

Privacy Management Plan

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PURPOSE

The *Privacy and Personal Information Protection Act 1998* (PPIPA) requires that “each public sector agency must prepare and implement a privacy management plan within 12 months of the commencement of this section” (s 33). This plan explains how we manage personal information in line with PPIPA and health information under the *Health Records and Information Privacy Act 2002* (NSW) (HRIPA).

Please see Attachment A for more information about the PPIPA and the HRIPA.

Who we are

The Legal Services Council (LSC) and Commissioner for Uniform Legal Services Regulation (CULSR) were created by the Legal Profession Uniform Law (LPUL) which is contained in the *Legal Profession Uniform Law Application Act 2014* (NSW).

The LPUL commenced operation in NSW and Victoria on 1 July 2015. The LPUL applies in Victoria and NSW, in Victoria by virtue of similarly named State legislation.

The Secretariat of the Council is small, with only four members of staff, including the Commissioner. The LSC itself is also small, comprising a Chair and five other part-time members.

The LSC and CULSR are subject to the PPIPA by virtue of the *LPUL*, s 416 and the *LPUL Application Act* (NSW), s 6 (1)(2), as modified by clause 5 (1)(a) of the Legal Profession Uniform Regulations 2015 (NSW)(LPUL Regulations). The LSC and CULSR are not public sector agencies, however LPUL Regulation 5 (1)(a) provides that the LSC and CULSR “are taken to be public sector agencies” for the purposes of the PPIPA. Although there is no reference to the application of the HRIPA to the LSC or CULSR in the LPUL, we have for convenience proceeded on the basis that these bodies are classified as public sector agencies for the purposes of the HRIPA.

For the above reasons it is necessary that the LSC and CULSR prepare and implement a Privacy Management Plan.

Under Clause 17 in schedule 1 to the LPUL the Chief Executive Officer (CEO) of the LSC is to administer the affairs of the LSC in accordance with the Policies and Directions of the Council. The functions of the CEO are to be exercised by the Commissioner.

From time to time the members may be provided with personal information in the course of Council deliberations but this will very much be secondary to the legal, policy or management issue which the Council may be considering. However as Council members are also subject to the PPIPA this manual and plan will be provided to Council members to be formally noted by them. In future when other members are appointed to the Council they too will be advised of the requirements of the PPIPA and HRIPA and will be expected and assisted by the Secretariat to comply with the PPIPA and Information Protection Principles (IPPs) and HRIPA and Health Privacy Principles (HPPs).

Nature of the LSC and CULSR as organisations

The functions of the LSC and CULSR are set out in the LPUL. However, in broad terms, they are required to oversee the implementation of the LPUL and to encourage other jurisdictions, apart from NSW and Victoria, to join the Uniform Law scheme. The work that staff are required to undertake is in the nature of legal policy and advisory work and it requires high levels of accuracy, skill and experience.

POLICIES AND PRACTICES TO ENSURE COMPLIANCE WITH THE PPIPA AND HRIPA

Section 20 of the PPIPA makes clear that the IPPs set out in the PPIPA apply to public sector agencies. As noted above the LSC and CULSR are made subject to the PPIPA, effectively to equate them with public sector agencies. Further, we proceed on the basis that the LSC and CULSR are subject to the HRIPA as public sector agencies.

Because the LSC and the CULSR are subject to the PPIPA and HRIPA this means that the CULSR and all staff made available to the Council by the Department of Justice NSW are also subject to the PPIPA and HRIPA. It is the policy of the LSC and CULSR that staff must read and remain familiar with the IPPs set out in sections 8-21 of the PPIPA and the HPPs set out in Schedule 1 to the HRIPA.

Staff are hereby instructed to comply with the PPIPA and HRIPA and are required to sign the instrument set out on the last page of this plan to indicate that they are familiar with the IPPs and HPPs and the date on which they reviewed them. New staff must also familiarise themselves with this Plan, the PPIPA, the IPPs, the HRIPA and the HPPs. Staff are also trained so that if they are unsure what to do about a privacy issue, they should approach the CEO or the Privacy Contact Officer.

