

# Privacy Management Plan

1 July 2022

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## Purpose

The *Privacy and Personal Information Protection Act 1998* (NSW) (**PPIPA**) requires that “each public sector agency must prepare and implement a privacy management plan within 12 months of the commencement of this section” (s 33). This plan explains how we manage personal information in line with the PPIPA.

Further information about the PPIPA is at **Attachment A**.

## Who we are

The Legal Services Council (**LSC**) and Commissioner for Uniform Legal Services Regulation (**Commissioner**) are created by the Legal Profession Uniform Law (**Uniform Law**) which applies in NSW by virtue of the *Legal Profession Uniform Law Application Act 2014* (NSW) (**NSW Application Act**), in Victoria by virtue of the *Legal Profession Uniform Law Application Act 2014* (Vic) and in Western Australia by virtue of the *Legal Profession Uniform Law Application Act 2022* (WA). The Uniform Law commenced operation in NSW and Victoria on 1 July 2015 and in Western Australia on 1 July 2022.

The LSC consists of seven members drawn from participating jurisdictions:

- two members appointed by the host Attorney-General on the recommendation of the Law Council of Australia;
- one member appointed by the host Attorney-General on the recommendation of the Australian Bar Association;
- three members appointed by the host Attorney-General on the recommendation of the Standing Committee on the basis of their expertise in one or more of the following areas:
  - the practice of law
  - the protection of consumers
  - the regulation of the legal profession
  - financial management; and
- one member appointed as the Chair by the host Attorney-General on the recommendation of the Standing Committee.<sup>1</sup>

The LSC’s work is overseen by a Standing Committee, which comprises the Attorneys General of the jurisdictions participating in the scheme, currently Victoria, NSW and Western Australia.

Under clause 17 of Schedule 1 to the Uniform Law, the Chief Executive Officer (**CEO**) of the LSC is to administer the affairs of the LSC in accordance with the policies and directions of the LSC. The functions of the CEO are exercised by the Commissioner.

The LSC and Commissioner are supported by an Admissions Committee, which is responsible for developing Admissions Rules. Those Rules set out the qualification prerequisites for admission to the legal profession, the procedural requirements for admission and the process of accrediting law courses and practical legal training providers. The Committee also has a broader role, providing advice to the LSC about admissions matters.

The Admissions Committee works consultatively with the admitting authorities in Uniform Law jurisdictions and with the Law Admissions Consultative Committee (**LACC**). LACC’s main role is to forge consensus on admission and admission-related matters nationally, between the bodies represented by its members.

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<sup>1</sup> *Legal Profession Uniform Law*, Schedule 1, clause 2.

The LSC has also established an Audit and Risk Committee (**ARC**), which operates under approved terms of reference. The ARC monitors and reviews the effectiveness and efficiency of the processes of the LSC and the Commissioner.

A small Secretariat of five staff administers the day-to-day work of the LSC. The Secretariat provides administrative and policy support to the Admissions Committee, LACC and the ARC.

The LSC operates as a cost centre of the NSW Department of Communities and Justice (**DCJ**). DCJ provides corporate services under a Services Provider Agreement to the Council on a fee for service basis. The Agreement covers Human Resources, Finance, Procurement and Information and Digital Services and was last updated on 11 July 2019.

For more information on organisational structure, please refer to the LSC and Commissioner's [latest annual reports](#).

## **Nature of the LSC and Commissioner as organisations**

The functions of the LSC and Commissioner are set out in the Uniform Law. In broad terms, they are required to oversee the implementation of the Uniform Law and to encourage other jurisdictions to join the Uniform Law scheme. The work that staff are required to undertake is in the nature of legal policy and advisory work and it requires high levels of accuracy, skill and experience.

