



SOUTH WEST ACADEMY OF SPORT (SWAS)

Privacy and Data Retention Policy and Procedures



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1. Policy Statement

The Board of South West Academy of Sport (SWAS) is committed to protecting the privacy of personal information that the organisation collects, holds and administers. Personal information is information, which directly or indirectly identifies a person.

The rise to predominance of electronic communication mandates electronic message management systems comparable to existing hard copy filing systems.

Directors, managers, staff, coaches and volunteers of South West Academy of Sport acquire no rights in any material, electronic or otherwise, created by in the course of their employment, or accessed on South West Academy of Sport equipment.

2. Purpose

The purpose of this document is to provide a framework for South West Academy of Sport in dealing with privacy considerations and the framework for how email communications are classified and subsequently how long it will be kept. Electronic document retention management needs to meet multiple objectives:

- That email and document retention does not materially degrade IT system performance.
- That important emails and documents remain accessible for operational purposes.
- That legal document retention requirements are met; and
- That *Privacy Act* obligations to delete certain personal information is complied with.

To help employees determine what information sent or received by email should be retained and for how long, this policy identifies the broad categories of electronic messages processed by the South West Academy of Sport system and sets out the factors to be considered in setting practice guidelines to be adopted in each case.

Material that should be preserved should be clearly distinguished from material that should be purged from the system.

3. Legal and Corporate Requirements

3.1 This Manual is to be read and implemented in conjunction with SWAS's other relevant policies, strategies and documents, including:

- 3.1.1 Constitution
- 3.1.2 Board Charter
- 3.1.3 Strategic Plan

3.2 This policy applies to all parties including Directors, managers, staff, coaches, contractors, consultants and volunteers.

3.3 Legislation

- 3.3.1 The Privacy Act (Cth) 1988
- 3.3.2 Privacy and Data Protection Act 2014
- 3.3.3 Associations Incorporation Reform Act 2012



4. Application of Policy

South West Academy of Sport collects and administers a range of personal information for the purposes related to the activities of the SWAS. The organisation is committed to protecting the privacy of personal information it collects, holds and administers.

South West Academy of Sport recognises the essential right of individuals to have their information administered in ways that they would reasonably expect – protected on one hand, and made accessible to them on the other. These privacy values are reflected in and supported by our core values and philosophies and also reflected in our Privacy Policy, which is compliant with the Privacy Act 1988 (Cth).

South West Academy of Sport is bound by laws which impose specific obligations when it comes to handling information. The organisation has adopted the following principles contained as minimum standards in relation to handling personal information.

South West Academy of Sport will:

- Collect only information which the organisation requires for its primary function.
- Ensure that stakeholders are informed as to why we collect the information and how we administer the information gathered.
- Use and disclose personal information only for our primary functions or a directly related purpose, or for another purpose with the person's consent.
- Store personal information securely, protecting it from unauthorised access; and
- Provide stakeholders with access to their own information, and the right to seek its correction.

5. Responsibilities

South West Academy of Sport's Board is responsible for developing, adopting and reviewing this policy.

South West Academy of Sport's CEO is responsible for the implementation of this policy, for monitoring changes in Privacy legislation, and for advising on the need to review or revise this policy as and when the need arises. It is also the responsibility of the CEO to ensure that:

- Directors, managers, staff, coaches and volunteers are aware of this policy.
- Any breaches of this policy coming to the attention of management are dealt with appropriately.

It is the responsibility of all directors and volunteers to ensure that their usage of email and documentation conforms to this policy.

6. Processes

Collection

South West Academy of Sport will:

- Only collect information that is necessary for the performance and primary function of South West Academy of Sport.
- Notify stakeholders about why we collect the information and how it is administered.
- Notify stakeholders that this information is accessible to them.
- If collecting personal information from a third party, be able to advise the person whom the information concerns, from whom their personal information has been collected.
- Collect sensitive information only with the person's consent. (Sensitive information includes health information and information about religious beliefs, race, gender and others).
- Determine, where information is received, whether the personal information could have been collected in the usual way, and then if it could have been, it will be treated normally. (If it could not have been, it must be destroyed, and the person whose personal information has been destroyed will be notified about the receipt and destruction of their personal information).

