

Guidelines for accessing sensitive collections



STATE LIBRARY®
NEW SOUTH WALES

These guidelines support the Library's mission to collect and preserve materials and evidence relating to our place in the world and make them accessible to everyone in New South Wales and beyond.

Within the Library's collections are records containing personal information or material that is considered sensitive for one reason or another. Examples of these records include medical records, case files, legal records and material that is culturally sensitive to Indigenous Australians.

It is important for the Library to help people access information about themselves and their cultural heritage. At the same time we need to ensure that we have guidelines to protect personal information and culturally sensitive information.

These guidelines include information on how to identify these collections and how to go about seeking access. They also provide information for people seeking access to culturally sensitive information or wishing to access records related to out-of-home care.

As material held by the Library is exempt from both the *Privacy and Personal Information Protection Act 1998 (PPIP Act)* and *Health Records and Information Privacy Act 2002 (HRIP Act)*, these guidelines help us to meet our obligations to manage third party privacy with sensitivity while providing access to records in an equitable way.



The guidelines are informed by:

- [ATSILIRN Protocols for Libraries, Archives and Information Services](#)
- [Access to Records by Forgotten Australians and Former Child Migrants: Access Principles for Records Holders, Best Practice Guidelines in providing access to records, June 2015 \(Principles and Guidelines\)](#) published by Department of Social Services
- Section 168 and 169 of the [Children and Young Persons \(Care and Protection\) Act 1998 No 157](#)
- [Out-of-Home Care Records Toolkit](#) - Australian Society of Archivists
- [Privacy and Personal Information Protection Act 1998](#) and [Health Records and Information Privacy Act 2002](#)

Toll Gate and Benevolent Asylum, 1836, by JG Austin after Robert Russell

How do I know if collection material is sensitive?

Collections containing personal information or culturally sensitive information will usually have the following statements in the Library's catalogue record:

This collection contains confidential, personal and/or culturally sensitive information.

For access to this collection please submit your request through Ask a Librarian.

In some cases a collection may be identified as sensitive after you request to access it. For example, it may not be known that a collection contains content that is culturally sensitive to Indigenous Australians until it is requested for the first time.

Some collections or parts of collections have special access conditions that prevent people from accessing them or making copies without permission from the donor/organisation. You may see some information about access conditions in the catalogue.

If you are seeking access to this type of material, we encourage you to submit your request via [Ask a Librarian](#) and a librarian will contact you to explain the process.



Mosman School fete, 1947, photograph by Sam Hood

What kind of material is considered sensitive?

The following types of records often contain confidential, personal or sensitive information.

Record type	May contain ...
Culturally sensitive Indigenous information	Indigenous Australian cultural information that is considered secret or sacred; information that can only be seen by men or women or particular people within the culture
Health and medical records	Admission and discharge registers; records that identify personal information, medical conditions, the client's treatment or program of care, or the client's carer or family members
Out-of-home records	Admission and discharge records, adoption records, medical records, behavioural reports, individual case files
Prison records	Records relating to individual offenders and staff
Birth, death and marriage records	Records relating to birth registration; applications to change birth details such as change of sex; registration of marriage; registration of death
Personnel records	Staff/personnel records; summary records including registers and history cards
Legal records	Court orders, investigation records, matters dealing with witnesses, statements, evidence and property seizures, covert operations and intelligence, legal briefs, litigation and appeals

Culturally sensitive Indigenous information

In 2014 National and State Libraries Australia (NSLA) endorsed a set of protocols that helps libraries make decisions about Aboriginal and Torres Strait Islander library services and collections. We have adopted the Aboriginal and Torres Strait Islander Library, Information and Resource Network (ATSILIRN) Protocols to guide us in how we think about and work with collections.

ATSILIRN Protocol 6: Secret or sacred materials, or sensitive is about Aboriginal and Torres Strait Islander collection materials that are sensitive in nature, or have traditional restrictions or protocols around who can access them. The Library's Indigenous Engagement Branch works closely with communities to identify this type of material in our collection.