## **Application of the PPIPA**

The LSC and Commissioner are subject to the PPIPA by virtue of the section 416 of the Uniform Law and section 6(1)(2) of the NSW Application Act, as modified by clause 5(1)(a) of the Legal Profession Uniform Regulations 2015 (**Uniform Law Regulations**). The LSC and Commissioner are not public sector agencies. However, clause 5(1)(a) of the Uniform Law Regulations provides that the LSC and Commissioner “are taken to be public sector agencies” for the purposes of the PPIPA.

For the above reasons, it is necessary that the LSC and Commissioner prepare and implement a Privacy Management Plan.

From time to time, the LSC members may be provided with personal information in the course of their deliberations but this will very much be secondary to the legal, policy or management issue which the LSC may be considering. However, as LSC members are subject to the PPIPA, this Privacy Management Plan will be provided to them to be formally noted. In future, when other members are appointed to the LSC, they too will be advised of the requirements of the PPIPA and will be expected and assisted by the Secretariat to comply with the PPIPA and Information Protection Principles (**IPPs**).

## **Policies and practices to ensure compliance with the PPIPA**

The LSC devises its policies and practices by reference to the relevant provisions of the PPIPA and also by reference to the instructional information published by the Privacy Commissioner, including the “Guide to making Privacy Management Plans” and the Privacy Management Plan “Checklist”. Aside from the policies and procedures set out in this document, there are no other policies and procedures relevant to the Plan.

Section 20 of the PPIPA makes clear that the IPPs set out in the PPIPA apply to public sector agencies. As noted above, the LSC and Commissioner are subject to the PPIPA, effectively to equate them with public sector agencies.

Because the LSC and the Commissioner are subject to the PPIPA, all staff made available to the LSC by the DCJ are also subject to the PPIPA. Staff are instructed to comply with the

PPIPA, including the IPPs set out in sections 8-21 of the PPIPA. New staff must familiarise themselves with the PPIPA, the IPPs and this Plan as part of their induction and are required to sign the instrument (**Attachment B**) to indicate that they are familiar with the Plan and the date on when they reviewed it. Staff are also provided with training on the PPIPA, including that if they are unsure what to do about a privacy issue, they should approach the CEO or the Privacy Contact Officer. The current Privacy Contact Officer is Bridget Sordo, Senior Executive Officer.

### **Compliance with IPPs**

Broadly, the IPPs cover the collection, retention and security, access, alteration and checking of personal information. The IPPs also place limits on use and disclosure of personal information.

### **Practices for compliance with the PPIPA**

Most of the information held by the LSC and Commissioner is not personal information. It is more accurately described as legal or policy information. Personal information collected, retained, altered and disclosed is incidental to the performance of the policy and oversight functions of these entities.

Neither the LSC nor the Commissioner directly regulate law practices, solicitors or barristers and neither have a complaint handling function. Day to day regulation of the legal profession remains with the State based regulators and professional bodies. However, both the LSC and Commissioner occasionally receive, in error, details of complaints about law practices, solicitors or barristers. When this occurs, the correspondence is forwarded to the correct regulatory body and the complainant is informed that the correspondence has been forwarded to the appropriate authority in accordance with section 414 of the Uniform Law.

### **How we collect, store, use and disclose personal information**

#### ***Collection***

Information must only be collected by lawful means for purposes related to the functions and activities of the LSC or Commissioner.

Personal information collected and held by the LSC and Commissioner falls into four categories:

1. The personal information relating to LSC members, employees and student interns.
2. Contact details for key stakeholders, including individuals.
3. Personal details disclosed to the LSC or Commissioner as part of a submission or through participating in other forms of consultation.
4. Documents lodged in error with the LSC or Commissioner relating to a complaint against a law practice, solicitor or barrister.

The details of these categories are:

1. The personal information of LSC members, employees and student interns is limited to that information which is relevant to the individual's position in the organisation. It is collected and retained for those purposes only and is to be retained for as long as it is relevant.
2. The LSC maintains a list of contact details for key stakeholders including names, addresses and telephone numbers. The list is kept up to date.
3. The LSC undertakes public consultation as part of the development of the Uniform Law and Rules and related policies, guidelines and directions. Personal information disclosed to the LSC, in the course of these consultations, is collected for the purpose of the relevant consultation and may be used for the purpose of future consultations and included in the stakeholder contact list. The LSC also acknowledges each submission and requests consent before the submission is published. Personal information disclosed on a published

submission is limited to the name of the author and the organisation. The person's address, email, phone number and signature are removed prior to publication.