Use and Disclosure

South West Academy of Sport will:

- Only use or disclose information for the primary purpose for which it was collected or a directly related secondary purpose.
- For other uses, South West Academy of Sport will obtain consent from the affected person.
- In relation to a secondary purpose, use or disclose the personal information only where:
 - A secondary purpose is related to the primary purpose and the individual would reasonably have expected us to use it for purposes; or
 - The person has consented; or
 - Certain other legal reasons exist, or disclosure is required to prevent serious and imminent threat to life, health or safety.
- In relation to personal information which has been collected from a person, use the personal information for direct marketing, where that person would reasonably expect it to be used for this purpose, and South West Academy of Sport has provided an opt out and the opt out has not been taken up.
- In relation to personal information which has been collected other than from the person themselves, only use the personal information for direct marketing if the person whose personal information has been collected has consented (and they have not taken up the opt out).
- State in South West Academy of Sport privacy policy whether the information is sent interstate/overseas and further will ensure that any interstate/overseas providers of services are as compliant with privacy as South West Academy of Sport is required to be.
- Provide all individuals access to personal information except where it is a threat to life or health or it authorised by law to refuse and, if a person is able to establish that the personal information is not accurate, then South West Academy of Sport must take steps to correct it. South West Academy of Sport may allow a person to attach a statement to their information if South West Academy of Sport disagrees it is inaccurate.
- Where for a legal or other reason we are not required to provide a person with access to the information, consider whether a mutually agreed intermediary would allow sufficient access to meet the needs of both parties.
- Make no charge for making a request for personal information, correcting the information or associating a statement regarding accuracy with the personal information.

Storage

South West Academy of Sport will:

- Implement and maintain steps to ensure that personal information is protected from misuse and loss, unauthorised access, interference, unauthorised modification or disclosure.
- Before South West Academy of Sport discloses any personal information to an interstate/overseas recipient including a provider of IT services such as servers or cloud services, establish that they are privacy compliant. South West Academy of Sport will have systems which provide sufficient security.
- Ensure that South West Academy of Sport data is up to date, accurate and complete.

Destruction and De-identification

South West Academy of Sport will:

- Destroy personal information once it is not required to be kept for the purpose for which it was collected, including from decommissioned laptops and mobile phones.
- Change information to a pseudonym or treat it anonymously if required by the person whose information South West Academy of Sport holds and will not use any government related identifiers unless they are reasonably necessary for our functions.

Data Quality

South West Academy of Sport will:

- Only destroy records in accordance with **Table 1** below:

TABLE 1

Type of Document	Retention Period
Financial records. This includes any document that records and explains your financial position and performance. These are important to retain because they will enable accurate financial statements to be prepared and audited. For example, you should keep all invoices, receipts and bank statements.	Seven years from the date the transaction covered by the record is complete.
Australian Tax Office (ATO) records. This refers to any document that records and explains any income tax or ATO related transactions, It also includes any document that demonstrates how you arrived at figures used in any ATO related dealings, including corporate tax records, year-end records and GST records.	Five years from the last relevant transaction.
Company documents. You need to keep all materials relating to the creation and ongoing governance of your company. This includes your constitution, minutes of committee and General Meetings and any resolutions.	Permanently.
Employee records. This encompasses any document that relates to any employment relations between your business and an employee. For instance, your employees' personal details, type of employment and commencement date. You should also keep records relating to your employees' pay, leave, superannuation and expenses.	Seven years from the end of the financial year in which you created the document.

Contracts. This includes any leases, supply contracts and purchase orders.	Permanently while the contract applies After terminating the contract, you should keep it for six years from the date that you completed the transaction. Further, you should retain deeds for 12 years from the date you completed the transaction.
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Openness

South West Academy of Sport will:

- Ensure stakeholders are aware of South West Academy of Sport's Privacy Policy and its purposes.
- Make this information freely available in relevant publications and on the organisation's website.

Access and Correction

South West Academy of Sport will:

- Ensure individuals have a right to seek access to information held about them and to correct it if it is inaccurate, incomplete, misleading or not up to date.

Anonymity

- Allow people from whom the personal information is being collected to not identify themselves or use a pseudonym unless it is impracticable to deal with them on this basis.

Making information available to other organisations

South West Academy of Sport can:

- Release information to third parties where it is requested by the person concerned.

In regards to **email retention** and archiving the first step is to consider whether there is a particular legal obligation to retain the email for a minimum period of time. The email can then be classified for South West Academy of Sport's internal purposes as one of:

- Material of permanent significance (perpetual)
- Administrative correspondence (4 years)
- Fiscal correspondence (4 years)
- General correspondence (1 year)
- Ephemeral correspondence (retain until read and acted upon, then destroy)

Details of how these categories are defined are below Section 7.

The email should then be retained for the longer of the minimum legal period and the period set down in South West Academy of Sport's internal classification.



7. Classification of Correspondence

7.1. Material of permanent significance

Material that requires permanent retention include:

- Any material required to be retained in accordance with legal obligations (see further explanation below under the heading, 'Legal Requirements');
- Items of historical significance to the organisation;
- Emails creating or recording permanent legal relationships; and
- Items recording significant policies or precedents.

To ensure material of permanent significance is retained in an accessible format, the SWAS CEO will save said material in an accessible format on the organisations computer filing system. Retention of such material will be administered by the SWAS CEO.

7.2. Administrative Correspondence

South West Academy of Sport's Administrative Correspondence includes, though is not limited to, confidential management information, employee-related information, and project-related correspondence.

