

Privacy Management Plan



**In-house Counsel Unit
Legal Services Division
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1. INTRODUCTION

About Legal Aid NSW

Legal Aid NSW is an independent statutory body established under the *Legal Aid Commission Act 1979* (NSW) (LAC Act). Legal Aid NSW is the largest legal aid agency in Australia, with over 1,400 staff. We provide legal services across New South Wales through a state-wide network of 28 offices, with a particular focus on the needs of people who are socially and economically disadvantaged.

We assist with legal problems through a comprehensive suite of services across criminal, family and civil law. In the financial year 2022-2023, Legal Aid NSW provided 511,829 client services including legal information, advice, minor assistance, extended legal assistance, early resolution assistance, and duty services, through to an extensive litigation practice. We work in partnership with private lawyers who receive funding from Legal Aid NSW to represent legally aided clients. We also provided 2,035 community legal education sessions.

We also work in close partnership with community legal centres, the Aboriginal Legal Service (NSW/ACT) Limited, pro bono legal services, and Women's Domestic Violence Court Advocacy Services.

The Privacy Management Plan

As a New South Wales public sector agency, Legal Aid NSW is required by section 33 of the *Privacy and Personal Information Protection Act 1998* (PPIP Act) to have a privacy management plan (the Plan).

The Plan provides a reference tool for both staff and members of the public, as it explains how Legal Aid NSW manages:

- personal information under the PPIP Act and
- health information under the *Health Records and Information Privacy Act 2002* (HRIP Act)¹.

The Plan sets out:

- our policies and practices for ensuring compliance with the privacy legislation
- how those policies and practices are communicated to our staff, and
- our review procedures

The Plan confirms the commitment of Legal Aid NSW to adhere to the principles outlined in both the PPIP Act and HRIP Act (together, 'the privacy laws').

The Legal Aid NSW In-house Counsel Unit devises and reviews the Agency's privacy-related policies and procedures to ensure compliance with the privacy laws.

¹ The Plan uses the term "personal information" to refer to both personal information under the PPIP Act and health information under the HRIP Act where not otherwise specified.

2. DEALING WITH PERSONAL INFORMATION

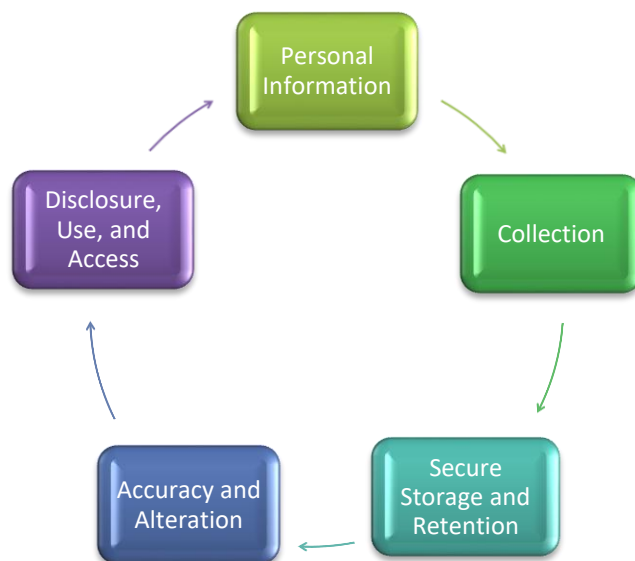
What is personal information?

The PPIP Act defines 'personal information' as any information or opinion about a person whose identity is apparent or can readily be ascertained from the information or opinion.² For example, personal information may be contained in a written record and include information such as a person's name, address, and other details.

The definition of 'health information' under the HRIP Act includes information about a person's physical or mental health or disability, and health or disability services provided to them.

The personal information lifecycle

Once Legal Aid NSW collects personal information, it enters a lifecycle with a number of stages, as depicted by the following diagram:



Privacy Principles

Personal information is subject to the information protection principles (IPPs) contained in the PPIP Act. The IPPs are rules about how Legal Aid NSW can deal with personal information at each of the above stages. They are set out in **Appendix A**.

There are also health privacy principles (HPPs) contained in the HRIP Act, which are similar to the IPPs, but in the context of the provision of health services. Legal Aid NSW must comply with the HPPs even though it is not a health service provider, because it holds health information about clients, staff and other parties.

The Plan describes how Legal Aid NSW complies with the privacy principles.

² Personal information does not include information about a person who has been dead for 30 years or more, or information about a person that is contained in a publicly available publication, such as the Legal Aid NSW Annual Report or Verbals. Other exemptions may also apply. Please contact Manager, In-house Counsel Unit, for more information.

3. PERSONAL AND HEALTH INFORMATION HELD BY LEGAL AID NSW

The following table identifies what types of personal information and health information is held by Legal Aid NSW³ in relation to its main stakeholders. Under each category there is also a list of the main reasons why the personal information and health information is collected, and the business units within Legal Aid NSW who primarily hold the information.

PERSONS	PERSONAL INFORMATION AND HEALTH INFORMATION		
	WHAT? Personal and health information may be contained in documents related to:	WHY? The information is collected to:	WHO? The information is held by: ⁴
➤ SERVICE RELATED			
Applicants and clients	<ul style="list-style-type: none"> • applications for grants of legal aid and supporting documents: <ul style="list-style-type: none"> ○ application forms ○ bank statements and payslips ○ expert reports including medical/psychological reports ○ information about an applicant's financially associated persons and dependants ○ criminal records ○ advices ○ charge documents • the provision of legal services: <ul style="list-style-type: none"> ○ documents as above ○ instructions ○ court forms ○ pleadings ○ witness statements ○ affidavits ○ expert reports including medical/psychological reports ○ file notes ○ medical records • the provision of social work services provided by Client Assessment and Referral Service (CARS) • complaints 	<ul style="list-style-type: none"> • take enquiries, book appointments and make referrals • provide information and advice • determine eligibility for legal aid under Legal Aid NSW policies • administer grants of legal aid • check for conflicts of interest • provide legal and allied services in accordance with professional requirements • respond to complaints • impose contributions 	<ul style="list-style-type: none"> • Corporate Records & Information (Records) • Grants • Civil Law • Criminal Law • Family Law • Duty • CARS • In-house Counsel Unit • Clients Services Unit • Finance • Facilities • LawAccess NSW

³ This is not a comprehensive or specific list, but it covers the main types of personal information held by Legal Aid NSW under each category of stakeholder.

⁴ This list refers to both divisions and branches within Legal Aid NSW, depending on which more appropriately identifies the primary holder of the information. See the Legal Aid NSW organisation chart for more information about the structure.

