



The  
Treasury

**TIPP 5.12**

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# **Privacy Management Plan and Guidelines**

**NSW Treasury Internal Policy  
and Procedure Document**

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Superseded by TPG22234

**November 2020**

Next review date: November, 2023

## Preface

I am pleased to present NSW Treasury's Privacy Management Plan and Guidelines (Plan), developed in accordance with the requirements of section 33 of the *Privacy and Personal Information Protection Act 1998* (NSW) (PIIP Act).

NSW Treasury is committed to open and accountable government in accordance with the *Government Information (Public Access) Act 2009* (GIPA Act), while at the same time recognising the privacy rights of individuals.

This plan demonstrates a commitment by NSW Treasury to protect the privacy rights of our stakeholders, staff and members of the public pursuant to the requirements of the PIIP Act and the *Health Records and Information Privacy Act 2001* (HRIP Act).

I urge all staff to read this Plan and use the procedures and message contained within to ensure NSW Treasury meets its privacy obligations.

**Michael Pratt**  
**Secretary**  
**NSW Treasury**

November 2020

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## Executive Summary

All NSW Government agencies are required to have a privacy management plan under section 33 of the *Privacy and Personal Information Protection Act 1998 (NSW)* (PIIP Act).

NSW Treasury has developed this Privacy Management Plan to demonstrate and ensure that our organisation applies correct procedures to manage the personal information of our stakeholders and staff.

The purpose of this Plan is to:

- demonstrate to the people of New South Wales how NSW Treasury upholds and respects the privacy of its staff and all those who deal with NSW Treasury;
- explain how we manage personal information in line with the PIIP Act and health information in line with the HRIP Act; and
- provide guidance and training for NSW Treasury staff in dealing with personal and health information. This helps to ensure that we comply with the PIIP Act and the HRIP Act (together, **the Acts**).

This Plan indicates that Treasury takes the privacy of its staff and the people of NSW seriously and we will protect privacy with the use of this Plan as a reference and guidance tool.

# 1 Introduction

## Key points

This Plan has been developed by NSW Treasury as per section 33 of the PPIP Act.

This Plan identifies:

- the types of personal and health information (as defined at section 2.1 below) that NSW Treasury holds or is responsible for;
- the policies and practices used by NSW Treasury to comply with the Acts;
- how details of those policies and practices are made known to staff of NSW Treasury and all engaged by the department; and
- how NSW Treasury conducts Internal Reviews under section 53 of the PPIP Act

## 1.1 The role and functions of NSW Treasury

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NSW Treasury advises the NSW Government on state financial management policy and reporting, and on economic conditions and issues.

NSW Treasury comprises:

- Economic Strategy and Productivity Group (including NSW Small Business Commission and the Productivity Commission);
- Jobs, Investment and Tourism (including Destination NSW and Western Parklands City Authority);
- Trade
- Policy and Budget Group;
- Commercial, Commissioning and Procurement Group;
- Office of the Secretary;
- Office of the General Counsel;
- Financial and Operations Group;
- Human Resources; and
- Information Technology.

NSW Treasury collects, holds, uses and discloses personal and health information for the purpose of carrying out its functions. For instance, Treasury may handle personal and health information for the purpose of:

- managing correspondence on behalf of the Treasurer and other Ministers' Offices;
  - human resources (**HR**) management;
  - recruitment;
  - complaints handling; and
  - managing applications for Government information (meaning information
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contained in a record held by an agency) under the GIPA Act.

Treasury takes the privacy of its staff and the people of NSW seriously and we will protect privacy with the use of this Plan as a reference and guidance tool.

Superseded by TPG22-34

## 2 Personal and Health Information

### 2.1 Definitions

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Personal information is information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion (section 4 of the PPIP Act).

Health information is any personal information about a person's physical or mental health or disability or provision of health services to them. It also includes genetic information that is or could be predictive of the health of a person and any personal information that was collected to provide, or in providing, a health service or in connection with donation of body parts, organs or body substances.

### 2.2 Exclusions from the definition

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Both the Acts exclude from the definition of personal and health information, information which:

- relates to a person who has been dead for more than 30 years; or
- is contained in a publicly available publication; or
- refers to a person's suitability for employment as a public sector official.

#### ***Information in a publicly available publication***

The definitions exclude information about named or identifiable people which is published in newspapers, books or the Internet, broadcast on radio or television, posted on social media such as Facebook or Twitter, or made known at a public event. Because such information is publicly available, it cannot be protected from use or further disclosure.

#### ***Employment-related information***

Information referring to suitability for employment as a Treasury member of staff (such as selection reports and references for appointment or promotions, or disciplinary records) is excluded from the definitions and therefore from the provisions of the Acts.

Such information, however, is still stored, secured, used and disclosed by Treasury with the same care as if it were protected by the Acts.

Other employee-related personal information is protected by the Acts.

For example, records or information about work activities, such as video or photographs of staff in their workplace, are protected and may only be used in compliance with the Acts' provisions.

Other examples of work-related personal and health information are staff training records, leave applications and attendance records. All these are within the scope of the definitions and are protected by the Acts.

## 2.3 Types of personal and health information held by NSW Treasury

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### Employee records

Employee records for staff of NSW Treasury are held by NSW Treasury and GovConnect. This information includes, but is not limited to:

- records of dates of birth, addresses and contact details;
- payroll, attendance and leave records;
- performance management and evaluation records;
- training records;
- workers compensation records;
- work health and safety records; and
- records of gender, ethnicity and disability of employees for equal employment opportunity reporting purposes.

An employee of NSW Treasury may access their own file under the supervision of HR staff.

Apart from the employee the file relates to, the members of the Human Resources team at Treasury are the only other members of the department that have authorised access to personnel files.

Employee records are stored in soft copy in the SAP system and Objective files, maintained by GovConnect. These records include leave records, payroll processing information, leave accruals, medical certificates, and parental leave information.

HR also maintains separate personnel files in the Objective document management system for all current employees. These files include some contracts, remuneration details, and any ongoing case being managed by HR (such as conduct investigations and Work Cover claims). Access to these personnel files is controlled and limited only to authorised HR employees.

NSW Treasury has an agreement with GovConnect, managed through the Department of Customer Service, that affects how GovConnect handles employee records in the SAP and Objective systems.

GovConnect is formed by two outsourced vendors managed by the Service Management Office, a division of Department of Customer Service. Corporate services functions are currently managed by Infosys (Human Resources & Finance) and Unisys (Information Technology) on behalf of Treasury but may change from time to time. Therefore, GovConnect holds and is responsible for more detailed personal and health information about Treasury staff such as recruitment, payroll and leave records.

The Service Partnership Agreement between NSW Treasury and GovConnect notes that GovConnect will have access to information from and about NSW Treasury in the course of business, and that GovConnect is bound to comply with the PPIP & HRIP



Acts.

Employee records are also held in relation to commercial assets that have now been sold by the State. These are primarily archived hard copy records, a register of which is kept electronically with access restricted only to the relevant business areas.

### **Information collected relating to conflict of interest**

NSW Treasury staff are required to disclose any actual, potential or perceived conflicts of interest as part of the onboarding process. This information is reviewed and updated regularly, and as any conflicts arise or change.

### **Digital images**

NSW Treasury holds digital images of all staff members which are used for the production of staff identification cards and other internal uses including publication on Treasury's intranet.

### **Contact details**

NSW Treasury holds contact details of various third parties, including for:

- government agency CEOs, members of inter-departmental working groups and similar, members of government boards and advisory committees;
- stakeholders participating in stakeholder consultation forums;
- businesses and individuals involved in NSW Treasury's various programs and schemes;
- businesses and individuals attending NSW Treasury hosted events and some business familiarisation programs;
- businesses and individuals that have registered to NSW Treasury newsletters and collaboration/networking platforms;
- businesses and individuals that have registered on NSW Treasury hosted procurement systems;
- businesses and individuals that are suppliers on NSW Treasury managed contracts and Schemes;
- businesses and individuals that have applied to NSW Treasury for funding, grants or other assistance or services;
- businesses and individuals that have responded to a call for submissions on a particular project;
- people participating in surveys and community engagement events;
- people who have made a complaint, enquiry, compliment or suggestion through NSW Treasury's websites or other mechanisms; and
- people who have made formal access applications under the GIPA Act.

