

PROTECTING PRIVACY

Maintaining privacy of staff, applicants and clients

Last updated May 2014

This fact sheet outlines our privacy obligations under the Privacy legislation

What is privacy in the Legal Aid context?

The right for staff, clients and applicants to have some control over how their personal or health information is properly collected, stored, used or released.

What is the Privacy legislation?

When this Fact Sheet refers to the Privacy legislation, it is referring to these two Acts:

1. the *Privacy and Personal Information Protection Act 1998* (PIIP Act), which applies to personal information, and
2. the *Health Records and Information Privacy Act 2002* (HRIP Act), which applies to health information.

The Privacy legislation sets out the principles to be followed when dealing with personal and health information.

What is personal information?

Personal information is any information or opinion about an identifiable person or that can be used to identify a person. This could include written or electronic records, photographs, or physical information such as fingerprints, body samples or DNA.

What is health information?

Health information includes personal information or opinion about the physical or mental health or disability of an individual, or details about any health services provided to a person.

What does the Privacy legislation say about dealing with personal and health information?

The Privacy legislation contains 12 information protection principles (IPPs) and health privacy principles (HPPs). These set out requirements for the collection, storage, access, accuracy, use and disclosure of such information.

The principles require Legal Aid staff members to:

- collect information fairly and for legitimate purposes
- notify individuals when we collect their information
- seek their consent in some cases
- safeguard such information
- use such information fairly and for limited purposes
- disclose such information in limited circumstances with consent or where necessary to avoid serious & imminent threats to a person's health or safety, and
- allow people to access and correct their personal and health information.

Are there any exceptions?

Yes. There is some information which is not personal information under the Privacy legislation. This includes for example:

- published information
- information for which certain other laws apply (such as responding to subpoenas), and
- information subject to a Privacy Code of Practice. For example, Legal Aid is allowed to collect information about an applicant's financially associated persons to assess an applicant's means.

Contact the Legal Policy Branch if you would like to know more about these and other exceptions.

What if there is a breach of privacy?

If you, a client, or an applicant thinks there has been a breach of the Privacy legislation, an internal review can be lodged via a written complaint.

How can I get more information?

- See the Legal Aid NSW Privacy Management Plan <http://intranet/Policies/Employment/Privacy/Privacy%20Management%20Plan%202013.pdf>
- See our other relevant Staff Fact Sheets, especially #10 – [Accessing and using client information](#).
- If you have specific questions contact the Legal Policy Branch on 9219 5778 or at legalpolicy@legalaid.nsw.gov.au