

Information Commissioner/CEO Update

Privacy Commissioner Update

Practitioners' Network Forum
August 2020

Elizabeth Tydd

IPC CEO, Information Commissioner
NSW Open Data Advocate

Samantha Gavel

Privacy Commissioner



information and
privacy commission
new south wales

Information Commissioner/ CEO Update

- COVID-19 and information access
- Digital Restart Fund Act 2020
- NCAT refers Destination NSW to the Information Commissioner
- IPC proactive regulatory work
- Launch of Agency Advice Satisfaction Survey
- New guidance for Out-of-Home Care Leavers
- Right to Know Week NSW 2020
- Information access resources

Privacy Commissioner Update

- COVID-19 and privacy
- Digital Restart Fund Act 2020
- Service NSW Breach and Fines Amendment Legislation
- New guidance on data sharing and privacy
- Privacy resources

Information Commissioner/CEO Update

Elizabeth Tydd

IPC CEO, Information Commissioner

NSW Open Data Advocate



information and
privacy commission

new south wales

COVID-19 and Information Access

Digital Restart Fund Act 2020

The Information Commissioner released a third statement on COVID-19 in May:

- [COVID-19: The duty to document does not cease in a crisis, it becomes more essential](#)

The Australian and New Zealand Information Access Commissioners join with their international counterparts in their clear call for documentation, preservation and access to information as governments, businesses and citizens deal with the COVID-19 pandemic.

Legislation commenced on 3 August 2020

- Section 10 requires the Minister to obtain and have regard to advice from the IC and PC as to the effect, if any, that a project may have on access to government information and the protection of personal and health information.

NCAT refers Destination NSW to the Information Commissioner

- NCAT decided on 22 May 2020 to refer Destination NSW to the Information Commissioner.
- This decision was made in relation to systemic issues identified in the proceedings in *Taylor v Destination NSW [2020] NSWCATAD 137*.
- The referral recognised that the Information Commissioner is the appropriate office to provide assistance in understanding and complying with obligations under the GIPA Act, particularly in determining access applications.
- It is the first occasion in which a referral from NCAT to the Information Commissioner under s111 of the GIPA Act has been made.
- The Information Commissioner is currently engaging with Destination NSW.
- For more information, please read the [Information Commissioner's Statement](#).

IPC Proactive Regulatory work

GIPA Compliance Reports

A number of compliance audits are currently underway and include follow up audits, for example:

- NSW Police Force – Follow Up Audit Report
- Greyhound Racing NSW – Audit Report

There are currently three underway including:

- Transport for NSW – Contract Disclosure
- Clarence Valley Council – Guideline 1
- icare


There are also a number of audits programmed for the remainder of the year. The Information Commissioner is looking at publishing more information around the proactive audit program and what is planned in the future.

As reported in the media the Information Commissioner will conduct a wider examination of compliance with Guideline 1 by the Local Council Sector.

Launch of new Agency Advice Satisfaction Survey

- The IPC has developed the new Agency Advice Satisfaction Survey to gain feedback from agencies on the service delivery of the IPC.
- The survey was developed from a strategic initiative in the [IPC Strategic Plan 2020-22](#) and in line with the [IPC Service Charter](#). It is similar in style to the current Client Satisfaction Survey.
- The survey will be issued quarterly and will be sent to agencies who have engaged with the IPC seeing regulatory advice.
- The IPC is actively committed to ensuring our service delivery is of a high standard and we are always looking at ways to improve. Responses will be considered alongside other informal feedback mechanisms for a holistic assessment of IPC's service delivery so honest, constructive feedback is appreciated.

New guidance for Out-of-Home Care Leavers



Checklist June 2020

Care leavers: making an application for out-of-home care records under the GIPA Act

A checklist to assist care leavers when making an application for access to their out-of-home care (OOHC) records under the *Government Information (Public Access) Act 2009* (NSW) (GIPA Act). This checklist provides tips for framing a formal request for access to OOHC records.

