

PRIVACY MANAGEMENT PLAN

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public service



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1.1. Purpose

This Privacy Management Plan (“Plan”) has been developed in accordance with section 33 of the *Privacy and Personal Information Protection Act 1998* (NSW) (“*PIIP Act*”).

It sets out the Public Service Commission’s (“PSC”) commitment to respecting the privacy rights of individuals whose personal and health information we collect and manage.

The Plan seeks to inform the PSC’s stakeholders, staff, and the general public on how we manage personal information in compliance with the *PIIP Act* and health information in compliance with the *Health Records and Information Privacy Act 2002* (NSW) (“*HRIP Act*”).

In addition to complying with the *PIIP Act* and *HRIP Act*, the PSC must also comply with the PSC Privacy Code of Practice (“Privacy Code”) and the PSC Health Privacy Code of Practice (“Health Privacy Code”) (together, the “Privacy Codes of Practice”). The Privacy Codes of Practice modify the way in which some information protection principles (“IPPs”) and health privacy principles (“HPPs”) apply to PSC’s handling of personal information where the information is contained in workforce data. More information is given in Section 3 below.

For more information about privacy generally, including the *PIIP Act* and the *HRIP Act*, you can visit the Information and Privacy Commission NSW website at <http://www.ipc.nsw.gov.au/>.

1.2. Scope

Section 33(2) of the *PIIP Act* requires that the Plan include the following:

- PSC policies and practices in line with the *PIIP Act* and the *HRIP Act*,
- the dissemination of these policies and practices within the agency,
- our internal review procedures for complaints about the PSC’s compliance with the *PIIP Act*, and
- anything else that we consider relevant in relation to privacy and the protection of personal information we hold.

We will review this Plan from time to time as necessary, including if any legislative, administrative or systemic changes affect how we manage personal and health information.

Separate from this Plan, the PSC has a Data Breach Policy that sets out the PSC's procedures for managing a data breach, including the assessment and notification requirements for the mandatory notification of data breach scheme under the *PPIP Act*.

1.3. Legislative context

This Plan gives effect to legislative duties imposed on the PSC, in particular, the *PPIP Act* and *HRIP Act*. This Plan will be revised and updated to reflect legislative amendments over time.

1.4. Key considerations and guidance

Personal and health information that the PSC handles

We collect and receive different kinds of personal information in order to conduct the Public Service Commissioner's ("Commissioner's") functions under the *Government Sector Employment Act 2013* ("*GSE Act*"). When this Plan uses the term "personal information" it uses the definition in section 4 of the *PPIP Act*:

"Information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion.

Personal information includes such things as an individual's fingerprints, retina prints, body samples or genetic characteristics."

However, certain kinds of information are excluded from the definition of "personal information". A full list of such exclusions is contained in section 4(3) of the *PPIP Act*.

Health information is personal information that is information or an opinion about an individual's physical or mental health or disability, or an individual's express wishes about the future provision of health services to them, or a health service provided or to be provided to an individual. The full definition is in section 6 of the *HRIP Act*.

In this Plan, a reference to personal information is also a reference to health information.

1.5. Purposes for which the PSC handles personal and health information

The PSC collects, stores, uses and discloses personal information for the purpose of carrying out its functions. For example, the PSC may handle personal information for the purpose of:

1. managing the PSC's data collections about the NSW public sector workforce
2. recruitment, and
3. human resource management.

These purposes are described briefly below. (These are not the only purposes for which the PSC may handle personal information, but are given as examples.)

PSC's Workforce Data Collections

The PSC collects, holds, and manages data in relation to the NSW public sector workforce to support the functions of the Commissioner, as permitted by the *GSE Act*. The data includes, but is not limited to, information about employment (e.g. remuneration, work location), unique identifiers (e.g. Government Employee Number), information about employees (e.g. date of birth, gender), information about workplace conduct (e.g. bullying), and attitudinal data (i.e. employees' perceptions of their employer).. Some of this data may meet the definition of personal information.

The PSC's approach to workforce data collections is set out in the PSC Privacy Codes of Practice. For the purpose of the Privacy Codes of Practice, "NSW public sector workforce" has an expanded meaning to include prospective public sector employees, contingent labour and "external to NSW government sector agency employees", defined as persons described in section 5 of the *GSE Act*.

The two Privacy Codes of Practice contain some modifications to the IPPs and the HPPs to ensure that the PSC may collect use and handle personal information and health information that forms part of workforce data collections, whilst still ensuring proper protections for that information.

Recruitment

When people apply for jobs at the PSC, they send us personal information such as their name, contact details and work history via the secure IWorkforNSW portal.

General information on how the information gathered on the IWorkforNSW portal is stored and maintained can be found at <https://staterecords.nsw.gov.au/recordkeeping/guidance-and-resources/keeping-recruitment-records-using-e-recruitment>.

