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NSW Treasury

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# Privacy Management Plan and Guidelines

TPG22-34

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December 2022

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## Acknowledgement of Country

We acknowledge that Aboriginal and Torres Strait Islander peoples are the First Peoples and Traditional Custodians of Australia, and the oldest continuing culture in human history.

We pay respect to Elders past and present and commit to respecting the lands we walk on, and the communities we walk with. We celebrate the deep and enduring connection of Aboriginal and Torres Strait Islander peoples to Country and acknowledge their continuing custodianship of the land, seas and sky.

We acknowledge the ongoing stewardship of Aboriginal and Torres Strait Islander peoples, and the important contribution they make to our communities and economies.

We reflect on the continuing impact of government policies and practices, and recognise our responsibility to work together with and for Aboriginal and Torres Strait Islander peoples, families and communities, towards improved economic, social and cultural outcomes

Artwork:  
*Regeneration* by Josie Rose



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Key information	
Treasury Policy and Guidelines (TPG) is relevant to?	<input type="checkbox"/> Government Sector Finance Agencies <input type="checkbox"/> General Government Sector <input type="checkbox"/> Public non-financial corporation <input type="checkbox"/> Public financial corporation <input type="checkbox"/> State Owned Corporations <input checked="" type="checkbox"/> Other
	<input type="checkbox"/> Executive agencies related to Departments
	<input type="checkbox"/> Subsidiaries of the NSW Government established under the Corporations Act 2001
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<input checked="" type="checkbox"/> <b>MANDATORY POLICY</b> compliance set out by NSW Treasury.	
<input type="checkbox"/> <b>RECOMMENDED POLICY</b> reflecting best practice standards.	
<input type="checkbox"/> <b>GUIDANCE/ADDITIONAL INFORMATION</b> to provide clarity or explain requirements in detail.	

## Revision history

Document version number	Approval Date	Author	Approver	Description
1.0	24 October 2022	Tim Jap	Treasury Executive Board	Replaces 5.12 PMP Guidelines
1.1	30 November 2022	Tim Jap	Charles Cho	Minor amendments at the request of the Privacy Commissioner
1.2	20 December 2022	Tim Jap	Paul Grimes PSM	Approval of the Preface and letter of transmittal to the Privacy Commissioner

# Privacy Management Plan and Guidelines

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## Preface

The NSW Treasury's Privacy Management Plan and Guidelines (the **Plan**), provides practical guidance for NSW Treasury staff on requirements of section 33 of the *Privacy and Personal Information Protection Act 1998* (the **PPIP Act**) for managing personal information.

At its position at the centre of government, NSW Treasury holds and uses a wide range of personal, private and confidential information. This information is integral to its function as the lead on economic, jobs and investment conversations.

The privacy rights of citizens, stakeholders, and staff are protected under the PPIP Act and the *Health Records and Information Privacy Act 2001* (the **HRIP Act**) which is reflected in the Plan.

The Plan supports NSW Treasury's commitment to open and accountable government in accordance with the *Government Information (Public Access) Act 2009* (the **GIPA Act**), while at the same time recognising the privacy rights of individuals. The Plan applies to all staff within NSW Treasury, to ensure privacy obligations are met to a high standard.

**Paul Grimes PSM**

**Secretary**

**NSW Treasury**

December 2022

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## Policy Scope

This policy applies to all NSW Treasury employees, contractors, and others who collect, use, store, and disclose information on behalf of NSW Treasury.

### Exclusions

This policy does not regulate data breaches and mandatory reporting obligations. NSW Treasury applies the Department of Customer Services' policy when dealing with data breaches and mandatory reporting obligations.

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## Executive Summary

All NSW Government agencies are required to have a privacy management plan under section 33 of the PPIP Act.

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

The purpose of this Plan is to:

- inform citizens and other key stakeholders about how NSW Treasury manages and protects the

personal information of its staff and people interacting with NSW Treasury in line with the PPIP Act and the HRIP Act; and

- provide practical guidance for NSW Treasury staff on managing the personal and health information of staff and stakeholders, to help ensure we meet our obligations under the PPIP Act and the HRIP Act (together, **the Acts**).

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## Related legal obligations

This Privacy Management Plan and Guidelines must be read in conjunction with the *Information Protection Principles (IPPs)* and *the Health Privacy Principles (HPPs)*.

### Other relevant legislation

- *Anti-Discrimination Act 1977 (NSW)*
- *Criminal Records Act 1991 (NSW)*
- *Government Information (Public Access) 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.

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## 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 (see Definitions on Page 4) 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.

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## Introduction

### The role and functions of NSW Treasury

NSW Treasury leads the economic, jobs and investment conversation across New South Wales. From its position at the centre of government, Treasury drives the economic development strategy to guide the State's growth for the benefit of the people who live, work and study in NSW.

NSW Treasury comprises:

- Economic Strategy and Productivity Group (including the NSW Productivity Commission);
- Policy and Budget Group;
- Commercial and Procurement Group;
- Office of the Secretary;
- Office of the General Counsel;
- Corporate Services Group; and
- Office of Energy and Climate Change

NSW Treasury collects, holds, uses and discloses personal and health information for the purpose of carrying out its functions, including:

- managing Ministerial correspondence and meeting briefs on behalf of the Treasurer and other Ministers' Offices;
- customer engagement with external and government stakeholders across a broad range of activities – from managing enquiries, correspondence, and email notices, to undertaking stakeholder forums and events, inter-agency projects, and reviews calling for public submissions, and administering programs and grants;
- human resources (HR) management, including recruitment and onboarding;
- research and evaluation by consultancies commissioned by NSW Treasury;
- Board appointments to government-owned businesses;
- reviews and assessment for the Hardship Review Board;
- procurement activities, including management of tender processes;
- complaints handling and managing applications for Government information under the GIPA Act.