	<ul style="list-style-type: none"> informal requests for information and formal access applications made under the <i>Government Information (Public Access) Act 2009 (NSW) (GIPA Act)</i> debt recovery action against legally assisted persons or other parties costs recovery matters priority flags, client alerts and incident reports on acts or threats of violence, or unreasonable behaviour, by applicants or clients 	<ul style="list-style-type: none"> recover monies owing to Legal Aid NSW reporting on the provision of legal services safety and security 	
Experts, witnesses, and support workers	<ul style="list-style-type: none"> applications for grants of legal aid, and supporting documents the provision of legal services: <ul style="list-style-type: none"> instructions advices court forms pleadings witness statements affidavits expert reports including medical/psychological reports file notes 	<ul style="list-style-type: none"> determine eligibility for legal aid under Legal Aid NSW policies administer grants of legal aid provide legal services in accordance with professional requirements 	<ul style="list-style-type: none"> Records Grants Civil Law Criminal Law Family Law
Parties to proceedings involving Legal Aid NSW	<ul style="list-style-type: none"> in-house legal services where Legal Aid NSW is a party to proceedings or has been subpoenaed in other proceedings: <ul style="list-style-type: none"> instructions advices court forms pleadings witness statements affidavits expert reports file notes 	<ul style="list-style-type: none"> instruct and/or provide legal services on behalf of Legal Aid NSW respond to subpoenas and comply with other procedural requirements relating to litigation 	<ul style="list-style-type: none"> In-house Counsel Unit
Private Practitioners	<ul style="list-style-type: none"> applications for membership of law practices to Legal Aid NSW panels, Back Up Duty Scheme (BUDS), and other lists or duty schemes, including details of the outcome of the selection process audit records conducted on private law practice files 	<ul style="list-style-type: none"> eligibility, selection, and ongoing inclusion administration and payments private practitioner 	<ul style="list-style-type: none"> Private Lawyer Quality Standards Unit (PLQS) Criminal Law Civil Law

	<ul style="list-style-type: none"> • internal investigations of complaints against private practitioners and law practices • practitioner responses to the complaint investigations • invoices 	<p>audits and investigations</p> <ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • Family Law
Community partners	<ul style="list-style-type: none"> • individuals and office bearers of: <ul style="list-style-type: none"> ○ Community Legal Centres ○ Women’s Domestic Violence Court Advocacy Service (WDVCAS) providers ○ Co-operative Legal Service Delivery (CLSD) and Regional Outreach Clinic programs • WDVCAS client records 	<ul style="list-style-type: none"> • administer funding, provide training and undertake monitoring of community partners • provide services to WDVCAS clients and undertake referral checks 	<ul style="list-style-type: none"> • Community Legal Centres Program Unit • Women’s Domestic Violence Court Advocacy Program (WDVCAP) Unit • WDVCAS providers and Family Advocacy and Support Service (FASS) staff • CLSD

➤ CORPORATE RELATED

Staff	<ul style="list-style-type: none"> • employee details: <ul style="list-style-type: none"> ○ first and last names ○ date of birth ○ gender ○ employment start date ○ employee ID/ number ○ role title/ grade ○ work email address ○ emergency contact details ○ COVID-19 vaccination status • recruitment: <ul style="list-style-type: none"> ○ resumes, CVs and references (solicited and unsolicited) ○ contracts of employment ○ selection panel documentation ○ health checks, criminal record checks and working with children checks ○ equity and diversity information such as gender and ethnicity 	<ul style="list-style-type: none"> • undertake and process recruitment and promotion • fill vacancies from talent pool • manage staff • process payroll and leave • process workers compensation and workplace health and safety matters • respond to complaints and investigations by or about staff 	<ul style="list-style-type: none"> • Human Resources • In-house Counsel Unit • Planning and Review Unit • Finance • Facilities • Relevant Director/ Solicitor in Charge (SIC) / Team Leader
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	<ul style="list-style-type: none"> ○ work experience students/internships ● attendance: <ul style="list-style-type: none"> ○ attendance records/flex sheets ○ leave applications and balances ○ medical certificates ○ part-time work agreements ○ working from home agreements ● performance: <ul style="list-style-type: none"> ○ Performance Management Plan (CPDP) ○ performance reviews ○ grievances, complaints, investigations, and disciplinary records ● payroll: <ul style="list-style-type: none"> ○ payslips ○ banking details ○ tax records ○ payment summaries ○ superannuation details ○ allowance claims ● Law Society NSW membership ● workplace health and safety assessments/incidents ● workers compensation ● education and training conducted at and/or provided by Legal Aid NSW ● provision of corporate related services by staff, including: <ul style="list-style-type: none"> ○ fire warden ○ first aid officer ○ community language allowance scheme ● Judicial Officer incidents 	<ul style="list-style-type: none"> ● administer Law Society NSW membership applications and renewals ● administer and deliver training ● administer provision of corporate related services ● administer work experience students/internships ● undertake equity and diversity reporting ● administer staff directories and conduct searches of staff ● engage with emergency contacts where required ● compliance with the COVID-19 Safe Workplace Policy (or equivalent) ● Internal reports of Judicial Officer incidents 	
<p>Persons involved in corporate services</p>	<ul style="list-style-type: none"> ● contracts, MOUs and leases ● corporate finance ● usage of corporate equipment ● business reporting and statistics ● CCTV footage ● systems support requests ● mail and courier services 	<ul style="list-style-type: none"> ● provide operational support ● process corporate finance matters 	<ul style="list-style-type: none"> ● In-house Counsel Unit ● Finance ● Facilities ● ICT and Records ● Business Reporting Unit

	<ul style="list-style-type: none"> reception services 	<ul style="list-style-type: none"> administer usage of corporate equipment and provide ICT services undertake business reporting safety and security provide systems support to staff and private practitioners provide mailroom and reception services 	
Legal Aid NSW Board and Executive	<ul style="list-style-type: none"> membership of the Legal Aid NSW Board (the Board) submissions to the Board and Board Papers submissions to the Executive 	<ul style="list-style-type: none"> administer Board meetings undertake executive and corporate functions 	<ul style="list-style-type: none"> Executive In-house Counsel Unit Client Eligibility Unit
Legal Aid Review Committee and other Legal Aid NSW Committees	<ul style="list-style-type: none"> selection and membership of the Legal Aid Review Committee and other Legal Aid NSW Committees (Committees) submissions to the Committees and reports meeting minutes 	<ul style="list-style-type: none"> administer Committee meetings undertake Committee functions 	<ul style="list-style-type: none"> LARC Secretariat relevant business units
Personal information for Community Legal Education (CLE)	<ul style="list-style-type: none"> CLE registration emails 	<ul style="list-style-type: none"> register for CLE create CLE alerts 	<ul style="list-style-type: none"> Community Legal Education
Organisation wide/Other	<ul style="list-style-type: none"> internal advices, correspondence and deliberations internal reviews under the PPIP Act data breaches survey responses 	<ul style="list-style-type: none"> advise Executive and staff on legal issues respond to data breaches and comply with the 	<ul style="list-style-type: none"> In-house Counsel Unit Client Service Unit Relevant business units

		<p>Mandatory Data Breach Notification Scheme</p> <ul style="list-style-type: none"> • undertake internal reviews under the PPIP Act • evaluate and improve services 	
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4. COLLECTION

Legal Aid NSW only collects personal information and health information that is relevant, not excessive, and not an unreasonable intrusion on the personal affairs of the individual to whom the information relates. We take reasonable steps to ensure this by having regard to the purpose for which the information is collected, only collecting information required for that purpose, and returning or deleting information that is not relevant.