4. When documents, letters or communications are lodged in error with the LSC or Commissioner, these are redirected to the relevant regulatory authority and the sender is advised of this course of action.

The LSC and Commissioner ensure that the personal information collected by them is relevant, accurate, not excessive and does not unreasonably intrude into the personal affairs of people. The information contains no more detail than has been provided and does not contain any other information.

The LSC will notify the individual that his or her personal information is being collected at the time of first request by the LSC. This notification will usually occur by email and, where reasonable, they will also be notified of matters such as the purposes for which the information is collected, the intended recipients of the information and the existence of any right of access to, or correction of, the information. Where it is lawful and practical, we give people the option of remaining anonymous if preferred when providing personal information to us.

Generally, the LSC and the Commissioner do not collect sensitive personal information such as racial origin or sexuality.

### **Storage**

The majority of information held by the LSC and the Commissioner is contained on an electronic document and records management system. All electronic information is held on secured servers provided and maintained by the DCJ. Where information is stored in an electronic database, we ensure that appropriate descriptions are used. If any sensitive personal information is collected, it will be held in a restricted access folder and particular care would be exercised when dealing with it to ensure compliance with the IPPs.

Hard copy files are kept in offices that can only be accessed by staff with appropriate security access. The LSC and Commissioner dispose of hard copy information by way of shredding and electronic information in accordance with DCJ practices.

### **Use**

It is the responsibility of all staff to ensure that use and disclosure of personal information is made in accordance with IPPs 10 and 11. This includes only using the information for the purposes for which it was collected unless informed consent has been provided or an exemption to one of the IPPs applies. Staff should not disclose the information to any person other than the person to whom information relates, unless one of the exemptions applies.

### **Disclosure**

The LSC and Commissioner are subject to a general statutory prohibition on disclosure of any information obtained in the administration of the Uniform Law (section 462), unless a specified exemption applies (section 462(2)).

Contact information must be kept up-to-date and accurate to guard against accidental disclosure of personal information by sending a communication to the wrong person. Particular care must be taken when using electronic forms of communication, for example, when sending an email to multiple recipients, that the personal information of the other recipients is not incorrectly disclosed to any individual recipient. We also ensure that personal information is accurate before using it, including checking contact details directly with a person or their organisation.

Staff are required to update their personal information using the human resource application (SAP) as relevant. The onus is to keep their personal information up to date and accurate rests with the individual employee.

## **Dissemination of policies and practices within and outside the agency**

### **Legal Services Council website**

This Privacy Management Plan and the personal information collection notice (**Attachment C**) is published on the LSC website.

The “publications” tab on the LSC website indicates how publications can be accessed and provides a contact address where relevant documents are not published on the website. The publication guide refers to, for example, the Annual Report and LSC Guidelines, Directions and Information Sheets.

### **Exemptions**

There are exemptions in the PPIPA that explain when an agency need not comply with the IPPs. To date neither the LSC nor Commissioner has relied on any of these exemptions nor has any public interest direction been made in its favour by the Privacy Commissioner. Any change will be published by the LSC and/or Commissioner.

### **Public registers**

The LSC publishes a simple online register of legal practitioners in Uniform Law jurisdictions, called the Australian Legal Profession Register. The register contains the name, type of practising certificate (solicitor or barrister only) and State where the practising certificate was obtained. The information published on the Register is provided directly to the LSC by the designated local regulatory authorities and it is also publicly available on their websites. The Register does not contain reference to any personal information such as address, email or phone number. Users are directed to the relevant regulatory body to obtain further information about a legal practitioner, including accessing Registers of Disciplinary Actions.