This checklist can be used by care leavers who have been in out-of-home care in NSW and are seeking access to these records under the GIPA Act. The GIPA Act entitles you to seek access to care records held by NSW public service agencies, but also requires you to clearly describe the information that you are seeking.

Care leavers face unique challenges when seeking access to their care records. These records can capture a long period of time during the care leaver's statutory care. Sometimes a care leaver may not remember many details about their care placement or provider. Historical care records may have been destroyed or are lost.

For Aboriginal and Torres Strait Islander persons who have been forcibly removed from their families and communities, access to care records is important to provide access to basic family information, and information about their communities. If you are a person who is of the stolen generations, you may have been relocated in care arrangements in other states and territories, and some records about your history can be located in states or territories other than New South Wales.

If your application does not clearly identify the information you are seeking, it may be difficult for an agency to identify and locate the records.

The following checklist can guide you to achieve a better outcome when making an access application for your NSW OOHC records under the GIPA Act.

Question	Comment/Tip
Have you approached the agency for assistance?	<ul style="list-style-type: none"> An agency may be able to provide you with advice and assistance if you contact the agency and explain that you would like to access your care records. Agencies may also discuss options with you, such as informal arrangements and support services for accessing care leaver records.
Is the information about your care arrangements outside NSW?	<ul style="list-style-type: none"> Requests made under the GIPA Act must be for records held by NSW agencies. If you were relocated in care arrangements in other states or territories, you should consider seeking access to records under that state or territory's information access laws.
What happens when you make an application for your OOHC records under the GIPA Act?	<ul style="list-style-type: none"> When you make a formal request for information under the GIPA Act, the Act requires the agency to provide you with assistance and advice. This may be particularly important if it is difficult for you to identify historical care records over a long period of time. When you make a formal application, you will receive the agency's reasons about whether to provide you with access to the OOHC records, and you may also seek a review of their decision.

Information and Privacy Commission NSW
www.ipc.nsw.gov.au | 1800 IPC NSW (1800 472 478)

- The Information Commissioner [published guidance](#) in recognition of National Reconciliation Week 2020 to assist people who were subject to out of home care arrangements to access important records about them and their care arrangements
- The theme of National Reconciliation Week 2020 was *We are all in this Together* and the publication of this guidance recognises that government agencies hold important information and can assist out of home care leavers to gain access to information that is significant and should be available to them
- This guidance complements Information Access Guideline 8: Care Leavers' access to their Out-of-Home Care Records, which recognises the importance we place on transparency in government and the human services sector
- The checklist is aimed at removing barriers to access to information and promoting successful outcomes in accessing this important information.

Right to Know Week NSW 2020

- Planning for Right to Know Week NSW 2020 is currently underway at the IPC
- Agencies are encouraged to join as Right to Know Week Champions
- Register on the Right to Know Week page on www.ipc.nsw.gov.au when the campaign page goes live, or email the Communications team at ccadigital@ipc.nsw.gov.au
- The Champion Program will include a wealth of communications material including digital posters and signatures, virtual presentations and video scripts from your agency leader.

Information Access Resources

The following information access resources have been published and updated since the last update:

NEW

- [Checklist – Care Leavers: Making an application for out-of-home care records under the GIPA Act](#)
- [Fact Sheet – Information Commissioner’s right of appearance in the NSW Civil and Administrative Tribunal](#)
- [Fact Sheet – Digital records and the GIPA Act](#)
- [Fact Sheet – State Owned Corporations \(SOCs\) and your right to government and personal information](#)
- [Greyhound Welfare and Integrity Commission – Compliance Report](#)
- [Sydney Cricket and Sports Ground Trust – Follow Up Compliance Report](#)

UPDATED

- [Fact Sheet – The role of principal officers and senior executives in supporting the object of the GIPA Act](#)
- [Fact Sheet – Managing access to audio visual information under the GIPA Act – guidance for agencies](#)
- [Agency contract register self-assessment checklist for agencies](#)
- [IPC GIPA Tool User Guide](#)