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NSW Treasury uses the contact details for the purposes for which they were collected. NSW Treasury does not use this information to contact people for secondary purposes, such as for unrelated marketing purposes. For example, where contact details have been provided as part of an enquiry made to NSW Treasury, those contact details will only be used in managing and responding to that enquiry and will not be used for any other purpose unless the individual concerned has expressly consented to that secondary use.

### Identification documents

In some circumstances, NSW Treasury may hold identification documents for certain individuals. These documents are usually collected where individuals are required to prove their identity in order to access certain services or programs of NSW Treasury, and are attached to the application or form. Proof of identity documents may also be required when making applications for information under the GIPA Act or PPIP Act.

### Correspondence records

NSW Treasury holds the following correspondence records:

- contact details of people who have written to or emailed NSW Treasury or its responsible Ministers;
- details of the nature of their correspondence, which can include sensitive personal information about matters such as ethnicity, religion, health conditions, or sexuality;
- copies of replies to correspondence; and
- records of to whom, if anyone, their correspondence was referred.

This information is only used for the purpose of communicating a reply to the correspondent either from NSW Treasury or the relevant Minister's Office. Once a matter has been progressed and processed, it is closed and filed accordingly on relevant files stored and secured by GovConnect, as the Department's primary provider of records management services.

## 3 The Privacy Principles

### 3.1 Applying the privacy principles in NSW

NSW Treasury is guided by sections 8 to 19 of the PPIP Act and Schedule 1 to the HRIP Act.

Sections 8 to 19 of the PPIP Act provide set privacy standards that public sector agencies are expected to follow when dealing with personal information. They are the information protection principles (IPPs) and they govern the collection, retention, accuracy, use and disclosure of personal information, including rights of access and correction.

Below is an overview of the IPPs as they apply to NSW Treasury:

12 Information Protection Principles	
<b>Collection</b>	<ol style="list-style-type: none"> <li>1. Lawful – We only collect personal information for a lawful purpose that is directly related to our functions and activities</li> <li>2. Direct – We collect personal information directly from the person concerned</li> <li>3. Open – When collecting personal information, we inform people why their personal information is being collected, what it will be used for, to whom it will be disclosed, how they can access and amend it and any possible consequences if they decide not to give it to us</li> <li>4. Relevant – When collecting personal information, we ensure it is relevant, accurate, not excessive, and does not unreasonably intrude into peoples' personal affairs</li> </ol>
<b>Storage</b>	<ol style="list-style-type: none"> <li>5. Secure – we store personal information securely, keep it no longer than necessary, destroy it appropriately, and protect it from unauthorised access, use or disclosure</li> </ol>
<b>Access</b>	<ol style="list-style-type: none"> <li>6. Transparent – We are transparent about personal information that is stored, what it is used for and peoples' right to access and amend it</li> <li>7. Accessible – We allow people to access their own personal information without unreasonable delay or expense</li> <li>8. Correct – We allow people to update, correct or amend their personal information where necessary</li> </ol>
<b>Use</b>	<ol style="list-style-type: none"> <li>9. Accurate – We make sure that personal information is relevant and accurate before using it</li> <li>10. Limited – We only use personal information for the purpose it was collected for unless the person consents to the information being use for an unrelated purpose</li> </ol>
<b>Disclosure</b>	<ol style="list-style-type: none"> <li>11. Restricted – We will only disclose personal information with people's consent unless they were already informed of the disclosure when the personal information was collected</li> <li>12. Sensitive – We do not disclose sensitive personal information (such as ethnicity or racial origin, political opinions, religious or philosophical beliefs,</li> </ol>

health or sexual activities, or trade union membership) without consent.

Schedule 1 to the HRIP Act provides a similar set of privacy standards for health information. They are the health privacy principles (HPPs) and they are largely the same as the IPPs, however without an equivalent to IPP 12 (Sensitive) and with other additional obligations and standards instead.

Below is an overview of the HPPs as they apply to NSW Treasury:

12 Health Privacy Principles	
<b>Collection</b>	<ol style="list-style-type: none"> <li>1. Lawful – We only collect health information for a lawful purpose that is directly related to our functions and activities</li> <li>2. Relevant – When collecting health information, we ensure it is relevant, accurate, not excessive, and does not unreasonably intrude into peoples’ personal affairs</li> <li>3. Direct – We collect health information directly from the person concerned unless it is unreasonable or impractical to do so</li> <li>4. Open – When collecting health information, we inform people why their health information is being collected, what it will be used for, to whom it will be disclosed, how they can access and amend it and any possible consequences if they decide not to give it to us.</li> </ol>
<b>Storage</b>	<ol style="list-style-type: none"> <li>5. Secure – we store health information securely, keep it no longer than necessary, destroy it appropriately, and protect it from unauthorised access, use or disclosure</li> </ol>
<b>Access</b>	<ol style="list-style-type: none"> <li>6. Transparent – We are transparent about health information that is stored, what it is used for and peoples’ right to access and amend it</li> <li>7. Accessible – We allow people to access their own health information without unreasonable delay or expense</li> <li>8. Correct – We allow people to update, correct or amend their health information where necessary</li> </ol>
<b>Use</b>	<ol style="list-style-type: none"> <li>9. Accurate – We make sure that health information is relevant and accurate before using it</li> <li>10. Limited – We only use health information for the purpose it was collected for unless:                             <ol style="list-style-type: none"> <li>(a) the person has consented to its use for another purpose,</li> <li>(b) it is being used for a purpose directly related to the purpose it was collected for,</li> <li>(c) we believe that there is a serious threat to health or welfare,</li> <li>(d) it is for the management of health services, training, research or to find a missing person, or</li> <li>(e) it is for law enforcement or investigative purposes.</li> </ol> </li> </ol>

<b>Disclosure</b>	<p>11. Restricted – We only use disclose health information for the purpose it was collected for unless:</p> <ul style="list-style-type: none"> <li>(a) the person has consented to its disclosure for another purpose,</li> <li>(b) it is being disclosed for a purpose directly related to the purpose it was collected for,</li> <li>(c) we believe that there is a serious threat to health or welfare,</li> <li>(d) it is for the management of health services, training, research or to find a missing person, or</li> <li>(e) it is for law enforcement or investigative purposes.</li> </ul>
<b>Other</b>	<p>12. Identifiers – We do not use unique identifiers for health information, as they are not needed to carry out Treasury’s functions</p> <p>13. Anonymity – We allow people to stay anonymous if it is lawful and practical for them to do so</p> <p>14. Transborder – We do not usually transfer health information outside of New South Wales</p> <p>15. Linkage – We do not currently use a health records linkage system and do not anticipate using one in the future. But if we were to use one in the future, we would not do so without people’s consent.</p>

### 3.1.1 Collecting personal or health information (IPPs 1-4 and HPPs 1-4)

NSW Treasury will only collect personal or health information if it is:

- for a lawful purpose that is directly related to one of our functions; and
- reasonably necessary for NSW Treasury to have the information.

NSW Treasury will ensure that when personal and health information is collected from an individual, either verbally or in written forms, the individual will be advised accordingly. This will be in the form of a collection notice that will include the purpose of the collection; any intended recipients of the information (where applicable); their right to access and correct the information; and the details of any agency that is collecting or holding the information on NSW Treasury’s behalf (if applicable).

NSW Treasury also advises individuals if the collection is voluntary or if it is lawfully required and informs individuals of any penalties or other possible consequences for not complying with Treasury’s request.

When collecting personal or health information from an individual, Treasury endeavours to ensure that the information is relevant, accurate, up to date and complete for the purposes for which it is being collected. Treasury will also endeavour to ensure that the collection of the information does not intrude to an unreasonable extent on the personal affairs of the individual, having regard to the purposes for which it is being collected.

#### Collection tips:

- When designing a form, ask yourself: *“do we really need each bit of this*

information?"

- By limiting the collection of personal and health information to only what you need, it is much easier to comply with the principles.
- If collecting personal or health information about someone, collect it from that person directly to ensure accuracy and to obtain any permission for disclosure of the information
- Do not ask for information that is not relevant.
- Be mindful of whether you're asking for information that is sensitive, such as about a person's ethnicity or race, political opinions, religious or philosophical beliefs, trade union membership or sexual activities. Treat this information with extra care and seek advice before disclosing it.
- Individuals providing their personal or health information to NSW Treasury have a right to know the full extent of how the information they provide will be used and disclosed, and to choose whether or not they wish to go ahead with providing information on that basis.
- Think about whether you are collecting personal or health information from people living in the European Union (EU) with an intention of providing goods and services to them. If so, you might be subject to the EU's General Data Protection Regulation (GDPR), in which case you should make sure your collection meets the requirements of Articles 13-14 of the GDPR. This includes if you are collecting information about and tracking web-based behaviour, where that behaviour is coming from the EU.

