

Policy on the Use of the State Library under *Library Regulation 2010*



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Approved by: Executive

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

Policy Contact Officer: Coordinator, Students & Academics Teams, Information & Access

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1. Summary

Library Regulation 2010 (Regulation) is made under the *Library Act 1939*. Part 2 of the *Regulation* empowers the Library Council to make rules to regulate the use of any facilities, services or collections of the State Library. Part 3 of the *Regulation* outlines the use of libraries and library material and allows for the exclusion of those who breach the *Regulation*.

The State Library of New South Wales (the Library) has a responsibility to ensure the safety and wellbeing of clients, visitors, staff and volunteers and to maintain the security and reasonable use of the collections, buildings and facilities, both on site and online. Library clients, visitors, staff and volunteers have the right to use the Library's services, facilities and collections in safety and without being unnecessarily distracted or disturbed by other people throughout the entire Library premises including exterior areas, and on the Library website including all services accessible through the website.

2. Policy statement

This policy supports the administration of the Library website, eResources, and the provisions of *Library Regulation 2010* Part 3 'Use of libraries and library material', which is substantially reproduced in the Library's Client Code of Conduct, eResource Access Conditions, and the Website Registered Users Terms of Use.

This policy includes periods of exclusion, the delegations and the process to be followed. In particular the policy provides guidelines to assist staff in moderating the interactive sections of the Library website, and in implementing the provisions of Part 3 Clause 17, 'Library users may be directed to leave'.

Part 3, Clause 17 of the Regulation states:

17 Library users may be directed to leave

- (1) *A library staff member may direct any person to leave the library and not to re-enter the library for such period as the staff member directs, if the staff member is of the opinion that:*
 - (a) *the person has contravened any provision of this Part, or*
 - (b) *the person's condition, conduct, dress or manner is likely to give offence to any person in the library or to interfere with any other person's use of the library.*

- (2) *A person to whom such a direction is given must not fail to comply with the direction.*
- (3) *The period for which a person may be excluded from the library by such a direction must not exceed the maximum period determined by the governing body of the library.*

On site breach of *Library Regulation 2010*

Staff who identify that a person has breached the *Regulation* on site are to advise the Officer in charge of the reading rooms (the OC) or Security Coordinator. The OC or Security Coordinator will then advise the person of the breach and that compliance with the *Regulation* is required. The matter may be resolved by advising the person that a breach of the *Regulation* has occurred and offering them a copy of the *Client Code of Conduct* and/or *Regulation*. Many incidents are resolved through clients adjusting their behaviour once advised of their breach of the *Regulation*.

Directing a person to leave the State Library

The determination to ask a person to leave the Library will be based on judgment as to the nature and severity of the breach and the likelihood of the matter being resolved without any further breach occurring.

The primary purpose of directing a person to leave the Library is to ensure the safety and security of Library clients, visitors, staff and volunteers, collections and facilities. The direction to leave may be for an immediate period of time only and may not necessarily result in further exclusion from the Library for a longer period.

The giving of a direction to leave Library premises to a person who has breached the *Regulation* is delegated to those Library staff designated in this policy. The delegate may determine to issue a verbal warning to the person that they risk being directed to leave Library premises, or may direct the person to leave. The delegate may determine to allow the person to return to Library premises after a specified period of time, the length of which the person is to be advised of and must agree to. Depending on the nature and severity of the breach, the delegate may also recommend that a written letter of warning be issued to the person.

Exclusion from the State Library

In cases where the breach is repeated or serious in nature a person may be excluded from the Library for a set period of time.

The Library Council of New South Wales determined the period of exclusion of a person for a breach of the *Regulation* under clause 17(3) of *Library Regulation 2005* at its meeting on 24 October 2005. The period of exclusion remains the same under *Library Regulation 2010*.

Period of exclusion

1. The maximum period for which a person may be excluded from the State Library is for life.
2. The usual period of exclusion for a person asked to leave the State Library under clause 17(3) of *Library Regulation 2010* will be two (2) months. The delegate determining the exclusion will consider:
 - the nature and severity of the breach; and/or
 - whether the breach is a first or repeat occurrence.

