Takedown requests

Policy Statement

Port Macquarie-Hastings Library has endorsed a position statement on public requests to take down content from our website and/or collections. The position statement outlines how the Library will respond to takedown requests. This statement is based on guidelines published by National and State Libraries Australia (NSLA).

Target Audience

This policy applies to anybody who requests the Library to take down content from its catalogue and/or website.

Operational Requirements

Takedown requests

Port Macquarie-Hastings Library is committed to the principles of freedom of expression and universal access to information and knowledge. These principles are fundamental to the library profession and recognised as pivotal components of our democratic traditions; represent a major driving force in the creation of new ideas and innovation; and support cultural understanding and sustainable socio-economic development.

Responding to the proliferation of digital technologies and enhanced community expectations for 'anywhere, anytime' access to information, libraries are continuing to build and deliver online collections, providing the greatest possible access to local and global communities.

Libraries have mandated roles to collect and preserve cultural heritage, provide open and equitable access to information, and support the growth of knowledge and ideas. Given these responsibilities, materials provided online will be taken down (or have other access restrictions imposed) only in extraordinary circumstances.

In making collections available online public libraries act to respect jurisdictional legal considerations. However, despite best efforts there may be occasions when material made available online is considered to breach copyright or other relevant law or contains information that is culturally sensitive. In terms of copyright infringements, Australia has legislated to extend safe harbours protection to include cultural, educational and disability groups where they provide online services to the public. The Copyright Amendment (Service Providers) Act 2018 sets the services and compliance requirements to which safe harbours may apply. As well as being relevant to takedown of material uploaded by third parties, these changes are relevant for those providing public access computers or search services. Further information is available from the Australian Libraries Copyright Committee.

As a means of promoting a consistent response to takedown requests, public libraries agree to take into account the following general principles:

- The broadest possible online access to collection materials will be provided.
- Permanent access restrictions, deindexing or takedown will be considered as an exceptional response.
- Requests for access restrictions, deindexing or takedown will take into account the relationship of the requestor to the material.
- Requests for access restrictions, deindexing or takedown will take into account specific jurisdictional legislation and related exemptions.
- Access restrictions or takedown of material made available online should, as far as practical, be openly acknowledged with a statement noting the takedown.
- As circumstances change, or after a period of time, online material that has been taken down, restricted or deindexed should be reviewed and may be reinstated.

Making a takedown request

If a member of the public is concerned about material made available through the Port Macquarie-Hastings Library catalogue and/or website without permission, and/or which contravenes privacy laws, is defamatory, or is in breach of copyright law, they can contact the Library in writing stating the following:

1. Contact details
2. Full description and details of the material
3. Reason for request, including (but not limited to) copyright law, privacy laws, data protection, defamation, proof of rights to the material, etc.

Responding to takedown requests

Port Macquarie-Hastings Library will acknowledge takedown requests in writing and will make an initial assessment of the request. The material may be temporarily removed from the Library catalogue or website until a final decision is agreed upon.

Port Macquarie-Hastings Library will make all possible efforts to resolve takedown requests quickly and to the satisfaction of both parties, with the following possible outcomes:

- Access to the material is restored unchanged
- Access to the material is restored with changes
- Access to the material is removed

There will be regular reviews of takedown decisions. Where the circumstances of the original takedown request have changed over time, it may result in access to the material being restored.

Takedown requests will be assessed according to the following criteria, including whether or not:

- Online access to the identified material is in breach of copyright law.
- The identified material is subject of a suppression order or other legal restriction on availability, or is subject to specific jurisdictional legislation or related exemptions.
- Online access to the identified material contravenes conditions imposed by a donor.
- The identified material is defamatory or objectionable under Australian law.
- There is a need to mitigate harm and legal liability.
- The identified material includes personal information about someone who is still alive and continued online access would cause serious invasion of privacy or harm.
- Removal of the identified material would undermine freedom of speech.
- Online access to the identified material is in breach of the protocols maintaining the right of Indigenous peoples to determine access provisions for heritage materials, which reflect their history, culture, language and perspective.

Related Key Legislation and Policy

Most relevant legislation:

- Copyright Act 1968 (Cth)
- Library Act 1939
- Privacy and Personal Information Protection Act 1998
- State Records Act 1998

Definitions

NSLA - National and State Libraries Australia

Takedown -To remove or restrict access to material on the Port Macquarie-Hastings Library website and/or catalogue