People who provide their own personal information to Legal Aid NSW

Applicant and Clients

As the personal information, and in some cases health information, of applicants and clients is required to access most Legal Aid NSW services, it is commonly collected voluntarily either directly from applicants and clients or through their lawyer.

How we will collect your personal and health information

Applicants and clients

- in writing via application forms and supporting documents
- online applications
- from your lawyer who enters your personal information on the Grants Online system
- from telephone conversations as recorded in file notes
- from advices written by Legal Aid NSW solicitors following advice sessions
- from other sources where appropriate

The personal and health information collected is about the person providing the information except where the person provides information about other persons such as family members and financially associated persons. The *Legal Aid Commission Privacy Code of Practice*⁵ allows us to collect information about people who are financially associated with a client to assess the client's eligibility for legal aid.

When collecting personal information or as soon as practicable thereafter, Legal Aid NSW, or the person collecting information on behalf of Legal Aid NSW, will tell the person to whom the information relates that the information is being collected, the purpose for which the information is

⁵ A privacy code of practice is a legal instrument made under the PPIP Act, it allows an agency to modify a privacy provision Information Protection Principle (IPP) The Legal Aid NSW Privacy Code is available at: https://www.ipc.nsw.gov.au/sites/default/files/file_manager/Privacy%20code%20of%20Practice%20Legal%20Aid%20commission%20ggchild%2020121206.pdf

being collected, and all other details required under s 10 of the PPIP Act. For example, Legal Aid NSW applicants and clients are required to sign the following privacy statement as part of their application:

I understand that Legal Aid NSW collects my personal information to provide me with a legal service, ensure accountability for the assistance it provides and to plan and report on their services.

I understand this information is used and stored by in accordance with NSW Privacy legislation and I can access further information about the Legal Aid NSW Privacy Policy at www.legalaid.nsw.gov.au or call (02) 9219 5000.

When collecting health information we comply with the requirements in HPP4 except where compliance would, in the circumstances, prejudice the interests of the person to whom the information relates, or where that person has consented to us not complying with it, or where non-compliance is lawfully authorised, permitted or required, or in accordance with any other applicable exemptions under HPP4.

Private practitioners

Private practitioners can provide their own personal information for collection by Legal Aid NSW through written applications to be on a Legal Aid NSW Panel and electronically via Grants Online.

Staff

Legal Aid NSW staff members also provide their own personal information for recruitment and ongoing employment purposes, and their health information such as medical reports in support of sick leave. This information may be required in accordance with relevant Legal Aid NSW policies.

Personal and health information collected by Legal Aid NSW from third parties

The personal and health information of clients and other parties may also be indirectly collected through court documents, police briefs, medical reports or other documents necessary to provide legal services to the client.

Legal Aid NSW may also collect personal and health information via government systems or from other government agencies to assist in the determination of applications for grants of aid, to provide legal services, or for other purposes, as set out in the following table.

System	Personal and health information collected
Justicelink	Justicelink is a web-based electronic case management system used for court administration in the NSW Local, District and Supreme courts. The Department of Communities and Justice provides to authorised Legal Aid NSW staff access to court records, such as details of charges, court listings, outcomes and other details. Authorised Legal Aid NSW staff are required to sign undertakings of confidentiality.

Joined up Justice	Joined up Justice is an inter-agency electronic system where information from Justicelink is automatically populated into relevant Legal Aid NSW ATLAS and CCMS files. ⁶
Centrelink Confirmation eServices Database	Centrelink provides authorised Legal Aid NSW staff access to Centrelink database for the purpose of financial details of applicants for legal aid. Authorised users are subject to undertakings of confidentiality and client consent being obtained in advance.
Roads and Maritime Services (RMS) Records	Legal Aid NSW staff may search RMS records to locate clients or other persons' address details for the recovery of high value debts owed to Legal Aid NSW.
Land and Registry Services (LRS) PEXA and Dye & Durham.	Legal Aid NSW staff may search LRS records using Dye & Durham for the purpose of title searches where clients have indicated that they own a property in a grant application. The PEXA system is then used for the purpose of placing or removing caveats or other forms of security on clients' properties.
The Offender Information Management System (OIMS) at Corrective Services NSW	OIMS is the Corrective Services NSW database. Authorised staff of the Criminal Law Division can search OIMS to access information about inmates.
I Work for NSW	Legal Aid NSW accesses information about job applicants collected by I Work for NSW for recruitment purposes.

Staff may also search for relevant personal information from other sources such as those on the internet, but only for a purpose directly related to the reason for the collection of the information as set out in Chapter 3 above, unless they have the person's consent.

5. SECURE STORAGE AND RETENTION

Electronic records

Once personal and health information is collected, it is stored and protected in the appropriate electronic records system as described in the table below. In addition to the systems outlined below, each business unit has its own drive on which it stores records. Staff may also retain personal information on their secure work devices and email accounts.

This information is kept securely to protect it against loss, and unauthorised access, modification or disclosure. In accordance with the security controls set out in the Legal Aid NSW Information Security Policy, personal and health information can only be accessed and used by an authorised staff member for the purpose for which it was collected. Legal Aid NSW staff are also required to undertake mandatory Cyber Security training.

⁶ For a description of the ATLAS and CASES systems, see Chapter 5.