Can I access this type of material?

Indigenous Australian cultural information that is considered secret or sacred or culturally sensitive is permanently restricted. 'Restricted' means that it is not accessible to the general public. You can apply for access to restricted material under special conditions.

To find out whether you can access a particular collection, contact us through our [Ask A Librarian](#) service and a librarian will guide you through the process. Your request will be handled on advice from the Library's Indigenous Engagement Branch and will be assessed on a case-by-case basis. You may be required to submit the following documentation:

1. Photo ID with current address
2. Letter of permission from the relevant cultural authority (for example: Land Council, Traditional Owners or descendants of a cultural group).



Member of the Yolngu band Yothu Yindi, Milkaingu Mununggurr, plays Didj, Survival Day Concert, La Perouse, Sydney, 26 January 1996, photograph by Jamie James

Out-of-home care records

The Library holds some records of institutions such as orphanages or residential homes run by a variety of organisations on behalf of the state. We are committed to using an empathic approach to providing access for people who lived in out-of-home care, as these collections often contain information that may fill gaps in knowledge, verify memories, and support identity and connection to family.

Our guidelines aim to allow as much information as possible to be made available to people who lived in out-of-home care: about themselves, their identity and connection to family; circumstances surrounding placement in care; and details of time in care.

In order to look at out-of-home care records in the Library's collection, you may be asked to sign a form where you agree to respect the privacy of other people whose personal information may also be contained in these records. This form is called an *Undertaking with regard to access*.

The Library upholds the following requirements for access from *The Children and Young Persons (Care and Protection) Act 1998 No 157*.

168 Access to personal information

1. On leaving, or after having left, out-of-home care, a person is entitled to have access, free of charge, to personal information relating directly to the person in any records.

169 Entitlement to certain documents

1. On leaving, or after having left, out-of-home care, a person is entitled to possession, free of charge, of the originals of documents held in a file of personal information by the designated agency that had supervisory responsibility for the person, by his or her authorised carer or by the Secretary, if the person was under the

parental responsibility of the Minister, including his or her birth certificate, school reports, medical reports, and personal photographs.

The Library holds some records, such as case files and reports, in which all documents in a file may concern an individual in out-of-home care. If this is the case, it may be possible for an individual to take possession of the original document and a copy will be added to the collection in its place. For more information on your entitlement to documents held in the Library's collection, please submit a request through the [Ask A Librarian](#) service.

In line with the [Department of Social Services' Records Access Principles and Guidelines](#) it may be possible for you to annotate or add to your records in order to correct, amend or tell your story in relation to the events documented in these records.

You may also make a request to restrict access to your personal records. For example, you may not want records about your time in care to be accessed by family members during your lifetime. If you would like to discuss the options for placing a restriction on your records, or annotating your records, please submit a request through the [Ask a Librarian](#) service. Your request will be handled on advice from the Manager, Collection Access & Description.

Support for your search

If you are trying to locate personal records and are not sure where to start your search, or you want some support through the process, we suggest you get in touch with an organisation who can help. [Find & Connect Support Services](#) offers support to care leavers searching for family or wanting to meet and share stories with others with whom they were in care. Some support groups also advocate on behalf of care leavers or provide counselling, such as [Alliance for Forgotten Australians](#) or [Care Leavers Australasia Network \(CLAN\)](#).

Unfortunately, not everyone will be able to find personal records related to their

time in care. Even if the Library is unable to find personal information, we may be able to still assist your search. As well as personal records like admission records and case files, we may also hold organisational records such as annual reports, minutes of meetings, and photographs. Newspaper articles, photographs, books and oral histories can also be valuable resources. Contact us through our [Ask a Librarian](#) service and we will point you in the right direction for this type of information.

Other sensitive material

The Library holds a range of other material that may include personal information. Personal archives of individuals may contain birth, death and marriage records. Company archives may contain health and medical records or personnel files. Some collections contain legal records. These collections often have special access conditions that prevent people accessing them or making copies without permission from the donor of the material.

