

Privacy Commissioner's Update

Presentation to the Practitioners' Network Forum

15 February 2023

Samantha Gavel

Privacy Commissioner



information and
privacy commission

new south wales

Privacy and Personal Information Protection Amendment Bill 2022

- The PPIP Amendment Bill passed both houses of Parliament on 16 November and was assented to on 28 November 2022.
- Amendments to come into effect 12 months after assent on **28 November 2023**
- Key changes include:
 - **Creation of a Mandatory Notification of Data Breach (MNDB) Scheme** in which public sector agencies bound by the PPIP Act will need to notify the Privacy Commissioner and affected individuals of data breaches involving personal or health information likely to result in serious harm
 - applying the PPIP Act to all **NSW state-owned corporations** that are not regulated by the Commonwealth *Privacy Act 1988*
 - repealing s117C of the *Fines Act 1996* to ensure that all NSW public sector agencies are regulated by the same mandatory notification scheme.

Privacy and Personal Information Protection Amendment Bill 2022

Upcoming from the IPC:

- Release of new guidance:
 - Guideline: Assessing an eligible data breach
 - Guideline: Exemption under s 59W (health and safety)
 - Guideline: Exemption under s 59X (cybersecurity)
 - Guide for agencies: MNDB Scheme
 - Guide to preparing a data breach policy
 - Fact Sheet for agencies: Exemptions from notification to individuals
 - Fact Sheet for citizens: What is the MNDB scheme
 - Fact Sheet for citizens: Your rights under the MNDB Scheme
- Additional resources such as animations and e-learning modules to be released later this year

Privacy and Personal Information Protection Amendment Bill 2022

Upcoming from the IPC:

- In February, creation of a new MNDB page on the IPC website.
- The webpage will be a hub of information for the MNDB and be updated with information and resources as they are released.
- Bi-monthly MNDB update e-Newsletters being released from April. Make sure you are subscribed (via the IPC website) to receive updates

Privacy Awareness Week NSW 2023



Back to Basics: Privacy
foundations in NSW

1 - 7 May 2023

www.ipc.nsw.gov.au/PAW2023

Privacy Awareness Week NSW 2023

- Privacy Awareness Week NSW 2023 will take place 1 – 7 May 2023.
- 2023 theme – **Back to Basics: Privacy foundations in NSW**
- Privacy Awareness Week 2023 webpage now live with more information coming in the next few weeks
- Registrations are open for the PAW Champion Program via the website
- Visit: www.ipc.nsw.gov.au/PAW2023



Significant regulatory matters

- Privacy Commissioner contacting SOCs to advise of the changes to the PPIP Act and provide guidance
- IPC is finalising a follow up desktop Audit of Privacy Management Plans to assess the progress in elevating compliance with the requirement to have a PMP
- The Privacy Commissioner issued a privacy and health privacy Public Interest Direction relating to the Process and Technology Harmonisation ("PaTH") Program made and published to the IPC website

Privacy case note

Nepean Blue Mountains Local Health District v ENY [2022] NSWCATAP 356

- The Respondent applied to the Appellant to amend the health information and/or personal information of their deceased father. The Appeal Panel held:
 - Section 7 of the HRIP Act defines “incapacity” by reason of five identified criteria (age, injury, illness, physical or mental impairment), of which “death” is not one, all of which can only occur whilst an individual is alive.
 - Unless s. 7 of the HRIP Act is enlivened, an “authorised representative” is not empowered under s. 8 of the HRIP Act to exercise any rights of an individual pursuant to the HRIP Act.

Speaking Engagements

The Privacy Commissioner presented at the following engagements last quarter:

- CDAO Deep Dive: Data Governance Online – 14 November 2022
- Digital Identity Resilience Panel: Empowering individuals with more control over their personal information – 7 December 2022

UPCOMING

- Australian Privacy Forum – 16 February 2023
- 30th Women in Leadership Summit Sydney – 21 February 2023
- Australian Government Data Summit 2023 – 30 March 2023

Privacy resources

UPDATED

- Fact Sheet - State owned corporations (SOCs) and your right to government and personal information

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IPC Practitioner Feedback



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Practitioner feedback

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

- Or go to Menti.com, and enter code 4240 2605

- Or scan the QR Code:



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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