System	Personal and health information stored
ATLAS/ GRANTS Online	<p>ATLAS/GRANTS Online is the Legal Aid NSW Grants Management System used for administering applications and grants of legal aid (for both in-house and assigned matters), including the allocation of matters to panels of private practitioners and appeals to Legal Aid Review Committees. It contains a range of personal information including:</p> <ul style="list-style-type: none"> personal, health, and financial information of legal aid applicants and clients personal and financial information about legal representatives priority flags, client alerts and client notes
CCMS	<p>Client and Case Management System (CCMS) is used to manage the records of clients who have been provided legal services by Legal Aid NSW. These records are retained in cloud storage.</p>
DFV Connect	<p>The WDV CAS CCMS (DFV Connect) is used to manage the records of clients who have been provided services by WDV CAS providers. These records are accessible to staff of WDV CAS providers, FASS, and the WDV CAP Unit. The Department of Communities and Justice may also have access to DFV Connect records pursuant to Part 13A of <i>the Crimes (Domestic and Personal Violence) Act 2007</i> ('the Act').</p>
BUDSAS	<p>Back Up Duty Scheme Allocation System (BUDSAS) contains personal information of private practitioners and clients in relation to offers of duty work and urgent casework.</p>
LA Connect	<p>LA Connect is used by Legal Aid NSW to make internal referrals, book appointments for Legal Aid NSW services, allocate intake to Legal Aid NSW specialist teams and send correspondence to clients.</p>
TRIM	<p>TRIM is the Legal Aid NSW Records and Electronic Document Management system. TRIM has been implemented to ensure records are captured and stored in compliance with the <i>State Records Act 1998</i>.</p>
Genesys	<p>Genesys is the LawAccess telephone solution that stores call recordings, which are held for 90 days before being purged from the system.</p>
LMS	<p>LMS is the Learning Management System available through the intranet. It delivers learning content to staff and business partners. It manages learning, training and development records of staff and business partners.</p>
SAP HR	<p>SAP HR is the payroll and human resources system used by Legal Aid NSW.</p>
SAP Finance and DATES	<p>SAP Finance and DATES are financial management systems which record:</p> <ul style="list-style-type: none"> employee entitlements, leave deductions, banking and tax details name, address and payment details of non-case-related creditors, and

	<ul style="list-style-type: none"> summaries of former employees.
TALEO	TALEO is a cloud-based system for managing recruitment. It is hosted by the NSW Department of Department of Finance, Services and Innovation.
LAWDOCS	LAWDOCS is a legal document and precedent management system. It is used in Family and Civil law areas for the generation of documents and various court forms.
Feedback Assist/ PEGA	Feedback Assist allows users to provide feedback and make complaints to Legal Aid NSW. Complaints can also be made through online forms on the Legal Aid NSW website. All complaints data from both these sources are recorded in the Complaint Management System in PEGA.
Career Performance & Development Plan (CPDP)	CPDP is used to record the individual planning process for work planning, career performance and development purposes between employees and managers.
Online Safety System	Online Safety System is used to record all staff safety incidents, hazards and risk assessments.

Physical records

Legal Aid NSW also stores some personal and health information in physical records. This can include documents and files in hard copy, or portable storage devices or technologies, such as USB drives. For example, Legal Aid NSW keeps physical records of:

- in-house case files
- Grants files (mostly those opened prior to April 2009), and
- staff files.

How we keep your physical records secure in the office

All physical files are kept secure in the office by ensuring that:

- they are kept with the appropriate staff members while in use
- they are locked in secure offices or cabinets while not in use
- they are kept in areas of restricted access where only those with a valid security card may be present
- mailbags are not left in unsecure areas, and
- printing is picked up promptly.

Precautions we take when sending mail and email

Before sending correspondence to clients and other external recipients, staff should:

- double-check contact details and addresses

- each time they speak with a client, ask them to confirm their postal address and/or email, particularly for open files with activity happening, with any update then entered directly in CCMS
- use CCMS as the point of truth for client contact details, and speak with the client before sending sensitive material, especially if staff have not been in touch with them recently, and
- consider other ways of getting sensitive material to clients such as contacting the client to see if they can collect the material from reception, or sending by registered mail.

Working from home

Legal Aid NSW staff comply with the following requirements to keep other people's personal information secure when they work from home:

- not sending client documents to or from staff home addresses unless by courier or registered post in exceptional circumstances and with Manager approval
- not using web-based email accounts such as Gmail on the Legal Aid NSW system
- printing documents at home directly from the Legal Aid NSW system and not from personal email accounts
- ensuring documents are packaged securely for transport from the office or courier delivery
- collecting and carrying client files securely and directly from the office
- encrypting data on USBs and other portable media devices before taking them from the office
- being careful when speaking about matters by phone at home or in public areas
- being careful when handling documents to ensure others in the household or on public transport cannot view or access them
- locking away physical documents or files, computers, drives, or devices when not in use
- not allowing other people to view devices and screens when in use, especially while on public transport or in other public places
- locking devices and screens when not in use
- being careful not to leave any devices, files or documents on public transport or in taxis
- using headphones to maintain confidentiality so that other people cannot hear their conversations
- keeping home offices neat and tidy, and being careful not to mix up documents when working on more than one file at a time
- not leaving files in cars in case they are stolen - instead locking them up in their house
- destroying copies of client documents by transporting them back to the office to dispose of in secure bins or shredding them at home, and
- destroying original records in secure bins at the office only.

Retention and disposal

Once a matter is finalised the file is closed and sent to the Government Records Repository, and ultimately disposed in accordance with record management procedures. Retention periods and authorities to dispose of specific classes of records are governed by the State Archives and Records Authority of NSW and the Legal Aid NSW Functional Retention and Disposal Authority.

6. ACCURACY AND ALTERATION

Legal Aid NSW takes reasonable steps to keep personal and health information accurate, up to date and complete, and will make amendments where we become aware of any changes or in accordance with a request by the individual to whom the information relates. We also check with clients for any changes in their personal or health information when we contact them and confirm their contact details before sending them correspondence.

People can check their own records and request alterations to their personal and health information if their details change to make sure they are accurate. The methods for the main groups of people who might want to alter their personal and health information are set out below.

How you can alter your own personal and health information held by Legal Aid NSW

Applicants or clients

- Ask your lawyer, or
- Contact the Grants Division

Private practitioners

- Directly through Grants Online

Legal Aid NSW staff

- Directly through SAP HR

What if you want a document (or part of a document) removed from your file?

- You can contact Legal Aid NSW in writing explaining what you want removed and why.
- We will remove any document that has been incorrectly placed on your file. Otherwise, we will place your request on the document in your file indicating your objection to it being held.

7. ACCESS, USE, AND DISCLOSURE

Accessing a person's own personal information

A person can seek to access their own personal or health information from Legal Aid NSW or ask for details about their information that we hold under the:

- PPIP Act ss 13 and 14 (for personal information)
- HPP6 and HPP7 (for health information), or
- GIPA Act (for personal or health information)

(collectively 'the Acts'), although the definition of personal information varies under the Acts.

The following summary applies where a person seeking their own personal information held by Legal Aid NSW does so under either the PPIP Act or the HRIP Act.