Human Resource Management

We may collect and manage personal and health information about our staff, such as:

- medical conditions and illnesses
- next of kin
- education
- family and care arrangements
- secondary employment
- personal and financial interests
- whether a staff member is Aboriginal or Torres Strait Islander
- whether a staff member has a disability.

We collect this information for various lawful reasons, such as leave management, and to ensure compliance with workplace health and safety laws. We do not ask for more personal information than required and we advise staff of the reasons for requesting their personal information. We also advise staff when a collection is voluntary or mandatory, and of any possible consequences of not providing the information to us. The information is stored within secure electronic systems.

Exemptions under the *PPIP Act*

In some circumstances, an agency is exempt from compliance with an information protection principle under the *PPIP Act*.

For example, under section 16(2) of the *GSE Act*, the Commissioner may require the head of a government sector agency to provide the Commissioner with information collected or held by the agency in dealing with matters relating to government sector employees. Under section 16(4) of the *GSE Act*, privacy legislation does not operate to prevent the provision of information to the Commissioner.

In addition, section 27A of the *PPIP Act* exempts an agency from the requirement to comply with the IPPs with respect to the collection, use or disclosure of personal information if the agency is providing the information to another public sector agency, or being provided with the information by another public sector agency, and the collection, use or disclosure is reasonably necessary to enable inquiries to be referred between the agencies concerned, or is reasonably necessary for the other purposes set out in section 27A(2).

Section 25 of the *PPIP Act* also allows an agency not to comply with certain IPPs if the agency is lawfully authorised or required not to do so, or if non-compliance is otherwise permitted under law.

In the event of an eligible data breach under the *PPIP Act*, section 59R(3) and (4) exempt an agency from the requirement to comply with an IPP, an HPP, a privacy code

of practice or a health code of practice in relation to the use, collection or disclosure of “relevant personal information” (the name, contact details, date of birth, an identifier and, if deceased the date of death, of an individual), if reasonably necessary for the purpose of confirming the name and contact details of individuals affected by the data breach, or confirming whether an individual is deceased. The PSC Data Breach Policy contains more information about how the PSC will comply with the mandatory notification of data breach scheme.

How to access and amend personal and health information

Under the *PIIP Act* and the *HRIP Act*, individuals have a right to access their personal and/or health information that an agency holds about them. They also have the right to amend their personal or health information held by an agency, for example if they need to update their contact details.

However, the Privacy Codes of Practice modify the application of some of the IPPs and HPPs to the PSC when dealing with certain workforce data, as defined in the Privacy Codes of Practice. For example:

- In relation to IPP 7 and HPP 7 (Access to Personal Information held by Agencies) and IPP 8 and HPP 8 (Alteration of Personal Information) - the PSC is not required to comply with these principles in relation to personal information which forms part of a data collection if:
 - a) in the case of information obtained from a source other than the individual, the PSC refers the individual to its source (eg. the person’s employer), or
 - b) in the case of information obtained from the individual, the PSC refers the individual to an information portal or similar system which enables the individual to check what information the PSC holds in relation to the individual.

Please refer to the Privacy Codes of Practice for full details about how the IPPs and HPPs apply to the PSC’s handling of these data collections.

Internal Privacy Reviews

Internal review by our office

You have the right to seek an internal review under the *PIIP Act* if you believe that the PSC has breached the *PIIP Act* or *HRIP Act* in such a way as to prejudicially affect your interests. Ordinarily, this will only be the case where the relevant conduct of the PSC relates to your personal or health information. You may also seek internal review on behalf of another person if you are their authorised representative. Applications for an internal review must be made in writing and within six months from when you first

became aware of the breach. However, depending on circumstances, the PSC may also consider a late application for an internal review.

Internal review process

You can request an internal review by sending a request, along with any relevant information, to the PSC Privacy Contact Officer. Please see “Our Contact Details” section below for guidance on how to contact the Privacy Contact Officer.

Your submission can be made via our website, post, or by delivering it in person at PSC reception. The Privacy Contact Officer will conduct the internal review unless the internal review is about the conduct of the Privacy Contact Officer. In this case, the Commissioner, as head of the PSC, will appoint someone else within the PSC office to conduct the internal review.

The PSC aims to:

- acknowledge receipt of an internal review within 5 working days
- complete an internal review within 60 calendar days.

The Privacy Contact Officer will inform you of the progress of the internal review if it is likely to take longer than first expected. You can expect the Privacy Contact Officer to respond to you in writing within 14 calendar days of deciding the outcome of the internal review. This is a requirement under section 53 (8) of the *PPIP Act*.