3. Where the breach is a repeat occurrence and/or the nature and severity of the breach is deemed to warrant a longer period of exclusion, the period of exclusion may be up to one (1) year.

Failure to follow a direction to leave Library premises or re-entering the premises during a period of exclusion will be referred to the NSW Police.

Online breach of *Library Regulation 2010*

eResources

The provision of eResources is governed by licence agreements between the publishers and the Library. Client use of eResources will be managed in accordance with these licence agreements and the eResource Access Conditions.

Library Website

All user contributions to the website will be moderated by State Library staff before publication. This is to ensure that all commentary and uploaded content is compliant with the Website Registered Users Terms of Use and Client Code of Conduct, so that others can view and interact with the Library website in a safe and secure environment.

Staff who identify that a user's post has breached the *Regulation* online will delete the post and advise the user of the breach via email.

Deleting a user's post

The determination to delete a user's post will be based on judgment as to the nature and severity of the breach. The authority to delete a user's post is delegated to those Library staff designated in this policy. Depending on the nature and severity of the breach, the delegate may also recommend that a warning be issued via email, informing the user that they risk suspension of their account.

Suspending a user's account

In cases where the breach is repeated or serious in nature, a user's account may be suspended for a set period of time, excluding them from using the interactive sections of the website.

The period of suspension for an online breach of the *Regulation* is consistent with the period for exclusions from the Library premises.

Period of suspension

1. The usual period of suspension will be two (2) months. The delegate determining the exclusion will consider:
 - the nature and severity of the breach; and/or
 - whether the breach is a first or repeat occurrence.
2. Where the breach is a repeat occurrence and/or the nature and severity of the breach is deemed to warrant a longer period of exclusion, the period of exclusion may be up to one (1) year.
3. Where the breach is deemed to be extreme under the terms of this Policy, a user's account will be permanently suspended and/or deleted from the Library website.

Failure to comply with suspension from the State Library website, including creating another account under a different name will be referred to the NSW Police.

Letter of exclusion or suspension

Where a person has been excluded from the Library or their user account has been suspended for a breach of the *Regulation*, a letter of exclusion will be delivered to the person, either by email, post or in person.

A letter of exclusion or suspension for a breach of the *Regulation* will be signed by the appropriate delegate. All letters of exclusion/suspension will include reasons supporting the decision to exclude and a summary of events. The summary will include the date(s), description of the incident(s) and the clause(s) of the *Regulation* breached. If a person refuses to identify his/her name, the letter will be addressed "Dear Sir/Madam".

Reviews and appeals

A person may seek a review of the period of exclusion/suspension by writing to the NSW State Librarian & Chief Executive who will determine whether the period of exclusion or suspension will be reduced, maintained or extended. This determination will be made by consideration of the available incident reports and records and any case put forward by the person seeking the review.

The NSW State Librarian & Chief Executive may delegate this review to a senior manager. The reviewing officer will not be a person involved in the original decision to exclude the person.

3. Legislative and Policy Framework

Most relevant legislation

- *Copyright Act 1968 (Cth)*
- *Government Information (Public Access) Act 2009*
- *Library Act 1939*
- *Privacy and Personal Information Protection Act 1998*
- *Work Health & Safety Act 2011*
- *State Records Act 1998*

Related and/or most relevant State Library and government policies

- Client Code of Conduct
- Website Registered Users Terms of Use
- Internet Usage Policy
- eResource Access Conditions
- Privacy Management Plan
- Security Systems Surveillance Policy

4. Responsibilities and delegations

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.

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

All State Library staff are responsible for ensuring that the provisions of *Library Regulation 2010* are implemented with regard to the use of the State Library, its collections, services and facilities.

Delegations

The Library Council of New South Wales has delegated to the NSW State Librarian & Chief Executive the administration of the *Regulation*. The NSW State Librarian & Chief Executive has the authority to review and to lift an exclusion/suspension.

The Executive Committee has the authority to extend the period of exclusion up to the maximum period, based on an assessment of available information. As the decision reviewer, the NSW State Librarian & Chief Executive will absent themselves from the discussion and the decision on this agenda item.

