

Vital Information Series: Information and Privacy Commission NSW

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Elizabeth Tydd
IPC CEO, Information Commissioner
NSW Open Data Advocate

Samantha Gavel
Privacy Commissioner



information and
privacy commission
new south wales

The Information and Privacy Commission NSW

Who we are

- Independent statutory authority that administers legislation dealing with privacy and access to government held information in NSW
- Promotes and protects privacy and information access rights in NSW
- Provides information, advice, assistance and training for agencies and individuals
- Reviews and investigates the performance and decisions of agencies
- Investigates complaints for both privacy and information access
- Provides feedback about the legislation and relevant developments in the law and technology
- The Information Commissioner is the CEO of the IPC.

The Information and Privacy Commission NSW

Our jurisdictions and who we regulate

The following types of NSW organisations are subject to our legislation and within the jurisdiction of the Commissioners:

- NSW government agencies
- Universities
- Local government
- Ministers
- State-Owned Corporations (currently information access legislation only)
- Public authorities

In addition, private health service providers that collect, hold or use health information are also subject to the NSW privacy legislation.

Legislation and oversight

The IPC administers four pieces of NSW legislation:

- *Government Information (Public Access) Act 2009 (GIPA Act)*
- *Government Information (Information Commissioner) Act 2009 (GIIC Act)*
- *Privacy and Personal Information Protection Act 1998 (PPIP Act)*
- *Health Records and Information Privacy Act 2002 (HRIP Act)*

Parliamentary oversight and Ministerial responsibility:

- Committee on the Ombudsman, Law Enforcement Conduct Commission and the Crime Commission
- The Hon Mark Speakman SC MP, Attorney General
- The Hon Victor Dominello MP, Minister for Customer Service and Digital Government
- The Hon Brad Hazzard MP, Minister for Health
- The Hon Bronwyn Taylor MLC, Minister for Mental Health, Minister for Regional Health, Minister for Women

Role of the Information Commissioner



Elizabeth Tydd

IPC CEO, Information Commissioner
NSW Open Data Advocate

- Promote public awareness & understanding of the GIPA Act
- Provide information, advice, assistance & training to agencies and the public
- Assist agencies in the exercising of their functions under the GIPA Act
- Issue guidelines & publications to assist both agencies & the public
- Review GIPA decisions made by agencies
- Monitor, audit and report on agencies & their use of and compliance with the GIPA Act
- Make reports and provide recommendations to the Ministers about proposals for legislative and administrative changes
- Investigate complaints under the *Government Information (Information Commissioner) Act 2009* (GIIC Act)

IPC Operational Overview 2020/21

IPC	Reviews & Complaints	2020/21
	Received	897
	Closed	850

GIPA	Reviews & Complaints	2020/21
	Received	538
	Closed	497

Privacy	Reviews & Complaints	2020/21
	Received	359
	Closed	353

Enquiries received by type		2020/21
	Phone	2242
	In writing and in person*	1165

Advices		2020/21
	GIPA (closed)	285
	Privacy (closed)	284

Submissions		2020/21
	GIPA	6**
	Privacy	9**

Committees		2020/21
	GIPA	5
	Privacy	4

DRF Advices***		2020/21
	Information access and privacy advices	121

Research		2020/21
	GIPA	1
	Privacy	0

Publications		2020/21
	GIPA	13
	Privacy	11

* Includes in person, emails, letters, faxes and website forms

**This is made up of seven joint submissions.

***Information access and privacy advices provided

Ministerial Offices

- All staff working in Ministers' Offices are bound by the GIPA Act, PPIP Act and HRIP Act.
- The IPC has many resources available on its website to assist agencies, including Ministers' Offices, in fulfilling their obligations under the acts.
- Information Access Guideline 10: Obligations of Ministers and Ministerial Officers under GIPA Act
 - Developed to provide guidance and assistance to Ministers' Offices when exercising functions under the GIPA Act and satisfying their obligations to receive and process formal access applications.
 - Focuses on some of the key areas applicable to public interest determinations involved in processing an access application.
 - Ministers' Offices must have regard to this Guideline in accordance with section 15(b) of the GIPA Act.

Ways to access government information in NSW



Information Privacy Principles preview

12 principles NSW government agencies must follow to protect your personal information

Privacy legislation in NSW



NSW privacy legislation:

- is focused on the protection of personal information by NSW Government agencies (and some private healthcare providers under HRIP)
- provides the public with enforceable privacy rights
- balances the right to privacy with the need for agencies to carry out their legitimate functions
- contains exemptions and a public interest decision making framework.

