

# Privacy Commissioner's Update

**Presentation to the Practitioners' Network Forum**

19 May 2021

**Samantha Gavel**

Privacy Commissioner



information and  
privacy commission

new south wales

# Privacy Awareness Week IPC Event

- Launched by Minister for Digital, Minister for Customer Service, Victor Dominello MP
- Over **220 people** attended from across NSW





# Media



Language MyServiceNSW

Living in NSW Working and business What's happening Have your say COVID-19 (coronavirus)

Home > News > Privacy Awareness Week NSW 2021

## Privacy Awareness Week NSW 2021

3 May 2021

Share this page: [f](#) [in](#) [t](#) [e](#)

Privacy Awareness Week 2021 is encouraging citizens and government agencies to get involved and help make privacy a priority.



Modernising Government  
A bold new era for the public sector.  
[Read the report](#)

KPMG

PREMIUM Careers News Editors' Picks Portfolios Events Resource library Site Search

By Shannon Jenkins  
Monday May 3, 2021

HOME JURISDICTION NEW SOUTH WALES

## NSW privacy commissioner encourages government agencies to make privacy a priority

Text size: [A](#) [A](#) [A](#)



The Sydney Morning Herald

National NSW Privacy

## Privacy authorities urge greater vigilance amid rise in scams

By Josh Dye  
May 3, 2021 – 5.00am

Save Share [A](#) [A](#) [A](#) 0 Leave a comment

State and federal privacy authorities are urging Australians to take stronger measures to protect their personal information after the number of scams exploded in the past year.

Almost 63,000 people reported a scam to the consumer watchdog in the first quarter of 2021, up 74 per cent on the same period last year.

**TALKING POINTS**

- Use a password manager and unique passwords for every website.
- Be careful what you publish on social media and review your privacy settings.
- Never put personal documents in the recycling bin.

FRIDAY, 7 MAY, 2021 ABOUT CONTRIBUTORS SUBSCRIBE ADVERTISE CONTACT PRIVACY/COMPLAINTS AR



INDEPENDENT NEWS AND INFORMATION FOR THE AUSTRALIAN PUBLIC SE

HOME NEWS CAREERS FEATURES LIFESTYLE ARCHIVES

Home > NSW PS News > Privacy awareness goes public for a week

## NSW PS NEWS

### Privacy awareness goes public for a week

4 May, 2021

**Privacy Awareness Week 2021** kicked off on Monday (3 May) with Government Agencies encouraged to get involved and help make privacy a priority.



Privacy Commissioner Samantha Gavel said all NSW citizens had the right to their personal information being protected.

# Other Privacy Awareness Week Events

During PAW, the Privacy Commissioner and IPC attended or spoke at several events including:

- IPC Public Sector Leaders' Event – 3 May 2021
- Influencing Privacy as a Priority: A regulator's perspective – 4 May 2021
- UTS Privacy Contact Network Meeting – 5 May 2021
- Revenue NSW PAW Workshop – 5 May 2021  
(presented by Director, Investigation & Review, Sonia Minutillo)
- Privacy and Right to Know Practitioners Group Event – 6 May 2021
- DCS Privacy Awareness Week event – 7 May 2021



Thank you to our PAW  
Champion agencies  
who supported the  
campaign and  
promoted the PAW  
2021 message



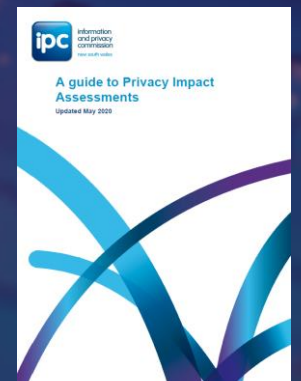
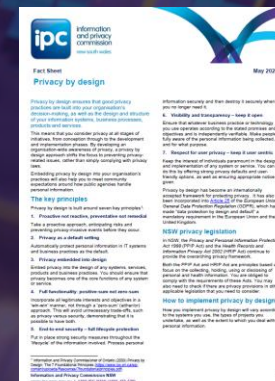


# Privacy Awareness Week Resources

The Privacy Commissioner highlighted several resources during PAW:

- **NEW:** Guide – Transition to the cloud: Managing your agency's privacy risks
- **NEW:** Collection of COVID-19 vaccination information fact sheet
- **NEW:** Top ten privacy tips for citizens infographic
- **UPDATED:** Data breach prevention checklist
- Privacy by Design fact sheet
- Guide to Privacy Impact Assessments