How to access your own personal and health information held by Legal Aid NSW

Information about your grant of aid

- Use Grants Tracker (an online tool available to applicants to track the status of their application, and to obtain other grants information including any transfers, appeals and terminations)

Other information

1. What Legal Aid NSW requires

- A request for your personal information
- Identification or a written authority

2. What Legal Aid NSW does not require

- A formal application form
- Payment

3. What Legal Aid NSW considers

- Any relevant exemptions under the PPIP or HRIP Acts

4. What Legal Aid NSW provides

- Access to personal information within a reasonable time (subject to 1 and 3 above)
- Where documents are provided via post they will be sealed in an envelope marked 'Private and Confidential'

5. What if Legal Aid NSW refuses access?

- You may make a complaint or seek a review (see Chapter 8 below)
- You can submit a request under the GIPA Act

Where a person seeking personal or health information does so by specifying the GIPA Act in their request, the Legal Aid NSW Guidelines for Staff on the GIPA Act applies (GIPA Guidelines).⁷

Accessing and using another person's personal or health information

Legal Aid NSW staff members only access or use another person's personal or health information for the reason it was collected, unless they have that person's consent to use it for another reason. Staff cannot use another person's personal or health information for their own personal reasons.

Where staff are accessing another person's personal or health information through an external agency system (e.g. Justicelink or Centrelink Confirmation eServices database) they are required to provide a confidentiality undertaking.

How we may use your personal or health information

We can only use your personal or health information for the purpose for which it was collected, unless:

- you consent to another purpose
- the other purpose is directly related to the purpose for which the information was collected,
- the other purpose is necessary to prevent or lessen a serious and imminent threat to life and health, or
- in other circumstances as permitted, authorised or required by law.

Client Disclosure Statement

We give every client who comes to Legal Aid NSW for legal help a Client Disclosure Statement. This statement sets out how we keep their information confidential. If a client accepts our help after they get the Client Disclosure Statement, it means they agree to the way we treat their confidential information.

Disclosing personal or health information to another person or agency

⁷ If a staff member or a person seeking information from Legal Aid NSW wants more information about the interaction between the Acts they should contact the In-house Counsel Unit.

Requests made for another person's personal or health information held by Legal Aid NSW are generally dealt with under the GIPA Act and may require a formal access application (see the GIPA Guidelines for more information).

Legal Aid NSW staff members may disclose personal or health information for a reason directly related to its collection as outlined in Chapter 3 above. However, any disclosure must comply with sections 25 and 26 of the LAC Act. These provisions restrict disclosure by people employed or engaged by Legal Aid NSW of any information that has been obtained in connection with the administration of legal aid, but with the following exceptions under s 25(4) of the LAC Act:

- (a) the conduct of any matter necessary for the proper administration of this Act (including an agreement or arrangement referred to in section 72A of the *LAC Act*),
- (b) proceedings for an offence connected with the administration of legal aid,
- (c) any disciplinary proceedings under the *Legal Profession Uniform Law (NSW)*,
- (d) any proceedings by which the Commission is seeking to recover money from a person in respect of whom legal aid has been granted,
- (e) an investigation or inquiry under the *Ombudsman Act 1974*,
- (f) the exercise by the Auditor-General of his or her functions under this Act or any other law,
- (g) the carrying out by a person of any research approved by the Commission, being research carried out in a manner that ensures that the identity of an applicant for legal aid or a person to whom legal aid is granted is not disclosed to other persons,
- (h) the divulging of information to a person concerning an application for legal aid made by or on behalf of the person (including such matters as the basis for the refusal of any such application),
- (i) the divulging of information to a person to whom legal aid has been granted concerning the administration of the grant of legal aid,
- (j) the divulging of information for the purpose of facilitating the conduct of alternative dispute resolution under Part 3A,
- (k) the divulging of information obtained from a person, with the consent of that person, or
- (l) the divulging, with the consent of the Commission, to any court or tribunal of information or a document concerning any of the following matters:
 - (i) whether or not an application for legal aid has been made by a particular person,
 - (ii) whether such an application was granted or refused,
 - (iii) the grounds on which such an application was granted or refused (including information as to the means of the applicant),
 - (iv) whether a person has appealed against the refusal of such an application.

Will your personal or health information be disclosed to another person or agency?

We will not disclose your personal or health information without your consent, unless:

- the disclosure is directly related to the reason for which the information was collected, and Legal Aid NSW has no reason to think you would object. For example, your personal or health information may be disclosed to your lawyer
- you have been informed that this information is usually disclosed to another person or agency
- the disclosure is necessary to prevent or lessen a serious and imminent threat to life and health, or
- in other circumstances as permitted, authorised or required by law, including but not limited to circumstances under s 25(4) of the LAC Act, or to the Attorney General where the disclosure is for the purposes of informing them about a matter within their administration.

Legal Aid NSW complies with special restrictions on disclosure of personal information, and except where lawfully authorised or required, or where the individual to whom the information relates gives their consent, or where we believe disclosure is necessary to lessen or prevent a serious and imminent threat to the life, health or safety of that individual or another person, will not disclose personal information:

- relating to an individual's ethnic or racial origin, political opinions, religious or philosophical beliefs, trade union membership or sexual activities, or
- to a person or body outside of NSW or a Commonwealth agency unless they are subject to principles substantially similar to the IPPs or HPPs (where it includes health information), or where another exemption applies under s 19(2) of the PPIP Act or HPP 14 as applicable.

Where Legal Aid NSW shares personal or health information with a community partner such as WDVCS in order to provide a service to a client, a specific consent may be required to ensure that the information will only be used or disclosed for the purpose for which it is made available.

Contracts and standard letters of appointment for consultants or external service providers include privacy and confidentiality deeds, agreements or undertakings that minimise the risks of misuse or inappropriate use or disclosure of personal or health information.

The process followed by Legal Aid NSW staff in dealing with the access, disclosure, and use of personal information is outlined in the flowchart in **Appendix B**.

Identifiers

Legal Aid NSW assigns unique identifiers to clients and client files as these are reasonably necessary to enable the Agency to carry out its functions efficiently. For the purpose of HPP12, it is noted that these files may include health information. In these circumstances, and pursuant to HPP12(4), a panel lawyer representing a client under a grant of legal aid may use or disclose that identifier where necessary to fulfil their obligations to Legal Aid NSW consistent with s 25(4)(a) of the LAC Act.

Anonymity

Legal Aid NSW clients may remain anonymous for the purpose of receiving an information service, which includes the provision of general legal information but not advice or other legal services.

8. MANDATORY NOTIFICATION OF DATA BREACH SCHEME

Legal Aid NSW complies with the Mandatory Notification of Data Breach Scheme (MNDB Scheme) under Part 6A of the PIPP Act.

The procedures and practices used by Legal Aid NSW in compliance with the MNDB Scheme are set out in part 6 of the Legal Aid NSW Data Breach Policy.