### 3.1.2 Storing personal and health information (IPP 5 and HPP 5)

NSW Treasury takes reasonable security safeguards against the loss, unauthorised access, use, modification and disclosure of personal information.

NSW Treasury has in place information security policies which provide guidance to staff around the handling and storage of personal information. This includes the use of unique user accounts and passwords to access our computer systems. In accordance with NSW Treasury's information security policy, our staff do not give out passwords to anyone or let anyone else use their computer login.

NSW Treasury's security measures further include the use of restricted drives and authorised access. For example, correspondence containing personal information is stored in NSW Treasury's record management system with restricted access and editing privileges.

Personal information is kept for no longer than is necessary and is disposed of once no longer required in a secure manner in accordance with governmental requirements.

#### Storage and security tips:

- Check that document privileges are kept only to staff members who require access to action or approve a task; and
- Take reasonable steps to prevent any unauthorised use or disclosure of the

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personal information by a contractor or service provider. This should be done with appropriate privacy clauses in the relevant contract. Those clauses should bind our contractors to the same privacy obligations NSW Treasury has under the PPIP & HRIP Acts.

### 3.1.3 Accessing personal or health information (IPPs 6-8 and HPPs 6-8)

Treasury aims to make it as easy as possible for individuals to access their own personal information. Generally, requests by an individual to access their personal or health information can be made on an informal basis.

NSW Treasury will endeavour to ensure that all personal and health information is accurate, complete and current. Further, should an individual become aware of, or detect an error in Treasury's records about their personal affairs, NSW Treasury will make the necessary changes.

If NSW Treasury disagrees with the person about whether the information needs changing, we must instead allow the person to add a statement to our records.

#### Access tips:

- People should be able to easily see or find out what information we hold about them.
- We should let complainants, clients and staff see their own personal and health information at no cost and through an informal request process.
- We can not charge people to lodge requests for access or amendment of their own personal or health information. We can, however, charge reasonable fees for copying or inspection, if we tell people what the fees are up-front.

### 3.1.4 Using personal and health information (IPP 9-10 and HPP 9-10)

NSW Treasury will only use personal or health information for the purposes for which it was collected or for other directly related purposes. At the time NSW Treasury collects personal or health information from an individual, they will notify the individual of the primary purpose for which the information is collected. NSW Treasury will also take reasonable steps to check the accuracy and relevance of personal or health information before using it.

For example:

- If the primary purpose of collecting a complainant's information was to investigate their workplace grievance, directly related secondary purposes within the reasonable expectations of the person for which their personal information could be used by NSW Treasury would include independent auditing of workplace grievance files.

#### Use tips:

- Passing personal or health information from one officer within NSW Treasury to another may amount to using that information. Think about the reason you are passing the personal information on, and whether it is for the same (or a directly related) reason that the information was collected for.

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- When collecting personal or health information, think about how the information might be used down the line. Are all the uses directly related to the purpose of collection? Make sure the use of the information is clear in any privacy notice accompanying the collection.
- When using personal or health information, think about the purpose for which it was collected. The primary purpose for which NSW Treasury has collected the information should have been set out in a privacy notice (**Appendix A**). If you want to use the information for any purpose other than that primary purpose, check with Treasury's Privacy Coordinator first.
- Before using personal or health information, think about how long ago the information was given. Could it now be outdated or misleading? When was the last time the information was used? Are there any processes in place to allow individuals to amend outdated information? Are there regular check-ins with the individuals to update their information if circumstances have changed?
- Only provide personal information to a contractor or service provider if they really need it to do their job and remember to bind them to the same privacy obligations NSW Treasury has. This will help us prevent any unauthorised use of the personal information by that contractor or service provider.
- If the information you collected and intend to use is subject to the EU's GDPR (see Collection Tips above for more information), make sure that consent for that use (if required) is specific, informed, and freely given. There is a difference between positive opt-in and compulsory acceptance of standard terms and conditions.

### 3.1.5 Disclosing personal or health information (IPPs 11-12 and HPP 11)

NSW Treasury will only disclose personal or health information if:

- at the time NSW Treasury collected their information, the person was given a privacy notice (template at **Appendix A**) to inform them their information would or might be disclosed to the proposed recipient, and that disclosure is directly related to the purpose for which the information was collected,
- the person concerned has consented to the proposed disclosure, or
- an exemption applies (see section 3.1.6 for more information).

In addition to the above, NSW Treasury can also disclose personal information (but *not* health information) if the person was notified of the disclosure at the time of collection—even if the purpose of that disclosure is not directly related to the purpose of collection.

Notification of the disclosure is not enough in the case of health information unless the purpose of that disclosure is also directly related to the purpose of collection.

If an individual's personal or health information is disclosed to other NSW Public sector agencies, those agencies can only use information for the purpose for which it was disclosed to them. The information continues to be covered by the Acts.



### Disclosure tips:

- You can usually disclose information if the person was notified about that disclosure at the time their personal information was collected. When disclosing personal information, try to track down the point that it was collected and see if the disclosure you are intending to make was referred to in an accompanying privacy notice.
- However, if NSW Treasury did not tell the person about the proposed disclosure in a privacy notice, or if it is health information and NSW Treasury wants to send it outside of New South Wales, you will usually need to seek the individual's consent.
- When collecting personal or health information, think about how the information might be disclosed—to who and for what purpose—and make sure to include this in the privacy notice.
- Only provide personal information to a contractor or service provider if they really need it to do their job and remember to bind them to the same privacy obligations NSW Treasury has. This will help us prevent any unauthorised disclosure of the personal information by that contractor or service provider.
- If the information you collected and intend to disclose is subject to the EU's GDPR (see Collection Tips above for more information), make sure that consent for that disclosure (if required) is specific, informed, and freely given. There is a difference between positive opt-in and compulsory acceptance of standard terms and conditions.

### 3.1.6 Exemptions

There are a number of exemptions to the IPPs that limit their coverage in a number of ways including:

- exchanges of information which are reasonably necessary for the purpose of referring inquiries between agencies (section 27A(b)(ii) of the PPIP Act);
- disclosure relating to law enforcement and related matters (section 23 of the PPIP Act);
- disclosure that would detrimentally affect complaint-handling or investigative functions (section 24 of the PPIP Act); and
- where non-compliance is lawfully authorised or required or otherwise lawfully permitted (section 25 of the PPIP Act).

Some additional exceptions apply to the collection, use and disclosure of health information, including for compassionate reasons, research training and the management of health services. Information about which exceptions apply to each HPP can be found in Schedule 1 of the HRIP Act.

## 4 Code of Practice and PPIP section 41 Directions

Under the PPIP Act, Privacy Codes of Practice can be developed by agencies that provide for the modification of the application of one or more IPPs to particular activities or categories of information.

This is undertaken to take account of particular circumstances relating to legitimate use of Personal Information by agencies that might otherwise be in contradiction to the IPPs under the PPIP Act.

The Information and Privacy Commission can also prepare Codes of Practice common to a number of agencies. All Codes are approved by the NSW Attorney-General.

In addition, under section 41 of the PPIP Act the Privacy Commissioner may make a direction to waive or modify the requirement for an agency to comply with an IPP.

### 4.1 Privacy Code of Practice for the Public Service Commission

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The NSW Public Service Commission has developed a [Privacy Code of Practice for the Public Service Commission](#) to allow analysis and reporting about employment characteristics.

NSW Treasury provides personal information to the NSW Public Service Commission for this purpose. Confidentiality and privacy arrangements underpin the workforce profile.

## 5 Public Registers

Under section 3(1) of the PPIP Act, a Public Register is defined as ‘a register of personal information that is required by law to be, or is made, publicly available or open to public inspection (whether or not on payment of a fee).’

The PPIP Act requires that a public sector agency responsible for keeping a Public Register must not disclose any personal information contained in it unless the agency is satisfied that it is to be used for a purpose relating to the purpose of the register.

NSW Treasury does not currently hold any Public Registers.

## 6 Other relevant legislation

- *Anti-Discrimination Act 1977 (NSW)*
- *Criminal Records Act 1991 (NSW)*
- *GIPA Act 2009 (NSW)*
- *Ombudsman Act 1974 (NSW)*
- *Public Interest Disclosures Act 1994 (NSW)*
- *State Records Act 1998 (NSW)*
- *Workplace Surveillance Act 2005 (NSW)*
- *General Data Protection Regulation 2018 (EU)*. The GDPR will apply to any organisation offering goods or services to, or monitoring the behaviour of, individuals living in the EU.