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## Definitions

**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).

Examples include:

- a person's name, home address and contact details, such as email and phone numbers;
- financial information, including bank accounts and credit card details;
- employment information, including details of salaries;
- digital images or video recordings that identify individuals;
- information about a person's family life, education, hobbies or interests;
- membership of voluntary or professional bodies;
- information about a person's religion or sexual preference.<sup>1</sup>

According to the Information and Privacy Commission NSW, examples of where an **opinion could amount to personal information** include:

- views expressed about a member of the public during a meeting;
- a file note made by a public servant expressing views about a colleague or a member of the public;
- comments recorded by a manager about an employee (*unless it relates to a person's suitability for employment as a public sector official, which is covered separately under the GIPA Act*);
- notes made by public hospital staff about a patient or employee.<sup>2</sup>

**Health information** is any personal information or an opinion 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 (section 6 of the HRIP Act).

## Exclusions from the definition

Both the Acts expressly exclude certain types of information from the definitions of personal and health information (section 4(3) of the PPIP Act; section 5(3) of the HRIP Act). Relevantly, personal information does not include:

- information relating to a person who has been dead for more than 30 years; or
- information contained in a publicly available publication; or

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<sup>1</sup> Information and Privacy Commission NSW. May 2022. Information Access Guideline 4: [Personal information as a public interest consideration under the GIPA Act](#)

<sup>2</sup> Information and Privacy Commission NSW, op cit.



- Information or an opinion referring to a person's suitability for employment as a public sector official.

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

Information about named or identifiable people published in newspapers, books or the Internet, broadcast on radio or television, posted on social media such as Facebook, LinkedIn, or Twitter, or made known at a public event is not considered to be personal information under the Acts. Because such information is publicly available, it cannot be protected from use or further disclosure.

### **Employment-related information**

Information or opinions referring to someone's suitability for employment as a Treasury member of staff (such as selection reports and references for appointment or promotions, or disciplinary records) is not considered to be personal information under the Acts and is therefore excluded from the Acts' protections.

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 include vaccination status, staff training records, leave applications and attendance records. All these are within the scope of the definitions and are protected by the Acts.

If in doubt please consult with a member of the Governance, Ethics, & Integrity Branch within the Office of General Counsel at [governance@treasury.nsw.gov.au](mailto:governance@treasury.nsw.gov.au)

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

### **Employee records**

NSW Treasury and contracted service providers (such as GovConnect, Contractor Central, myCareer) hold a range of NSW Treasury employee records (including for contractors, and secondees). This information includes, but is not limited to:

- records of dates of birth, addresses and contact details (including emergency contacts);
- payroll (including Superannuation), attendance and leave records (including medical certificates);
- performance management and evaluation records;
- training records;
- flexible working arrangements;
- workers compensation records;
- vaccination status;
- work health and safety records; and
- records for equal employment opportunity reporting purposes.

An employee or contractor of NSW Treasury may access most of their records via self-service platforms (such as SAP or Cornerstone). They can also access the entirety of their own file under the supervision of HR staff.

Apart from the employee or contractor the file relates to, the authorised access is provided to the members of the Human Resources team at NSW Treasury, service providers (such as GovConnect, Contractor Central, myCareer) and appointed Audit officers.

Employee records are stored in soft copy in the Human Resources systems and Objective files maintained by the respective service providers. This includes 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 and former employees. These files include some contracts, remuneration details, and any ongoing cases being managed by HR (such as conduct investigations and WorkCover 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.

The Service Partnership Agreement between NSW Treasury and GovConnect confirms 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 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. Information of this nature will primarily be stored on Protecht, Treasury's Risk Management System.

NSW Treasury branches may also keep secure copies of NSW Treasury staff disclosures on emails, or other secure NSW Treasury systems. Regardless of where they store the information, they are subject to the same requirements under this plan.

Examples may include, line areas keeping an excel spreadsheet with people's conflicts of interest, a manager may maintain an email folder within their outlook, and/or placing it in a secure OneDrive that is accessible only to the manager. Regardless, as mentioned above, should line areas choose to keep this information, they will need to comply with this policy.

### **Digital images**

NSW Treasury holds digital images of all staff members. These are used to produce staff identification cards and other internal purposes including publication on Treasury's intranet.

NSW Treasury may also hold digital images of senior and/or board members of government-owned businesses that are used for onboarding and other internal and external purposes including publication on Treasury's intranet and webpage.

NSW Treasury may also collect and hold digital images obtained from industry or other third-party events, which may be used for other internal and external purposes.

NSW Treasury may also collect and hold digital images of people from various stakeholders requesting a meeting with the cluster ministers or through correspondence such as emails, and letters with their digital image.

NSW Treasury may also hold digital images collected from social platforms, where staff or participants have voluntarily provided these to participate in social and wellbeing events.

