

Seven West Media (SWM) Print and Print Online Publications Privacy Policy

1. Background

This Privacy Policy

1.1 Identifies the standards to be observed by SWM print and print online publications which are subject to the oversight of the Independent Media Council. For a list of the relevant publications of SWM see Appendix 1 of the Independent Media Council Guidelines.

1.2 Concerns the following circumstances

1.2.1 Publication of a person's personal information concerning a person's personal or private affairs;

1.2.2 Publication of information which interferes with a person's private seclusion.

1.3 Is modelled on the Australian Communications and Media Authority Privacy Guidelines for Broadcasters, December 2011.

1.4 May be amended from time to time.

2. Identifiable person

2.1 For this policy to be breached, a particular person must be identifiable from the publication. That person can be a private individual or a public figure.

2.2 A person is identifiable if, from the publication, the person's identity is apparent or can reasonably be ascertained.

3. Personal information

3.1 Personal information can include facts about a person's health, personal relationships, financial affairs, sexual activities, and sexual preferences or practices. It can also include information about a person's racial or ethnic origin, political opinions, membership of a political association, religious beliefs or affiliations, philosophical beliefs, membership of a professional or trade association, membership of a trade union, criminal record and other sensitive personal matters.

3.2 This information need not be secret or confidential in order to be private

4. Seclusion

4.1 A person's seclusion may be intruded upon where

4.1.1 he or she would have a reasonable expectation that his or her activities would not be observed or overheard by others; and

4.1.2 a person of ordinary sensibilities would consider the publication of these activities to be highly offensive.

4.2 Depending on the circumstances, this may include everyday activities and it will usually include sexual activities.

4.3 The invasion must be more than fleeting. It is possible for this to occur in a public space.

5. Consent

5.1 If consent is obtained prior to the publication of material, then the person waives his or her claim to privacy protection.

5.2 Consent can be express, such as when obtained in writing. It can also be implied; for example, where a person is a willing participant in an interview.

5.3 If a person has actively drawn attention to material that would usually be considered private, this may be taken as consent.

5.4 There will be no waiver if consent is obtained by deception.

5.5 Consent to the publication of private information or material that would breach privacy may be withdrawn before it is first publication, if in all the circumstances it is reasonable to do so.

5.6 The use of material that has been surreptitiously obtained will be an indicator that the person has not (at least at the time the material was obtained) consented to the publication. Consent to the use of such material can be given after the material has been obtained but before publication.

5.7 The absence of an objection will not automatically be taken to be consent.

6. Children and vulnerable people

6.1 Special care must be taken in the use of material concerning a child (a person of 16 years or under) or a vulnerable person. A person's vulnerability may be intrinsic (for example, where a person has a mental illness or difficulty communicating in English) or it may be situational (for example, where a person is bereaved or has been involved in a distressing event). Images of dead or seriously wounded people which may seriously distress or seriously offend a substantial number of readers should be displayed only when there is an identifiable public interest reason for doing so. Reasonable steps must be taken to ensure that murder or accident victims are not identified directly or, where practicable, indirectly before their immediate families are notified by the authorities. Reports of suicide or attempted suicide should only be published where there is an identifiable public interest reason to do so and should exclude any detailed description of the method used. Such reports must be straightforward and must not include graphic details or images, or glamorise suicide in any way.

6.2 A parent or guardian's express consent should be obtained before using material that invades a child's privacy. However, parental consent alone will not always be sufficient for a publisher to comply with its privacy obligations. Extra care must be taken before naming or visually identifying a child in matters concerning the child's health, welfare or personal information, or where the child or his or her immediate family is involved in criminal matters or court proceedings.

6.3 Even where consent is obtained, there may be circumstances where a person of ordinary sensibilities would consider the use of material that invades a child's or vulnerable person's privacy to be highly offensive.

7. Public figures

7.1 Public figures such as politicians, celebrities, prominent sports and business people and those in public office do not forfeit their right to privacy in their personal lives. However, it is accepted that public figures will be open to a greater level of scrutiny of any matter that may affect the conduct of their public activities and duties.

8. Material in the public domain

8.1 Using material that is already in the public domain will generally not be an invasion of privacy.

8.2 This includes the use of material obtained from online social media sites, unless access restrictions have been breached. However, the absence of access restrictions, while an important consideration, will not be determinative. Account will be taken of the nature of the material and the context in which it has been published.

8.3 Using material that has previously been disclosed by a person on a confidential basis, or to a limited or closed circle of recipients, may be an invasion of his or her privacy. Its private nature may be implied even if there was no express request to keep it confidential.

9. Public interest

9.1 The publication of private information or material that invades privacy, without consent, will not breach this policy if there is a clear and identifiable public interest in the material being published. The public interest is assessed at the time of the publication.

9.2 Whether something is in the public interest will depend on all the circumstances, including whether a matter is capable of affecting the community at large so that citizens might be legitimately interested in or concerned about what is going on.

9.3 Public interest issues include public health and security; criminal activities; corruption; misleading the public; serious anti-social behaviour; politics; government and public administration; elections; and the conduct of corporations, businesses, trade unions and religious organisations.

9.4 Not all matters that interest the public are in the public interest.

9.5 Any material that invades a person's privacy in the public interest must directly or indirectly contribute to the public's capacity to assess an issue of importance to the public, and its knowledge and understanding of the overall subject. It should be proportionate and relevant to those issues, and not disclose peripheral facts or be excessively prolonged, detailed or salacious.

9.6 In the case of public figures, the publication of material that invades the person's privacy may be in the public interest if it raises or answers questions about any of the following:

- 9.6.1 the person's appointment to or resignation from public office
- 9.6.2 the person's fitness for office
- 9.6.3 the person's capacity to carry out his or her duties
- 9.6.4 conduct or behaviour that contradicts the person's stated position on an issue.

9.7 However, it is unlikely to be in the public interest if it is merely distasteful, socially damaging or embarrassing.

10. Breach of this policy

10.1 In order for there to be a breach of this Privacy Policy there will need to be

- 10.1.1 Identification of a person from published material;
- 10.1.2 The publication must disclose personal information or intrude upon the person's seclusion in more than a fleeting way.

10.2 If the matters in 10.1 are satisfied there must also be

- 10.2.1 No consent to publication from the person, or that person's parent or guardian;
- 10.2.2 The material published must not have been readily obtainable from the public domain;
- 10.2.3 No public interest in the invasion of privacy.