## 7 Policies affecting processing of personal and health information

The [Treasury Internal Policies and Procedures](#) (TIPPs) that impact on the processing of personal and health information include:

- TIPP 2.05 - [Treasury 's Code of Ethics and Conduct](#);
- TIPP 4.05 - [Use of communication devices policy](#);
- TIPP 4.07 - [Management of IT assets and information access for staff on leave](#);
- TIPP 5.04 - [Public interest disclosures internal reporting policy](#); and
- TIPP 5.09 - [Fraud and Corruption Prevention](#).

## 8 How to access and amend personal information

People have the right to access, amend and update Personal Information that NSW Treasury holds about them.

NSW Treasury must assist a person to find out what personal and health information it holds about them, and then provide access to this information without excessive delay. NSW Treasury does not charge any fees to access or amend personal or health information.

NSW Treasury encourages staff wanting to access or amend their own personal or health information to contact HR Branch.

For members of the public, a request for access to any personal information held by NSW Treasury should be made in writing to the NSW Treasury Privacy Coordinator (see page 17 for contact details).

Any person can make a formal application to the NSW Treasury Privacy Coordinator and this application should:

- include the person's name and contact details (postal address, telephone number and email address if applicable);
- explain what the person is seeking, such as whether the person is enquiring about the personal information held about them, or whether the person is wishing to access and amend that information
- if the person is seeking to access or amend their information,
  - explain what personal or health information the person wants to access or amend; and
  - explain how the person wants to access or amend it.

NSW Treasury aims to respond in writing to formal applications within **20 working days** and will advise the applicant how long the request is likely to take, particularly if it may take longer than expected.

If an individual believes that NSW Treasury is taking an unreasonable amount of time to respond to an application, they have the right to seek an Internal Review.

Before seeking an Internal Review, we encourage individuals to first contact NSW Treasury to request provision of an update or timeframe.

## 9 Internal Review

### 9.1 Request for Internal Review

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A breach of an individual's privacy is where a breach of one or more of the IPPs or HPPs has occurred.

An individual who considers his or her privacy has been breached can contact NSW Treasury to try and resolve the issue informally. Alternatively, or if no informal resolution can be reached, individuals can also make a complaint to NSW Treasury under section 53 of the PPIP Act and request a formal internal review of NSW Treasury's conduct in relation to the privacy matter (**Internal Review**).

Applications for Internal Review must:

- be in writing addressed to NSW Treasury;
- include a return address in Australia; and
- be lodged with NSW Treasury within six months of the time the applicant first became aware of the conduct which is the subject of the application.

The form for applying for a review of conduct under section 53 of the PPIP Act is at **Appendix B**.

Requests for review must allege a breach of the IPPs or Code of practice applicable to NSW Treasury; or disclosure of Personal Information from Public Registers held by NSW Treasury.

Applicants who are not satisfied with the findings of the review or the action taken by NSW Treasury in relation to the Internal Review, have the right to appeal to the NSW Civil and Administration Tribunal (**NCAT**) under s. 55 of the PPIP Act.

### 9.2 Internal Review Process

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The Privacy Coordinator is responsible for receiving, allocating and overseeing Internal Reviews in relation to privacy matters. The Privacy Coordinator provides a single point of contact for individuals seeking further information on how NSW Treasury complies with the Acts. The Privacy Coordinator will receive all correspondence and enquiries regarding the Acts, including any Internal Review requests.

The Privacy Coordinator's role also includes monitoring, recording and reporting on the progress of all Internal Review applications received.

Within NSW Treasury, the responsibilities of the Privacy Coordinator are currently held by the Principal Solicitor, Information Access and Governance.

The Privacy Coordinator will designate an officer within NSW Treasury to be the delegated officer (at a minimum an officer who is employed at the Senior Executive Services Band 1 or above) for the purposes of conducting the Internal Review under the PPIP Act.

## Treasury Internal Policy and Procedure Document (TIPP 5.12)

Internal Reviews will generally be conducted by a delegated officer with no involvement in the matter giving rise to the complaint of breach of privacy (the **Reviewing Officer**). The delegated officer may seek legal or other assistance in conducting the review, including from the Privacy Coordinator and Information Access and Governance Team.

Under section 54(1) of the PPIP Act, NSW Treasury is required to notify the NSW Privacy Commissioner of the receipt of an application for an Internal Review of conduct and keep the NSW Privacy Commissioner informed of the progress reports of the internal review. In addition, the NSW Privacy Commissioner is entitled to make submissions to NSW Treasury in relation to the application for Internal Review (section 54(2) of the PPIP).

Under section 53(6) of the PPIP, an Internal Review must be completed within 60 days of the receipt of the application.

Under section 53(8) of the PPIP Act, as soon as practicable, or in any event within 14 days, after the completion of the Internal Review NSW Treasury must inform the applicant of the:

- findings of the review (and the reasons for those findings); and
- action proposed to be taken by NSW Treasury (and the reasons for taking that action); and
- the right of the person to have those findings, and NSW Treasury's proposed action, administratively reviewed by NCAT.

When NSW Treasury receives an Internal Review, the Privacy Coordinator will send:

- an acknowledgment letter to the applicant and advise that if the Internal Review is not completed within 60 days they have a right to seek a review of the conduct by NCAT; and
- a letter to the NSW Privacy Commissioner with details of the application and a photocopy of the written complaint.

There is an example of a letter of notification to the Privacy Commissioner of receipt of request for an Internal Review at **Appendix D**.

The Reviewing Officer responsible for completing the final determination must consider any relevant material submitted by the applicant or the NSW Privacy Commissioner. Before completing the Internal Review, the Reviewing Officer should send a draft copy of the preliminary determination to the NSW Privacy Commissioner to invite any submissions.

NSW Treasury follows the model of the Internal Review process provided by the NSW Information and Privacy Commission (**Appendix C**).

In finalising the determination, the Reviewing Officer will prepare a report containing their findings and recommended actions.

## Treasury Internal Policy and Procedure Document (TIPP 5.12)

NSW Treasury may:

- take no further action on the matter;
- make a formal apology to the applicant;
- take appropriate remedial action, which may include the payment of monetary compensation to the applicant;
- undertake that the conduct will not occur again; and/or
- implement administrative measures to ensure that the conduct will not occur again.

The Reviewing Officer will notify the applicant in writing of:

- the findings of the review;
- the reasons for the finding, described in terms of the IPPs and/or the HPPs;
- any action NSW Treasury proposes to take;
- the reasons for the proposed action (or no action); and/or
- their entitlement to have the findings and the reasons for the findings reviewed by NCAT.

### 9.3 Recording of Internal Reviews

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NSW Treasury records all applications for Internal Review in a secure Objective file and workflow. The workflow tracks the progress of the Internal Review process and the determination of the completed review.

The details recorded in this system will provide the statistical information on Internal Review applications to be included in NSW Treasury's Annual Report.

## 10 External Review

External review processes are also available.

### 10.1 Complaints to the Privacy Commissioner

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Any individual who considers his or her privacy has been breached can make a complaint to the Privacy Commissioner under section 45 of the PPIP Act without going through the Internal Review process of NSW Treasury. The complaint must be made within 6 months (or such later time as the Privacy Commissioner may allow) from the time the individual first became aware of the conduct or matter the subject of the complaint.

However, the Privacy Commissioner can decide not to deal with the complaint if it would be more appropriately dealt with as an Internal Review by NSW Treasury (section 46(3)(e) of the PPIP Act).

### 10.2 Administrative Review by NCAT

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If the applicant is not satisfied with the outcome of NSW Treasury's Internal Review they may apply to NCAT to review the decision. If NSW Treasury has not completed the Internal Review within 60 days, the applicant can also take the matter to NCAT.

A person must seek an Internal Review before they have the right to seek an external review (section 55(1) of the PPIP Act).

To seek review by NCAT, the individual must apply within **28 days** from the date of the Internal Review decision or within 28 days of the Internal Review not being completed within 60 days.

NCAT has the power to make binding decisions on an external review (section 55(2) of the PPIP Act).

