

Guidance on using personal, sensitive and health information in archival collections

Archivists and researchers have ethical obligations when disclosing or using personal information, sensitive information and health information.

Researchers will need to consider how their proposed use of archival material will affect the privacy of individuals and their close family, especially where such information is sensitive or not public knowledge. It may be possible for researchers to overcome privacy issues by de-identifying data they wish to publish, or by seeking written consent from the affected individual or where the individual is deceased any surviving close family.

In deciding how to use personal information, the researcher should consider:

- Does the information belong to a sensitive category of information as defined by the Information Privacy Principles? Or is the information health information? The researcher may need to acquire permission from the person the information is about to publish if s/he doesn't anonymise.
- What is the nature and perceived sensitivity of the information?
- Has the individual/s concerned provided written consent to use/publish the information?
- Is the individual still alive? Privacy concerns living individuals, but it may in some cases be unreasonable to disclose information relating to the personal affairs of deceased individuals. For example, use or publication without permission of health information about hereditary conditions may cause damage or distress to the living relatives of a deceased individual.
- Is the information current and relevant?
- Is the information already published/in the public domain?
- Does the information have a credible source? Extra caution is required in using information that does not appear to come from a credible source especially where a reasonable person would find its use or publication offensive or distressing. For example, an unsubstantiated allegation.
- Are there any historical or cultural factors that may affect the appropriate use of personal, sensitive or health information?
- As well as anonymising names, consider the context, which may identify an individual as clearly as giving a name: (eg) Jane Doe, Australian Prime Minister, 2070.

In many cases, the safest way to protect personal information is to de-identify the results of your research so that personal information no longer relates to an identifiable individual or an individual who can be reasonably identified.

In addition to these guidelines, researchers should consult the research and ethical codes of conduct and guidelines of their institution and/or professional association where relevant including guidelines relating to data storage, security and use.

i According to the Victorian Privacy and Data Protection Act (2014): ‘Personal information means information or an opinion (including information or an opinion forming part of a database), that is recorded in any form and whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion, but does not include information of a kind to which the Health Records Act 2001 applies.’

ii According to the Victorian Privacy and Data Protection Act (2014): ‘Sensitive information means information or an opinion about an individual's— (a) racial or ethnic origin; or (b) political opinions; or (c) membership of a political association; or (d) religious beliefs or affiliations; or (e) philosophical beliefs; or (f) membership of a professional or trade association; or (g) membership of a trade union; or (h) sexual preferences or practices; or (i) criminal record— that is also personal information.’

iii According to the Victorian Health Records Act (2001):

‘Health Information means— (a) information or an opinion about— (i) the physical, mental or psychological health (at any time) of an individual; or (ii) a disability (at any time) of an individual; or (iii) an individual's expressed wishes about the future provision of health services to him or her; or (iv) a health service provided, or to be provided, to an individual— that is also personal information; 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, by the individual of his or her body parts, organs or body substances; or (d) other personal information that is genetic information about an individual in a form which is or could be predictive of the health (at any time) of the individual or of any of his or her descendants.’

iv According to the National Archives Access Examination Policy – personal, business and professional affairs of a person, it may assist to consider:

- community attitudes
- the context in which the information appears
- the circumstances in which the information was obtained
- the likelihood of the information being information that the person concerned would not wish to have disclosed without consent
- and the level of detail.

v According to the National Archives Access Examination Policy – personal, business and professional affairs of a person: ‘The older the record, the less likelihood there is that it would be unreasonable to disclose any information it contains concerning the personal affairs of a person.’

vi According to the National Archives Access Examination Policy – personal, business and professional affairs of a person, information may be considered to be in the public domain if:

1. it has been published at some time;
2. its publication was not to a limited audience or in a specialist publication; and
3. such information remains easily accessible today to any interested member of the public.

In this context, ‘publication’ is interpreted widely to include any release in the public domain whether in radio, television, print media or online.