For events, NSW Treasury staff are required to inform attendees that digital images of the event may be used in NSW Government publications and any other internal and external purposes.

Any further use or reproduction of non-public digital images collected and held by NSW Treasury must be in accordance with the stated purpose provided by NSW Treasury (such as the publication of staff or board member images) unless the relevant individual has approved their use for other purposes. This personal information must also be held and used in accordance with other relevant NSW Treasury policies and protocols for record-keeping and intellectual property.

## Contact details

NSW Treasury holds contact details of various third parties that are in the public domain and not in the public domain, including for:

- government agency CEOs, senior executives, members of inter-departmental, and members of inter-government, working groups and similar, members of government boards and advisory committees;
- stakeholders participating in stakeholder consultation forums;
- inviting stakeholders to participate in NSW Treasury's consultation forums;
- businesses and individuals involved in NSW Treasury's programs and schemes;
- businesses and individuals attending NSW Treasury-hosted events and some business familiarisation programs;
- businesses and individuals that have registered for NSW Treasury newsletters and collaboration/networking platforms;
- businesses and individuals that are 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 and/or other departments where NSW Treasury holds policy responsibilities, 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 write or are referred by other ministers, to the Treasury ministers, where these contact details have been forwarded for a response;
- 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.

NSW Treasury often uses information in the public domain to contact people in relation to NSW Treasury work and invite them to relevant meetings and events.

By contrast, when NSW Treasury collects personal (non-public) information, such as private contact details, NSW Treasury staff **must** clearly disclose the purpose for collecting the information, how it will be used – and must only use the information for the disclosed purpose unless an individual has agreed to be contacted for additional reasons.

The disclosed purpose may be to invite an individual to a meeting or event. NSW Treasury may also ask individuals providing personal information if they would like to be invited to similar events in the future, updated on similar issues, and receive NSW Treasury communications such as emails, newsletters and social media alerts.

## NSW Treasury must only use personal information for the purpose collected - unless an individual has agreed to additional uses

For example, when an individual provides personal information such as private contact details to NSW

Treasury as part of an enquiry, those contact details will only be used in managing and responding to that enquiry.

They will not be used for any other purpose such as unrelated marketing purposes, (to promote attendance at an unrelated event for example) unless the individual expressly consented to other uses of their personal information.

However, if the individual's contact details are publicly available, NSW Treasury may use the public domain information to contact them, such as inviting them to an event.

For clarity, NSW Treasury branches should record when contact details contained in consolidated stakeholder consultation lists, is sourced from public domain information.

### **Employee health Information for hybrid working arrangements**

NSW Treasury may receive and hold information about the health and personal circumstances of NSW Treasury employees (including contractors), provided by employees in relation to hybrid working arrangements. NSW Treasury stores such health information securely, typically on MS Teams.

### **Identification documents**

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

### **Correspondence records**

NSW Treasury holds the following correspondence records:

- contact details of people who have written to or emailed NSW Treasury or responsible Ministers, referrals from other ministers and department, either on their own behalf or others;
- contact details of people who have made a complaint, enquiry, compliment or suggestion through NSW Treasury's websites or other mechanisms;
- details of personal, medical, health, financial, and other personal ascertainable information about the personal circumstances of NSW Treasury staff;
- details of correspondence, which can include sensitive personal information about correspondents or NSW Treasury staff on matters such as an individual's ethnicity, religion, health conditions, or sexuality;
- copies of replies to correspondence; and
- records of to whom correspondence has been referred.

Correspondence records (including originating correspondence and responses) are stored in NSW Treasury's information systems in accordance with NSW Treasury's Record Management Framework. Certain correspondence records (for example, correspondence received by the Minister or Members of Parliament concerning issues of major significance) are required to be retained indefinitely as State Archives under the *State Records Act 1998*.

### **Client/Customer records**

Any online correspondence received via the Feedback Assist platform will be stored on the Salesforce platform, which is under the control and custody of the Department of Customer Service (DCS). Where such personal information comes into NSW Treasury's possession, it will be used only to respond to queries and/or to onforward to the correct agency that NSW Treasury believes is better placed to respond.

### **Information collected from public submissions**

NSW Treasury may conduct reviews requesting public submissions from members of the public. The reviews may contain personal information about individuals such as:

- address, and contact details;
- personal and business circumstances (where it concerns a sole trader or individual that can be readily ascertained);
- ethnicity, religion, health conditions, or sexuality;
- third party information; and
- information that may meet the definitions under the *Children and Young Persons (Care and Protection) Act 1998*.

This personal information will only be used for the purpose of undertaking and completing a review relating to its terms of reference. Once the review has been completed, a copy will be placed on NSW Treasury’s website as an authorised proactive release of government information (section 7 of the GIPA Act). No personal information will be released except with the express written consent of the affected persons.

When inviting public submissions, NSW Treasury should set clear expectations about what information will and will not be published. Typically:

- all submissions received by NSW Treasury will be published via NSW Treasury website;
- personal information will be redacted unless express written consent is provided; and
- individuals and organisations may ask to make confidential submissions that are not published.

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## The Privacy Principles

### Applying the privacy principles in NSW

Sections 8 to 19 of the PPIP Act and Schedule 1 to the HRIP Act set the privacy standards public sector agencies are expected to follow when dealing with personal information.

