



Checklist for private sector staff: responding to a request to access health information

Checklist
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Under Part 4 Division 3 of the NSW *Health Records and Information Privacy Act 2002* (HRIP Act), individuals have a right to access health information about themselves from health service providers (e.g. GP, dentist, physiotherapist) and larger sized organisations with a turnover of over \$3 million that hold health information (e.g. insurance companies). See below for guidance on how to deal with a request for access under the HRIP Act.

ORGANISATIONAL CONSIDERATIONS:

- Does my organisation need to comply with the HRIP Act?
(Check your privacy policy – you may also be required to comply with the federal *Privacy Act 1988*)
 - Yes
 - No – you may be regulated by the federal *Privacy Act 1988* and need to apply these provisions.*
- Can I process this access request? Do I have the authority?
 - Yes
 - No – I need to refer this to the Privacy Officer.
- I am satisfied I have confirmed the requester's identity.

A REQUEST FOR ACCESS TO HEALTH INFORMATION TO: (as per s26 of HRIP Act)

- Be in writing (optional).
- Include name, address and date of birth (optional).
- Identify the health information being requested.
- Specify the form in which the applicant wishes to access the health information.
- (If applicable) provide third party (e.g. next of kin, guardian, carer, will executor) authorisation in writing.

WHEN RESPONDING TO THE REQUEST FOR ACCESS: (as per s27 of HRIP Act)

- Explain the requirements of the HRIP Act.
- Respond within 45 days (otherwise request is deemed a refusal).
- Provide access to the information.
OR a written response refusing access to the information with reasons for declining access (in part or in full).
- State the fee (if applicable) for providing access to the information
(fee is not to be excessive and access does not need to be provided until 7 days after payment is received).

FORM OF ACCESS: (as per s28 of HRIP Act)

Provide access as:

- A copy of the health information as requested (e.g. photocopy, scan, electronic format, summary) OR
- Reasonable opportunity to inspect the information and take notes.

If access is refused:

- A reason in writing must be provided that complies with the HRIP Act (s28-31):
 - It would place unreasonable demands on the organisation's resources.
 - It would be detrimental to the preservation of the information.
 - It would involve an infringement of copyright.
 - It would pose a serious threat to the life or health of an individual.
 - It would have an unreasonable impact on the privacy of other individuals.
 - It relates to existing or anticipated legal proceedings and is subject to legal professional privilege.
 - It would be unlawful; or denying access is required/authorised by another law.
 - It would prejudice an investigation of possible unlawful activity or a law enforcement agency's functions.
 - The information has already been provided.
 - It is a repeated request that has been reasonably declined previously.

IF THE APPLICANT IS DISSATISFIED WITH THE OUTCOME, THEY MAY LODGE A COMPLAINT WITH THE NSW PRIVACY COMMISSIONER.

* The federal *Privacy Act 1988* has differing provisions – visit www.oaic.gov.au.

NOTE: This checklist is a general tool to read in conjunction with the "Handbook to Health" and any legislation applicable to your organisation.