For more information including current forms and fees, please contact NCAT:

website: <https://www.ncat.nsw.gov.au/>

phone: 1300 006 228

post: PO Box K1026, Haymarket NSW 1240

visit: NSW Civil and Administrative Tribunal  
Administrative and Equal Opportunity Division  
Level 10 John Maddison Tower  
86-90 Goulburn Street  
Sydney NSW 2000

NCAT cannot give legal advice; however, the NCAT website has general information about the process it follows and legal representation.



## 11 Promoting the Plan

### 11.1 Executive & Governance

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The Secretary of the Treasury is committed to transparency in relation to compliance with the Acts. The Secretary reinforces transparency and compliance with the Acts by:

- endorsing this Plan and making it publicly available;
- providing a copy of this Plan to the Audit and Risk Branch; and
- reporting on privacy issues in the NSW Treasury's Annual Report.

### 11.2 Staff Awareness

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To ensure that NSW Treasury staff are aware of their rights and obligations under the Act, NSW Treasury currently:

- publishes this Plan and additional material in a prominent place on the NSW Treasury intranet and website. Publication of this Plan on the website also educates members of the public about their privacy rights in relation to personal and health information held by NSW Treasury;
- introduces the Plan during staff induction with training provided as required;
- provides refresher, specialised and on-the-job privacy training;
- as a minimum, highlights the Plan annually during Privacy Awareness Week;
- provides privacy briefing sessions at appropriate management forums; and
- notifies staff of the privacy offence provisions through the e-learning modules (Parts 8 of the PPIP Act and the HRIP Act contain offences for certain conduct of public sector officials and other persons. Such offences include any relating to corrupt disclosure and use of personal and health information by public sector officials; and inappropriately offering to supply personal or health information that has been disclosed unlawfully.)

## 12 Further Information and Contacts

For further information about this Plan, the personal and health information NSW Treasury holds, or if you have any concerns, please contact the Privacy Coordinator of NSW Treasury:

Principal Solicitor  
Information Access and Governance  
NSW Treasury  
Level 30, 52 Martin Place  
Sydney NSW 2001  
Telephone: 02 9228 4077

For more information on privacy rights and obligations in New South Wales, please contact the NSW Privacy Commissioner at:

NSW Information and Privacy Commission  
Level 17, 201 Elizabeth Street  
Sydney NSW 2000

Telephone: 1800 472 679

Web: [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au)

Email: [ipcinfo@ipc.nsw.gov.au](mailto:ipcinfo@ipc.nsw.gov.au)

Superseded by TPG22-34

## Appendix A: Privacy notice and consent template text

### About privacy notices

When collecting personal information, NSW Treasury should tell the person:

- whether the collection is required by law;
- what the consequences will be if they do not provide the information;
- what it will be used for;
- who will hold/store the information (if not the Department);
- who else might receive the information from the Department; and
- how they can access or update/correct their information.

The following **Template privacy notice** can be used when collecting personal information in a written form.

**However, this is a template only, and teams should still seek the advice of the Information Access and Governance Team to ensure the privacy notice is appropriate in each case.**

#### Template privacy notice

The information you have provided has been collected for the purpose of *[insert purpose of collection, noting that this will also determine the purpose for which the information can be lawfully used and disclosed]*. Providing us with the requested information is/is not required by law. However, if you choose not to provide us with the requested information, ... *[describe the main consequences for person if information is not provided – e.g. NSW Treasury cannot investigate your complaint]*.

You may request access to your information at any time. To access or update your personal information, or for more information on our privacy obligations, ask to speak to the NSW Treasury Privacy Coordinator who can be contacted at [iag@treasury.nsw.gov.au](mailto:iag@treasury.nsw.gov.au).

*[insert the following highlighted paragraph **only** where the Department wishes to use or disclose Personal Information for a secondary purpose not directly related to the primary purpose for which the information was collected.]*

With your permission, we would also like to *[use/disclose]* your information to: *[describe here the intended secondary purpose – e.g. put you on your mailing list for future community events]*.

I consent to my personal information being *[used / disclosed]* for the purpose of *[name the secondary purpose]*.

Signature:

If Personal Information is being collected verbally, see **Verbal collections** below.

#### Verbal collections

When collecting Personal Information verbally (e.g. during telephone discussions), we can use less formal wording, so long as we explain *how* the person's Personal Information will be used, *and to whom else* it will likely be disclosed. If the person asks further questions about whether the information is really needed, then we can go into more depth, and we can also mention their access and amendment rights or offer to let them speak to Treasury's Privacy Coordinator.

However if we need to obtain the person's verbal consent to a secondary use or disclosure, we must explain what it is we are asking, and we must ensure that they understand they are free to say 'no'. We must also make a file-note of what was said.

## Appendix B: Privacy Complaint (Internal Review Application) Form

Please complete this form to apply for a review of conduct under section (**select one**):

- 53 of the *Privacy and Personal Information Protection Act 1998* (PPIP Act)  
 21 of the *Health Records and Information Privacy Act 2002* (HRIP Act)

If you need help in filling out this form, please contact the Information Access and Governance team on (02) 9228 3232 or visit the Information & Privacy Commission website at [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au).

1	Name of the agency you are complaining about: NSW Treasury
2	Your full name: Click or tap here to enter text.
3	Your postal address: Click or tap here to enter text. Telephone number: Click or tap here to enter text. Email address: Click or tap here to enter text.
4	If the complaint is on behalf of someone else, please provide their details: Click or tap here to enter text. What is your relationship to this person (eg. parent)? Click or tap here to enter text. Is the person capable of making the complaint by himself or herself? <input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> unsure
5	What is the specific conduct you are complaining about? <i>("Conduct" can include an action, a decision, or even inaction by the agency. For example the "conduct" in your case might be a decision to refuse you access to your personal information, or the action of disclosing your personal information to another person, or the inaction of a failure to protect your personal information from being inappropriately accessed by someone else.)</i> Click or tap here to enter text.
6	Please tick which of the following describes your complaint: <i>(you may tick more than one option)</i> <input type="checkbox"/> collection of my personal or health information <input type="checkbox"/> security or storage of my personal or health information <input type="checkbox"/> refusal to let me access or find out about my own personal or health information <input type="checkbox"/> accuracy of my own personal or health information <input type="checkbox"/> use of my personal or health information <input type="checkbox"/> disclosure of my personal or health information <input type="checkbox"/> other <input type="checkbox"/> unsure
7	When did the conduct occur (date)? <i>(please be as specific as you can)</i> Click or tap here to enter text.

**Treasury Internal Policy and Procedure Document (TIPP 5.12)**

8	When did you first become aware of this conduct (date)? Click or tap here to enter text.
9	You need to lodge this application within six months of the date at Q8. If more than six months has passed, you will need to ask Treasury’s Privacy Coordinator for special permission to lodge a late application. If you need to, write here to explain why you have taken more than 6 months to make your complaint: Click or tap here to enter text.
10	What effect did the conduct have on you? Click or tap here to enter text.
11	What effect might the conduct have on you in the future? Click or tap here to enter text.
12	What would you like to see NSW Treasury do about the conduct? <i>(for example: an apology, a change in policies or practices, your expenses paid, damage paid to you, training for staff, etc.)</i> Click or tap here to enter text.
13	I understand that this form will be used by NSW Treasury to process my request for an Internal Review.  I understand that details of my application will be referred to the NSW Privacy Commissioner as required by law, and that the Privacy Commissioner will be kept advised of the progress of her review.  I would prefer the Privacy Commissioner to have: <input type="checkbox"/> a copy of this application form, or <input type="checkbox"/> just the information provided at Qs 5-12.

**Applicant’s signature and lodgment**

Applicant’s signature: ..... Date: .....

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Please post this form to:

Principal Solicitor,  
Information Access and Governance Unit  
Office of General Counsel  
NSW Treasury  
GPO Box 5469, Sydney NSW 2001

**Please keep a copy for your own records**

## Appendix C: Internal Review Checklist



information  
and privacy  
commission  
new south wales

### How to use this form

The *Privacy and Personal Information Protection Act 1998* (the **PPIP Act**) and the *Health Records and Information Privacy Act 2002* (the **HRIP Act**) provide that public sector agencies deal with complaints by way of Internal Review. This process is the same under both the PPIP Act and the HRIP Act, although you will be assessing the alleged conduct against different standards (as set out below).<sup>1</sup>

A privacy complaint may come under the:

- PPIP Act, section 53,<sup>2</sup> if it relates to personal information, and the Information Protection Principles (IPPs); or
- HRIP Act, section 21, if it relates to health information and the Health Privacy Principles (HPPs).