Twelve information protection principles (IPPs) 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>	1.	Lawful – We only collect personal information for a lawful purpose that is directly related to our functions and activities and necessary for that purpose
	2.	Direct – We collect personal information directly from the person concerned
	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
	4.	Relevant – When collecting personal information, we ensure it is relevant, accurate, up-to-date and not excessive, and does not unreasonably intrude into peoples’ personal affairs
<b>Storage</b>	5.	Secure – We store personal information securely, keep it no longer than necessary, destroy it appropriately, and protect it from unauthorised access, use, modification or disclosure
<b>Access</b>	6.	Transparent – We explain what personal information is stored, what it is used for and peoples’ right to access and amend it
	7.	Accessible – We allow people to access their own personal information without unreasonable delay or expense
	8.	Correct – We allow people to update, correct or amend their personal information where necessary

<b>Use</b>	9.	Accurate – We make sure that personal information is relevant and accurate before using it
	10.	Limited – We only use personal information for the purpose it was collected for unless the person consents to the information being used for an unrelated purpose
<b>Disclosure</b>	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
	12.	Safeguarded – We do not disclose sensitive personal information (such as ethnicity or racial origin, political opinions, religious or philosophical beliefs, 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. Some additional obligations and standards apply, instead of IPP 12 for safeguarded information.

An overview follows below on how the HPPs apply to NSW Treasury:

<b>12 Health Privacy Principles</b>		
<b>Collection</b>	1.	Lawful – We only collect health information for a lawful purpose that is directly related to our functions and activities and necessary for that purpose
	2.	Relevant – When collecting health information, we ensure it is relevant, accurate, up-to-date and not excessive, and does not unreasonably intrude into peoples’ personal affairs
	3.	Direct – We collect health information directly from the person concerned unless it is unreasonable or impractical to do so
	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.
<b>Storage</b>	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
<b>Access</b>	6.	Transparent – We provide details on the health information that is stored, what it is used for and peoples’ right to access and amend it
	7.	Accessible – We allow people to access their own health information without unreasonable delay or expense
	8.	Correct – We allow people to update, correct or amend their health information where necessary
<b>Use</b>	9.	Accurate – We make sure that health information is relevant and accurate before using it
	10.	Limited – We only use health information for the purpose it was collected for unless: <ul 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> </ul>
<b>Disclosure</b>	11.	Restricted – We only disclose health information for the purpose it was collected for unless: <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> </ul>

		(d) it is for the management of health services, training, research or to find a missing person; or (e) it is for law enforcement or investigative purposes.
<b>Other</b>	12.	Identifiers – We do not use unique identifiers for health information, as they are not needed to carry out Treasury’s functions
	13.	Anonymity – We allow people to stay anonymous if it is lawful and practical for them to do so
	14.	Transborder – We do not usually transfer health information outside of New South Wales
	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.

**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 hold the information.

NSW Treasury will ensure that when personal and health information is collected from an individual, either verbally or in written form, 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 will also advise individuals if the collection of personal or health information is voluntary or if the collection is lawfully required and inform them of any penalties or other possible consequences for not complying with NSW Treasury’s request.

When collecting personal or health information from an individual, NSW Treasury will endeavour to ensure that the information is relevant, accurate, up to date and complete for the purposes for which it is being collected. NSW 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.

Before collecting personal or health information for a NSW Treasury project, review, or other policy deliverables, use the attached **Privacy Impact Assessment Template (Appendix E)**.

Examples of when to use the template could include (but is not limited to) plans to collect:

- survey feedback from NSW Treasury staff, members or the public or stakeholders;
- the health or vaccination status of NSW Treasury staff or stakeholders;
- contact details and/or digital images at a stakeholder event.

This Privacy Impact Assessment (PIA) must be signed off by any of the following officers:

- Secretary;
- Deputy Secretaries/Senior Executive Band 3;
- Executive Directors/Senior Executive Band 2;
- Directors/Senior Executive Band 1; or
- Staff within the Office of General Counsel at the grade of 11/12 or above.

Once completed, you are to provide a copy of the signed PIA to NSW Treasury’s Privacy Coordinator.

The PIA template must be used regardless of the project but not all fields require an answer. The purpose of the PIA is to assess and consider any privacy issues before a project, review, or other policy deliverables are undertaken. Should an exemption be required, an application would need to be made to the Secretary as to the reasons why the exemption is sort.

#### **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.
- If you need to collect health and/or personal information from a third party, contact the Governance, Ethics, & Integrity Branch for more information. Any collection will follow the IPC’s guidelines.
- Do not ask for information that is not relevant.
- Be mindful of whether you’re asking for information that is safeguarded, 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, retained 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 GPDR. This includes if you are collecting information about and tracking web-based behaviour, where that behaviour is coming from the EU.

#### **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 restricted 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 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 Acts.

#### **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 corrections.

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 cannot 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.

#### 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 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 for which the information was collected.
- 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 the NSW Treasury's Privacy Coordinator.
- 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 ensure that there is a contractual obligation in the contract 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.

#### 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.
- **You will usually need to seek the individual’s consent 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.
- **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** (more detail above in the collection tips section), 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.

#### Exemptions

Exemptions to the IPPs that limit their coverage include:

- information or an opinion about an individual’s suitability for appointment or employment as a public sector official (section 4(3)(j) of the PPIP Act);
- 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.

