

# ACCESSING AND USING CLIENT INFORMATION

## Maintaining applicant and client privacy

Last updated August 2013

**This fact sheet outlines our privacy obligations in relation to how we access and use personal information belonging to applicants and clients**

### What is a client's personal information?

Legal Aid NSW collects personal information from applicants and clients when they apply for our services and then during the provision of those services. This information may be stored in paper or electronic format including in CASES and ATLAS files, case and other service files, TRIM documents and elsewhere.

In most cases we can identify the client from this information. This makes it 'personal information' according to the privacy legislation.

If the information includes personal information about the physical or mental health or a disability of an individual this makes it 'health information'.

### What are our privacy obligations about accessing and using this information?

When we collect personal information from or about, a client we do so for a purpose. It may be to assess eligibility for legal aid and administer a grant, to determine if a conflict exists, or to advise and represent the client.

In general, we should only use this information for the purpose for which it has been collected (or a directly related purpose) unless we have consent from the applicant or client.

### What is 'use' of this information?

As a general rule, any accessing of client information is considered 'use'. This would include searching records for any reason, considering information to make a personal or work related decision, passing information between different divisions, gossiping about information, or publishing information.

### What happens if there is inappropriate use?

If an applicant, client, or someone else is concerned that we have not met our privacy obligations when dealing with their personal information, they may apply for internal or external review of our conduct, or make a complaint to the NSW Privacy Commissioner. Disciplinary action or statutory penalties may apply.

### Are there any exceptions to the rules?

Yes, although they are limited.

An example would be the access and use of client information without consent and contrary to its purpose so as to lessen or prevent a serious and imminent threat to the life, health and safety of someone. Contact the Legal & Policy Branch if you need advice on other exceptions.

### Are there other rules about this information?

Yes. For example, the *Legal Aid Commission Act* governs the use and disclosure of some client information. The Legal Aid NSW Confidentiality Undertaking and Staff Code of Conduct also requires that official information should only be used for work related purposes and not for personal benefit. There are also rules about obtaining information from Centrelink, which are outlined Staff Fact Sheet #9 – Access to Centrelink Database.

### How do I ensure that my use of this information is appropriate?

Refer to the following checklist.

If you answer 'Yes' to any questions contact the Legal & Policy Branch for further advice.

1. Am I accessing or using the information for a purpose other than work?
2. Am I accessing or using the information to gossip or for personal benefit?
3. Am I accessing or using the information for a purpose that the client would not reasonably expect?
4. Am I accessing an external agency system (e.g. Justicelink, Centrelink) and have not signed a confidentiality undertaking?
5. Is there any reason the client may object to my access or use of their information?

### How can I get more information?

- The Legal Aid NSW Privacy Management Plan is a useful tool to ensure that we meet our privacy obligations. It is available on the intranet under the A-Z list of staff policies.
- See our other relevant Staff Fact Sheets, especially #5 – [Protecting privacy](#).
- If you have specific questions contact the Legal and Policy Branch on 9219 5778 or at [legalpolicy@legalaid.nsw.gov.au](mailto:legalpolicy@legalaid.nsw.gov.au)