Preliminary steps		Date completed
1	<p>Is the complaint about a person's personal information?<sup>3</sup></p> <p><input type="checkbox"/> Yes – you should treat their complaint as a request for Internal Review. Go to Q.2.</p> <p><input type="checkbox"/> No – follow your agency's normal complaint handling procedures.</p>	
2	<p>Is the complaint about a person's health information?<sup>4</sup></p> <p><input type="checkbox"/> Yes – you should treat their complaint as a request for Internal Review under the HRIP Act. This means that the HPPs and other standards under the HRIP Act will apply.</p> <p><input type="checkbox"/> No – you should treat their complaint as a request for Internal Review under the PPIP Act. This means that the IPPs and other standards under the PPIP Act will apply.</p> <p><input type="checkbox"/> Both – See the notes below.<sup>5</sup></p>	
3	<p>According to the complainant, when did the alleged conduct occur?</p> <p>Click or tap here to enter text.</p>	
4	<p>Is the complaint about conduct that occurred after 1 July 2000?</p> <p><input type="checkbox"/> Yes – go to Q.5.</p> <p><input type="checkbox"/> No – the PPIP Act does not apply. Follow your agency's normal complaint handling procedures.</p>	
5	<p>Is the complaint about health information and conduct that occurred after 1 September 2004?</p> <p><input type="checkbox"/> Yes – the HRIP Act covers this complaint.</p> <p><input type="checkbox"/> No – the PPIP Act covers this complaint.</p>	
6	<p>According to the complainant, when did they first become aware of the alleged conduct?</p> <p>Click or tap here to enter text.</p>	

**Treasury Internal Policy and Procedure Document (TIPP 5.12)**

7	<p>When was this application / privacy complaint first lodged?<sup>6</sup> Click or tap here to enter text.</p>	
8	<p>If more than six months lapsed between the date at Q.6 and the date at Q.7, your agency must decide whether you will accept a late application.<sup>7</sup> Will you accept this late application? <input type="checkbox"/> Yes – go to Q.9. <input type="checkbox"/> No – explain your reasons as to why you are unable to accept this older than six months complaint to the complainant, then follow your agency’s normal complaint handling procedures.</p>	
9	<p>When will 60 days elapse from the date at Q.7? Click or tap here to enter text. After this date, the complainant may go to the New South Wales Civil and Administrative Tribunal (NCAT) without waiting for the results of this review. If the internal review is finalised after 60 days, the applicant will have 28 days from the date they were notified of the result of the internal review to go to the Tribunal.</p>	
10	<p>For complaints about a person’s health information go to Q.11 For complaints about a person’s personal information, not including health information, tick all of the following types of conduct<sup>8</sup> that describe the complaint. Then go to Q.12.</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Collection of the complainant’s personal information (IPPs 1-4)</li> <li><input type="checkbox"/> Security or storage of the complainant’s personal information (IPP 5)</li> <li><input type="checkbox"/> Refusal to let the complainant access or find out about their own personal information (IPPs 6-7)</li> <li><input type="checkbox"/> Accuracy or relevance of the complainant’s personal information (IPPs 8-9)</li> <li><input type="checkbox"/> Use of the complainant’s personal information (IPP 10)</li> <li><input type="checkbox"/> Disclosure of the complainant’s personal information (IPPs 11-12, and/or the public register provisions in Part 6 of the Act)</li> <li><input type="checkbox"/> Other / it’s not clear</li> </ul>	
11	<p>For complaints about a person’s health information, tick all of the following types of conduct<sup>9</sup> which describe the complaint:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Collection of the complainant’s health information (HPPs 1-4)</li> <li><input type="checkbox"/> Security or storage of the complainant’s health information (HPP 5)</li> <li><input type="checkbox"/> Refusal to let the complainant access or find out about their own health information (HPPs 6-7)</li> <li><input type="checkbox"/> Accuracy or relevance of the complainant’s health information (HPPs 8-9)</li> <li><input type="checkbox"/> Use of the complainant’s health information (HPP 10)</li> <li><input type="checkbox"/> Disclosure of the complainant’s health information (HPP 11)</li> <li><input type="checkbox"/> Assignment of identifiers to the complainant (HPP 12)</li> <li><input type="checkbox"/> Refusal to let the complainant remain anonymous when entering into a transaction with your agency (HPP 13)</li> <li><input type="checkbox"/> Transfer of the complainant’s health information outside New South Wales (HPP 14)</li> <li><input type="checkbox"/> Including the complainant’s health information in a health records linkage system (HPP 15)</li> <li><input type="checkbox"/> Other / it’s not clear</li> </ul>	

**Treasury Internal Policy and Procedure Document (TIPP 5.12)**

12	<p>Appoint a reviewing officer. <i>(the reviewing officer must be someone who was not substantially involved in any matter relating to the conduct complained about. For other requirements see s 53(4) of the PPIP Act. This also applies to the HRIP Act)</i></p> <p>Click or tap here to enter text.</p>	
13	<p>Write to the complainant, stating:</p> <ul style="list-style-type: none"> <li>• your understanding of the conduct complained about;</li> <li>• your understanding of the privacy principle/s at issue (either IPPs at Q.10 or HPPs at Q.11);</li> <li>• that the agency is conducting an Internal Review under the PPIP Act or the HRIP Act, as appropriate;</li> <li>• the name, title, and contact details of the reviewing officer;</li> <li>• that if your review is not complete by the date at Q.9, the complainant can go to NCAT for an external review of the alleged conduct and the relevant time frame to apply for an NCAT review; and</li> <li>• that notice of your application and the subject matter of the application will be provided to the NSW Privacy Commissioner for their oversight role.<sup>10</sup></li> </ul>	
14	<p>Send a copy of your letter at Q.13 to          NSW Privacy Commissioner          GPO Box 7011          SYDNEY NSW 2001          Fax (02) 8114 3756          Or email <a href="mailto:ipcinfo@ipc.nsw.gov.au">ipcinfo@ipc.nsw.gov.au</a>.</p> <p>Include a copy of the complainant's application – either the written request or the information provided on the Privacy Complaint: Internal Review Application Form.</p>	

<b>Review process itself begins</b>		<b>Date completed</b>		
15	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <p><b>Under the PPIP Act</b></p> <p>You need to determine:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> whether the alleged conduct occurred;</li> <li><input type="checkbox"/> if so, whether the conduct complied with all the IPPs (and Part 6 public register provisions if applicable)<sup>11</sup>; and</li> <li><input type="checkbox"/> if the conduct did not comply with an IPP (or the public register provisions), whether the noncompliance was authorised by:                             <ul style="list-style-type: none"> <li>• an exemption under the PPIP Act<sup>12</sup>,</li> <li>• a Privacy Code of Practice<sup>13</sup>, or</li> <li>• a s.41 Direction from the Privacy Commissioner<sup>14</sup></li> </ul> </li> </ul> </td> <td style="width: 50%; vertical-align: top;"> <p><b>Under the HRIP Act</b></p> <p>You need to determine:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> whether the alleged conduct occurred;</li> <li><input type="checkbox"/> if so, whether the conduct complied with all the HPPs<sup>15</sup>; and</li> <li><input type="checkbox"/> if the conduct did not comply with an HPP, whether the noncompliance was authorised by:                             <ul style="list-style-type: none"> <li>• an exemption under the HRIP Act<sup>16</sup>,</li> <li>• a Health Privacy Code of Practice<sup>17</sup>, or</li> <li>• a s.62 Direction from the Privacy Commissioner<sup>18</sup></li> </ul> </li> </ul> </td> </tr> </table>	<p><b>Under the PPIP Act</b></p> <p>You need to determine:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> whether the alleged conduct occurred;</li> <li><input type="checkbox"/> if so, whether the conduct complied with all the IPPs (and Part 6 public register provisions if applicable)<sup>11</sup>; and</li> <li><input type="checkbox"/> if the conduct did not comply with an IPP (or the public register provisions), whether the noncompliance was authorised by:                             <ul style="list-style-type: none"> <li>• an exemption under the PPIP Act<sup>12</sup>,</li> <li>• a Privacy Code of Practice<sup>13</sup>, or</li> <li>• a s.41 Direction from the Privacy Commissioner<sup>14</sup></li> </ul> </li> </ul>	<p><b>Under the HRIP Act</b></p> <p>You need to determine:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> whether the alleged conduct occurred;</li> <li><input type="checkbox"/> if so, whether the conduct complied with all the HPPs<sup>15</sup>; and</li> <li><input type="checkbox"/> if the conduct did not comply with an HPP, whether the noncompliance was authorised by:                             <ul style="list-style-type: none"> <li>• an exemption under the HRIP Act<sup>16</sup>,</li> <li>• a Health Privacy Code of Practice<sup>17</sup>, or</li> <li>• a s.62 Direction from the Privacy Commissioner<sup>18</sup></li> </ul> </li> </ul>	
<p><b>Under the PPIP Act</b></p> <p>You need to determine:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> whether the alleged conduct occurred;</li> <li><input type="checkbox"/> if so, whether the conduct complied with all the IPPs (and Part 6 public register provisions if applicable)<sup>11</sup>; and</li> <li><input type="checkbox"/> if the conduct did not comply with an IPP (or the public register provisions), whether the noncompliance was authorised by:                             <ul style="list-style-type: none"> <li>• an exemption under the PPIP Act<sup>12</sup>,</li> <li>• a Privacy Code of Practice<sup>13</sup>, or</li> <li>• a s.41 Direction from the Privacy Commissioner<sup>14</sup></li> </ul> </li> </ul>	<p><b>Under the HRIP Act</b></p> <p>You need to determine:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> whether the alleged conduct occurred;</li> <li><input type="checkbox"/> if so, whether the conduct complied with all the HPPs<sup>15</sup>; and</li> <li><input type="checkbox"/> if the conduct did not comply with an HPP, whether the noncompliance was authorised by:                             <ul style="list-style-type: none"> <li>• an exemption under the HRIP Act<sup>16</sup>,</li> <li>• a Health Privacy Code of Practice<sup>17</sup>, or</li> <li>• a s.62 Direction from the Privacy Commissioner<sup>18</sup></li> </ul> </li> </ul>			