## Penalties

Under the PPIP Act and HRIP Act, there are penalties for non-compliance. Penalties range from 100 penalty units, 2 years imprisonment or both.

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## 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 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.

NSW Treasury is not aware of any public interest directions that apply to itself.

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

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.

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## 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.

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## Service Partnership Agreements

Treasury has a Service Partnership Agreement with the Department of Planning and Environment, where DPE provides privacy services to Treasury's Office of Energy and Climate Change (OECC).

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## Policies affecting the 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.

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## 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.

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** when their request cannot be dealt with on an informal basis. The Privacy Coordinator will allocate the matter to an officer no less senior than an associate director or equivalent within the line area that the Privacy Coordinator believes would hold the information requested and/or that needs amended.

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. Alternatively, should you have any concerns or wish to raise any issues on an informal basis, please contact the privacy coordinator on the contact details below.

NSW Treasury encourages staff wanting to access or amend their own personal or health information to use the available self-service platforms or contact HR Division.

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## Internal Review

### Request for Internal Review

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 (**Appendix B**) 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 seek review by the NSW Civil and Administration Tribunal (NCAT) under section 55 of the PPIP Act.

## Internal Review Process

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 Special Counsel, Governance, Ethics, & Integrity.

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.

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, a privacy officer, and/or the Governance, Ethics, & Integrity Branch.

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 Act).

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.

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.

## **Recording of Internal Reviews**

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.

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## **External Review**

External review processes are also available.

## **Complaints to the NSW Privacy Commissioner**

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

However, the NSW 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).

## **Administrative Review by NCAT**

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 administrative review by NCAT (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 (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.

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## Data breach notification

This Privacy Management Plan does not cover data breaches. Any breaches that occur and the management of the breach will be governed by Department of Customer Services (DCS) policies and procedures.

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## Promoting the Plan

### Executive & Governance

The Secretary of NSW 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 Risk, Compliance, and Audit Branch; and
- reporting on privacy issues in NSW Treasury's Annual Report.

### Staff awareness

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.)

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## Further Information, Roles, 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:

Special Counsel  
Governance, Ethics, & Integrity  
NSW Treasury  
Level 30, 52 Martin Place  
Sydney NSW 2001  
Telephone: 02 9228 4077  
Email: [governance@treasury.nsw.gov.au](mailto:governance@treasury.nsw.gov.au)

In addition to the Privacy Coordinator of NSW Treasury, the officers below provide support to the Privacy Coordinator, and for the purposes of this policy are privacy officers:

- Officers within the Governance, Ethics, & Integrity Branch
- Associate Director, Information Access

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 15, McKell Building, 2-24 Rawson Place,  
Haymarket NSW 2000  
Postal Address: GPO Box 7011, Sydney NSW 2001  
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)

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## Privacy Incident Management

Staff within the Risk, Compliance, and Audit Branch have a role under the policy - this entails the reporting and recording of incidents in line with the NSW Treasury Incident Management Policy:

Breaches may include confidential data breaches internally, between other government agencies, or external parties.

The Privacy Coordinator will liaise with appropriate internal stakeholders to perform an impact assessment and any regulatory reporting requirements mandated by the Information & Privacy Commission. The Risk, Compliance, and Audit team will work closely with the Privacy Coordinator to capture any breaches and report in accordance with the Treasury's incident management processes. The Privacy Coordinator and the Risk, Compliance and Audit team will partner with incident owners to ensure all incidents are reported, tracked and remediated in a timely manner.

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## Review Date

22 September 2024



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## Appendix

TAB	Document Name	Location
A	Privacy notice and consent template text	Included in this policy
B	Privacy Complaint (Internal Review Application) Form	Included in this policy
C	Internal Review Checklist	Included in this policy
D	Draft letter to the NSW Privacy Commissioner regarding receipt of application for internal review under section 53 of the PPIP Act	Included in this policy
E	Privacy Impact Assessment Template	Included in this policy
F	Summary of Authorisations	Included in this policy

# 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 Privacy Coordinator 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 [governance@treasury.nsw.gov.au](mailto:governance@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* (the PPIP Act)  
 21 of the *Health Records and Information Privacy Act 2002* (the HRIP Act)

If you need help in filling out this form, please contact the Privacy Coordinator on 02 9228 4077 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 (e.g. 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.
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 have 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 lodgement

Applicant's signature: ..... Date: .....

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Please post this form to:

