



Public
Service
Commission

Privacy Code of Practice for the Public Service Commission

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1 Overview

- 1.1 This Code is made under Part 3, Division 1 of the *Privacy and Personal Information Protection Act 1998* (“the *PPIP Act*”). It modifies the application to the Public Service Commission (“the PSC”) of certain information protection principles. It replaces the Privacy Code of Practice for the NSW Public Sector Workforce Profile (gazetted 24 August 2012) and the Privacy Code of Practice and Management Arrangements for the Government Employee Number (gazetted 5 March 2015).
- 1.2 The PSC is a NSW government sector agency as scheduled in the *Government Sector Employment Act 2013* (“the *GSE Act*”) that exists to support the Public Service Commissioner in the execution of his or her functions. The PSC has the lead role in designing and implementing workforce management strategies and reform to ensure the capability of the NSW government sector workforce to deliver high quality public services to the people of NSW. The PSC’s functions are set out in the *GSE Act* and include, for example, identifying reform opportunities for the government sector workforce, advising the Government on policy innovations and strategy, leading workforce planning, reporting on workforce diversity and reporting annually on the state of the government sector. In performing these functions, the PSC collects and analyses data which includes personal information.
- 1.3 A corresponding health privacy code applies to the PSC in respect of the *Health Records and Information Privacy Act 2002*.

2 Other exemptions not affected

- 2.1 This Code does not affect the operation of any exemption provided under Part 2, Div. 3 of the *PPIP Act*. This is consistent with s. 29(6) of the *PPIP Act*.

3 Interpretation

3.1 In this Code:

“contingent labour” means a person, or group of persons, who is or are engaged by a recruitment or contract supplier to provide labour or services to a NSW public sector agency. Contingent labour does not include companies engaged under a contract or statement of work to provide services directly to a NSW public sector agency.

“data collection” means a particular collection of PSC workforce data, or some subset of it, held by the PSC.

“data specifications” means a document setting out the specific data fields relevant to a particular data collection as amended from time to time.

“employer agency” means the NSW public sector agency that employs a person.

“external to NSW government sector agency” means an agency that employs an external to NSW government sector agency employee.

“external to NSW government sector agency employee” means a person referred to in s. 5 of the *GSE Act*, as in force from time to time.

NOTE: As at the date of the making of this Code, it means:

- (a) a judicial officer within the meaning of the *Judicial Officers Act 1986*,
- (b) an officer or employee of either House of Parliament or any officer or employee under the separate control of the President or Speaker, or under their joint control,
- (c) persons employed under the *Members of Parliament Staff Act 2013*,
- (d) staff of the Independent Commission Against Corruption employed under the *Independent Commission Against Corruption Act 1988*,
- (e) staff of the Audit Office employed under the *Public Finance and Audit Act 1983*, and (f) staff of the Judicial Commission of New South Wales employed under the *Judicial Officers Act 1986*.

“GSE Act” means the *Government Sector Employment Act 2013*.

“NSW government sector agency” has the same meaning as government sector agency as defined in s. 3 of the *GSE Act*.

“NSW government sector employee” means any person employed in the government sector as defined in s. 3 of the *GSE Act* and includes persons employed on a temporary, casual or fixed term basis.

“NSW public sector agency” includes a NSW government sector agency, a State owned corporation and an external to NSW government sector agency.

“NSW public sector workforce” includes employees of a NSW public sector agency and contingent labour.

“personal information” has the same meaning as in s. 4 of the *PPIP Act*.

“PPIP Act” means the *Privacy and Personal Information Protection Act 1998*.

“prospective NSW government sector employee” means a person who applies for employment with a NSW government sector agency whether the person is successful in obtaining employment or not.

“prospective NSW public sector employee” means a person who applies for employment with a NSW public sector agency whether the person is successful in obtaining employment or not.

“PSC workforce data” means the data collected by the PSC about the NSW public sector workforce and prospective NSW public sector employees for the purpose of exercising functions under the *GSE Act* or any other Act or law.

“State owned corporation” means a State owned corporation within the meaning of the *State Owned Corporations Act 1989*.

4 Information covered by the Code

- 4.1 In performing its functions the PSC deals with information about the NSW public sector workforce and prospective NSW public sector employees. This information is known as the PSC workforce data.

