Act.

4.1.2 What does an internal review involve?

An application for internal review will be dealt with by an employee of SARA who has the authority of the Executive Director to deal with the matter. The employee will not have been substantially involved in the matter that is the subject of the application. This will normally be the Chief Information Officer (or equivalent).

The review will be completed as soon as is reasonably practicable in the circumstances and within 60 days from the day on which the application was received.

As a result of the review SARA may:

- take no further action on the matter; or
- make a formal apology to the applicant; and/or
- take such remedial action as thought appropriate; and/or
- provide undertakings that the conduct will not occur again; and/or
- implement administrative measures to ensure that the conduct will not occur again.

SARA is required to:

- notify the NSW Privacy Commissioner of an application for internal review
- provide reports to the Privacy Commissioner on the progress of the internal review
- inform the Privacy Commissioner of the findings of the review and of the action to be taken by SARA in relation to the matter.

If requested by SARA, the Privacy Commissioner may undertake the internal review.

4.1.3 How will I be informed of the outcome of an internal review?

SARA will acknowledge the receipt of an application and write to an applicant within 14 days after completing the review and advise the applicant of:

- the findings of the review (and the reasons for those findings)
- action proposed to be taken (and the reasons for taking that action), and
- the right of the applicant to have the findings, and SARA's proposed action, reviewed by the Administrative Decisions Tribunal in NSW.

5. Staff Awareness

Staff have been notified of this plan through staff communications. The plan is available to staff on the intranet.

The following resources are available on the intranet:

Privacy NSW Fact Sheet No 2:

[http://www.lawlink.nsw.gov.au/pc.nsf/files/FS2_ipps.pdf/\\$FILE/FS2_ipps.pdf](http://www.lawlink.nsw.gov.au/pc.nsf/files/FS2_ipps.pdf/$FILE/FS2_ipps.pdf)

Privacy Management Plan:

<http://www.records.nsw.gov.au/about/privacyplan/privacytoc.htm>

6. Review

Reviews will be undertaken by the Strategy and Governance Team at least annually, and more frequently if changes in legislation, policies or other areas require the amendment of this policy. The next scheduled review is due in June 2020.

7. Contacts

If you require additional information please contact the Strategy and Governance team at SARA-Coord@records.nsw.gov.au

Appendix 1: Authority's duty of confidentiality

Section 73 of the SR Act states:

(1) A person who acquires information in the exercise of functions under this Act must not directly or indirectly make a record of the information or divulge it to another person except in the exercise of functions under this Act.

(2) It is not an offence under subsection (1) if, in legal proceedings, a person:

- (a) discloses information in answer to a question that the person is compellable to answer, or
- (b) produces a document or other thing that the person is compellable to produce.

(3) The provisions of any other Act imposing restrictions or obligations on a person as to secrecy or disclosure of information acquired in the course of the administration of that Act extend to apply to a person who, in the exercise of functions under this Act, gains access to that information as a result of the information having been acquired in the course of the administration of the other Act. For that purpose the person who gains access to the information in the course of the administration of this Act taken to be a person engaged in the administration of the other Act.

(4) This section does not prevent or otherwise affect:

- (a) the giving of access to records under Part 6 (Public access to State records after 30 years), or
- (b) the preparation and dissemination of guides and finding aids.

(5) This section does not apply to the divulging of information to, or to the production of any document or other thing to, any of the following:

- (a) the Independent Commission Against Corruption,
- (b) the National Crime Authority,
- (c) the New South Wales Crime Commission,
- (d) the Ombudsman,
- (e) any other person prescribed for the purposes of this section.

State Archives and Records Authority of New South Wales Sydney, Australia

First edition August 2000. Revised edition June 2001. Revised November 2003. Revised 2005

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ISBN 0-7313-9721-5