

Policy No: 4.4 Privacy and Confidentiality

Applies To:	Version No:
Specific Responsibility:	Date approved: September 2026
Board	Next review date: September 2029

Policy Context: This policy relates to	
Standards or other external requirements	The National Accreditation Scheme The Risk Management Guide (RMG) (Community Legal Centres Australia)
Legislation or other requirements	Privacy Act 1988 (Cth), including the Australian Privacy Principles Privacy and Data Protection Act 2014 (Vic) including the Information Privacy Principles Health Records Act 2001 (Vic) Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015
Contractual obligations	Community Legal Services Program (CLSP) 2025–2030
Scope	Board, Staff Members (defined as SMLS employees, volunteers, students and contractors); current and prospective clients

Purpose

1. SMLS has created this Privacy and Confidentiality Policy to set out the expectations around the privacy of individuals and protecting the confidentiality of information.
2. SMLS is committed to satisfying all legal and ethical obligations regarding the protection of privacy and Confidential Information.
3. SMLS will only collect, use or disclose Personal Information, including Health Information and Sensitive Information, in accordance with this policy.
4. A copy of the Act, the Privacy Principles and guidance from the Office of the Australian Information Commissioner is available at <https://www.oaic.gov.au/>
5. The purpose of this policy is to communicate how SMLS collects, uses, holds, discloses and destroys Personal Information, and to set out that confidentiality obligations that apply to all Staff Members.

Scope

This policy applies to:

- Staff Members and prospective Staff Members; and
- current and prospective clients of SMLS.

Definitions

For the purposes of this policy:

- **Act** means the Privacy Act (Cth) 1988 as amended from time-to-time.
- **Confidential Information** means information provided to a person or organisation under an obligation not to disclose that information to others unless there is a statutory requirement or duty of care obligation to do so.
- **OIAC** means the Office of the Australian Information Commissioner.
- **Personal Information** means information or an opinion that is recorded in any form (whether true or not), about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion. Personal Information also includes:
 - **Sensitive Information**, being information that refers to an individual's racial or ethnic origin, political opinions and affiliations, religious beliefs or affiliations, membership of a professional or trade associate or union, sexual orientation, or criminal record.
 - **Health Information**, being information or an opinion about an individual's health, disability or genetic makeup,
- **Staff Member(s)** means SMLS employees, students, volunteers and contractors.

Collection of Personal Information

- SMLS will only collect Personal Information that is reasonably necessary for, or directly related to, the performance and primary function of SMLS.
- Staff Members must make the individual aware of the purposes for which the Personal Information is being collected.
- SMLS collects Personal Information directly from individuals wherever possible. This includes information collected:
 - during initial client intake and the provision of legal services;
 - through correspondence by telephone, email or in person;
 - through the SMLS website;
 - through recruitment and onboarding processes of Staff Members; and
 - through forms, surveys and feedback mechanisms.
- In some instances, SMLS may receive Personal Information about an individual from third parties, including government agencies, courts, referral organisations and other legal service providers. Where SMLS collects Personal Information from a third party, it will take reasonable steps to ensure the individual is made aware of the collection.
- SMLS may collect Personal Information from clients and prospective clients, including but not limited to:
 - Name, date of birth and contact details;
 - Financial information, such as income or Centrelink benefits;
 - Health Information;
 - Sensitive Information, such as racial or ethnic background, criminal history and gender identity;
 - domestic and lifestyle circumstances;
 - identifying numbers linked to other personal information, (unique identifiers) such as a driver's licence, court case number or custody reference number; and
 - Any other information reasonably necessary for assisting the client, including information about the client's circumstances and the matter on which the client is seeking advice.

- Sensitive Information may only be collected with the individual's consent, or where the collection meets one of the 'permitted general situations' in the Australian Privacy Principles.
- Health Information may only be collected with the individual's consent, or where the collection meets one of the conditions in the Health Privacy Principles.
- SMLS may collect Personal Information from Staff Members and prospective Staff Members, including but not limited to:
 - Name and contact details;
 - Qualifications, employment history and referee details;
 - Tax file number and superannuation information;
 - Working with Children Check details; and
 - Any other information reasonably necessary for the purposes of recruitment, onboarding and managing the employment or engagement relationship.
- SMLS's website may collect information including your device type, browser type, IP address and pages accessed. You are not identifiable from such information.

Use and Disclosure of Personal Information

- SMLS will only use or disclose Personal Information for the primary purpose for which it was collected, or for a secondary purpose if one of the following exceptions apply:
 - The individual has consented to a secondary use or disclosure;
 - The individual would reasonably expect SMLS to use or disclose their personal information for the secondary purpose, and that purpose is related to the primary purpose of collection, or, in the case of Sensitive Information, directly related to the primary purpose;
 - The secondary use or disclosure is required or authorised by or under an Australian law or a court/tribunal order
 - A 'permitted general situation' exists in relation to the secondary use or disclosure as outlined in the Australian Privacy Principles;
 - SMLS reasonably believes that the secondary use or disclosure is reasonably necessary for one or more enforcement related activities conducted by, or on behalf of, an enforcement body.
- Where SMLS discloses Personal Information to a third party, SMLS will take reasonable steps to ensure that the third party protects the information to the same extent that SMLS does.
- The personal details of Staff Members (including addresses and telephone numbers) are not provided to clients under any circumstances.
- SMLS will take reasonable steps to ensure that Personal Information, including Health Information, that is collected, used or disclosed is accurate, complete and up to date.