The LSC devises its policies and practices by reference to the relevant provisions of the PPIPA and HRIPA and also by reference to the instructional information published by the Privacy Commissioner, including the "Guide to making privacy management plans" and the Privacy Management Plan "Checklist". Aside from the policies and procedures set out in this document, there are no other policies and procedures relevant to the plan.

Compliance with IPPs and HPPs

As will be observed, broadly the IPPs and HPPs cover the collection, retention and security, access, alteration and checking of personal and health information. The IPPs and HPPs also place limits on use and disclosure of personal and health information.

Practices for Compliance with the PPIPA and HRIPA

It is noted that most of the information held by the LSC and CULSR is not personal or health information. It is more accurately described as legal or policy information. Personal information collected, retained, altered and disclosed is incidental to the performance of the policy and oversight functions of these entities. Health information collected relates only to employment matters of staff and could include medical certificates for sick leave or employee compensation (if any).

Neither the Council nor the CULSR directly regulate law practices, solicitors or barristers and do not have a complaint handling function. It shares the responsibility for regulation with the Legal Services Commissioners in Victoria and NSW and the professional bodies, which operate locally. However both the Council and CULSR occasionally receive, in error, details of complaints about law practices, solicitors or barristers. When this occurs, the correspondence is forwarded to the correct regulatory body and the complainant is informed that the correspondence has been forwarded to the appropriate authority in accordance with section 414 of the Uniform Law.

Generally, the LSC and the CULSR do not collect sensitive personal information such as racial origin or sexuality, however, if we did receive such information we would be particularly careful when dealing with it to ensure that the IPPs are complied with.

How we collect, use and disclose personal and/or health information

Wherever it is lawful and practical we give people the option of remaining anonymous if preferred when providing personal or health information to us.

Personal and/or health information collected and held by the Council falls into four basic categories:

- I. The personal and health information relating to Council members, employees and student interns (if any);
 - II. Master lists of contact details for key stakeholders, including individuals;
 - III. Personal details disclosed to the Council as part of a submission or through participating in other forms of consultation;
 - IV. Documents lodged in error with the Council or CULSR which relate to a complaint against a law practice, solicitor or barrister.
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- I The personal and health information of Council members, employees and student interns is limited to that information which is relevant to the individual's position within the organisation. It is collected and retained for those purposes only and is to be retained for long as it is relevant. This information is retained in the LSC electronic filing system.
 - II The Council also maintains a Master contact list of names and addresses and other contact details for example, for the purposes of public consultations only which it is required to undertake from time to time. These lists of names and addresses are kept up to date, including by revision or corrections and deletion of names where a contact is no longer available. For example, if it is known that a person has retired or has left an office there will be no need for the purposes of the LSC or CULSR to retain their contact details and these should be deleted. The process for undertaking this is part of the day-to-day duties of all personnel as and when we become aware of it.
 - III The LSC undertakes public consultation as part of the development of the Uniform Rules and related policies, Guidelines and Directions. Personal information disclosed to the LSC in the course of these processes is collected for the purpose of the current consultation process and may be used for the purpose of future consultation. It is in addition to the master contacts list but may be incorporated into the contact lists as required and is subject to the same retention, updating and deletion protocol.

The LSC website advises submitters that their submission will be published unless the LSC is requested to treat it as confidential. The LSC also acknowledges each submission and requests consent before the submission is published. Personal information disclosed on a published submission is limited to the name of the author and, where relevant, the organisation. The persons address, email address, phone number and signature are to be removed prior to publication.

- IV When documents, letters or communications are lodged in error and unsolicited with the Council or CULSR, these are redirected to the correct regulatory authority and the sender is advised of this course of action. An electronic copy of the correspondence is kept in a secure folder as a record.

As can be seen by the types of personal and health information collected referred to above, the LSC and CULSR ensure that the personal and health information collected by them is relevant, accurate, is not excessive and does not unreasonably intrude into the personal affairs of people. The information is neither excessive nor unreasonably intrusive because it contains no more detail than has been provided as to names, addresses, phone numbers and the like and does not contain any other information.

If the LSC or Commissioner are required to transfer personal or health information outside of NSW in order to perform their functions under the Uniform Law, they will ensure the requirements of IPP 12 and HPP 14 are met.