Privacy Commissioner Update

Samantha Gavel

Privacy Commissioner



information and
privacy commission

new south wales

COVID-19 and Privacy

Digital Restart Fund Act 2020

The Privacy Commissioner released an updated statement on the COVID-19 tracing app in May:

- [NSW Privacy Commissioner Statement on the use of Commonwealth tracing app data for managing the COVID-19 pandemic](#)

The statement notes that the *Privacy Amendment (Public Health Contact Information) Bill* was passed by Australian Parliament on 14 May 2020, inserting new privacy safeguards for the COVIDSafe app data into the *Privacy Act 1988*, which is overseen by the OAIC.

Legislation commenced on 3 August 2020

- Section 10 requires the Minister to obtain and have regard to advice from the IC and PC as to the effect, if any, that a project may have on access to government information and the protection of personal and health information.

Service NSW breach and Fines Amendment legislation

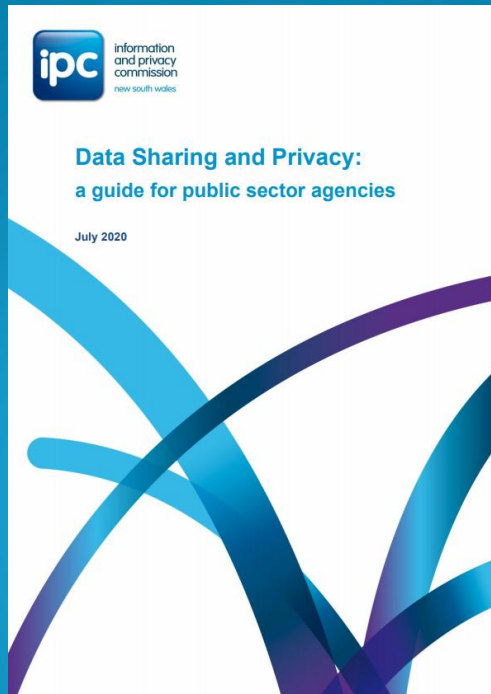
Service NSW

- The Privacy Commissioner is providing advice and assistance in relation to the privacy aspects of the breach incident which resulted from a cyber attack.
- The Privacy Commissioner released a statement on 14 May 2020.
- Read the statement here: [Statement by NSW Privacy Commissioner on Service NSW Privacy Breach](#)
- The Privacy Commissioner approved a Public Interest Direction relating to Service NSW on 5 August 2020.

Fines Amendment Legislation

- Amendments to the Fines Act require the mandatory notification of breaches by Revenue NSW under section 117.
- This provision has now come into effect and reporting by Revenue NSW is occurring. [Read the fact sheet on this.](#)

New data sharing and privacy guidance



- The Privacy Commissioner [published a guidance](#) to provide assistance to public sector agencies in adopting and complying with the information protection principles and to provide advice on matters relating to the protection of personal information and the privacy of individuals
- This guidance also explains the key considerations that agencies should address before they share data.
- The sharing of data between public sector agencies and appropriate third parties can support more informed policy making, program management and evaluation, research and service planning.
- Sharing data safely can facilitate better policy decision-making and more efficient service delivery for citizens and business.

Privacy Resources

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

NEW

- [Fact Sheet – De-identification of personal information](#)
- [Fact Sheet – State Owned Corporations \(SOCs\) and your right to government and personal information](#)
- [Fact Sheet – Privacy Commissioner’s right of appearance in the NSW Civil and Administrative Tribunal](#)
- [Fact Sheet – Mandatory notification of unlawful disclosure of personal information by Revenue NSW under the Fines Act 1996](#)
- [Data Sharing and Privacy Guidance](#)

UPDATED

- [Fact Sheet – A guide to protecting your privacy in NSW](#)
- [Fact Sheet – Information protection principles \(IPPs\) for agencies](#)



information and
privacy commission

new south wales