The PSC must notify the Privacy Commissioner if an internal review is being conducted and also inform the Privacy Commissioner of the findings of the review and of the action proposed to be taken by the PSC in relation to the matter. The Privacy Commissioner is entitled to make submissions to the agency with his or her view on the matter.

If you disagree with the outcome of the internal review or are not notified of an outcome within 60 calendar days, you have the right to seek an external review.

External review process

If you are not satisfied with the findings of the internal review conducted by the PSC or the action taken by the PSC in relation to your application, you may apply to the NSW Civil and Administrative Tribunal (“NCAT”) for an external review. This external review by the NCAT is described in the *Administrative Decisions Review Act 1977* (“*ADR Act*”) as “administrative review” (see section 55).

You may also apply to the NCAT for an external review if the PSC’s internal review is not completed within 60 days.

You have 28 calendar days from the date you are notified of the internal review decision to seek an external review. In the event that the internal review is not completed within 60 days, you may apply to the NCAT for an external review within 28

days from the day on which the 60 day period expires or from the day on which you were notified of the result of the internal review (whichever is the later).

To request an external review, you must apply directly to the NCAT. In determining your application, the NCAT may decide to take no action in relation to the matter or it may make any one or more of the orders in section 55(2) of the *PPIP Act*. The NCAT may also exercise any of its powers under Division 3 of Part 3 of Chapter 3 of the *ADR Act*.

To apply for an external review or to obtain more information about seeking an external review, including current forms and fees, please contact the NCAT:

Website: <http://www.ncat.nsw.gov.au/>

Phone: 1300 006 228

Visit/post: NCAT Administrative and Equal Opportunity Division and Occupational Division, Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney

Post: PO Box K1026, Haymarket NSW 1240

Email: aeod@ncat.nsw.gov.au

The NCAT cannot give legal advice, however the NCAT website has general information about the process it follows and legal representation.

Please note that the NCAT's contact details and locations may change over time. Please check directly with NCAT if you need its assistance.

Other ways to resolve privacy concerns

We strongly encourage people to try to resolve privacy issues with us informally before going through the formal review process, or at least contact the Privacy Contact Officer to discuss the issue before lodging an internal review request. This may enable the PSC to promptly resolve your concern without a formal review process being necessary.

You also have the right to make a complaint to the Privacy Commissioner about the alleged violation of, or interference with, your privacy. For more information, see: <https://www.ipc.nsw.gov.au/privacy/citizens/make-complaint/>.

Promoting the plan – privacy training and education

Executive and governance

Our executive team is committed to transparency about how we comply with the *PPIP Act* and the *HRIP Act*, and reinforces transparency and compliance by:

- endorsing the Plan and making it publicly available

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- providing a copy of the Plan to relevant oversight bodies such as the Audit and Risk Committee
 - confirming support for privacy compliance in the code of conduct
 - identifying privacy issues when implementing new systems, and
 - using it as part of induction for new staff, contractors, etc.

Privacy-related policies

We consult with appropriate PSC staff when we develop new policies or procedures or amend them (including this Plan) in a way that would change how we manage personal and health information.

Awareness within the PSC

The PSC will take reasonable steps to ensure that PSC staff are aware of this Plan, understand its contents and are able to practically comply with it.

The PSC will provide information about this Plan, and new policies or procedures that may be connected with this Plan, to PSC staff via agency-wide emails, notifications on the PSC's internal intranet site, and by prominent inclusion in the PSC's internal collection of policies and procedures that are accessible by staff. Where necessary and practicable, the PSC will arrange for the provision of appropriate training and advice for PSC staff on how to comply with this Plan.

Public awareness

This Plan is a guarantee of service to our stakeholders of how we manage personal and health information and should be easy to access and understand. Additionally, we are required to make this Plan publicly available as open access information under the GIPA Act.

Our contact details

For further information about this Plan, the personal and health information we hold, or if you have any concerns, please feel free to contact our Privacy Contact Officer via:

Contact Us at <http://www.psc.nsw.gov.au>

02 9272 6000

GPO Box 3988 Sydney NSW 2001

1.6. Document Information

Policy owner	General Counsel
This version endorsed by	PSC Management Board
Date endorsed	28 November 2023
Date effective	28 November 2023
Due for review	November 2027

Version no.	Endorsed date	Description of change
1.0	June 2015	Document created
2.0	March 2017	Document reviewed
3.0	February 2018	Document reviewed – minor updates to clause 1.3.7, 1.6, 1.8, 1.8.2 (old numbering)
4.0	February 2019	Document reviewed – updates to clauses 3 and 4 (using numbering in that version)
5.0	May 2019	Document reviewed
6.0	November 2023	Document reviewed – updates throughout, including to refer to PSC Data Breach Policy under <i>Privacy and Personal Information Protection Amendment Act 2022</i> , and converted to new template