Role of the Privacy Commissioner



Samantha Gavel
NSW Privacy Commissioner

- Oversight the PPIP Act and the HRIP Act
- Promote the adoption of, and monitor compliance with, the information protection principles
- Provide assistance to public sector agencies in preparing and implementing privacy codes of practice & privacy management plans
- Provide information, advice, assistance to agencies and the public
- Issue guidelines & publications to assist both agencies and the public
- Prepare and publish reports and recommendations about matters that concern the need for legislative, administrative or other action in the interest of the privacy of individuals
- Conduct inquiries and make investigations into privacy related matters as appropriate

Pathways for privacy reviews and complaints

The PPIP Act provides two avenues for dealing with a complaint about a breach of privacy, either via an **internal review** or a **privacy complaint**.

Internal review	Privacy complaint
<ul style="list-style-type: none">• Lodge an application for an internal review with the organisation (within six months) and should be completed within 60 days.• The agency has to advise and consult with the NSW Privacy Commissioner.	<ul style="list-style-type: none">• Complain to the NSW Privacy Commissioner in writing, or you can complain verbally.• The Privacy Commissioner will then investigate and try to conciliate the complaint.

After the review

If you are unhappy with the result of the internal review, you have 28 days to apply to the **NSW Civil and Administrative Tribunal (NCAT)** for a review of the conduct or decision complained about.

Changes to NSW privacy legislation

To be introduced into Parliament in mid-2022, the **Privacy and Personal Information Protection Amendment Bill 2021** aims to strengthen privacy protection in NSW.

The bill proposes to:

- establish a mandatory notification of data breach (MNDB) scheme to require agencies to notify the Privacy Commissioner and affected individuals of data breaches involving personal or health information, which are likely to result in serious harm
- applies the PPIP Act to all state-owned corporations that are not regulated by the Commonwealth Privacy Act 1988.

The **MNDB Scheme** will require agencies to satisfy other data management requirements, including to maintain an internal data breach incident register, and have a publicly accessible privacy and data management policy.

The IPC will provide more information and resources to assist agencies in preparing for the scheme in the coming months.

Privacy Awareness Week



- **Privacy Awareness Week (PAW)** is an international campaign that highlights the importance of privacy and raises awareness for public sector agencies about how to protect the personal information of the people we serve.
- PAW NSW 2022 runs 2 – 8 May 2022.
- The IPC will be hosting an event on 3 May 2022, *Insights and lessons - Preparing for MNDB*. Speakers include Prof. Lyria Bennett-Moses (UNSW), Prof. David Lacey (IDCare), Kate Watts (Transport for NSW), Scott Johnston (Revenue NSW) and Sonia Minutillo (IPC).
- Register your agency as a **PAW Champion** to help spread the PAW message and promote citizen rights.
- Champions receive a pack full of resources, written content for newsletter articles, blog posts, social media posts and more to make promoting the campaign easy.
- More information at www.ipc.nsw.gov.au/PAW2022

Right to Know Week



- **Right to Know Week (RTK)** is an annual campaign that marks International Day for Access to Information, celebrated internationally on 28 September.
- **International Access to Information Day** is a day on which citizens and governments from around the world can support this fundamental human right to access information and promote open, transparent government.
- RTK NSW aims to raise awareness of a person's right to government held information and encourage citizens to take an active interest in their right to access information.
- RTK NSW 2022 starts at the end of September and more information will be provided in the coming months.

Making it easy to comply



IPC Website – Essential Guidance Toolkit

- www.nsw.ipc.gov.au/media/3122

Free access, self paced - the IPC e-Learning portal

- Access Training for Decision Makers Under the GIPA Act
- The Contract Register and Contract Disclosures
- Privacy Complaints Handling Under the PPIP Act
- Towards Open Government Information in NSW
- Open Data

Access e-learning via <https://elearning.ipc.nsw.gov.au/>

IPC GIPA Tool:

- www.ipc.nsw.gov.au/information-access/agencies/ipc-gipa-tool
- IPC GIPA Tool Tutorial coming soon

Questions



Connect with us



www.ipc.nsw.gov.au



ipcinfo@ipc.nsw.gov.au



1800 472 679



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