

Privacy Commissioner's Update

Presentation to the Practitioners' Network Forum

18 May 2022

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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

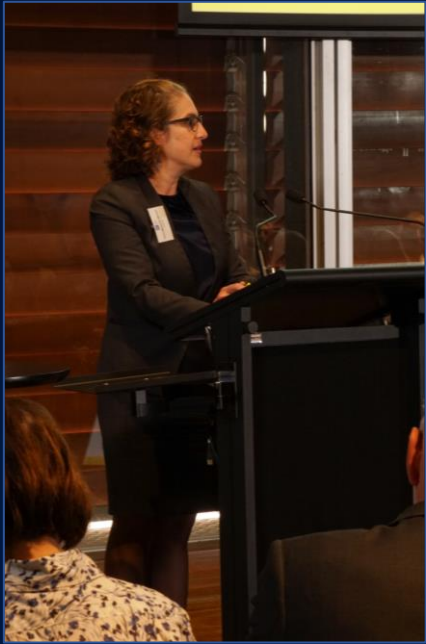
Learn more

www.ipc.nsw.gov.au/PAW2022



Public Sector Leaders Event Photos







New resources

Animations – 12 IPPs and 15 HPPs

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

15 principles NSW public and private sector organisations must follow to protect your health information



Privacy Impact Assessment Questionnaire for Assessing Websites

- The Tool is a collaboration between the IPC and elevenM, to support NSW public sector agencies in assessing their websites for privacy risks and identifying remediation actions
- It has been developed to bring best-practice approaches and methodologies to NSW public sector agencies
- The tool does not replace a complete PIA and should only be used to assist in identifying the privacy risks and areas for remedial action
- Agencies should consider undertaking their own PIA after using the tool to identify any risks. The IPC acknowledges the materials published by elevenM in the production of the Tool <https://elevenm.com/>

Community Attitudes Results to Privacy & Privacy Breaches

Released on 4 May as part of Privacy Awareness Week NSW 2022

Key findings:

- 93% of respondents felt that it is important that NSW agencies protect their personal or health information
- 80% were concerned about data being shared or released inappropriately
- 57% were aware of their right to lodge a complaint or seek a review with an agency if they feel their privacy has been breached, a decrease from 63% in 2020
- 65% of respondents were aware of their right to access personal information from at least one of the agencies listed
- Respondents continue to have uncertainty about where they would go to access their personal information with 26% indicating that they were unsure, a slight increase from 24% on 2020

Community Attitudes Results to Privacy & Privacy Breaches

Released on 4 May as part of Privacy Awareness Week NSW 2022

Key findings (continued):

- 85% of respondents agreed that government should provide assistance when there is a breach of personal information by a government agency
- 17% indicated that they had been impacted by a data breach, and of those who had been affected, 37% of the instances had occurred at a NSW government agency
- Respondents impacted by a breach by a NSW government agency reported that the agency assisted them by informing them of the breach (59%) and providing advice on what to do next (54%)
- Over half (56%) of respondents were notified within six months of the data breach, 34% between six to 12 months and 10% of respondents being notified more than 12 months later

Community Attitudes Results to Privacy & Privacy Breaches

Released on 4 May as part of Privacy Awareness Week NSW 2022

Key findings (continued):

- Respondents indicated that common effects resulting from a breach were:
 - the need to replace identity documents (40%)
 - identity theft/fraud (37%)
 - the need to change passwords of online accounts (29%)
 - monetary loss (19%).

Privacy NCAT submissions

Commissioner of Police v DVT (Appeal) – hearing 18 March

- The Appellant (Commissioner of Police) argued that it was lawfully exempt from complying **with IPP 7 (access to personal information)** on the basis that **section 20(5) of the PPIP Act imports the provisions of the GIPA Act** that impose conditions and limitations with respect to any matter referred to in section 13, 14 or 15
- The Appellant argued that section 60(1)(a) of the GIPA Act is a condition or limitation imported into the PPIP Act under section 20(5) and therefore it was lawfully exempt from complying with IPP 7 on the basis that actioning the Respondent's requests would require an **unreasonable and substantial diversion of its resources**

Privacy NCAT submissions

Commissioner of Police v DVT (Appeal) – hearing 18 March (cont.)

- The Privacy Commissioner argued that section 20(5) of the PPIP Act picks up the **provisions of the GIPA Act which deal with the substantive question of access to information** (e.g. where the question is whether there is present an overriding public interest against disclosure, or whether the information is excluded information according to the GIPA Act) and **not the provisions which bear on the ‘mechanics’ of an access application under the GIPA Act, such as section 60(1)(a)**
- Decision reserved

Privacy case note

FCZ v Illawarra Shoalhaven Local Health District [2022] NSWCATAD 79

- Section 22 of the HRIP Act confirms that any limitations on access imposed by the GIPA Act also apply to an agency's obligation to comply with the HPPs
- Where an overriding public interest against disclosure under the GIPA Act applies to the information, an agency is not required to provide access to the health information under the HRIP Act
- The decision also identifies the importance of agencies confirming, by way of evidence, the parental responsibility of a person making a request for access to personal and health information about a child under the HRIP Act

Speaking Engagements

The Privacy Commissioner presented at the following engagements this quarter:

- Vital Information Series, NSW Parliament House – 17 March 2022
- 8th Annual Aus Government Data Conference – 23 March 2022
- DCS Privacy Partners' Network – 7 April 2022
- CDAO Sydney – 2 May 2022
- PAW Event: Insights and lessons – preparing for the MNDB – 3 May 2022
- DCS Privacy Awareness Week event – 3 May 2022
- MQ Health Interview – 6 May 2022
- InfoGovANZ: Data & COVID-19 lessons learned – 13 May 2022

Privacy resources

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

NEW

- Animation – 12 principles NSW government agencies must follow to protect your personal information
- Animation – 15 principles NSW public & private sector organisations must follow to protect health information
- Privacy Impact Assessment Questionnaire for Assessing Websites

UPDATED

- Protocol – Handling Privacy Complaints

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IPC Practitioner Feedback



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Practitioner feedback

The IPC is seeking feedback 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 **3340 4845**

Questions:

1. Please rank the below forms of IPC guidance from most to least effective for you to use and implement:
 - Fact sheet, Checklist, Guide, Statutory Guideline, Flowchart, Animation
2. How easy do you find it to understand the guidance and information provided by the IPC?



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