**Treasury Internal Policy and Procedure Document (TIPP 5.12)**

16	<p>It is recommended that four weeks after sending the letter at Q.13, send a progress report to the the Privacy Commissioner and (if required) the complainant, including:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> details of the progress of the review;</li> <li><input type="checkbox"/> if there are delays, you may wish to provide an explanation of this and a revised estimated completion date for the review process; and</li> <li><input type="checkbox"/> a reminder that if the review is not complete by the date at Q.9, the complainant can go to NCAT for an external review of the alleged conduct and the relevant timeframe to apply for a Tribunal review.</li> </ul>	
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<b>On completion of the review</b>		<b>Date completed</b>		
17	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; vertical-align: top;"> <p><b>Under the PPIP Act</b></p> <p>Write up your findings about the facts, the law, and your interpretation of the law.</p> <p>Set out your preliminary determination about:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> whether there was sufficient evidence to establish that the alleged conduct occurred;</li> <li><input type="checkbox"/> which of the IPPs (and/or the public register provisions) you examined and why;</li> <li><input type="checkbox"/> whether the conduct complied with the IPPs/ public register provisions; and</li> <li><input type="checkbox"/> if the conduct did not comply with an IPP or public register provision, whether the noncompliance was authorised by:                             <ul style="list-style-type: none"> <li>• an exemption under the PPIP Act,</li> <li>• a Privacy Code of Practice, or</li> <li>• a s.41 Direction from the Privacy Commissioner, and</li> </ul> </li> <li><input type="checkbox"/> an appropriate action for the agency by way of response/remedy.</li> </ul> </td> <td style="width: 50%; vertical-align: top;"> <p><b>Under the HRIP Act</b></p> <p>Write up your findings about the facts, the law, and your interpretation of the law.</p> <p>Set out your preliminary determination about:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> whether there was sufficient evidence to establish that the alleged conduct occurred;</li> <li><input type="checkbox"/> which of the HPPs you examined and why;</li> <li><input type="checkbox"/> whether the conduct complied with the HPPs; and</li> <li><input type="checkbox"/> if the conduct did not comply with an HPP, whether the noncompliance was authorised by:                             <ul style="list-style-type: none"> <li>• an exemption under the HRIP Act,</li> <li>• a Health Privacy Code of Practice, or</li> <li>• a s.62 Direction from the Privacy Commissioner, and</li> </ul> </li> <li><input type="checkbox"/> an appropriate action for the agency by way of response/remedy.</li> </ul> </td> </tr> </table>	<p><b>Under the PPIP Act</b></p> <p>Write up your findings about the facts, the law, and your interpretation of the law.</p> <p>Set out your preliminary determination about:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> whether there was sufficient evidence to establish that the alleged conduct occurred;</li> <li><input type="checkbox"/> which of the IPPs (and/or the public register provisions) you examined and why;</li> <li><input type="checkbox"/> whether the conduct complied with the IPPs/ public register provisions; and</li> <li><input type="checkbox"/> if the conduct did not comply with an IPP or public register provision, whether the noncompliance was authorised by:                             <ul style="list-style-type: none"> <li>• an exemption under the PPIP Act,</li> <li>• a Privacy Code of Practice, or</li> <li>• a s.41 Direction from the Privacy Commissioner, and</li> </ul> </li> <li><input type="checkbox"/> an appropriate action for the agency by way of response/remedy.</li> </ul>	<p><b>Under the HRIP Act</b></p> <p>Write up your findings about the facts, the law, and your interpretation of the law.</p> <p>Set out your preliminary determination about:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> whether there was sufficient evidence to establish that the alleged conduct occurred;</li> <li><input type="checkbox"/> which of the HPPs you examined and why;</li> <li><input type="checkbox"/> whether the conduct complied with the HPPs; and</li> <li><input type="checkbox"/> if the conduct did not comply with an HPP, whether the noncompliance was authorised by:                             <ul style="list-style-type: none"> <li>• an exemption under the HRIP Act,</li> <li>• a Health Privacy Code of Practice, or</li> <li>• a s.62 Direction from the Privacy Commissioner, and</li> </ul> </li> <li><input type="checkbox"/> an appropriate action for the agency by way of response/remedy.</li> </ul>	
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18	<p>Before completing the review, you should send a draft copy of your report (prior to finalization) to the Privacy Commissioner for comment, and to determine whether the Privacy Commissioner wishes to make a submission. The Privacy Commissioner is entitled to make submissions to the agency (s54(2)). At the very least you are required to provide the Privacy Commissioner with the findings of the review and the action your agency proposes to take (s54(1)(c)).</p>			

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19	<p><b>Under the PPIP Act</b></p> <p>Finalise your determination of the Internal Review, by making one of the following findings:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> insufficient evidence to suggest alleged conduct occurred;</li> <li><input type="checkbox"/> alleged conduct occurred but complied with the IPPs/public register provisions;</li> <li><input type="checkbox"/> alleged conduct occurred; did not comply with the IPPs/ public register provisions; but non-compliance was authorised by an exemption, Code or s.41 Direction; and</li> <li><input type="checkbox"/> alleged conduct occurred; the conduct did not comply with the IPPs/ public register provisions; the non-compliance was not authorized (“a breach”)</li> </ul>	<p><b>Under the HRIP Act</b></p> <p>Finalise your determination of the Internal Review, by making one of the following findings:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> insufficient evidence to suggest alleged conduct occurred;</li> <li><input type="checkbox"/> alleged conduct occurred but complied with the HPPs;</li> <li><input type="checkbox"/> alleged conduct occurred; did not comply with the HPPs; but non-compliance was authorised by an exemption, Code or s.62 Direction; and</li> <li><input type="checkbox"/> alleged conduct occurred; the conduct did not comply with the HPPs; the non-compliance was not authorised (“a breach”)</li> </ul>	
20	<p>Did the agency breach an IPP or public register provision?</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Yes – Go to Q.22</li> <li><input type="checkbox"/> No – Go to Q.21</li> </ul>	<p>Did the agency breach an HPP?</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Yes – Go to Q.22</li> <li><input type="checkbox"/> No – Go to Q.21</li> </ul>	
21	<p>Even though the agency did not breach any IPP, public register provision or HPP, have you identified any need for improvement in policies, procedures, communicating with your clients, etc?</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Yes – Go to Q.22</li> <li><input type="checkbox"/> No – Go to Q.24</li> </ul>		
22	<p>What action is proposed by the agency as a result of this review? (<i>You can have more than one</i>)</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> apology to complainant</li> <li><input type="checkbox"/> rectification<sup>20</sup> to complainant, e.g.:</li> <li><input type="checkbox"/> access to their personal information or health information</li> <li><input type="checkbox"/> correction of their personal information or health information</li> <li><input type="checkbox"/> other type of rectification</li> <li><input type="checkbox"/> expenses paid to complainant</li> <li><input type="checkbox"/> compensatory damages paid to complainant</li> <li><input type="checkbox"/> other remedy to complainant</li> <li><input type="checkbox"/> review of policies, practices or systems</li> <li><input type="checkbox"/> change in policies, practices or systems</li> <li><input type="checkbox"/> training (or further training) for staff</li> <li><input type="checkbox"/> other action</li> <li><input type="checkbox"/> no action</li> </ul>		
23	<p>Is the proposed action likely to match the expectations of the complainant?</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Yes</li> <li><input type="checkbox"/> No</li> <li><input type="checkbox"/> Unsure</li> </ul>		