## **Procedures for access, amendment, internal and external review**

### **Access and amendment**

A person wanting to access or amend their own personal information can make an informal request to the LSC or Commissioner. Generally, this request does not need to be made in writing. If a person is unhappy with the outcome of their informal request, they can make a formal application.

A person can make a formal application for access to personal information under the PPIPA by writing to the LSC or Commissioner at [LSC@legalservicescouncil.org.au](mailto:LSC@legalservicescouncil.org.au).

The LSC or Commissioner will aim to respond to the formal application within 20 working days. They will contact the applicant to advise how long the request is likely to take, particularly if it may take longer than expected.

As the information published in the Australian Legal Profession Register is provided directly by the designated local regulatory authorities, any request to alter that information should be directed to the relevant authority.

## **Privacy complaints**

A person who is aggrieved by the way in which the LSC or Commissioner has handled their personal information may either make a complaint to the Privacy Commissioner or apply to the LSC or Commissioner for an internal review of that conduct. If a person considers the LSC or Commissioner has breached the PPIPA the complaint can be resolved informally. Contact should be made with the LSC or Commissioner via email, phone or in writing to raise the complaint.

If the applicant is dissatisfied with the outcome, a formal application for internal review may be lodged with the LSC or Commissioner.

## **Internal review process**

If a person considers that the LSC or Commissioner has breached the PPIPA relating to their personal information, they may request an internal review under the provisions of the PPIPA.

Under section 53(3) of the PPIPA, an application for internal review must be lodged within six months from the date the applicant became aware of the conduct the subject of the application (however, the LSC or the Commissioner may consider a late application for internal review).

An internal review will be completed as soon as is reasonably practical or within 60 days from the date the application is received. An internal review will follow the process set out in the Office of the Privacy Commissioner's internal review checklist. When the internal review is complete, the LSC or Commissioner will notify the applicant in writing (within 14 days) of:

- the finding of the review
- the reasons for the finding, described in the terms of the IPPs
- any action we propose to take
- the reasons for the proposed action (or no action); and
- the applicant's entitlement to have the findings and the reasons for the findings reviewed by the NSW Civil and Administrative Tribunal (NCAT).

When the LSC or Commissioner receives an application for internal review, they will notify the Privacy Commissioner of the application, keep the Privacy Commissioner informed of the progress of the internal review and inform the Privacy Commissioner of the findings of the review and any action proposed to be taken by the agency in relation to the matter. The Privacy Commissioner is entitled to make submissions to the LSC or Commissioner in relation to the subject matter of the application.

Applicants are also able to lodge their complaint directly with the Privacy Commissioner.

## **External review**

An application may also be made to the NCAT for an external review of the conduct that was the subject of a person's internal review application. However, a person must seek an internal review before they have the right to seek an external review.

Generally, a person has 28 days from completion of the internal review to seek an external review. The NCAT has the power to make binding decisions on an external review. For more information on how to request an external review please contact the NCAT.

## **Offences**

Part 8 of the PPIPA contains offences for certain conduct of public sector officials and other persons including in relation to the following:

- corrupt disclosure and use of personal or by public sector officials;
- offering to supply personal information that has been disclosed unlawfully; and

- offences relating to dealings with the Privacy Commissioner.

The LSC's strategies to minimise the risk of its employees committing an offence include obtaining a written acknowledgement by the employee that they have read this Privacy Management Plan and that they agree to comply with its requirements.

## Related parties

The LSC has a service provider agreement in place with the DCJ for information technology and human resources systems and support. For this reason, personal information may be disclosed to the DCJ as part of this arrangement. The DCJ has its own Privacy Management Plan on its website.

## Provision of Plan to Privacy Commissioner

Section 33(5) of the PPIPA requires agencies to provide a copy of the PPIPA Plan to the Privacy Commissioner as soon as practicable after it is prepared and whenever the Plan is amended. Accordingly, a copy of this Plan was provided to the Privacy Commissioner in January 2020 and this updated Plan was provided to the Privacy Commissioner in October 2021.

