

Procedural guidelines for risk assessment in oral history recordings

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Purpose and scope

These guidelines aim to provide a standard framework based on industry best practice for NSLA libraries to assess risk in providing online access to oral history or sound recordings, where rights and permission agreements are:

- missing
- poorly documented
- unclear.

NSLA libraries will take the following criteria into consideration when determining if a work is a legacy oral history:

- recorded before 1995
- any related contractual agreement has expired
- any embargo or access restriction placed upon them has expired
- agreements for the oral history and associated transcript do not consider the option of online access
- collection provenance information is not available or no longer useable.

For more information refer to [NSLA's position statement on access to legacy oral history collections](#).

Out of scope for these guidelines are recordings containing copyright material owned by third parties, such as broadcasts, reproduction of literary or dramatic works, or commercial music recordings.

Organisational responsibility for the management of risk assessment in recordings will be established according to the institutional requirements of each NSLA member. These procedural guidelines aim to provide guidance and industry standards to support making library collections more widely available. They do not constitute legal advice.

1. Identify and locate rights holder/s

NSLA libraries should first determine if the copyright holder/s can be identified and located and obtain documented permission to use and reproduce the interview using a Rights Agreement form or equivalent. Separate rights may exist in the recording and the content, and rightsholders may include interviewees, interviewers or commissioning entities, including the library itself. Where the rights holders cannot be identified or located, the oral history will be treated as an orphan work in accordance with Australian copyright law.

See NSLA's [position statement on reasonably diligent search for orphan works](#).



2. Recordings with or about Aboriginal and Torres Strait Islander peoples

Where legacy oral histories record Aboriginal or Torres Strait Islander peoples, or they are the subject of another person's oral history, NSLA libraries will follow the [ATSILIRN Protocols](#) in determining if these will be made accessible, including online. See NSLA's [Position statement on Indigenous cultural and intellectual property \(ICIP\)](#).

3. Conduct an overview assessment

Libraries are advised to conduct an initial overview assessment of an oral history collection to establish the likelihood of recordings containing sensitive content. The assessment may incorporate the use of transcripts, reviewing content summaries, correspondence or other paperwork relating to the interview. Where content or a collection is assessed to be low risk (uncontroversial subjects), it may be appropriate to sample the recordings.

4. Determine if the recording contains sensitive material

Risk assessment helps to identify recordings that contain sensitive material, personal information or anything that may cause substantial damage and distress to the interviewee or identifiable living third parties. Interviews and recordings should be carefully assessed to determine if they contain any of the following:

- personal information, such as address, phone number, healthcare information, or anything that may pose a privacy or safety risk
- confidential or sensitive information about the interviewee or identifiable living third parties, including medical conditions, personal tragedies, sexual abuse, or violence
- criminal allegations, slanderous or libellous language towards another living party
- confidential corporate information
- culturally insensitive language.

The presence of any of this content does not automatically determine that the interview cannot be made available online to the public. A quick search may confirm identified flagged content is non-sensitive, or already public knowledge/in the public domain. It may also be appropriate to redact, suppress or embargo the parts of the interview that contain this content.

5. Redaction

NLSA libraries may choose to redact parts of a legacy oral history before making it accessible online, where they have the resources to do so to ensure that private information, broadcast material, confidential or culturally sensitive information is not included without appropriate permission. Where they occur, redactions will be made overtly and with the purpose of preserving privacy or upholding rights, not as a form of censorship.

Redacting decisions should be thoroughly documented, including review periods for reverting access to the original recording if appropriate.

Edits should only be made to a copy of the recording and never to the original. Both the master recording and modified access copy should be clearly documented and preserved separately.

6. Documentation

It is essential to clearly document the results and decisions made during the risk assessment process, and anything affecting access to the recording, including:

- all efforts to locate rights holders
- search methods and resources used to conduct risk assessment (incl. search terms)
- any results of the risk assessment that reveals sensitive content (including timecodes and relevant sections of the interview/summary/transcript)

- decisions to redact/suppress/embargo recordings (including transcripts, finding aids and summaries)
- approval and sign-off on risk assessment
- decision to publish recordings online
- takedown requests and decisions.

To support transparency, libraries may decide where and if appropriate to provide some of this information to the public, including in the catalogue record or by request.

7. Takedown

NSLA libraries' takedown provisions and procedures will be followed when a request is received for the full or partial removal of a legacy oral history or transcript. See NSLA's [Position statement on takedown](#).

APPENDIX: RISK LEVELS IN ORAL HISTORY INTERVIEWS/SOUND RECORDINGS

This table contains an overview of common examples of recording content and likely risk and access levels. Staff should first refer to the guidelines about conducting an overview assessment to determine if the recording may contain sensitive material.

RISK LEVEL	INTERVIEW / RECORDING CONTENT	ACTION	ACCESS
LOW RISK	<ul style="list-style-type: none"> Public lectures on uncontroversial subjects Rights holders cannot be identified or located Library commissioned interview with no sensitive content Verbal permission on recording, no sensitive content Interview subject is deceased and no sensitive information Identifiable third parties are deceased 	N/A	ONLINE
	<ul style="list-style-type: none"> No confidential or sensitive information Sensitive content already in the public domain Confidential information has ceased with the passage of time Recording contains personal data in which a living individual could be identified but considered very low risk because of the wider context (e.g. passing of time, age) Publishing the recording carries low risk of causing damage or distress to the interview subject or identifiable third parties. 	Contact copyright owner/s, if no response treat as orphan work and make available online.	ONLINE
MEDIUM RISK	<ul style="list-style-type: none"> Permission to (non-Library) interviewer to use for research, publication and/or broadcasting 	Contact interviewer	ONLINE / ONSITE
	<ul style="list-style-type: none"> Recording contains personal data or sensitive personal data in which a living individual could be identified, however the personal data in question would be considered a medium risk because of the wider context (e.g. passing of time, age) 	Redact relevant portion/s. If too many instances, do not allow access online.	ONLINE / ONSITE
HIGH RISK	<ul style="list-style-type: none"> Recordings with or about Aboriginal and Torres Strait Islander peoples 	follow ATSILIRN Protocols	N/A
	<ul style="list-style-type: none"> Broadcast, commercial, or recordings containing third-party copyrighted material (e.g. music, literature) 	No reproduction	ONSITE ONLY
	<ul style="list-style-type: none"> Recording contains personal info, libel, or criminal allegations Confidential corporate info where reason for confidentiality has not ceased with the passage of time. Recording contains sensitive personal data which could cause an identifiable individual to be negatively targeted, mentally, or physically. Publishing the material online or allowing access onsite carries a high risk of causing damage or distress to the interview subject or their identifiable living relatives. 	Redact, suppress, or embargo relevant portion/s. If too many instances do not allow access onsite or online.	ONSITE, RESTRICTED or EMBARGO
EXAMPLES OF SENSITIVE /HIGH RISK CONTENT TO FLAG AND REVIEW	<ul style="list-style-type: none"> Personal data (address, phone number, healthcare info, anything that may pose a privacy or safety risk). Confidential/sensitive info about interviewee or identifiable living third parties (e.g. medical conditions, personal tragedies, health, sexual abuse, violence). Criminal allegations, slander, libellous language towards another identifiable living party. Confidential corporate information. Culturally sensitive language. TOPICS: religion; politics; sexuality; trade union activity; institutions with a duty of care to children, young people, and vulnerable adults; asylum seekers or refugees. 		