

Privacy in NSW

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Sonia Minutillo
A/Privacy Commissioner



information and
privacy commission
new south wales

Who we are

- IPC is an independent agency that supports the Information Commissioner and the Privacy Commissioner to oversee the NSW public sector in relation to privacy and information access. The Information Commissioner is the CEO.
- Some of the key IPC/Commissioner functions are:
 - Promote and protect privacy and information access rights in NSW
 - Provide information, advice, assistance and training for agencies and individuals
 - Review and audit the performance and decisions of agencies
 - Investigate complaints and manage PIDs about privacy and information access
 - Provide advice to the NSW Government about legislation and technology

Who we regulate

The following types of NSW organisations are subject to oversight by the Commissioners:

- State government departments and agencies
- Universities
- Local councils
- Ministers
- State-Owned Corporations (under both jurisdictions from November 2023 – with some limits in privacy)
- Other NSW public authorities

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

Who we work with

The IPC works closely with several other NSW integrity agencies:

- NSW Ombudsman
- Independent Commission Against Corruption
- NSW Audit Office
- Law Enforcement Conduct Commission
- NSW Electoral Commission

The Privacy Commissioner also works with other national and international jurisdictional counterparts through:

- Privacy Authorities Australia
- Asia Pacific Privacy Authorities

Legislation and oversight

The IPC administers four pieces of NSW legislation:

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

Parliamentary oversight and Ministerial responsibility:

- Committee on the Ombudsman, Law Enforcement Conduct Commission and the Crime Commission
- The Hon Michael Daley MP as Attorney General
- The Hon Jihad Dib MP as Minister for Customer Service and Digital Government
- The Hon Ryan Park MP as Minister for Health, Minister for Regional Health
- The Hon Rose Jackson MLC as Minister for Mental Health

Role of the Privacy Commissioner



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- Promote the adoption of, and monitor compliance with, the information protection principles and health privacy principles
- Oversight privacy internal reviews and manage complaints
- Assist public sector agencies in preparing & implementing privacy codes of practice & privacy management plans
- Provide information, advice, assistance to agencies and the public on privacy
- 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
- Receive and manage data breaches by regulated entities

