

# Takedown Position Statement



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Approved by: Executive Committee

Policy owner/sponsor: Executive Director, Library & Information Services & Dixson Librarian

Policy Contact Officer: Coordinator Projects & Policy

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## Policy Statement

The State Library of New South Wales, as a member of National and State Libraries Australasia (NSLA), has endorsed a position statement on public requests to take down content from our website and/or collections. The position statement and associated Library procedures address how SLNSW will respond to takedown requests.

## Target audience

This policy applies to anybody who requests the Library to take down content from its website and/or collections.

## Operational requirements

### *Takedown requests*

The State Library of New South Wales, as a member of National and State Libraries Australasia (NSLA), has endorsed a position statement on public requests to take down content from our website. This policy outlines the provisions of the position statement and the Library's measures to implement relevant procedures.

The following text will be added to the SLNSW website outlining our takedown position and procedures for dealing with takedown requests.

### *Position statement on takedown requests*

National and State Libraries Australasia (NSLA) is committed to the principles of freedom of expression and universal access to information and knowledge. These principles are fundamental to the library profession and recognised as pivotal components of our democratic traditions; represent a major driving force in the creation of new ideas and innovation; and support cultural understanding and sustainable socio-economic development.

Responding to the ubiquity of digital technologies and enhanced community expectations for 'anywhere, anytime' access to information libraries, like other collecting institutions around the world, are continuing to build and deliver online collections, providing the greatest possible access to local and global communities.

NSLA libraries have mandated roles to collect and preserve cultural heritage, provide open and equitable access to information, and support the growth of knowledge and ideas. Given these responsibilities, materials provided online will be taken down (or have other access restrictions imposed) only in extraordinary circumstances.

In making collections available online, NSLA libraries act to respect jurisdictional legal considerations. However NSLA recognises that despite best efforts there may be occasions when material made available online is considered to breach copyright or other relevant law or contains information that is culturally sensitive.

As a means of promoting a consistent response to takedown requests, NSLA libraries agree to take into account the following general principles:

- The broadest possible online access to collection materials will be provided.
- Permanent access restrictions, deindexing or takedown will be considered as an exceptional response.
- Requests for access restrictions, deindexing or takedown will take into account the relationship of the requestor to the material.
- Requests for access restrictions, deindexing or takedown will take into account specific jurisdictional legislation and related exemptions.
- Access restrictions or takedown of material made available online should, as far as practical, be openly acknowledged with a statement noting the takedown.
- As circumstances change, or after a period of time, online material that has been taken down, restricted or de-indexed should be reviewed and may be reinstated.

#### *Making a takedown request*

If you are concerned that you have found material in the State Library of New South Wales catalogue or on our website which you have not given permission to be made available, and/or which contravenes privacy laws, is defamatory, or is in breach of copyright law, please contact us in writing stating the following:

1. Your contact details
2. Full description and details of the material
3. The reason for your request, including (but not limited to) copyright law, privacy laws, data protection, defamation, or proof of your rights to the material, etc.

Your request should be addressed to:

Coordinator Projects and Policy  
State Library of New South Wales  
Macquarie Street  
Sydney NSW 2000  
Australia

Or

Can be made via our online [Feedback](#) form:

<http://slnswcontact.altarama.com/ref100.aspx?key=Feedback>

#### *Responding to takedown requests*

The State Library of New South Wales will acknowledge your takedown request in writing and will make an initial assessment of the request. The material may be temporarily removed from the State Library catalogue or website until a final decision is agreed upon. Physical material may also be removed from the shelves.

The State Library of New South Wales will make all possible efforts to resolve takedown requests quickly and to the satisfaction of both parties, with the following possible outcomes:

- Access to the material remains unchanged on the State Library catalogue and website.
- Access to the material is restored via the State Library catalogue and website.
- Access to the material is restored with changes in response to the takedown request via the State Library catalogue and website.

- Access to the material is modified (e.g. online access changed to onsite only access, access restricted to State Library members, access restricted to particular groups).
- Material is retained in the State Library collection but access is removed.
- Material is removed from the State Library website and/or collection.

There will be regular reviews of takedown decisions. Where the circumstances of the original takedown request have changed over time, it may result in access to the material being restored.

Takedown requests will be assessed according to the following criteria, including whether or not:

- Online access to the identified material is in breach of copyright law.
- The identified material is subject of a suppression order or other legal restriction on availability, or is subject to specific jurisdictional legislation or related exemptions.
- Online access to the identified material contravenes conditions imposed by a donor.
- The identified material is defamatory or objectionable under Australian law.
- There is a need to mitigate harm and legal liability.
- The identified material includes personal information about someone who is still alive and continued online access would cause serious invasion of privacy or harm.
- Removal of the identified material would undermine freedom of speech.
- Online access to the identified material is in breach of the protocols maintaining the Indigenous peoples to determine access provisions for heritage materials which reflect their history, culture, language and perspective.

NSLA Takedown Position Statement also available here:

<http://www.nsla.org.au/publication/position-statement-takedown>

### **Responsibilities**

Executive Committee members are responsible for leading the implementation of this policy including its conformity to legislative and other compliance requirements, communicating this policy to managers and supervisors and other relevant activities regarding specific policy implementation.

The Privacy Contact Officer is responsible for providing advice in relation to takedown requests and related matters of privacy and relevant legislation, and determining any requests referred to them.

The Coordinator Projects and Policy is responsible for receiving all takedown requests submitted at first instance for assessment and acknowledgement, assessing and determining the requests, unless they are referred to the Privacy Contact Officer.

Managers and supervisors are responsible for managing processes relevant to this policy and communicating this policy to staff.

Staff are responsible for understanding and complying with this policy.

### **Related Key Legislation and Policy**

*Most relevant legislation:*

- *Copyright Act 1968 (Cth)*
- *Library Act 1939*

- *Privacy and Personal Information Protection Act 1998*
- *State Records Act 1998*

*Related and/or most relevant State Library and government policies:*

- Client Code of Conduct
- Code of Conduct and Terms of Use for Interaction with State Library of New South Wales Forums
- About Copyright (SLNSW website)
- Privacy Management Plan
- Key legislation – in priority order, by title and year. Most legislation is NSW but add (Cth) if referring to Commonwealth law - e.g. Copyright Act 1968 (Cth)
- Driving or major impacting Government, Cluster, Library or other policies
- Related directly relevant Library policies
- Any other related documents, such as agreements or awards.

*Refer to the Legislative Compliance Register for relevant legislation.*

In rare instances there may be no related legislation or policy. In this case use the text: There is no related legislation or policy.

### **Definitions**

NSLA - National and State Libraries Australasia

Takedown -To remove or restrict access to material on the State Library of New South Wales website

### **References**

List any documents referenced in the Policy or additional references or links that provide relevant information.

### **Document history and version control**

<b>Version</b>	<b>Date approved</b>	<b>Approved by</b>	<b>Brief description</b>
1.0	26 June 2015	State Librarian & CE	Adoption of NSLA position statement on takedown; implementation of related procedures
1.1	3 July 2015	Executive Director, Library & Information Services & Dixon Librarian	Minor amendments to ensure consistency between web text (HTML) and PDF attachment of Policy Statement.
2.0	26 July 2016	Library and Information Services Management Committee	Privacy responsibilities of Manager, Corporate Governance transferred to Privacy Contact Officer
2.1	28 July 2016		Transfer of document to new policy template. Transfer point of contact to Coordinator Projects and Policy