## Data breach

If the LSC becomes aware of an information security breach, an investigation will be conducted and risk mitigation measures taken to prevent further breaches. Where appropriate the breach will be brought to the attention of the DCJ, as the host of the LSC's computer systems, and to the LSC.

The [Privacy Amendment \(Notifiable Data Breaches\) Act 2017](#) (NSW) establishes a Notifiable Data Breaches (**NDB**) scheme. The NDB scheme applies to the DCJ as a tax file number recipient (**TFN**) as the DCJ holds TFN for employment and other business-related purposes. A TFN recipient is any person who is in possession or control of a record that contains TFN information. A data breach may occur where personal information held by the DCJ is lost or subject to unauthorised access or disclosure.

A data breach or allegation of a data breach (regardless of whether it is captured by the NDB scheme or not) relating to any agency within the DCJ must be promptly notified to the Office of the General Counsel of the DCJ at [infoandprivacy@justice.nsw.gov.au](mailto:infoandprivacy@justice.nsw.gov.au) and to the Digital Technology Services at [security.incident@justice.nsw.gov.au](mailto:security.incident@justice.nsw.gov.au). This is of particular relevance where IT equipment (DCJ issued phones, laptops, database etc.) has been compromised or lost.

The Office of the General Counsel will coordinate a response to deal with the incident/alleged breach. Responding to a data breach notification to the Office of the General Counsel may include targeted inquiries about the nature and extent of the breach, notification of affected individuals, notifying the Privacy Commissioner and facilitating remedial action.

## Amendments and version control

Section 33(4) of the PPIPA provides that an agency may amend its Privacy Management Plan from time to time. To facilitate amendments and version control, practices including the date of each amendment of this Plan are noted at the back of the Plan. This Plan will be reviewed annually.

## Contacts

<b>Legal Services Council Privacy Contact Officer</b>	Bridget Sordo T: (02) 9692 1302
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	<b>E:</b> <a href="mailto:lsc@legalservicescouncil.org.au">lsc@legalservicescouncil.org.au</a> <b>Address:</b> PO Box H326, Australia Square NSW 1215
<b>Office of the Privacy Commissioner (OPC)</b>	<b>T:</b> 1800 472 679 <b>E:</b> <a href="mailto:ipcinfo@ipc.nsw.gov.au">ipcinfo@ipc.nsw.gov.au</a> <b>Address:</b> Level 15, McKell Building, 2-24 Rawson Place, Haymarket NSW 2000
<b>NSW Civil and Administrative Tribunal (NCAT)</b>	<b>T:</b> 1300 00 NCAT or 1300 006 228 National Relay Service for TTY Users: 13 36 77 <b>Address:</b> John Maddison Tower, 86-90 Goulburn Street, Sydney NSW 2000

### Version schedule

Revision	Date
Initial draft	28 April 2016
Final draft	8 June 2016
Final document	2 August 2016
Amended due to office move	30 January 2019
Amended to include ALPR	8 May 2019
Amended as per Office of General Counsel DCJ advice	12 September 2019
Amended as per Information and Privacy Commissioner advice	20 January 2020
Amended formatting and editing	31 January 2021
Amended to remove reference to HRIPA and update references to shared drives to EDRMS. Attachment B included. Endorsed by ARC on 8 February 2022; LSC approved on 23 February 2022.	8 February 2021
Revised to include Western Australia as a participating jurisdiction	1 July 2022

**Next scheduled review:** February 2023

## Attachment A: Privacy and Personal Information Protection Act 1998 (NSW) (PPIPA)

The PPIPA sets out how the LSC and Commissioner must manage **personal** information.

### About personal information

Personal information is defined in section 4 of the PPIPA and is essentially any information or opinions about a person where that person's identity is apparent or can be reasonably ascertained. Personal information can include a person's name, address, family life, gender identification, sexual preferences, financial information, fingerprints and photos.