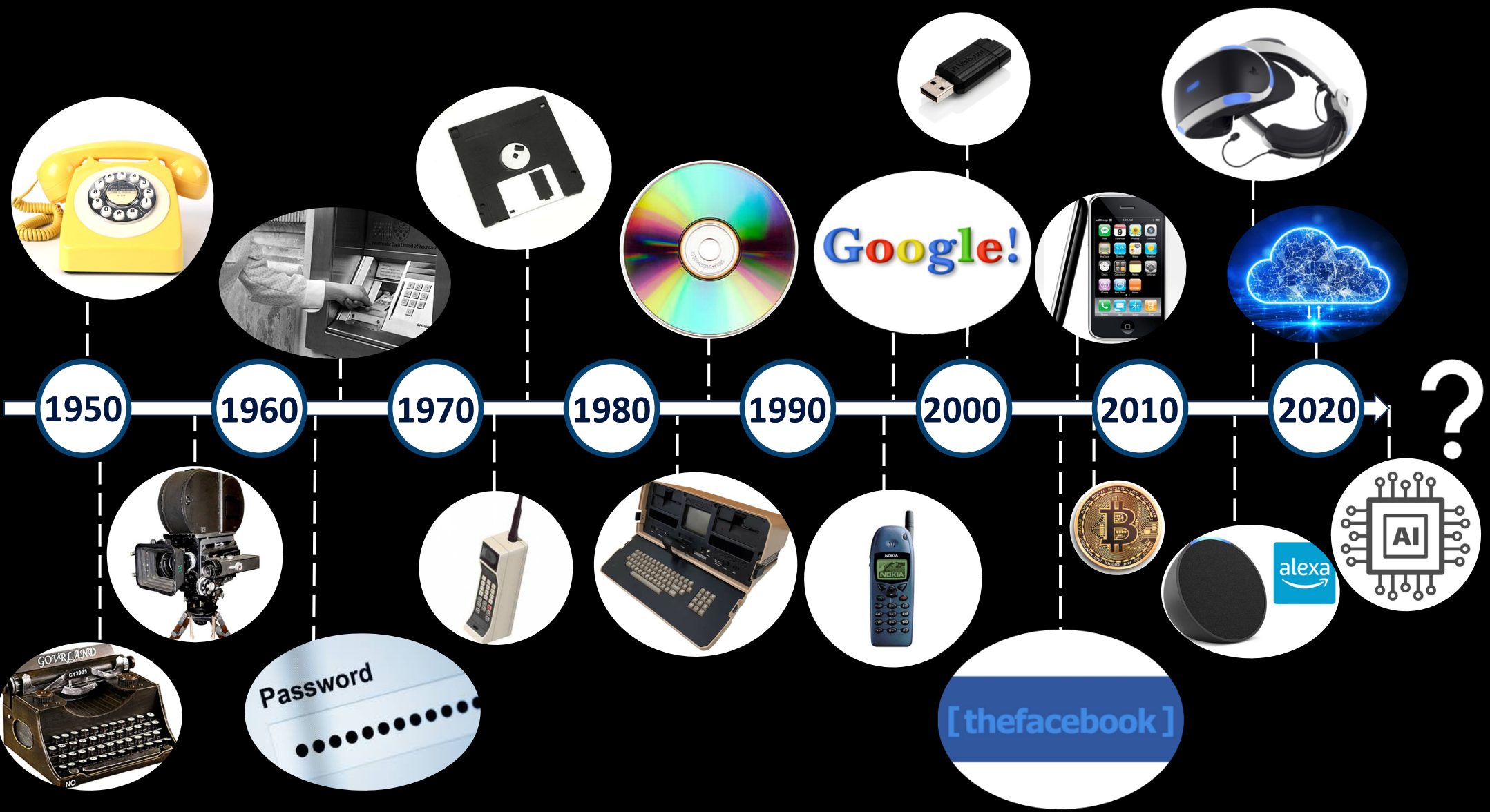
Privacy legislation in NSW



- is focused on the protection of personal information by NSW Government agencies (and some private healthcare providers under HRIP)
- is principles based and technology agnostic
- 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.

IPPs & HPPs





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Digital Innovation & Privacy Rights

New technologies mean:

- Easier & faster collection of data
- Large scale data collection
- Digital innovation
- New privacy and cyber security challenges

Development of a digital government:

- New digital services
- Increased data sharing
- Data analytics and data matching
- Machine learning
- AI and automated decision-making
- Facial Recognition Technology

NSW and other examples:

- Digital Drivers Licence
- Mobile Phone Detection Cameras
- Mobile Seat Belt Cameras
- Covid Check in app
- Working With Children Check Renewals

Most recent NSW Legislative reform

Introduced and assented to in November 2022, the **Privacy and Personal Information Protection Amendment Bill 2021** strengthens privacy protection in NSW.

The bill amends the PPIP Act 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
- apply the PPIP Act to all state-owned corporations that are not regulated by the *Commonwealth Privacy Act 1988*.

The **MNDB Scheme** requires 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 MNDB Scheme came into effect in NSW on **28 November 2023**.

Future reform

Privacy Act Review Report (Cth)

- Proposed reforms are aimed at strengthening the protection of personal information and the control individuals have over their information.
- Consultation found that fundamentally, everyone has a right to privacy and our personal information and identity is key to who we are.
- The Government will progress consideration of reforms to Australia's privacy framework under five key focus areas:
 - Bring the Privacy Act into the digital age
 - Uplift protections
 - Increase clarity and simplicity for entities and individuals
 - Improve control and transparency for individuals over their personal information
 - Strengthen enforcement

How do we promote privacy?

Information and Privacy Commission NSW
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Responding quickly when a data breach occurs can substantially reduce its impact on affected individuals, reduce the costs to agencies of dealing with a breach, and reduce the potential reputational damage that can result. ...more

Guide to Preparing a Data Breach Policy (DBP)

How to protect your privacy?
 The Health Records Information Privacy Act 2002 (HRIPIA) gives you the right to access your personal and health information in a health record. This includes information about you, that is, information that identifies you. In NSW, the Act defines two groups of information – personal information and health information.