If you are seeking access to this type of material, submit your request via [Ask a Librarian](#) and a librarian will contact you to explain the process.

Undertaking with regard to access

When accessing records that contain personal information about others (third parties) we will ask that you sign an *Undertaking with regard to access*. This is done to protect the privacy of individuals and to prevent the misuse of the information being accessed — covered in sections (a) and (b).

If you are required to obtain permission from individuals or organisations outside the Library, you will need to indicate this in section (c) of the undertaking.

Sections (e) and (f) are relevant to researchers wishing to publish information they find in sensitive collections.

The Library's collections hold valuable information for researchers, and we are committed to providing free, uncensored and unbiased access to this information. Researchers have an ethical responsibility when using or disclosing personal or sensitive information and must agree to anonymise or de-identify all information used in any publication or broadcast or obtain permission to publish from the individual concerned (or next of kin). A copy of any publication in which the information appears must also be provided to the Library.

How to seek review or appeal a decision

If you are not satisfied with the decision on what information was made available or withheld, you can request an internal review or appeal the decision. The Manager or Director of the area that handled your request can conduct a review or address any other grievance you raise. Alternatively, you can appeal a decision by writing to:

- The NSW State Librarian
- the Secretary of the Department of Premier and Cabinet; or
- the NSW Ombudsman.

If you have a question or require more information, please speak to a staff member at the Library, [contact us](#) online or call (02) 9273 1414.

State Library of New South Wales

1 Shakespeare Place
Sydney NSW 2000
Australia

Undertaking with regard to access



This undertaking is granted in favour of the Library Council of NSW by

Name: _____

Address: _____

Library card number: _____

I acknowledge that [Title/call number/part of collection]: _____

is held in the State Library of NSW collection.

I further acknowledge that I am granted access to the papers/records on the following conditions:

- (a) Subject to paragraph (e), I will not use personal information or health information about an individual (who is living or who has been deceased for 30 years or less) in any way that would cause harm (including pain, distress or embarrassment) to the individual to whom the information relates or a member of their close family.
- (b) I will not use any information contained in the papers/records:
 - (i) in a way which would be likely to contravene the laws of defamation, privacy, confidentiality and copyright;
 - (ii) in a way which would be likely to constitute a risk to personal safety, health or security of any living individual;
 - (iii) in a way which would be likely to breach any other law.
- (c) I have obtained any required permission/s to access the papers/records and I agree to adhere to any special conditions of access.
- (d) I have been provided with the *Guidelines for accessing sensitive collections* and I have read and understood these guidelines.
- (e) I will de-identify all information used in any publication or obtain written permission to publish from the individual concerned (or if the individual has been deceased for 30 years or less, from the individual's next of kin).
- (f) I acknowledge that I may be directed to deliver a copy of any publication in which the information appears to the State Library of NSW free of charge.

I undertake to adhere fully to these conditions of access.

In this undertaking:

'Personal information' means information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion.

'Health information' means

- (a) personal information that is information or an opinion about —
 - (i) the physical or mental health or a disability (at any time) of an individual, or
 - (ii) an individual's express wishes about the future provision of health services to that individual, or
 - (iii) a health service provided, or to be provided, to an individual, or
- (b) other personal information collected to provide, or in providing, a health service, or
- (c) other personal information about an individual collected in connection with the donation, or intended donation, of an individual's body parts, organs or body substances, or
- (d) other personal information that is genetic information about an individual arising from a health service provided to the individual in a form that is or could be predictive of the health (at any time) of the individual or of a genetic relative of the individual, or
- (e) healthcare identifiers (as defined in the *Healthcare Identifiers Act 2010* (Cth)).

Signature: _____

Date: _____

1 SHAKESPEARE PLACE SYDNEY NSW 2000 AUSTRALIA Phone (02) 9273 1414

The personal information collected on this form will be treated as confidential and managed in accordance with NSW privacy legislation. For further information please email privacy@sl.nsw.gov.au

