



Public
Service
Commission

Privacy Management Plan

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Privacy Management Plan

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) (“the *PPIP 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 (“the *PPIP Act* and health information in compliance with the *Health Records and Information Privacy Act 2002* (NSW) (“the *HRIP Act*”).

In addition to complying with the *PPIP Act* and *HRIP Act*, the PSC must also comply with the Privacy Code of Practice (“Privacy Code”) and the 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 privacy principles and health privacy principles apply to PSC’s handling of a specific kind of personal information known as workforce data. More information is given in section 3 below.

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

2. In scope

S33(2) of the *PPIP Act* requires that the Plan include the following:

- PSC policies and practices in line with the *PPIP 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 *PPIP 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.

3. Personal and health information that the PSC handles

We collect and receive different kinds of personal information in order to conduct our functions under the 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

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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(2) of the *PPIP Act*.

Health information is information or an opinion about a person's physical or mental health or disability, or a person's express wishes about the future provision of his or health services or a health service provided or to be provided to a person. 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.

3.1 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.)

3.2 PSC's Workforce Data Collections

The PSC collects, holds, and manages data that may be considered personal information in relation to the NSW public sector workforce. 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). The PSC collects data about the NSW public sector workforce to support the functions of the NSW Public Service Commissioner (the Commissioner), as permitted by the *GSE Act*.

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".

The two Privacy Codes of Practice contain some modifications to the Information Privacy Principles (IPPs) and the Health Privacy Principles (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.

3.3 Recruitment

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

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General information on how the information gathered on the IWorkforNSW portal is stored and maintained can be found at:

<https://www.records.nsw.gov.au/recordkeeping/resources/keeping-erecruitment-records>.

3.4 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.

4. Exemptions under the *PPIP Act*

In some circumstances, the PSC 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.

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

5. How to access and amend personal and health information

People have a right to access personal and/or health information that we hold about them. They also have the right to amend their personal or health information that we hold, for example if they need to update their contact details.

However, due to the nature of some of the PSC's data collections, the PSC is not required to comply with the IPPs and HPPs relating to access and amendment of certain kinds of personal and health information if the PSC's Privacy Codes of Practice have different rules. For example:

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- 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 the PSC's handling of data collections.

6. Internal Privacy Reviews

6.1 Internal review by our office

You have the right to seek an internal review under the *PPIP Act* if you believe the PSC has breached the *PPIP Act* or *HRIP Act* relating to your personal and/or health information. You cannot seek an internal review for a breach of someone else's privacy, unless you are the authorised representative of the other person. 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.

6.2 Internal review process

You can request an internal review by filling out the internal review form available on the PSC's website and sending it, along with any relevant information, to the PSC Privacy Contact Officer.

Your submission can be made by email, fax, 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

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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.

6.3 External review process

If you are unhappy with the outcome of the internal review conducted by the PSC or do not receive an outcome within 60 days, you have the right to seek an external review by the NSW Civil and Administrative Tribunal (NCAT).

You have 28 calendar days from the date of the internal review decision to seek an external review under section 53 of the *Administrative Decisions Review Act 1997* (NSW).

To request an external review, you must apply directly to the NCAT, which has the power to make binding decisions on an external review.

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: (02) 9377 5711

Visit/post: Level 9, John Maddison Tower, 86-90 Goulburn Street, Sydney NSW 2000

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

6.4 Other ways to resolve privacy concerns

We encourage people to try to resolve privacy issues with us informally before going through the review process, or at least contact the Privacy Contact Officer to discuss the issue before lodging an internal review request.

A person can raise their concerns with us by:

- contacting the Privacy Contact Officer
- using our complaint process.

7. Promoting the plan – privacy training and education

7.1 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
- 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
- using it as part of induction for new staff, contractors, etc.

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7.2 Privacy-related policies

We consult with our legal team when we develop new policies or procedures or amend them in a way that would change how we manage personal and health information.

7.3 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*.

7.4 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 us.

<http://www.psc.nsw.gov.au/>

privacy@psc.nsw.gov.au

02 9272 6000

GPO Box 3988 Sydney NSW 2001

8. Policy owner

Policy owning unit	Director Corporate
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Approval and date effective

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Revision history

Version no.	Endorsed date	Description of change
Draft	June 2015	Document created
1.0	March 2017	Document reviewed

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1.0	February 2018	Document reviewed – minor updates to clause 1.3.7, 1.6, 1.8, 1.8.2 (old numbering)
1.0	February 2019	Document reviewed – updates to clauses 3 and 4 (updated numbering)