What is personal information?
 Personal information is any information that describes you and includes:
 • a picture, sound, video or audio recording
 • a name, address and other details about you
 • a telephone number, email or social media handle
 • a signature, handwriting, or any other identifying information.

What is health information?
 Health information is a specific type of personal information which includes information about your physical, mental, or emotional health, including:
 • personal information you provide to any health practitioner
 • a health service already provided to you
 • a health service that is likely to be provided to you
 • a health service you have been asked to undergo
 • a health service you have been asked to refuse
 • a health service you have been asked to consent to
 • a health service you have been asked to refuse to consent to
 • a health service you have been asked to consent to or refuse to consent to, but which you have not consented to or refused to consent to.
 Health information also includes information about you, your relatives, or your dependants.
 Health information also includes information about you, your relatives, or your dependants, which is held by a health practitioner or a health service provider.
 Health information also includes information about you, your relatives, or your dependants, which is held by a health practitioner or a health service provider, and which is used for research or statistical purposes.
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How to make an application to the Information and Privacy Commissioner
 If you have a concern about your privacy, you can apply to the Information and Privacy Commissioner (IPC) for help. The IPC can help you to understand your rights and obligations, and can help you to resolve your concerns. You can apply to the IPC for help with a range of issues, including:
 • a complaint about a breach of the Privacy and Personal Information Protection Act (PPIPA)
 • a complaint about a breach of the Health Records Information Privacy Act (HRIPIA)
 • a complaint about a breach of the Freedom of Information Act (FOIA)
 • a complaint about a breach of the Environmental Information Act (EIA)
 • a complaint about a breach of the Information and Privacy Commission Act (IPC Act)
 • a complaint about a breach of the Information and Privacy Commission Act (IPC Act), or any other law that protects your privacy.
 The Information and Privacy Commissioner (IPC) is an independent statutory authority that administers legislation dealing with privacy and access to government held information in New South Wales.

Information and Privacy Commission NSW
www.ipc.nsw.gov.au | 1800 955 588 | 1800 955 588

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Privacy Awareness Week NSW 2024

Privacy and Technology: Improving Transparency • Accountability • Security

6 - 12 May 2024
Learn more
www.ipc.nsw.gov.au/PAW2024

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Information and Privacy Commission NSW

The Information and Privacy Commission NSW (IPC) is an independent statutory authority that administers legislation dealing with privacy and access to government held information in New South Wales.

Information access
Find out more about laws in NSW relating to accessing government held information, including your rights as a citizen and your obligations as a public sector agency

Privacy
Find out more about the laws in NSW that protect personal and health information held by government and other organisations, including your rights as a citizen and your obligations as a public sector agency

IPC launches new webform for agencies to notify the Privacy Commissioner of an eligible data breach

Dear Colleague,

The IPC has launched a new approved webform for agencies to immediately notify the Privacy Commissioner of an eligible data breach. The online webform replaces the existing PDF version of the form.

The webform sets out the information that agencies must supply to the Privacy Commissioner in accordance with section 59M of the Privacy and Personal Information Protection Act (PPIPA Act).

Upon completion of the webform, agencies will receive an acknowledgment email with a copy of the submission and the date and time it was submitted to the Privacy Commissioner, to enable agencies to retain a copy of the submission for their record keeping purposes. The webform can be accessed via the link below:

[Form: Data Breach Notification to the Privacy Commissioner](#)



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Understanding the MNDB Scheme - for privacy practitioners

Welcome to the Mandatory Notification of Data Breach (MNDB) Scheme e-Learning module for NSW privacy practitioners.

Select a topic below to begin.

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.
- Each year, the IPC hosts a NSW campaign to raise awareness of privacy rights and obligations for NSW citizens and public sector agencies.
- **PAW NSW 2024** ran from 6-12 May 2024 and celebrated the theme “Privacy and Technology: Improving transparency, accountability and security”.
- During the week, the A/Privacy Commissioner spoke at a live event on *Security in Technology*, released a new toolkit and animations, and registered 120 NSW agencies to support the campaign.



Questions



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