Special Counsel  
Governance, Ethics, & Integrity  
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>	
7	<p>When was this application / privacy complaint first lodged?<sup>6</sup></p> <p>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></p> <p>Will you accept this late application?</p> <p><input type="checkbox"/> Yes – go to Q.9.</p> <p><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?</p> <p>Click or tap here to enter text.</p> <p>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 the following types of conduct<sup>8</sup> that describe the complaint. Then go to Q.12.</p> <p><input type="checkbox"/> Collection of the complainant’s personal information (IPPs 1-4)</p> <p><input type="checkbox"/> Security or storage of the complainant’s personal information (IPP 5)</p> <p><input type="checkbox"/> Refusal to let the complainant access or find out about their own personal information (IPPs 6-7)</p> <p><input type="checkbox"/> Accuracy or relevance of the complainant’s personal information (IPPs 8-9)</p> <p><input type="checkbox"/> Use of the complainant’s personal information (IPP 10)</p> <p><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)</p> <p><input type="checkbox"/> Other / it’s not clear</p>	
11	<p>For complaints about a person’s health information, tick all the following types of conduct<sup>9</sup> which describe the complaint:</p> <p><input type="checkbox"/> Collection of the complainant’s health information (HPPs 1-4)</p> <p><input type="checkbox"/> Security or storage of the complainant’s health information (HPP 5)</p> <p><input type="checkbox"/> Refusal to let the complainant access or find out about their own health information (HPPs 6-7)</p> <p><input type="checkbox"/> Accuracy or relevance of the complainant’s health information (HPPs 8-9)</p> <p><input type="checkbox"/> Use of the complainant’s health information (HPP 10)</p> <p><input type="checkbox"/> Disclosure of the complainant’s health information (HPP 11)</p> <p><input type="checkbox"/> Assignment of identifiers to the complainant (HPP 12)</p> <p><input type="checkbox"/> Refusal to let the complainant remain anonymous when entering into a transaction with your agency (HPP 13)</p> <p><input type="checkbox"/> Transfer of the complainant’s health information outside New South Wales (HPP 14)</p> <p><input type="checkbox"/> Including the complainant’s health information in a health records linkage system (HPP 15)</p> <p><input type="checkbox"/> Other / it’s not clear</p>	
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="1"> <tr> <td data-bbox="199 1048 638 1702"> <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 data-bbox="638 1048 1085 1702"> <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>			
16	<p>It is recommended that four weeks after sending the letter at Q.13, send a progress report to 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>			

<b>On completion of the review</b>	<b>Date completed</b>
------------------------------------	-----------------------

17	<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>	
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>		
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 noncompliance 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> <p><input type="checkbox"/> Yes – Go to Q.22</p> <p><input type="checkbox"/> No – Go to Q.21</p>	<p>Did the agency breach an HPP?</p> <p><input type="checkbox"/> Yes – Go to Q.22</p> <p><input type="checkbox"/> No – Go to Q.21</p>	
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> <p><input type="checkbox"/> Yes – Go to Q.22</p> <p><input type="checkbox"/> No – Go to Q.24</p>		
22	<p>What action is proposed by the agency as a result of this review? (<i>You can have more than one</i>)</p> <p><input type="checkbox"/> apology to complainant</p> <p><input type="checkbox"/> rectification<sup>20</sup> to complainant, e.g.:</p> <p><input type="checkbox"/> access to their personal information or health information</p> <p><input type="checkbox"/> correction of their personal information or health information</p> <p><input type="checkbox"/> other type of rectification</p> <p><input type="checkbox"/> expenses paid to complainant</p> <p><input type="checkbox"/> compensatory damages paid to complainant</p> <p><input type="checkbox"/> other remedies to complainant</p> <p><input type="checkbox"/> review of policies, practices or systems</p> <p><input type="checkbox"/> change in policies, practices or systems</p> <p><input type="checkbox"/> training (or further training) for staff</p> <p><input type="checkbox"/> other action</p> <p><input type="checkbox"/> no action</p>		
23	<p>Is the proposed action likely to match the expectations of the complainant?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Unsure</p>		
24	<p><b>Under the PPIP Act</b></p> <p>Notify the complainant and the Privacy Commissioner in writing:</p> <p><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</p> <p><input type="checkbox"/> what the reasons for your findings are,</p> <p><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,</p> <p><input type="checkbox"/> what action/s you are going to take as a result,</p> <p><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</p> <p><input type="checkbox"/> the contact details for NCAT.</p>	<p><b>Under the HRIP Act</b></p> <p>Notify the complainant and the Privacy Commissioner in writing:</p> <p><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:</p> <p><input type="checkbox"/> what the reasons for your findings are,</p> <p><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,</p> <p><input type="checkbox"/> what action/s you are going to take as a result,</p> <p><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</p> <p><input type="checkbox"/> the contact details for NCAT.</p>	
25	<p>Keep a record of this review for your annual reporting requirements.</p>		

## 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, 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 s.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 when 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 interrelated. For example, a complaint about disclosure (IPP 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.

- <sup>13</sup> 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)
- <sup>14</sup> 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](#).
- <sup>15</sup> Don't forget to look at all the HPPs, as they can be interrelated. 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.
- <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 NSW 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)  
Special Counsel  
Governance, Ethics, & Integrity

# Appendix E: Privacy Impact Assessment Template

## Instructions

NSW Treasury has adapted the Privacy Impact Assessment Template from the Office of the Victorian Information Commissioner<sup>3</sup> to assist Treasury staff to document their privacy impact assessment. The template converts the required NSW Health and Personal Information Principles, into a simple easy-to-understand questionnaire, that evaluates what is required of us to ensure we meet our privacy obligations.

Not all fields within this Privacy Impact Assessment (PIA) will need to be completed. The aim of the Privacy Impact Assessment is to prompt and guide the project decision maker in determining what are the privacy impacts on the individuals and manage those accordingly. The PIA should be completed with the assistance of the Office of General Counsel.