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24	<p><b>Under the PPIP Act</b></p> <p>Notify the complainant and the Privacy Commissioner in writing:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> that you have completed the Internal Review, <input type="checkbox"/> What your findings are, i.e. which one of the findings at Q 19 you arrived at</li> <li><input type="checkbox"/> what the reasons for your findings are,</li> <li><input type="checkbox"/> a plain English explanation of the law behind your findings, including quoting in full the relevant legislative provisions you are talking about,</li> <li><input type="checkbox"/> what action/s you are going to take as a result,</li> <li><input type="checkbox"/> that the complainant has the right to apply to NCAT within 28 days for a review of the conduct complained about, and</li> <li><input type="checkbox"/> the contact details for NCAT.</li> </ul>	<p><b>Under the HRIP Act</b></p> <p>Notify the complainant and the Privacy Commissioner in writing:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> that you have completed the Internal Review, <input type="checkbox"/> What your findings are, i.e. which one of the findings at Q 19 you arrived at:</li> <li><input type="checkbox"/> what the reasons for your findings are,</li> <li><input type="checkbox"/> a plain English explanation of the law behind your findings, including quoting in full the relevant legislative provisions you are talking about,</li> <li><input type="checkbox"/> what action/s you are going to take as a result,</li> <li><input type="checkbox"/> that the complainant has the right to apply to NCAT within 28 days for a review of the conduct complained about, and</li> <li><input type="checkbox"/> the contact details for NCAT.</li> </ul>	
25	Keep a record of this review for your annual reporting requirements.		

**Notes:**

1. The 12 IPPs in the PPIP Act are legal obligations the manner in which NSW government agencies (including statutory bodies and local councils) must handle personal information. The 12 IPPs cover the collection, storage, use and disclosure of personal information as well as access and correction rights.  
  
The 15 HPPs in the HRIP Act are legal obligations describing the manner in which NSW public sector agencies and private sector organisations and individuals, such as businesses, private hospitals, GPs, gyms and so on must handle health information. The 15 HPPs prescribe what an organisation must do when it collects, stores, uses and discloses health information. The HPPs also cover access and correction rights.
2. Section 53(1): a person (the applicant) who is aggrieved by the conduct of a public sector agency is entitled to a review of that conduct. The requirements under 53(3) of the PPIP Act for an application for Internal Review are as follows:
  - (a) be in writing; and
  - (b) be addressed to the public sector agency concerned;
  - (c) specify an address in Australia to which a notice of completion of review (under subsection 8 of the PPIP Act) may be sent;
  - (d) be lodged at an office of the public sector agency within 6 months (or such later date as the agency may allow) from the time the applicant first became aware of the conduct the subject of the application; and
  - (e) comply with such other requirements as may be prescribed by the regulations (there are no additional requirements prescribed at this time).
3. "Personal information" is defined at section 4 of the PPIP Act as *information or an opinion ... about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion*. There are some exemptions to the definition (for example *information or an opinion about an individual's suitability for appointment or employment as a public sector official*) so check section 4 in full. However

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if you are thinking of relying on one of these exemptions, especially those in sections 4(3)(b) or 4(3)(j), please first seek advice from the Information and Privacy Commission as to the extent to which the exemption applies.

4. "Health information" is defined at section 6 of the HRIP Act as *personal information that is information or an opinion about the physical or mental health or a disability of an individual; express wishes about the future provision of health services; a health service provided or to be provided; any other personal information collected to provide or in providing a health service*. The definition also includes information having to do with organ donation and genetic information. There are some exemptions to the definition in section 5 of the HRIP Act (for example, *information or an opinion about an individual's suitability for appointment or employment as a public sector official*) so check the Act. However if you are thinking of relying on one of these exemptions, especially those exemptions in sections 5(3)(b) or 5(3)(m), please first seek advice from the NSW Privacy Commissioner as to the extent to which the exemption applies.
5. If it is easy to distinguish between what is health information and what is other personal information then apply the relevant Act to each piece of information the subject of the complaint. If it is unclear which Act should apply, or it is too difficult to deal with the information in distinct parts, then in our view, it is best to take a cautious approach and apply both Acts to *all* the information the subject of the complaint.
6. In *Y v DET*, the ADT found that "express reference" to the PPIP Act is not essential in correspondence with agencies, especially where the context suggests that a statutory right is being invoked. Therefore the complainant need not have used the phrase 'Internal Review' for their privacy complaint to be considered by law to be an Internal Review application. Agencies should therefore look to the date the first written complaint about a breach of privacy was made.
7. Your agency should have a clear and written policy on the grounds under which you will allow a late application, including the means by which you will notify complainants about those grounds and what the complainant must prove to you. Include your policy in your Privacy Management Plan.
8. 'Conduct' can include an action, a decision, or even inaction by your agency. For example the 'conduct' in this case might be a *decision* to refuse the complainant access to his or her personal information, or the *action* of disclosing his or her personal information to another person, or the *inaction* of a failure to protect the complainant's personal information from being inappropriately accessed by someone else.
9. See Q.14 on *Privacy Complaint: Internal Review Application Form*, if they have used that form. (it is not compulsory for the complainant to use any particular format, so long as their requests is in writing).
10. Section 54 of the PPIP Act requires the agency to:
  1. Notify the Privacy Commissioner that it has received the application
  2. Inform the Privacy Commissioner of the progress of the internal review
  3. Inform the Privacy Commissioner of the findings and action it proposes to take as the Privacy Commissioner is entitled to make submissions.
11. Don't forget to look at all the IPPs, as they can be inter-related. For example a complaint about disclosure (IPPs 11 and 12, contained in sections 18 and 19 of the PPIP Act, and the public register provisions) might also raise issues about data security under IPP 5 (contained in section 12 of the PPIP Act), or notification about collection at IPP 3 (contained in section 10 of the PPIP Act).
12. Exemptions are found in the PPIP Act at sections 4-6, 20, and 23-28.
13. Privacy Codes of Practice are instruments made by the Attorney General (under the PPIP Act). Many can be found on the Information and Privacy Commission website at: [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au)
14. Section 41 Directions only modify the IPPs, not the public register provisions. These Directions are usually temporary so check the dates carefully, and contact the Information and Privacy Commission for earlier versions of Directions if necessary. View all current section 41 [Public Interest Directions](#).
15. Don't forget to look at all the HPPs, as they can be inter-related. For example a complaint about disclosure (HPP 11) might also raise issues about data security under HPP 5, or notification about collection at HPP 4.

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- <sup>16</sup> Exemptions are found in the HRIP Act at sections 5, 10, 13-17, 22 and within the HPPs in Schedule 1.
- <sup>17</sup> Health Privacy Codes of Practice are instruments made by the Health Minister (under the HRIP Act). View the [Privacy Codes of Practice](#) on the Information and Privacy Commission website.
- <sup>18</sup> Section 62 Directions modify the HPPs. These Directions will usually be temporary so check the dates carefully. Current section [62 Directions](#) can be viewed on the Information and Privacy Commission website.

## Appendix D: Draft letter to the Privacy Commissioner regarding receipt of application for internal review under section 53 of the PPIP Act

(NSW Treasury letterhead)

File number:

Date

*[Insert name of current Privacy Commissioner]*  
NSW Privacy Commissioner  
GPO Box 7011  
Sydney NSW 2001

Dear *[insert name of current Privacy Commissioner]*,

*Notification in accordance with s. 54(1) of the NSW Privacy and Personal Information Protection Act of 1998.*

NSW Treasury has received an application for Internal Review under s. 53 of the *Privacy and Personal Information Protection Act 1998*. A copy of the letter of application is attached.

The matter is being investigated. I shall keep you informed of the progress and outcome of the review.

Should you have any submissions regarding this matter, please send them to me at the above address.

Yours sincerely,

(Name of Occupant)  
Principal Solicitor  
Information Access and Governance Unit