There are some kinds of information that are not personal information, e.g. information about someone who has been dead for more than 30 years, information about someone that is contained in a publicly available publication, or information or an opinion about a person's suitability for employment as a public sector official. Health information is generally excluded here as it is covered by the *Health Records and Information Privacy Act 2002*, which does not apply to the LSC or the Commissioner.

### Information protection principles (IPPs)

Part 2, Division 1 of the PPIPA contains 12 IPPs with which we must comply. Here is an overview of them as they apply to us.

#### Collection

1. We collect personal information only for a lawful purpose that is directly related to our functions and activities.
2. We collect personal information directly from the person concerned.
3. We inform people why their personal information is being collected, what it will be used for, and to whom it will be disclosed. We tell people how they can access and amend their personal information and any possible consequences if they decide not to give their personal information to us.
4. We ensure that personal information is relevant, accurate, is not excessive and does not unreasonably intrude into the personal affairs of people.

#### Storage

1. We store personal information securely, keep it no longer than necessary and destroy it appropriately. We protect personal information from unauthorised access, use or disclosure.

#### Access and accuracy

1. We are transparent about the personal information we store, why we use the information and about the right to access and amend it.
2. We allow people to access their own personal information without unreasonable delay or expense.
3. We allow people to update, correct or amend their personal information where necessary.
4. We make sure that personal information is relevant and accurate before using it.
5. We only use personal information for the purpose we collected it for unless the person consents to us using it for an unrelated purpose.
6. We only disclose personal information with people's consent unless they were already informed of the disclosure when we collected the personal information.
7. We do not disclose personal information relating to an individual's ethnic or racial origin, political opinions, religious or philosophical beliefs, trade union membership or sexual activities unless the disclosure is necessary to prevent a serious and imminent threat to the life or health of the individual concerned or another person.

## Attachment B: Instrument – Staff compliance with PPIPA

I, **[name of staff member]** have read this Privacy Management Plan and agree to comply with its requirements.

Signed:

Dated

## Attachment C: Personal Information Collection Notice

### Personal Information Collection Notice

By responding you may be giving personal information (such as name, email address and/or telephone contact) to the Legal Services Council and Commissioner for Uniform Legal Services Regulation (**we, us, or our**).

### Who we collect the personal information from

We generally collect your personal information directly from you or from publicly available sources. However, in some cases, we may receive your personal information from a third party when it is relevant to our statutory responsibilities (for instance during the course of consultation).

### For what purposes do we collect personal information

We collect your personal information to perform our functions under the Legal Profession Uniform Law, *Legal Profession Uniform Law Application Act 2014 (NSW)*, the *Legal Profession Uniform Law Application Act 2014 (Vic)* and *Legal Profession Uniform Law Application Act 2022 (WA)*.

### What are the types of bodies and persons to whom we usually disclose your personal information?

Your personal information may be provided to:

- Regulators and government entities (such as the Office of the Legal Services Commissioner, Law Society of NSW, NSW Bar Association, Victorian Legal Services Board and Commissioner, Legal Practice Board of Western Australia, Western Australian Legal Services and Complaints Committee, the Legal Profession Admission Board (NSW) and the Victorian Legal Admission Board, DCJ and Victorian Department of Justice and Community Safety); and
- Organisations that represent the legal profession such as the Law Council of Australia, the Australian Bar Association, State Law Societies and State Bar Associations.

### You can access and correct your personal information

Our privacy policy contains information about how you can access your personal information and seek correction of such information; as well as our compliance with *Privacy and Personal Information Protection Act 1998 (NSW)*. Our privacy policy is accessible via a link appearing on our website at: [www.legalservicescouncil.org.au](http://www.legalservicescouncil.org.au).

### How to contact us

Write to:

Legal Services Council and Commissioner for Uniform Legal Services Regulation  
PO Box H326  
Australia Square NSW 1215

Email: [lsc@legalservicescouncil.org.au](mailto:lsc@legalservicescouncil.org.au)