Storage of Personal Information

- SMLS takes reasonable steps to protect Personal Information from misuse, interference, loss and from unauthorised access, modification or disclosure.
- Personal information is held and stored on paper, by electronic means, or both.
- Where kept in physical copies, all Personal Information about clients is contained in separate files and stored in a secure office, with access authorised by the Principal Lawyer, who ensures that file management practices do not breach confidentiality. All closed files are held in a secure archive.

- Relevant information regarding clients is stored electronically in SMLS's client management system, in a manner which is secured. SMLS maintains cloud-based backups, a physical backup server onsite and an offsite backup server.
- Access to Personal Information is restricted to Staff Members whose role requires access.
- The CEO and the Principal Lawyer are responsible for the maintenance and integrity of information systems.

Data Retention and Destruction

- At the expiration of seven years from the closure of a client file, the Principal Lawyer ensures that all Personal Information regarding the client is destroyed, unless the file relates to a Will, Power of Attorney or persons who do not have capacity. Files relating to persons under 18 will be destroyed seven years from the date of the person's 18th birthday.
- SMLS uses secure methods to destroy or permanently de-identify Personal Information when it is no longer needed for a valid purpose or required to be kept by law. This includes the secure destruction of physical records and the permanent deletion of electronic records from all systems.
- Any data maintained for the purposes of planning or reporting will be de-identified so that no individual person can be identified.

Accessing and Correcting Personal Information

- Staff Members and clients have the right under privacy law to request access to the Personal Information that SMLS holds and to seek correction if it is inaccurate, incomplete, out-of-date, irrelevant or misleading.
- In rare circumstances, SMLS may refuse access to Personal Information where it has a valid reason for doing so, including where providing access may endanger the life, health or safety of any individual, would have an unreasonable impact on the privacy of other individuals, or where the information is part of existing or anticipated legal proceedings. If SMLS refuses access, it will inform the individual in writing of the reasons for the refusal.
- To request access to or correction of your Personal Information, please contact SMLS using the contact details set out below.

Confidentiality

- All solicitors engaged by SMLS (**Legal Staff Members**) must comply with their professional obligations of confidentiality under the Australian Solicitors' Conduct Rules 2015 (**ASCR**). Pursuant to Rule 9.1, a Legal Staff Member must not disclose any Confidential Information which is acquired by the Legal Staff Member during the client's engagement, unless the client expressly or impliedly authorises disclosure.
- The duty of confidentiality owed by Legal Staff Members continues indefinitely, including after the solicitor-client relationship has ended and after the Legal Staff Member has ceased their engagement with SMLS.
- Where a person contacts SMLS but does not become a client (for example, where they receive initial advice or are referred to another service), all information obtained during that interaction will be treated as Confidential Information.
- Notwithstanding the above, Confidential Information may be disclosed without consent where:
 - the disclosure is required or authorised by law;

- the Legal Staff Member discloses the information in a confidential setting, for the sole purpose of obtaining advice in connection with the solicitor's legal or ethical obligations;
- the Legal Staff Member discloses the information for the sole purpose of avoiding the probable commission of a serious criminal offence;
- the Legal Staff Member discloses the information for the purpose of preventing imminent serious physical harm to the client or to another person, or
- the information is disclosed to the insurer of the Legal Staff Member, law practice or associated entity.

Artificial Intelligence

- Staff Members must not input any Personal Information, Confidential Information or any other client-related information into artificial intelligence tools.
- Staff Members must not use artificial intelligence tools for any purpose unless they have received such authorisation in advance from the CEO.
- The prohibition on artificial intelligence use will be communicated to all Staff Members during their induction.
- Any Staff Member who becomes aware that Personal Information, Confidential Information or client-related information has been entered into an artificial intelligence tool (whether by that Staff Member or another person) must immediately notify the CEO or Principal Lawyer.

Anonymity

- SMLS will provide individuals with the option of not identifying themselves, or of using a pseudonym, when dealing with SMLS where it is lawful and practicable to do so. However, it may not always be practicable for SMLS to deal with individuals anonymously, particularly where SMLS is providing legal services.

Training and Awareness

- SMLS is committed to ensuring that all Staff Members have access to appropriate training to develop and maintain an understanding of their privacy and confidentiality obligations.
- All new Staff Members must complete privacy and confidentiality training as part of the SMLS induction program.
- All Staff Members will be required to read and sign an acknowledgement of this Privacy Policy before commencing work at SMLS.

Non-Compliance

It is important that all Staff Members are aware of their obligations under this policy. Any breach of this policy may result in counselling and/or disciplinary action, which, in the case of employees may lead to dismissal, or in the case of volunteers, may lead to the cessation of their engagement. For students, it may result in failure of the unit/subject.

Any breach of this policy by a contractor may result in cancellation by SMLS of any services provided by that contractor.

In serious cases, non-compliance may also be reported to relevant external authorities, including the OAIC, the police and/or professional regulatory bodies.

Enquiries and Complaints

- If you have a question or a complaint about how SMLS manages your Personal Information, you can contact SMLS by:
 - Calling (03) 9545 7400 or (03) 9038 8002; or
 - Emailing info@smls.com.au;
- If you make a complaint, SMLS will acknowledge that it has been received and respond within 30 days.
- If you are dissatisfied with SMLS's response, a complaint can be made to the following external bodies:
 - Office of the Australian Information Commissioner (OAIC): Tel: 1300 363 992, Website: www.oaic.gov.au;
 - Victorian Legal Services Board + Commissioner: Tel: 1300 796 344, Email: consumerenquiry@lsbc.vic.gov.au; and
 - Health Complaints Commissioner: Tel: 1300 582 113.