Where relevant, persons will be notified that his/her personal or health information is being collected at the time of first request by the LSC, usually by email and, where reasonable, they will also be notified of matters such as the purposes for which the information is collected, the intended recipients of the information and the existence of any right of access to, or correction of, the information.

A person can contact the LSC or the Commissioner in order to find out whether the agency holds their personal or health information, the nature of the information, the main purpose for which it is collected and a person's right of access. Persons may access or amend his/her personal or health information upon written request directed to the CEO of the LSC. Decisions about access will be made by the Privacy Contact Officer or other relevant staff member.

It is the responsibility of all staff to ensure that use and disclosure of personal or health information is made in accordance with IPPs 10 and 11 (and, where applicable, HRPs 10 and 11), including by not using the information for a purpose other than that for which it was collected and not disclosing the information outside of the person the subject of the information, subject to some exceptions set out therein. We also ensure that personal information is accurate before using it including by checking contact details directly with a person or their organisation.

Dissemination of Policies and practices to persons within and outside the agency

Legal Services Council Website

Once approved, this Privacy Management Plan and the personal information collection notice (Attachment B) will be included on the LSC website.

The LSC has on the “publications” tab on the LSC website indicated how publications can be accessed and provides a contact address if any relevant documents do not appear on the website. The publication guide refers to, for example, the annual report and Council Guidelines Directions and Information sheets.

Within the agency, as noted above this Plan and Policies and Practices of the LSC and CULSR will be brought to the attention of all staff and Council Members for noting and compliance with it.

EXEMPTIONS

There are exemptions contained within the PPIPA and HRIPA that explain the circumstances in which an agency need not comply with the IPPs and HPPs. To date neither the LSC nor Commissioner has relied on any of these exemptions nor has any public interest direction been made in its favour by the Privacy Commissioner. If this position changes in the future, the LSC and/or Commissioner will update this Plan to reflect the changed position.

PUBLIC REGISTERS

The LSC does not currently publish any public registers that contain personal or health information.

PROCEDURES FOR ACCESS, AMENDMENT, INTERNAL AND EXTERNAL REVIEW

A person may make an informal or formal request to access or amend their personal or health information in a reasonable time frame, including by written request being made to the CEO of the LSC. The CEO will then refer the matter to the Privacy Contact Officer or other relevant staff member to respond.

A person has a right to request a statutory internal review of the conduct of the LSC or the Commissioner. In carrying out an internal review the LSC/Commissioner is to follow the requirements set out in Part 5 of the PPIPA, including by reference to the Privacy Commissioner’s guidance on materials when carrying out an internal review. The LSC is to give notice of a person’s application and the subject matter of the application to the Privacy Commissioner for their oversight role, pursuant to which the Privacy Commissioner is entitled to make submissions to the LSC concerning the complaint.

A person may also apply to the Information Commissioner for an external review of a decision and/or apply to the NSW Civil and Administrative Tribunal if they are dissatisfied with the internal review outcome. A person can also make a complaint to the Privacy Commissioner about an alleged breach of their privacy.

OFFENCES

Parts 8 of the PPIPA and HRIPA contain offences for certain conduct of public sector officials and other persons including in relation to the following:

- Corrupt disclosure and use of personal or health information by public sector officials;
- Offering to supply personal or health information that has been disclosed unlawfully;
- Offences relating to dealings with the Privacy Commissioner; and
- Intimidation, threats or misrepresentation.

The LSC's strategies to minimise the risk of its employees committing an offence includes obtaining a written acknowledgement by the employee that it has read this Privacy Management Plan and that they agree to comply with its requirements.

OTHER RELEVANT MATTERS

The LSC has a service support agreement in place with the Department of Justice (DoJ) in order to provide our information technology and human resources systems and support and accordingly personal or health information may be disclosed to the DoJ as part of this arrangement. The DoJ has its own Privacy Management Plan in place which can be found on its website.

The majority of information held by the Secretariat of the LSC and the CULSR is contained on a computer share drive. Backup arrangements are undertaken by the Department of Justice NSW independently of the Secretariat.