## Privacy Impact Assessment<sup>4</sup> -

This privacy impact assessment (PIA) has been undertaken to analyse XXXXXXXXXXXXXXXXXXXX

Name of Program			
Name of Organisation	NSW Treasury		
Date	XXX June 2020	PIA Version Number	P20/XXXXX
PIA Drafter		Email	
Program Manager		Email	
Has the Privacy Coordinator been consulted in the drafting of this PIA?		Yes	
Privacy Coordinator		Email	governance@treasury.nsw.gov.au

<sup>3</sup> Office of the Victorian Information Commissioner, *Privacy Impact Assessment Template*, Victorian Government, accessed 30 September 2022, <https://ovic.vic.gov.au/privacy/privacy-resources-for-organisations/>

<sup>4</sup> *ibid*

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## Part 1

### Project Name

Quick discussion here.

---

### Scope of this privacy impact assessment

The Governance, Ethics, & Integrity Branch within the Office of General Counsel has prepared a Privacy Impact Assessment. During the project – What is the project about? The Privacy Impact Assessment has been undertaken by...

Having considered the information, it was determined that a Privacy Analysis in the form of a table sufficiently addresses the privacy impacts, Treasury's collection has on potential applicants.

---

### Legal authority

Treasury is empowered to collect this Information under the *Privacy and Personal Information Protection Act 1998* (PPIP Act), the Information Protection Principles, and the applicant's consent. Treasury's handling of personal Information will be in accordance with the PPIP Act, State Records Act and relevant General Disposal Authorities.

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### Stakeholder consultation

This section should include an:

- outline of any internal and external stakeholder consultation that has been undertaken in relation to the program; and
- where relevant, a summary of the outcomes of any consultation.

For more information, refer to section 4 in Part 1 of the accompanying guide (page 14).

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### Information flow diagram

Please insert below, or attach as an appendix, a diagram or table that shows the flow of information involved in this program, indicating the systems used and different parties involved (if applicable), and the methods of transfer. Where possible, indicate the types of information that flow, between the various stages or parts of the program, and between different parties.

For more information, refer to section 5 in Part 1 of the accompanying guide (pages 14 – 15).

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## Part 2

### Privacy analysis table

The following table assesses the privacy implications of (project Name). This has been undertaken in consultation with (Unit Name) the Unit within NSW Treasury that has project ownership of (project Name).

---

### Identifying information elements

#	Question	Response	Actions
1	<b>Does the program involve personal information?</b>		
2	<b>Does the program involve other information that has the potential to identify individuals?</b>		
3	<b>Does the program involve safeguarded information?</b> <i>For example, ethnicity or racial origin, political opinions, religious or philosophical beliefs, health or sexual activities, or trade union membership.</i>		

4	<p>Does the program involve health information?</p>		
5	<p>Does the program involve information that has previously been de-identified?</p>		

## Collection of personal information

6	<p>Is all the personal information collected necessary for the program?</p> <p><i>Explain why all the information collected is necessary for your program.</i></p>		
<p><b>Privacy risk: If some personal information is not necessary for the program, consider whether there is a risk of overcollection.</b></p>			
7	<p>Do you need to collect information that identifies an individual for the purposes of the program, or can individuals remain anonymous?</p>		
8	<p>If individuals can remain anonymous, will you be collecting indirect identifiers, such as demographic information?</p>		



## Method and notice of collection

9	How will the personal information be collected?		
---	---	--	--

*Privacy risk: Consider whether your method of collection is fair and not unreasonably intrusive.*

10	Is the personal information collected directly from the individual?		
----	---	--	--

11	Will the individual be notified about the collection of their personal information?		
----	---	--	--

12	Will any personal information about the individual be collected indirectly from another source?		
----	---	--	--

*Privacy risk: If you are collecting personal information indirectly, consider whether there is a risk of the information being inaccurate, out of date or incomplete. Consider the impact on individuals if they are not made aware that their information is being collected from another source.*

13	Will the individual be notified that their personal information has been collected from another source?		
----	---	--	--

## Unique identifiers

14	Will the program assign a unique identifier or collect a unique identifier assigned by another organisation to adopt as your organisation's own?		
15	Does the program require an individual to provide a unique identifier?		

## Quality of personal information

16	What steps will you take to ensure the personal information collected is accurate, complete, and up to date?		
----	--	--	--

*Privacy risk: If there are inadequate or no steps taken, consider whether there is a risk that the information will be inaccurate, incomplete or out of date.*

## Security of personal information

17	Are there security measures in place (existing or intended) to protect the personal information collected and used for this program?		
18	Where and how will personal information be stored?		
19	Who will have access to the personal information?		
	Have you completed a separate security risk assessment?		

*Privacy risk: If there are inadequate or no security measures in place, consider whether there is a risk that the information will not be properly protected, leading to loss, misuse, or unauthorised access, modification or disclosure.*

## Primary and additional uses and disclosures of personal information

21	<b>Is the personal information (including any sensitive information) involved in this program used or disclosed for the main or primary purpose for which it was collected?</b>		
22	<b>Does the program use or disclose personal information (including sensitive information) for a new or additional purpose other than the original purpose of collection?</b>		
<p><i>Privacy risk: If relying on IPP to use personal information for a secondary purpose, consider whether individuals would reasonably expect their information to be used for that secondary purpose. If relying on IPP to use personal information for a secondary purpose, ensure the individual's consent is meaningful.</i></p>			
23	<b>Will the individual be notified of the additional use(s) of their personal information?</b>  <i>Explain how the individual will be given notice of the secondary use(s) of their information, or why notice of the secondary use will not be provided.</i>		

## Transfer and sharing of personal information

24	Will any personal information be shared outside of your organisation?		
25	Will any personal information be transferred outside New South Wales?		

