

Direction on the Collection of Personal Information about Third Parties by New South Wales Public Sector (Human Services) Agencies from their Clients

As Privacy Commissioner appointed under Part 4, Division 1 of the *Privacy and Personal Information Protection Act 1998 (NSW)* (the PPIP Act), I Elizabeth Coombs, hereby direct pursuant to section 41 of the PPIP Act that:

Overview

1. This is a direction made under section 41(1) of the PPIP Act. It should be read in conjunction with that Act.

Interpretation

2. For the purposes of this Direction:
“**relevant agencies**” means the public sector agencies specified in the Schedule to this Direction.
“**personal information**” has the same meaning as in section 4 of the PPIP Act.
“**public sector agency**” has the same meaning as in section 3 of the PPIP Act.

Explanatory Note

3. The Better Service Delivery Program is an initiative of the NSW Human Services CEOs Group in partnership with non-Government organisations (NGOs). The Better Service Delivery Program includes the Electronic Client Referral Project. One component of the Electronic Client Referral Project is 'ReferraLink'.
4. An earlier Direction covered those agencies participating in a trial of ReferraLink noted: 'In the process of the ReferraLink trial it may be necessary for a public sector agency to collect personal information about a third party in circumstances which would, without this Direction, breach sections 9 and 10 of the Privacy and Personal Information Protection Act 1998.'
5. Clause 6 of the earlier Direction made the modifications to sections 9 and 10: 'subject to the condition that the collection of the third party's personal information is reasonably necessary for participation in the ReferraLink trial'.
6. During that trial the participating agencies discovered that other client service activities are equally affected by obligations under sections 9 and 10.
7. This Direction addresses all client service activities and is not limited to those activities involved in participation in the ReferraLink trial.

Public Interest

8. This Direction has been made to allow relevant agencies to collect the personal information of third parties for the purposes set out in the provisions of this direction. I am satisfied that the public interest in making this Direction to enable the collection of the personal information of third parties for the purposes set out in the provisions of this Direction is greater than the public interest in requiring Relevant Agencies to comply with the Information Protection Principles in sections 9 and 10 of the PPIP Act.

Application

9. This Direction covers relevant agencies. However the relevant agencies may choose to comply with Part 2 Division 1 of the PPIP Act rather than comply with this Direction.
10. This Direction applies to the personal information held by relevant agencies, regardless of whether the personal information is:
 - (a) in the possession or control of the relevant agencies, or
 - (b) in the possession or control of a NGO engaged by the relevant agencies in the course of such engagement.

Provisions

11. This Direction authorises the collection by a relevant agency, from an individual who is a client of the relevant agency (the client), of personal information about another individual (the third party), where such collection would otherwise breach section 9 of the PPIP Act.
12. This Direction authorises the collection by a relevant agency of personal information about a third party, where such collection would otherwise breach section 10 of the PPIP Act.
13. Collections authorised under paragraphs 11 and 12 of this Direction are subject to the condition that the collection of the third party's personal information is reasonably relevant and reasonably necessary for the purpose of the relevant agency providing services, diagnosis, treatment or care to the client.
14. This Direction does not affect any relevant agency in relation to their obligations, with respect to the third party's personal information, under section 8 or sections 11 to 19 of the PPIP Act.

Health Information

15. This Direction does not apply to 'health information', as defined in section 6 of the *Health Records and Information Privacy Act 2002 (NSW)*.

Previous Directions

16. This Direction replaces previous Directions on this matter.

Duration

17. This Direction has effect from **1 July 2015** to **31 December 2015**, or until legislative amendments are made to incorporate this Direction, whichever is earlier.

Signed by me on **19 June 2015**

Elizabeth Coombs
Privacy Commissioner

Schedule

Public Sector Agencies covered by this Direction – “relevant agencies”

Department of Premier and Cabinet (in relation to *Community Services*)

Department of Family and Community Services

Education and Communities

NSW Health

Ambulance Service of NSW

Justice Health & Forensic Health Network

The Children's Hospital at Westmead

The Stewart House Preventorium, Curl Curl

Clinical Excellence Commission

Metropolitan NSW Local Health Districts:

Central Coast

Illawarra Shoalhaven

Nepean Blue Mountains

Northern Sydney

South Eastern Sydney

South Western Sydney

Sydney

Western Sydney

Rural and Regional NSW Local Health Districts:

Far West

Hunter New England

Mid North Coast

Murrumbidgee

Northern NSW

Southern NSW

Western NSW