- 4.2 The types of information that the PSC deals with are set out in data specifications for each of the PSC's data collections. The types of information that the PSC collect as part of its data collections are in the following broad categories: employment, demographics, recruitment, and attitudinal (or opinion).
- 4.3 Some of the information that the PSC collects as part of its data collections is personal information. Personal information is collected, used and disclosed by the PSC only where directly relevant to the performance of the PSC's functions under the *GSE Act* or to undertake activities ancillary to those functions.
- 4.4 This Code applies to all PSC workforce data held by the PSC.

5 Provisions

- 5.1 The application of the Information Protection Principles under Division 1, Part 2 of the *PPIP Act* is modified to the extent described below.

IPP 1 (Section 8) – Collection of personal information for lawful purpose

- 5.2 There is no intention to depart from this principle in relation to the collection of personal information about NSW government sector employees, employees of State owned corporations, or prospective NSW government sector employees.
- 5.3 To the extent that the collection of personal information about contingent labour, external to NSW government sector agency employees and prospective NSW public sector employees, other than prospective NSW government sector employees, may not be directly related to a function or activity of the PSC, the PSC is permitted to depart from this principle.
- 5.4 Collection of personal information about contingent labour, external to NSW government sector agency employees and prospective NSW public sector employees, other than prospective NSW government sector employees will not be broader in type or scope than the PSC's collection of personal information about NSW government sector employees,

prospective NSW government sector employees and employees of State owned corporations and relates to the same types of information.

IPP 2 (Section 9) – Collection of personal information directly from individual

- 5.5 There is no intention to depart from this principle in relation to the collection of personal information about NSW government sector employees or employees of State owned corporations.
- 5.6 In relation to the collection of personal information about prospective NSW public sector employees, contingent labour and external to NSW government sector agency employees, this Code permits the PSC to collect personal information about these individuals from the NSW public sector agency which employs or engages the individuals (or, in the case of prospective NSW public sector employees, the NSW public sector agency which seeks to employ an individual) rather than directly from the individuals.
- 5.7 The type and scope of personal information collected will not be broader than the PSC's collection of personal information about NSW government sector employees and employees of State owned corporations and relates to the same types of information.

IPP 3 (Section 10) – Requirements when collecting personal information

- 5.8 There is no intention to depart from this principle.

IPP 4 (Section 11) – Other requirements relating to collection of personal information

- 5.9 There is no intention to depart from this principle.

IPP 5 (Section 12) – Retention and security of personal information

- 5.10 There is no intention to depart from this principle.

IPP 6 (Section 13) – Information about personal information held by agencies

- 5.11 There is no intention to depart from this principle.

IPP 7 (Section 14) – Access to personal information held by agencies

- 5.12 The PSC is not required to comply with this principle in relation to personal information which forms part of a data collection if:
- (a) in the case of information obtained from a source other than the individual, the PSC refers the individual to its source, which may include the individual's employer agency (or, in the case of contingent labour, the NSW public sector agency engaging the individual), or
 - (b) in the case of information obtained from the individual, the PSC refers the individual to an information portal or similar system which enables the individual to check what information the PSC holds in relation to the individual.

IPP 8 (Section 15) – Alteration of personal information

- 5.13 The PSC is not required to comply with this principle in relation to personal information which forms part of a data collection if:
- (a) in the case of information obtained from a source other than the individual, the PSC refers the individual to its source, which may include the individual's employer agency (or, in the case of contingent labour, the NSW public sector agency engaging the individual), or
 - (b) in the case of information obtained from the individual, the PSC refers the individual to an information portal or similar system which enables the individual to amend the information that the PSC holds in relation to the individual.

IPP 9 (Section 16) – Agency must check accuracy of personal information before use

- 5.14 There is no intention to depart from this principle.

IPP 10 (Section 17) – Limits on use of personal information

- 5.15 There is no intention to depart from this principle.

IPP 11 (Section 18) – Limits on disclosure of personal information

- 5.16 There is no intention to depart from this principle.

IPP 12 (Section 19) – Special restrictions on disclosure of personal information

- 5.17 There is no intention to depart from this principle.

6 Compliance and further information

- 6.1 Once an Order making this Code is published in the NSW Government Gazette (or on such later date as may be specified in the order), an agency, person, or body, to whom this Code applies must comply with its provisions.
- 6.2 Further information regarding privacy laws and the operation of privacy codes of practice can be found on the NSW Information and Privacy Commission website at <http://www.ipc.nsw.gov.au>.
- 6.3 This Code will be reviewed in consultation with the NSW Privacy Commissioner on or before 30 June 2021 and every three years thereafter.