To ensure Administrative Correspondence is retained in an accessible format, the SWAS CEO will save said material in an accessible format on the organisations computer filing system. Retention of such material will be administered by the SWAS CEO.

7.3. Fiscal Correspondence

South West Academy of Sport's Fiscal Correspondence include all information related to revenue and expense for the organisation. To ensure Fiscal Correspondence is retained in an accessible format, the SWAS CEO will save said material in an accessible format on the organisations filing system. Retention of such material will be administered by the SWAS CEO.

7.4. General Correspondence

South West Academy of Sport's General Correspondence covers information that relates to customer and client interaction and the operational decisions of the organisation. The individual director and staff member is responsible for email retention of General Correspondence where this is likely to be of continuing usefulness. General Correspondence may include such things as Instant Messenger Correspondence, which may be saved with the logging function of Instant Messenger, or copied into a file and saved. Instant Messenger conversations that are Administrative or Fiscal in nature should be copied into an email message and sent to the SWAS CEO.

7.5. Ephemeral Correspondence

South West Academy of Sport's Ephemeral Correspondence is by far the largest category and includes personal emails, emails dealing with the work of the day, and emails containing information outdated by events. Directors and staff may destroy this after reading and acting on the material.

8. Legal Requirements

8.1. Australian Charities and Not for Profit Commission Act 2012 (Cth)

While South West Academy of Sport is not a reporting entity to the ACNC it provides good practice guidelines for incorporated bodies such as SWAS to follow. Section 55-5 requires a registered entity to keep for 7 years written records that correctly records its operations, so as to enable any recognised assessment activity to be carried out. Under Section 55-10 a recognised assessment activity includes an activity carried out to assess compliance with the *Australian Charities and Not for Profit Commission Act* and Regulations under the Act.

Citing just two examples of obligations under the *Australian Charities and Not for Profit Commission Regulations 2013*:

- A registered entity must take reasonable steps to ensure its board members disclose any perceived or actual material conflicts of interest of any board members. If a board member was to send an email to the rest of the board disclosing a conflict of interest then this would need to be retained;
- A registered entity must take reasonable steps to ensure its board members do not allow the entity to operate while insolvent. Any email discussion between board members regarding the solvency of the entity (ie its ability to pay its debts as and when they fall due) would need to be retained.

8.2. Destruction of evidence

Various state and territory laws criminalise the destruction or concealment of a document that is likely to be required in evidence in a legal proceeding.

In Victoria Under the *Crimes Act 2958 (Vic) s 254*, it is an offence to destroy, conceal or render illegible such a document, or to expressly, tacitly or impliedly authorise another person to do so. This applies to legal proceedings that have been commenced or may be commenced in the future.

8.3. Correspondence involving intellectual property

Any correspondence that involves the creation of any significant intellectual property rights shall be retained at the discretion of the CEO. To ensure Administrative Correspondence is retained in an accessible format, the SWAS CEO will save said material in an accessible format on the organisation's computer filing system. Retention of such material will be administered by the SWAS CEO.

8.4. Correspondence relating to litigation (or anticipated legal proceedings)

When legal proceedings are in process (or reasonably to be anticipated), particular considerations apply to document retention. This would include correspondence relating to any threatened or likely misconduct by South West Academy of Sport, relating to any alleged or likely misconduct by South West Academy of Sport, its directors, staff, coaches or volunteers. It is the responsibility of the CEO to inform staff should these considerations be applicable and to circulate to staff any relevant changes in policy and procedures.

8.5. Privacy Act 1988 (Cth)

Under the Australian Privacy Principles implemented in accordance with the *Privacy Act 1988 (Cth)*, an APP entity (ie an entity that is obliged to comply with the Australian Privacy Principles) must take such steps as are reasonable in the circumstances to destroy personal information, or to ensure that the information is de-identified, if the entity no longer needs the information for



any purpose for which the information may be used or disclosed by the entity. The *Privacy Act* only applies to the information about an individual (ie a human) it does not apply to information about entities. Furthermore, in determining whether the entity has any continuing need for the information is based upon uses that are permitted under the *Privacy Act*, not all possible uses to which the entity may want to put the information. However, this obligation is expressly subject to any obligation at law to retain the information so that an obligation to retain overrides this obligation to destroy.

9. Breaches

SWAS takes privacy seriously.

Any breach of this policy or associated procedure may result in disciplinary action, which may include counselling, dismissal, or cessation of the person's engagement with SWAS.

It should further be noted that any such breach may subject to penalties under relevant Act(s).

10. Storage

It shall be the responsibility of the CEO or their nominee to maintain backup discs or cloud back-up, and archiving from the South West Academy of Sport's email server. The email server should be backed up at least daily.

Where physical back-up media is used (rather than cloud storage) then at least once a quarter a set of discs shall be taken out of the rotation and be moved offsite. Email shall not be removed from the offsite backup discs.

11. Further Information

For further information about the Privacy and Data Retention Policy please contact the CEO.