In summary, under the MNDB Scheme, Legal Aid NSW will:

- immediately make all reasonable efforts to contain a data breach
- undertake an assessment within 30 days where there are reasonable grounds to suspect there may have been an eligible data breach
- during the assessment period, make all reasonable attempts to mitigate the harm done by the suspected breach
- decide whether a breach is an eligible data breach
- notify the Privacy Commissioner and affected individuals of the eligible data breach, and
- maintain an internal data breach register
- maintain a register of public notifications where required under the MNDB Scheme. However, Legal Aid NSW will not include in the public notification register any matters that would breach ss 25 and 26 of the LAC Act, in accordance with relevant exemptions under Part 6A of the PPIP Act, and
- publish a Data Breach Policy, and update other relevant privacy policies and procedures.

Please see the [Data Breach Policy](#) for more information on how Legal Aid NSW complies with the MNDB Scheme.

9. OFFENCES

Legal Aid NSW employees are considered to be ‘public sector officials’ under the privacy laws.

It is an offence for a public sector official to:

- intentionally disclose or use personal or health information regarding another person to which they had or have access to in the course of their employment, for an unauthorised purpose;
- offer to supply personal or health information that has been disclosed unlawfully; and
- obstruct or hinder the Privacy Commissioner or a member of their staff from conducting their duties, or fail to comply with their lawful requirements; and
- under the HRIP Act, engage in intimidation, threats or misrepresentation

If a person is found guilty of committing an offence under the privacy laws they may face up to two years imprisonment and fines.

10. COMPLAINTS AND REVIEWS

Informal complaints

Informal privacy complaints can be made by members of the public via the complaints process set out on the [Legal Aid NSW website](#). We will respond to your complaint in accordance with this

process. If staff wish to make an informal privacy complaint please do so in accordance with the Workplace Complaint Guidelines.

When we will treat your privacy complaint informally:

- You say that you are making an informal complaint
- You do not say that you want a formal internal review
- You do not claim that Legal Aid NSW has breached the privacy laws
- Your privacy issue is a minor part of a larger complaint, or
- For any other reason that we do not consider you are seeking a formal internal review.

Can you still apply for an internal review?

Yes. If we treat your complaint informally, but you still want a formal internal review, you can write to us to request an internal review as described below.

Internal reviews

Any person who claims that Legal Aid NSW or its staff have breached the privacy laws has the right to seek an internal review.

Formal complaints about the conduct of Legal Aid NSW or a member of its staff in relation to the collection, storage, use or disclosure of personal information or health information, should be put in writing and sent to the Manager, In-house Counsel Unit (in their role as the Legal Aid NSW Privacy Officer).

How do you apply for an internal review?

Your written privacy complaint will be treated as an application for an internal review under the PPIP Act or HRIP Act if you ask for an internal review of our conduct.

You can also apply using the IPC Internal Review Application Form available [here](#).

There is no fee.

Time limit

Legal Aid NSW is not required to undertake an internal review if more than six months has passed since the applicant became aware of the conduct complained about.

How do you apply for an internal review if you are out of time?

Legal Aid NSW will only undertake an internal review out of time in exceptional circumstances.

Please explain why you have taken more than six months to make your complaint (for example: I have a disability, I am a victim of domestic violence, I was ill or incapacitated, or I had other urgent matters) – provide details along with any documents in support.

Response

Legal Aid NSW will acknowledge the receipt of an application for internal review in writing.

A Legal Aid NSW staff member who has been authorised by the Chief Executive Officer to deal with the matter will consider and respond to an application for internal review. This will normally be the Privacy Officer or another officer in the In-house Counsel Unit.

The review will be completed as soon as is reasonably practicable in the circumstances and within 60 days from the date on which the application was received. The applicant will be informed of any delays in the review.

Outcome

Legal Aid NSW will 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 the action proposed to be taken, reviewed by the NSW Civil and Administrative Tribunal.

Notification and the role of the Privacy Commissioner

In conducting internal reviews, Legal Aid NSW will notify the Privacy Commissioner:

- that the internal review application has been received
- to update the progress of the internal review, and
- to provide the findings of the review (and the reasons for those findings), and the action proposed to be taken.

Where complaints cannot be resolved internally the complainant may be invited to take up the matter with the NSW Privacy Commissioner.

External Reviews

If a complainant is not satisfied with the outcome of an internal review, they can apply to have the matter considered by the NSW Civil and Administrative Tribunal. An application for external review must be lodged within 28 days of the decision being notified or at a later date with the leave of the Tribunal.

Any requests for, and outcomes of, internal or external reviews will be reported in the Annual Report of Legal Aid NSW (without identifying any parties).

Complaint to the Privacy Commissioner

The Privacy Commissioner also has the power to receive and investigate complaints, including complaints that raise privacy issues. The Privacy Commissioner encourages complainants to apply for internal review where this is the appropriate remedy.

More information

More information about the review process may be obtained from the Privacy Commissioner at www.ipc.nsw.gov.au.

11. AWARENESS, EDUCATION, AND TRAINING

An essential part of the Plan involves raising and maintaining an appropriate level of awareness of privacy issues and obligations and embedding such awareness into the mind-set of staff as well as in organisational procedures.

What is the level of privacy knowledge Legal Aid NSW staff should have?

- A basic understanding of Legal Aid NSW privacy obligations
- How to recognise and respond to minor privacy breaches
- How to refer people for appropriate advice where more complex issues arise
- Ability to identify issues or problems related to privacy that need clarification or rectification

In order to raise staff awareness of privacy issues, there have been news items on the intranet including a link to the Legal Aid NSW Privacy Page. Further, a mandatory online learning module has been developed for all staff to complete via LMS, and a Privacy Refresher quiz has been sent to managers to circulate and discuss responses with staff.

Legal Aid NSW educates members of the public in the Agency's privacy obligations and their privacy rights via the Legal Aid NSW Privacy Policy and a copy of the Plan which are both available on the Legal Aid NSW website. As noted above, privacy statements are also provided on Legal Aid NSW forms that collect personal or health information.

12. CONTACT DETAILS

If a staff member is unsure about a privacy issue or require more information about the Plan, they can do so by contacting:

The Privacy Officer
In-house Counsel Unit

Legal Aid NSW
PO Box K847
Haymarket NSW 1238

or by email to: inhousecounselunit@legalaid.nsw.gov.au

The Plan is produced by the Legal Aid NSW In-house Counsel Unit. It may be amended at any time and will be reviewed on a regular basis to ensure ongoing compliance with the IPP and HPP.

You can also visit Information and Privacy Commission NSW website (www.ipc.nsw.gov.au) for further information. The Information and Privacy Commissioner's office can also be contacted via email ipcinfo@ipc.nsw.gov.au or via telephone on 1800 472 679.

