

Access to Information in NSW Public Libraries: Library Council Guideline



Introduction

The *Library Act 1939* sets out that NSW public libraries must provide free membership, free loans, free access and free reference and information assistance to readers. This guideline is issued under s10(5) of the Act, framed with reference to the *Library Act 1939* and *Library Regulation 2018*.

Policy statement

The State Library of New South Wales and the statewide network of public libraries provide free and equitable access to information for the people of New South Wales.

Collections

Public libraries develop, maintain and provide access to collections of resources to meet the information needs and interests of their communities. Libraries have collection development policies and guidelines to assist in the selection of library material.

The continuous review of library collections is necessary as a means of maintaining a current and useful collection. This procedure should not be used as a means of removing materials believed to be controversial, contentious or disapproved of by sections of the community.

1. A public library has a role as an unbiased source of information and ideas, including online content. It must accept responsibility for providing free access to materials and information presenting, as far as possible, all points of view on contemporary and historical issues, including controversial issues.
2. Libraries should endeavour to provide access to comprehensive and balanced collections that meet the needs of their communities as far as budget, space and availability of materials allow.
3. Library materials that have not been subject to federal and state restriction or prohibition should not be excluded from a public library on moral, political, racial, religious, sexist, language, or other grounds. Nor should library materials be included on these grounds alone, whatever pressure may be brought to bear by individuals or groups.
4. The arrangement of the collection should facilitate access. Restricting access to certain titles or classes of materials, for example by holding them in special collections or available on request, can be an indirect form of censorship. No library materials should be held in closed access physically or digitally except for the express purpose of protecting them from damage, theft or due to Australian Classification restrictions¹.

¹ <https://www.classification.gov.au/>

5. Collections should not be limited because of the possibility that children may access those collections. Monitoring the reading of children is the responsibility of their parents or guardians.

Library Use

6. Everyone has the right to use a public library in person, via the internet and by other means, whatever their age, sex, race, religion, cultural identity, language, disability, socioeconomic status, individual lifestyle, political allegiance or social views.
7. Libraries should protect each user's rights in regard to confidentiality and privacy.
8. Library clients must be sensitive to the values and beliefs of others when displaying potentially controversial information or images on computer screens located in public areas (see Explanatory note). Where a client is found to be using computers to access pornographic, offensive or objectionable material, or for any unlawful purpose, the library reserves the right to direct the client to leave the library, to direct that the client not re-enter the library for a specified period and to report unlawful conduct to the relevant authorities.
9. The Library Council does not support the use of censoring software as it inhibits free access to information (see 3) and it does not provide adequate protection for children from all material that may be harmful on the internet. Individual local councils may decide on the use of filtering software, and it is acknowledged that firewalls, anti-virus and ad blocking software are standard. However, if filtering censors certain sites, the library must ensure that people are not restricted from accessing lawful information.
10. The Library Council supports the right and responsibility of parents and guardians to direct the use of the internet by their children. Parents and guardians who wish to limit or restrict access by their children should personally oversee their use of the internet and other forms of digital information.

Role of Public Library staff

11. Librarians and other public library staff should not exercise censorship in the selection of materials by rejecting, solely on the grounds mentioned in (3), material which is otherwise relevant and which meets the standards of the library concerned.
12. Notwithstanding their opposition to censorship, librarians and other public library staff must strictly observe laws, which may ban or restrict access to certain material.

13. Librarians and other public library staff have a role in educating clients in the safe and informed use of the internet, guided by acceptable use policies.

Explanatory note

The Library Regulation 2018, Section 17(1)(b) states that library users may be directed to leave if *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.*

This may include displaying images or information that may reasonably be considered to offend. Examples may include displaying adult content or displaying images of deceased persons which can cause offence to Aboriginal and Torres Strait Islander people.

Alternatively, there may be legitimate reasons for accessing such material requiring special arrangements to be made with the library staff.

Legislative and Policy Framework

Relevant legislation

- *Classification (Publications, Films and Computer Games) 1995* (Cth)
- *Classification (Publications, Films and Computer Games) Enforcement Act 1995* (NSW)
- *Crimes Act 1900* (NSW)
- *Library Act 1939* (NSW)
- *Library Regulation 2018* (NSW)
- *Privacy and Personal Information Protection Act 1998* (NSW)

Related Library Council, industry and government policies

- Australian Library and Information Association Free Access to Information Statement (reviewed 2018)
- Australian Library and Information Association Online Content Regulation (amended 2002)
- International Federation of Library Associations and Institutions Statement on Libraries and Intellectual Freedom
- Library Council of NSW Children's Policy Guidelines for NSW Public Libraries (updated 2018)
- Library Council of NSW Privacy Guidelines for NSW Public Libraries (updated 2018)

Procedures

It is recommended that public libraries implement procedures to address certain situations or offences that may occur. These include:

- Under the *Classification (Publications, Films and Computer Games) Enforcement Act 1995* (NSW) persons are taken to have publicly exhibited a film or computer game where they have "superintendence or management" of the public place where the exhibition or demonstration takes place. It is advisable that the library develop appropriate procedures to be observed where clients are found to be accessing material on library premises which would otherwise be restricted under this Act.

The suggested procedure is for staff to instruct the client to stop accessing the material. In some circumstances it may be appropriate for staff to contact the relevant authorities. In other circumstances it may be appropriate to suggest that the client accesses the material in a part of the library not accessible to the general public.

- It is possible that the library may, as a result of a client’s unlawful internet use, inadvertently come to possess child pornography (if downloaded to a computer drive), *Crimes Act 1900* (NSW), s.91H Production, dissemination or possession of child abuse material. Section 91HA contains defences to this section. It is advisable that the library develop a policy to address circumstances where clients are found to have accessed child pornography.

Such procedures would involve reporting the incident to the NSW Police, ensuring that the material is not able to be accessed by other clients using the computer(s), and once advised by the authorities that is appropriate to do so, deleting the material from the library’s system.

Document History and Version Control

Version	Date approved	Approved by	Brief description
1	1964	Library Board of NSW	Statement on Censorship
2	1984	Library Council of NSW	Freedom of Collection and Access for Local Government Libraries
3	24 April 2006 (updated 2007, 2013, 2017, 2019)	Library Council of NSW	Access to Information in New South Wales Public Libraries: Library Council Guideline

The Library Council of NSW issues guidelines for local authorities operating NSW public libraries under section 10(5) of the Library Act 1939.