Hard copy files are kept in offices that can only be accessed by staff with security access. The LSC disposes of hard copy information by way of shredding, and electronic information in accordance with DoJ practices. If the LSC became aware of an information security breach taking place it would investigate and remedy the cause of the breach, and where appropriate, draw the breach to the attention of the DoJ, as the host of the LSC's computer systems, and to the LSC.

Amendments and Version Control

Section 33(4) of the PPIPA provides that an agency may amend its Privacy Management Plan from time to time. To facilitate amendments version control practices, including the date for each amendment of the Plan should be noted in the footer of the Plan. This plan will be reviewed on an annual basis from the date of last review/version.

Provision of Plan to Privacy Commissioner

Subsection 33(5) of the PPIPA requires agencies to provide a copy of the PIPPA Plan to the Privacy Commissioner as soon as practicable after it is prepared and whenever the plan is amended.

Accordingly, a copy of this plan was provided to the Privacy Commissioner by Dale Boucher, former CEO and Commissioner on 2 August 2016

CONTACT

Legal Services Council Privacy Contact Officer	Bridget Sordo Telephone (02) 8293 5944 Email bridget.sordo@legalservicescouncil.org.au
Office of the Privacy Commissioner (OPC)	Telephone Contact the OPC general enquiries line on 1800 472 679 between 9.00am to 5.00pm, Monday to Friday (excluding public holidays). Media enquiries – please call 0435 961 691. Assisted contact If you are deaf or have a hearing or speech impairment, contact the OPC through the National Relay Service on 133 677 for assistance. If you do not speak English, or English is your second language, and you need assistance to communicate with the OPC, call the Translating and Interpreting Service on 131 450. Email ipcinfo@ipc.nsw.gov.au Post GPO Box 7011, Sydney NSW 2001 In person - Sydney office Level 17, 201 Elizabeth Street Sydney 2000 – the OPC office hours are 9.00am to 5.00pm, Monday to Friday (excluding public holidays). NOTE: The building has full lift access

NSW Civil and Administrative Tribunal (NCAT)	<p>Telephone 1300 00 NCAT or 1300 006 228 and follow the prompts</p> <p>Interpreter Service (TIS): 13 14 50 National Relay Service for TTY Users: 13 36 77</p> <p>Hours 9.00am to 4:30pm Monday to Friday except public holidays</p> <p>Address John Maddison Tower 86-90 Goulburn Street Sydney NSW 2000</p> <p>Level 10 - Administrative and Equal Opportunity Division and Occupational Division</p> <p>Level 9 - Principal Registry (no public counter)</p> <p>Level 6 - <u>Guardianship Division</u></p> <p>Post: PO Box K1026, Haymarket NSW 1240 DX: DX 11539 Sydney Downtown</p>
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ATTACHMENT A

This section contains a general summary of the IPPs and HPPs concerning how the LSC and CULSR (we) must manage personal and health information under the PPIPA and the HRIPA (respectively).

The PPIPA and personal information

The PPIPA sets out how we must manage **personal** information.

About personal information

Personal information is defined in s4 of the PPIPA and is essentially any information or opinions about a person where that person's identity is apparent or can be reasonably ascertained. Personal information can include a person's name, address, family life, gender identification, sexual preferences, financial information, fingerprints and photos.

There are some kinds of information that are not personal information, e.g. information about someone who has been dead for more than 30 years, information about someone that is contained in a publicly available publication, or information or an opinion about a person's suitability for employment as a public sector official. Health information is generally excluded here as it is covered by the HRIPA.

Information protection principles (IPPs)

Part 2, Division 1 of the PPIPA contains 12 IPPs with which we must comply. Here is an overview of them as they apply to us.

Collection

1. We collect personal information only for a lawful purpose that is directly related to our functions and activities.
2. We collect personal information directly from the person concerned.
3. We inform people why their personal information is being collected, what it will be used for, and to whom it will be disclosed. We tell people how they can access and amend their personal information and any possible consequences if they decide not to give their personal information to us.
4. We ensure that personal information is relevant, accurate, is not excessive and does not unreasonably intrude into the personal affairs of people.

Storage

5. We store personal information securely, keep it no longer than necessary and destroy it appropriately. We protect personal information from unauthorised access, use or disclosure.