If a staff member has a query for the NSW Civil and Administrative Tribunal (NCAT), or has matter a before the NCAT, they can visit their website (www.ncat.nsw.gov.au) for more information or contact their office via telephone on 1300 006 228.

13. APPENDICES

Appendix A

INFORMATION PROTECTION PRINCIPLES UNDER THE PPIP ACT

Principle 1 (Section 8) – Lawful collection

We must not collect personal information unless:

- the information is collected for a lawful purpose that is directly related to Legal Aid NSW's functions or activities; and
- the collection of the information is reasonably necessary for to Legal Aid NSW's functions or activities.

We must not collect personal information by any unlawful means.

Section 8 does not apply to unsolicited information and if the collection is for research in the public interest.

Principle 2 (Section 9) – Direct collection of information

We must collect personal information directly from the person to whom it relates unless:

- the person has authorised collection of the information from someone else; or
- the person is under the age of 16 years and the information has been provided by their parent or guardian.

Section 9 does not apply:

- to the receipt of unsolicited information;
- in connection with proceedings before a court or tribunal;
- while Legal Aid NSW is investigating or otherwise handling a complaint which could be referred or made to an investigative agency, or that has been referred from or made by an investigative agency;
- where Legal Aid NSW is lawfully authorised or required not to comply, or non-compliance is otherwise permitted or is necessarily implied or reasonably contemplated under an Act or any other law;
- to information about people who are associated persons of an applicant for legal aid
- as authorised by the *Legal Aid Commission Privacy Code of Practice*; or
- where compliance would prejudice the interests of the person to whom the information relates.

Principle 3 (Section 10) – Open communication about information being collected

We must take reasonable steps to ensure that, before personal information is collected from an individual, or as soon as practicable after collection, the individual to whom the information relates is told:

- that the information is being collected;
- the purposes for which it is being collected;
- the intended recipients of the information;
- whether the person is required by law to supply the information, or whether it is voluntary, and any consequences for the person if the information is not provided;

- about any right of access to, and correction of, the information; and
- the name and address of Legal Aid NSW as the agency collecting the information and the agency that is to hold the information.

Section 10 does not apply to information collected:

- for law enforcement purposes (however, this does not remove any protection provided by any other law in relation to the rights of accused persons or persons suspected of having committed an offence);
- where Legal Aid NSW is investigating or otherwise handling a complaint that could be referred or made to an investigative agency or that has been referred from or made by an investigative agency;
- where Legal Aid NSW is lawfully authorised or required not to comply, or non-compliance is otherwise permitted or is necessarily implied or reasonably contemplated under an Act or any other law;
- where compliance would prejudice the interests of the person to whom the information relates; or
- where the person consents.

Principle 4 (Section 11) – Relevant information being collected

We must take reasonable steps to ensure that any personal information Legal Aid NSW collects is:

- relevant to the purposes for which it was collected;
- not excessive; and
- accurate, up to date and complete.

The collection of the information does not unreasonably intrude on the personal affairs of the person to whom the information relates.

Section 11 does not apply to unsolicited information.

Principle 5 (Section 12) – Retention and security of personal information

We must ensure that the personal information Legal Aid NSW holds is:

- kept for no longer than necessary;
- disposed of securely and in accordance with any requirements for the retention and disposal of personal information;
- protected against loss, unauthorised access, use, modification or disclosure, and against all other misuse by taking reasonable security safeguards; and
- if it is necessary to give the information to a person in connection with the provision of a service to Legal Aid NSW, everything reasonable is done to prevent unauthorised use or disclosure of the information.

Principle 6 (Section 13) – Transparency about personal information being held by agencies

We must take reasonable steps to enable any person to ascertain:

- whether Legal Aid NSW holds personal information; and
- whether Legal Aid NSW holds personal information about that person; and

- if Legal Aid NSW holds personal information about that person:
 - the nature of that information;
 - the main purposes for which the information is used; and
 - that person's entitlement to gain access to the information.

Section 13 does not apply:

- where Legal Aid is investigating or otherwise handling a complaint that could be referred or made to an investigative agency, or that has been referred from or made by an investigative agency
- where Legal Aid NSW is lawfully authorised or required not to comply, or non-compliance is otherwise permitted or is necessarily implied or reasonably contemplated under an Act or any other law.

Principle 7 (Section 14) – Access to personal information held by agencies

We must provide a person with access to the personal information that relates to them on request and without excessive delay or expense.

Section 14 does not apply where Legal Aid NSW is lawfully authorised or required not to comply, or non-compliance is otherwise permitted or is necessarily implied or reasonably contemplated under an Act or any other law.

Principle 8 (Section 15) – Correction of personal information

We must, at the request of an individual to whom personal information relates, make appropriate amendments to ensure that the information is accurate, relevant, up to date, complete and not misleading.

If we are not prepared to amend personal information as requested, we must, if requested by the person concerned, take reasonable steps to attach to the information any statement provided by the person of the amendment sought.

If personal information is amended, if it is reasonably practicable, the person is entitled to have recipients of the information notified of the amendments.

Section 15 does not apply where Legal Aid NSW is lawfully authorised or required not to comply, or non-compliance is otherwise permitted or is necessarily implied or reasonably contemplated under an Act or any other law.

Principle 9 (Section 16) – Accurate information is being collected

We must not use personal information without taking reasonable steps to ensure that the information is relevant, accurate, up-to-date, complete, and not misleading.

Principle 10 (Section 17) – Limits on use of personal information

We must not use personal information for a purpose other than that for which it was collected unless:

- the person has consented

- the other purpose is directly related to the purpose for which the information was collected, or
- the use of the information for that other purpose is necessary to prevent or lessen a serious and imminent threat to someone's life or health.

Section 17 does not apply:

- where the use is reasonably necessary for law enforcement purposes or the protection of public revenue
- where Legal Aid NSW is providing the information to another public agency and the collection, use or disclosure of the information is reasonably necessary for law enforcement purposes.
- while Legal Aid NSW is investigating or otherwise handling a complaint which could be referred or made to an investigative agency, or that has been referred from or made by an investigative agency
- where Legal Aid NSW is lawfully authorised or required not to comply, or non-compliance is otherwise permitted or is necessarily implied or reasonably contemplated under an Act or any other law, or
- to any use which relates to disclosure to another agency administered by the same Minister for the purpose of informing the Minister about a matter under that administration, or to a disclosure to an agency administered by the Premier in order to inform the Premier
- for research in the public interest.

Principle 11 (Section 18) – Restrictions on disclosure of personal information

We must not disclose personal information to any person other than the person to whom it relates unless:

- the disclosure is directly related to the purpose for which the information was collected, and we have no reason to believe that the person concerned would object
- the person concerned is reasonably likely to have been aware, or has been made aware, that information of that kind is usually disclosed to that other person, or
- we reasonably believe that the disclosure is necessary to prevent or lessen a serious and imminent threat to someone's life or health.

