

Privacy Commissioner's Update

Presentation to the Practitioners' Network Forum

23 February 2021

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Privacy Commissioner



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Privacy Awareness Week NSW 2022

PRIVACY: THE FOUNDATION OF TRUST

WE ALL HAVE A ROLE TO PLAY

2 – 8 May 2022

Learn more

www.ipc.nsw.gov.au/PAW2022



Privacy Awareness Week 2022



- Privacy Awareness Week NSW 2022 will take place on 2 – 8 May 2022.
- 2022 theme: **Privacy: the foundation of trust – we all have a role to play**
- Registrations are open for the PAW Champion Program: www.ipc.nsw.gov.au/PAW-2022-Champion-Registration
- **Save the date** – Privacy Awareness Week Public Sector Event *Insights and lessons – Preparing for MNDB* to be held virtually on 3 May 2022 at 9:30am
- Privacy Awareness Week NSW 2022 webpage launched earlier this week: www.ipc.nsw.gov.au/PAW2022

IPC Proactive Audit Program and Significant Regulatory Matters

Regulatory engagement

- PMP Plan sample review completed
- Sample included all 3 regulated sectors
- Completed report published in December
- Ongoing engagement with agencies included in the audit

Mandatory Notification Data Breach Scheme

Digital Restart Fund (DRF)

Update

Draft legislation scheduled to be introduced into Parliament this year.

The IPC has provided advice on more than 200 business cases seeking funding from the Digital Restart Fund.

Privacy Commissioner submission

Review of the Privacy Act 1988 – Discussion Paper

This submission follows the Privacy Commissioner's submission in November 2020 on the Issues Paper released for public comment. The Commissioner commented on various recommendations in the Discussion Paper including:

- **Scope and application of the Privacy Act**, including the definition of personal information, updating the definition of sensitive information, and extending privacy protections for deceased individuals
- **Notice and consent and additional protections**, including emergency declarations, notice and consent requirements, other exemptions, the right to object including the right to erasure and/or amendment of personal information, and automated decision-making and transparency
- **Regulation and enforcement**, including a statutory tort for invasion of privacy, the MNDB Scheme in NSW, new enhanced enforcement powers, and the interaction between OAIC and state and territory privacy regulators and establishment of a Commonwealth, state and territory working group.

Privacy Commissioner submission

Enhancing Online Privacy Bill 2021

The Privacy Commissioner welcomed the introduction of the new provisions concerning the development and registration of a binding **Online Privacy Code** for social media services, data brokerage services and large digital platforms. The Commissioner noted:

- given shifting modes of government service delivery, there may be value in extending the s6BAA exemption to include an act or practice by an OP organisation that is a **contracted service provider** for a State or Territory contract
- the Code will include a provision which will enable an individual to request that an organisation **cease to use or disclose their personal information**
- the Bill provides for the Code to include new requirements to protect the privacy of **children and vulnerable groups**
- the provision in the Bill for the development and registration of the Code should mirror the processes operative for the existing Codes under the *Privacy Act 1988* (Cth) and the 12-month **timeframe for development** of the Code may be insufficient.

Privacy Commissioner submission

Enhancing Online Privacy Bill 2021 (cont.)

The Commissioner expressed support for new and enhanced enforcement powers:

- the proposed enhancements to the Information Commissioner's powers under the Privacy Act
- increased penalties for a serious and/or repeated interference with privacy and introduction of civil penalties
- the introduction of an infringement notice power where a person fails to provide information, answer a question, or produce a document/record when it has been required under the Privacy Act
- the proposed expansion of information sharing powers under the Act.

The submission also noted that any revisions of the Privacy Act that will result in new and/or enhanced regulatory functions for the OAIC will require a commensurate increase to its **resourcing** to ensure the effectiveness of any enhanced regulatory regime.

IPC joint submission

Inquiry into the Public Interest Disclosures Bill 2021

The Privacy Commissioner was consulted and supports the following aspects re privacy:

- **‘privacy contravention’** being included in the definition of ‘serious wrongdoing’ relating to the exercise of functions by agencies and public officials under the PPIP Act and the HRIP Act
- the Privacy Commissioner being specified as an **‘integrity agency’** with powers under NSW privacy laws to investigate a ‘privacy contravention’
- the Privacy Commissioner being a member of the Steering Committee.

Both Commissioners will work with the Steering Committee to support the implementation of the new legislation, including:

- supporting the Ombudsman’s Office as it develops new public and agency guidelines, reporting tools, templates and training, and
- providing advice to Government on the draft regulations under the Bill.

Public Interest Direction under the PPIP Act

Direction relating to the Department of Education – 27 January

- This is a direction made under section 41(1) of the PPIP Act. It facilitates a time limited data exchange process between the Department of Education (the Department) and the Queensland Registry of Births, Deaths and Marriages.
- The purpose of the data exchange is for the Department to check whether any individuals subject to the data breach are deceased.
- This direction was made on 27 January 2022 and will expire on 28 February 2022.

Speaking Engagements

The Privacy Commissioner spoke at the following engagements since the last Forum:

- NSW Government Cyber Showcase – 22 November 2021
- 5th Annual Digital Government and Cloud Conference – 24 November 2021
- UNSW Law & Justice Conference – 29 November 2021
- Public Sector Data Governance Conference 2021 – 1 December 2021
- Cyber Security and Risk Management National Insights AU – Summer Edition – 2 February 2022

Privacy Resources

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

NEW

- Desktop Audit of Privacy Management Plans (PMP) Report

UPDATED

- Fact Sheet – Processing requests for personal information

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Presentation feedback

The IPC is seeking feedback on its resources to improve its engagement with practitioners.

- Use your phone or a new window on your browser
- Go to **www.menti.com**
- When prompted, enter code **2241 777**

Questions:

1. Have you read any resources on the IPC website in the past 6 months?
2. Have you used the IPC's online resources in your agency to assist you in your work?



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