Access and accuracy

6. We are transparent about the personal information we store, why we use the information and about the right to access and amend it.
7. We allow people to access their own personal information without unreasonable delay or expense.
8. We allow people to update, correct or amend their personal information where necessary.

9. We make sure that personal information is relevant and accurate before using it.
10. We only use personal information for the purpose we collected it for unless the person consents to us using it for an unrelated purpose.
11. We only disclose personal information with people's consent unless they were already informed of the disclosure when we collected the personal information.
12. We do not disclose sensitive personal information without consent, e.g. ethnicity or racial origin, political opinions, religious or philosophical beliefs, health or sexual activities or trade union membership.

The HRIPA and Health Information

The HRIPA sets out how we must manage **health** information.

About health information

Health information is a more specific type of personal information and is defined in s6 of the HRIPA. Health information can include information about a person's physical or mental health such as a psychological report, blood test or an Xray, or even information about a person's medical appointment. It can also include some personal information that is collected to provide a health service, such as a name and contact number on a medical record.

Health privacy principles (HPPs)

Schedule 1 to the HRIPA contains 15 HPPs that we must comply with. Here is an overview of them as they apply to us.

Collection

1. We collect health information only for a lawful purpose that is directly related to our functions and activities.
2. We ensure that health information is relevant, accurate, is not excessive and does not unreasonably intrude into people's personal affairs.
3. We collect health information directly from the person concerned.
4. We inform people why their health information is being collected, what it will be used for, and to whom it will be disclosed. We tell people how they can access and amend their health information and any possible consequences if they decide not to give their health information to us.

Storage

5. We store health information securely, keep it no longer than necessary and destroy it appropriately. We protect health information from unauthorised access, use or disclosure.

Access and accuracy

6. We are transparent about the health information we store about people, why we use the information and about the right to access and amend it.
7. We allow people to access their own health information without unreasonable delay or expense.
8. We allow people to update, correct or amend their health information where necessary.

9. We make sure that health information is relevant and accurate before using it.

Use

10. We only use health information for the purpose we collected it for unless the person consents to us using it for an unrelated purpose.
11. We only disclose health information with people's consent unless they were already informed of the disclosure when we collected the health information.

Identifiers and anonymity

12. We do not use unique identifiers for health information, as we do not need them to carry out our functions.
13. We allow people to stay anonymous where it is lawful and practical.

Transfers and linkage

14. We do not usually transfer health information outside of NSW.
15. We do not currently use a health records linkage system and do not anticipate using one in the future. However if we did, we would not use one without people's consent.

Attachment B – Personal Information Collection Notice

Version	Date	Reason for Amendment
V0.1	28/04/2016	Draft document
V0.2	8/06/2016	Final Draft
V0.3	2/8/2016	FINAL
V0.4	13/11/2017	Reviewed

Privacy

Personal Information Collection Notice

By responding you may be giving personal information to the Legal Service Council and Commissioner for Uniform Legal Services Regulation (**we**, **us**, or **our**).

Who we collect the personal information from? We generally collect your personal information directly from you or from publically available sources. However, in some cases, we may receive your personal information from a third party and when it is relevant to our statutory responsibilities (for instance during the course of consultation).

For what purposes do we collect personal information? We collect your personal information to perform our functions under the *Legal Profession Uniform Law 2014*, *Legal Profession Uniform Law Application Act 2014* (NSW) and the *Legal Profession Uniform Law Application Act 2014* (Victoria).

Who are the types of bodies and persons to whom we usually disclose your personal information?

Your personal information may be provided to:

- Regulators and government entities (such as the Office of the Legal Services Commissioner); and
- Organisations that represent the legal profession such as the Law Council of Australia, the Australian Bar Association, State Law Societies and State Bar Councils.

You can access and correct your personal information

Our privacy policy contains information about how you can access your personal information and seek correction of such information; as well as our compliance with *Privacy and Personal Information Protection Act 1998* NSW. Our privacy policy is accessible via a link appearing on our website at www.legalservicescouncil.org.au

How to contact us

CEO, Legal Services Council and Commissioner for Uniform Legal Services Regulation, Level 40 MLC Centre, NSW 2000, or by email: lsc@legalservicescouncil.org.au