Section 18 does not apply:

- where the disclosure is made in connection with proceedings for an offence or for law enforcement purposes
- where Legal Aid NSW is providing the information to another public agency and the collection, use or disclosure of the information is reasonably necessary for law enforcement purposes.
- where the disclosure is to a law enforcement agency to locate a person who has been reported as missing to the police
- where the disclosure is authorised by a subpoena, search warrant or statutory instrument
- where the disclosure is reasonably necessary for the protection of the public revenue
- where the disclosure is reasonably necessary in order to investigate an offence where there are reasonable grounds believe an offence has been committed

- where Legal Aid NSW is investigating or otherwise handling a complaint which could be referred or made to an investigative agency, or has been referred from or made by an investigative agency
- where Legal Aid NSW is lawfully authorised or required not to comply, or non-compliance is otherwise permitted or is necessarily implied or reasonably contemplated under an Act or any other law
- where the person expressly consents, or
- to any use which relates to a disclosure to another agency administered by the same Minister for the purpose of informing the Minister about a matter under that administration, or to a disclosure to an agency administered by the Premier in order to inform the Premier
- for research in the public interest.

Principle 12 (Section 19) – Safeguards for disclosure of personal information

We must not disclose personal information relating to a person’s ethnic or racial origin, political opinions, religious or philosophical beliefs, trade union membership, or sexual activities unless the disclosure is necessary to prevent a serious or imminent threat to someone’s life or health.

We must not disclose personal information to any person or body outside New South Wales unless

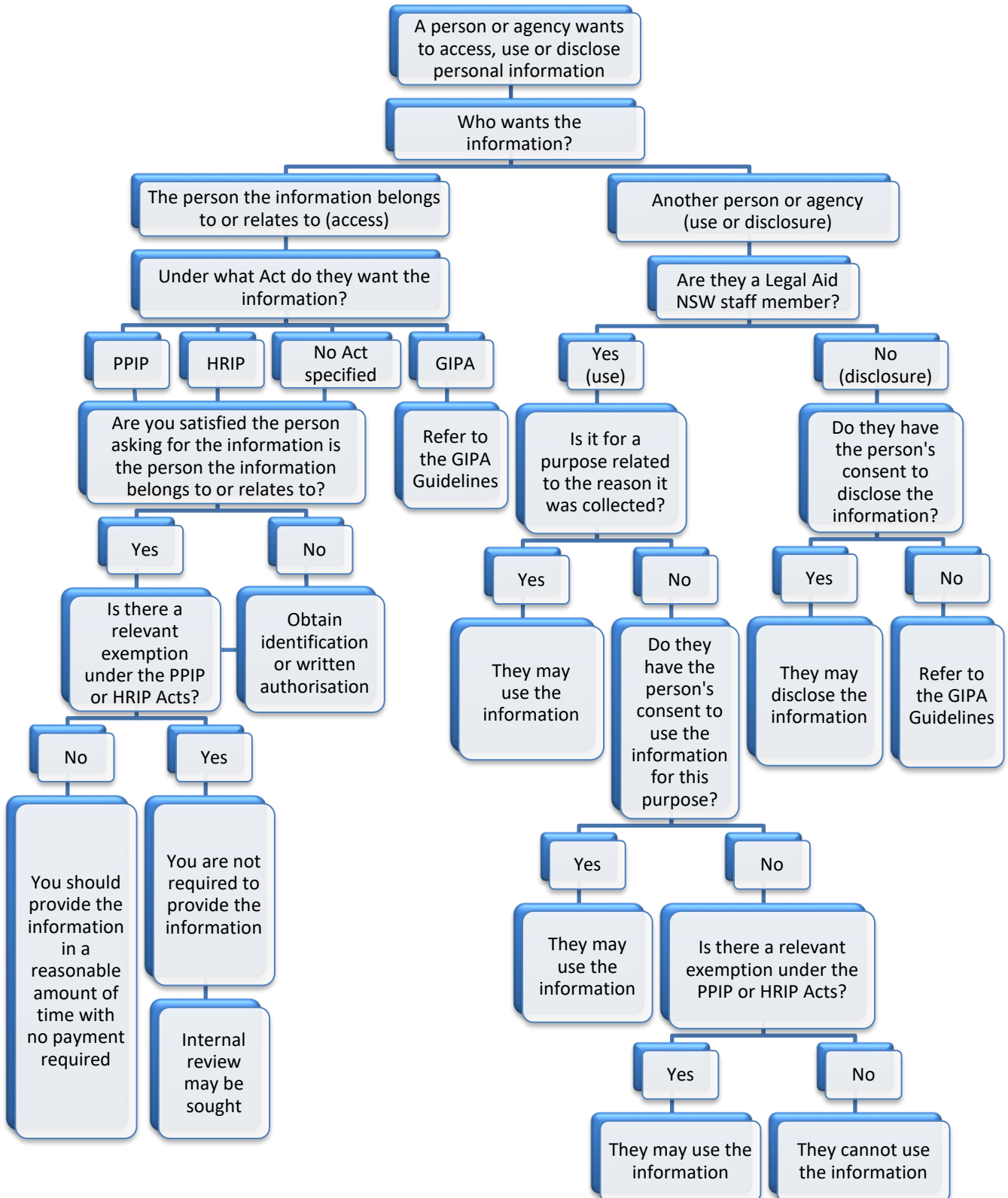
- a relevant privacy law that applies to the personal information is in force in the other jurisdiction, or
- the disclosure is permitted under a privacy code of practice.

Section 19 does not apply

- where the disclosure is reasonably necessary in order to investigate an offence where there are reasonable grounds to believe an offence has been committed or may be committed
- where Legal Aid NSW is lawfully authorised or required not to comply, or non-compliance is necessarily implied or reasonably contemplated under an Act or any other law
- where the person expressly consents
- to any use, which relates to a disclosure to another agency administered by the same Minister for the purpose of informing the Minister about a matter under that administration, or to a disclosure to an agency administered by the Premier for the purpose of informing the Premier
- where Legal Aid NSW is providing the information to another public sector agency, and the collection use or disclosure of the information is reasonably necessary for law enforcement purposes, or
- for research in the public interest.

Appendix B

Flowchart: Access, use, and disclosure of personal information - a guide for Legal Aid NSW staff



Appendix C

POLICIES AND RESOURCES

- [Privacy Policy](#)
- [Privacy on the Legal Aid NSW website](#)
- [Data Breach Policy](#)
- [Privacy Page](#) [internal]
- [GIPA Guidelines](#) [internal]
- [Information Security Policies Manual](#) [internal]