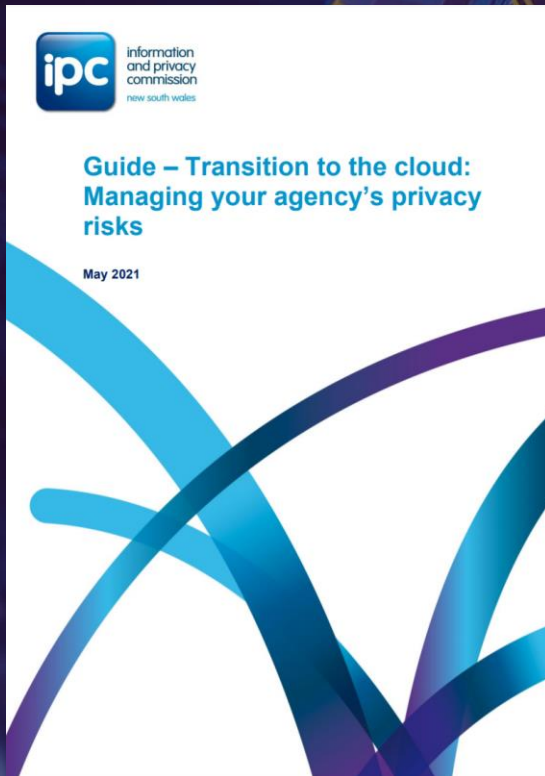
All resources available via the IPC website: [www.ipc.nsw.gov.au/PAW2021](http://www.ipc.nsw.gov.au/PAW2021)



# New privacy guidance

## Guide – Transition to the cloud: Managing your agency's privacy risks

- Released on 5 May as part of Privacy Awareness Week
- Designed to explain the key privacy risks that come with the use of cloud-based technologies by government, along with the potential impacts
- Maps out a framework for addressing these privacy risks across the entire cloud adoption lifecycle
- Each section contains practical advice for different professionals within the agency, including ICT, cyber and information security; procurement; people management; risk management and information and privacy professionals.





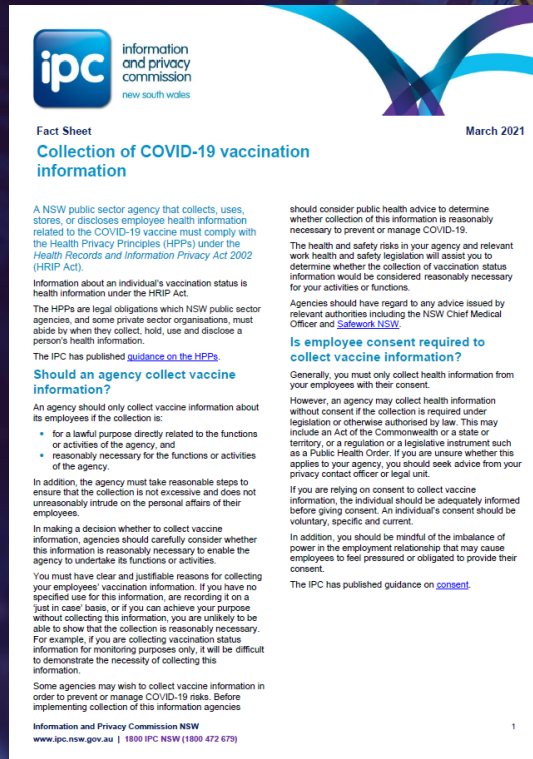
# New privacy guidance

## Guidance on regulated entity privacy and vaccine information

- The OAIC has released guidance for employers in relation to privacy and the COVID-19 vaccination
- The IPC has also prepared similar guidance for NSW public sector agencies to help them to understand their obligations when collecting, using, storing, and disclosing employee health information related to the COVID-19 vaccine:

### Fact Sheet – Collecting COVID-19 vaccination information

- The guidance is available on the IPC website.



**ipc** information and privacy commission  
new south wales

Fact Sheet  
Collection of COVID-19 vaccination information  
March 2021

A NSW public sector agency that collects, uses, stores, or discloses employee health information related to the COVID-19 vaccine must comply with the Health Privacy Principles (HPPs) under the Health Records and Information Privacy Act 2002 (HRIP Act).

Information about an individual's vaccination status is health information under the HRIP Act.

The HPPs are legal obligations which NSW public sector agencies, and some private sector organisations, must abide by when they collect, hold, use and disclose a person's health information.

The IPC has published [guidance on the HPPs](#).

**Should an agency collect vaccine information?**

An agency should only collect vaccine information about its employees if the collection is:

- for a lawful purpose directly related to the functions or activities of the agency, and
- reasonably necessary for the functions or activities of the agency.

In addition, the agency must take reasonable steps to ensure that the collection is not excessive and does not unreasonably intrude on the personal affairs of their employees.

In making a decision whether to collect vaccine information, agencies should carefully consider whether this information is reasonably necessary to enable the agency to undertake its functions or activities.

You must have clear and justifiable reasons for collecting your employees' vaccination information. If you have no specified use for this information, are recording it on a 'just in case' basis, or if you can achieve your purpose without collecting this information, you are unlikely to be able to show that the collection is reasonably necessary. For example, if you are collecting vaccination status information for monitoring purposes only, it will be difficult to demonstrate the necessity of collecting this information.

Some agencies may wish to collect vaccine information in order to prevent or manage COVID-19 risks. Before implementing collection of this information agencies should consider public health advice to determine whether collection of this information is reasonably necessary to prevent or manage COVID-19.

The health and safety risks in your agency and relevant work health and safety legislation will assist you to determine whether the collection of vaccination status information would be considered reasonably necessary for your activities or functions.