The NSW State Librarian & Chief Executive has delegated the administration of *Library Regulation 2010* to:

<p>Officer in Charge of the reading rooms</p> <p>Security Coordinator (or the Control Room Operator when Security Coordinator is not available)</p>	<ul style="list-style-type: none"> • Direct a person to leave Library premises, or issue a verbal warning to a person that they risk being directed to leave
<p>Website Moderator</p>	<ul style="list-style-type: none"> • Delete posts on the website and issue a notice to users that their post has been deleted
<p>Manager, Information & Access</p> <p>Manager, Security</p>	<ul style="list-style-type: none"> • Determine a period of exclusion of a person, up to two (2) months • Sign a letter of exclusion for up to two (2) months • Issue a warning to a user that they risk being suspended from the website • Determine a period of suspension of a user account, up to two (2) months • Sign a letter of suspension for up to two (2) months
<p>Executive Director, Library & Information Services</p> <p>Director, Operations & Infrastructure & Chief Financial Officer</p> <p>Executive Director, Public Libraries & Engagement</p>	<ul style="list-style-type: none"> • Determine a period of exclusion and suspension of a person up to one (1) year • Sign a letter of exclusion or suspension for up to one (1) year • Review a request to lift an exclusion or suspension of a period equal to or less than one (1) year and determine to lift or maintain the exclusion • Report to the Audit & Risk Committee on the implementation of this policy

<p>Executive Committee (not in the presence of the NSW State Librarian & Chief Executive)</p> <p>NSW State Librarian & Chief Executive (or delegate not involved in the original decision)</p>	<ul style="list-style-type: none"> • Endorse a period of exclusion or suspension of a person of greater than one (1) year, including termination of a user account on the website • Review a request to lift an exclusion or suspension of a period of greater than one (1) year and determine to lift or maintain the exclusion
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5. Reporting requirements

Library & Information Services Division will manage policy and related matters such as reporting on exclusions and suspensions to the Audit & Risk Committee.

The Coordinator, Students & Academics Teams will prepare a report on categories of incident and exclusions for the Executive Committee on a quarterly basis and Library Council of New South Wales at the end of each financial year.

6. Records and privacy management

Formal records of any breaches of the *Regulation* will be recorded. These may be documented in the official diary, a staff member's work diary, an official incident report form, the website content management system, or as a memo or file note. The record should be made on the day of the incident and signed and dated by the staff member(s) making the record. The staff member's supervisor should be advised of the incident and sign and date the record.

This documentation will be used for the purposes of determining a period of exclusion and advising a person of the determination made and the reasons for it. The documentation will also be considered for determining whether and/or when an exclusion will be lifted.

The Library will maintain records of incident and investigation reports in accordance with the requirements of the State Records Act 1998 and the Privacy and Personal Information Protection Act 1998 and the Library's Privacy Management Plan.

Incident and investigation reports and related information are treated as confidential and limited to authorised staff. The Library may disclose personal information in instances where another Act or law authorises us to do so.

Further information about privacy can be obtained from the Library website at www.sl.nsw.gov.au/about/privacy/

7. Procedures

The procedural management of incidents involving clients and use of the State Library is principally managed by the Director, Library & Information Services or their delegate. Other divisions and managers will be involved where appropriate and required by the State Library's Policy on the Use of the State Library Under *Library Regulation 2010* Part 3.

8. Approval

This policy was approved by NSW State Librarian & CE on 19 January 2016 for immediate implementation.

9. Implementation

This policy is implemented on 19 January 2016.

10. History

This policy replaces Policy on the Use of the State Library Under the *Library Regulation 2010* Part 3, version 2.0

11. Related Policy

This policy is related to the Client Code of Conduct, eResource Access Conditions and Website Registered Users Terms of Use.

12. Prepared by:

Digital Strategy and Policy Partner, DXD
13 January 2016

13. Document History and Version Control

Version number	Date approved	Approved by	Brief description
1.0	5 April 2012	NSW State Librarian & CE	First release
2.0	23 March 2015	NSW State Librarian & CE	Second release
3.0	19 January 2016	NSW State Librarian & CE	Third release