Agencies should have regard to any advice issued by relevant authorities including the NSW Chief Medical Officer and [SafeWork NSW](#).

**Is employee consent required to collect vaccine information?**

Generally, you must only collect health information from your employees with their consent.

However, an agency may collect health information without consent if the collection is required under legislation or otherwise authorised by law. This may include an Act of the Commonwealth or a state or territory, or a regulation or a legislative instrument such as a Public Health Order. If you are unsure whether this applies to your agency, you should seek advice from your privacy contact officer or legal unit.

If you are relying on consent to collect vaccine information, the individual should be adequately informed before giving consent. An individual's consent should be voluntary, specific and current.

In addition, you should be mindful of the imbalance of power in the employment relationship that may cause employees to feel pressured or obligated to provide their consent.

The IPC has published guidance on [consent](#).

Information and Privacy Commission NSW  
www.ipc.nsw.gov.au | 1800 IPC NSW (1800 472 673)

1



# Privacy Commissioner appearance at Budget Estimates

8 March 2021

- The Privacy Commissioner appeared as a witness for the Department of Customer Service at the 8 March Budget Estimates
- Questions for the Privacy Commissioner related to:
  - a Mandatory Data Breach Notification scheme in NSW
  - facial recognition technology in gaming venues
- Answers have been prepared to additional questions received from the Committee following the 8 March hearing.

# NSW Mandatory Notification Data Breach Scheme

- NSW Government released the draft bill for public consultation on 7 May
- Establishing a Mandatory Notification Data Breach scheme will:
  - increase citizen trust in government agency handling of personal information and data breach incidents
  - increase agency awareness of and responses to data breach incidents
  - improve transparency and accountability of agencies in the way agencies respond to serious data breaches
  - encourage agencies to elevate capability to mitigate and manage the risk of data breaches
  - provide citizens with the information needed to reduce their risk of harm following a serious data breach.
- To have your say, visit:
  - Have Your Say: [www.nsw.gov.au/have-your-say/proposed-changes-to-nsw-privacy-laws](http://www.nsw.gov.au/have-your-say/proposed-changes-to-nsw-privacy-laws)
  - Justice Public Consultation: [www.justice.nsw.gov.au/justicepolicy/Pages/lpclrd/lpclrd\\_consultation/proposed-changes-to-nsw-privacy-laws.aspx](http://www.justice.nsw.gov.au/justicepolicy/Pages/lpclrd/lpclrd_consultation/proposed-changes-to-nsw-privacy-laws.aspx)



# Digital Restart Fund (DRF)

- IPC has received a total of 111 projects on a range of initiatives and provided 100 advices to date
- IPC has developed regulatory advice which sets out the commonly identified risks to information access and privacy rights across projects seeking DRF funding and suggests mitigation strategies
- The guidance was circulated for consultation and is being finalised, due for release in late May.

# Submission to the NSW Law Reform Commission Open Justice Inquiry

The Attorney General requested a review on the laws that govern the disclosure and publication of court and tribunal information, who can access that information and in what circumstances

## **Privacy considerations:**

- IPPs and HPPs in disclosing records containing personal information
- Interaction between the GIPA Act and the PPIP Act
- Digital technology and open justice



# Submission to the Digital Transformation Agency (DTA)

## Submission to the DTA on Digital Identity Legislation

- On 23 February the DTA briefed Privacy Commissioners across Australia on various issues in relation to development of the Digital Identity Legislation exposure draft bill
- The IPC has provided feedback on 5 position papers. The position papers will be released for public consultation later this year
- The IPC will provide further comment on the exposure draft of the Digital Identity Legislation when it is released.

# Other Joint Submissions

## Submission on the Children's Guardian Regulation 2021

- Register for residential care workers improving transparency and accountability, with appropriate privacy safeguards

## Review of the Data Sharing (Government Sector) Act 2015

- Preliminary feedback provided on draft report, emphasising legislative hierarchy and primacy of principles-based legislation including PPIP Act and GIPA Act.



# IPC Case Notes

## IPC published the following privacy case notes since the last Forum:

- *EHG v Commissioner of Police* [2021] NSWCATAD 54
- *EIG v North Sydney Council* [2021] NSWCATAD 66
- *DVT v Commissioner of Police* [2021] NSWCATAD 108

# Privacy Resources

**The following privacy resources have been developed and updated since the last Forum:**

## **UPDATED**

- Fact Sheet – Providing access to health information – guidance for health care providers
- Fact Sheet – Access to health information for health care consumers

## **UPCOMING**

- Guidance on the Digital Restart Fund

# Connect with us



[www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au)



[ipcinfo@ipc.nsw.gov.au](mailto:ipcinfo@ipc.nsw.gov.au)



1800 472 679



[twitter.com/IPCNSW](https://twitter.com/IPCNSW)



[www.linkedin.com/company/information-and-privacy-commission-nsw](https://www.linkedin.com/company/information-and-privacy-commission-nsw)



[www.youtube.com/user/IPCNSW](https://www.youtube.com/user/IPCNSW)





information and  
privacy commission

new south wales