## Other considerations relating to use and disclosure

26	Will any data matching occur as part of this program? This includes matching datasets within the program or matching to other datasets external to the program.		
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27	Will any personal information be de-identified as part of the program?		
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*Privacy risk: If personal information is de-identified, consider whether there is a risk that the information can be re-identified. For example, de-identified information may be re-identifiable when matched to other information, or because of the way the de-identified information is used in the context of this program.*

28	How will you ensure the ongoing accuracy, completeness, and currency of the personal information used in this program?		
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## Management of personal information

29 0	Is there a document available to the public that sets out your organisation's policies for the management of personal information, such as a privacy policy?	<p>Treasury has a policy on privacy and how we deal with it, this can be found at:</p> <p><a href="https://nswgov.sharepoint.com/:b:/r/sites/treasury/Shared%20Documents/TIPP%205.12%20NSW_Treasury_Privacy_Management_Plan_And_Guidelines_-_pdf%20(clean).pdf?csf=1&amp;web=1&amp;e=f9fH3O">https://nswgov.sharepoint.com/:b:/r/sites/treasury/Shared%20Documents/TIPP%205.12%20NSW_Treasury_Privacy_Management_Plan_And_Guidelines_-_pdf%20(clean).pdf?csf=1&amp;web=1&amp;e=f9fH3O</a></p>	
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30	Will the document be updated to reflect the new collection or use of personal information for the purposes of this program?		
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31	<p>Is there a way for a person to find out the types of personal information your organisation holds about them? Can you tell them the purposes for which it is held, and how your organisation collects, holds, uses and discloses that information?</p>		
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## Access and correction of personal information

32	<p>How can individuals request access to, or correct their personal information?</p>		
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*Privacy risk: If engaging third parties such as contracted service providers, consider whether there are arrangements in place to allow access and correction of personal information held by third parties. If not, there may be a risk that individuals cannot access or correct their personal information.*

## Retention and disposal of personal information

33	<p>How long will the personal information be kept for?</p>		
34	<p>How will personal information be destroyed once it is no longer required?</p>		

35	As an alternative to destroying personal information, will any personal information be de-identified once it is no longer required?		
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*Privacy risk: If de-identifying personal information once it is no longer required, consider whether there is a risk that the information can be re-identified.*

36	If applicable, what will happen to personal information held by third parties (such as contracted service providers, cloud storage, third party platforms etc.)?		
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*Privacy risk: If there are no arrangements in place relating to third parties' retention and disposal of personal information, consider whether there is a risk that personal information will be held indefinitely.*

## Other considerations

37	Who can individuals complain to if they have concerns about the handling of their personal information?	Internally they can complaint to the Privacy Coordinator at <a href="mailto:governance@treasury.nsw.gov.au">governance@treasury.nsw.gov.au</a> or 9228 3232 or externally they can contact the IPC on <a href="mailto:ipcinfo@ipc.nsw.gov.au">ipcinfo@ipc.nsw.gov.au</a> or 1800 472 679	
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38	Does your organisation have a data breach response plan in place?		
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39	<p>Will any training be provided to staff to ensure the appropriate collection and handling of the personal information collected for this program?</p>		
40	<p>Will the program be evaluated against its objectives?</p>		
41	<p>Does the program comply with your organisation's other information handling or information management policies?</p>		
42	<p>Will this PIA be published?</p>		
43	<p>Are there any other broader privacy considerations associated with this program?</p>		

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## Part 3

### **Risk assessment table**

This section of the template lists any privacy risks that may have been identified during the privacy analysis in Part 2.

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## Summary of risks

This section should summarise the findings arising from the PIA process, including:

- Significant findings in relation to privacy risks, including any risks that cannot be mitigated. What is the likely public reaction to these risks? Are these risks outweighed by the public benefit that will be delivered by the program?
- Privacy enhancing features of the program.

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## Part 4

In this section, ensure that you've included relevant endorsements from key stakeholders, and the final approver.

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### Endorsement

<i>Name</i>	<i>Position</i>	<i>Signature</i>	<i>Date</i>

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### Document information

<i>Document title</i>	
<i>Document owner</i>	<i>Identify the branch, unit, team or individual within your organisation that has ownership over this document.</i>
<i>Document distribution</i>	<i>List any individuals or parties to whom this PIA template or report has been distributed. If your PIA template or report has been published, you may also include details of publication here (e.g. date of publication, website where published).</i>
<i>Related documents</i>	<i>List any other relevant documents that relate to this program, for example:</i> <ul style="list-style-type: none"><li><i>other relevant PIAs that have been undertaken (e.g. if this PIA only covers one aspect of the program)</i></li><li><i>security risk assessment</i></li><li><i>contract review</i></li></ul>

- *procurement requirements*

## PIA review

Note when the PIA template or report will be reviewed to ensure that it is still accurate. If required, the PIA template or report should be updated to account for any changes to the program.

<i>Date review should be completed by</i>	
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## Document version

<i>Version number</i>	<i>Date</i>	<i>Document status</i>	<i>Author</i>
		<i>e.g. 'draft' or 'final'</i>	

## Appendix F: Summary of Authorisations

Refer to the Digital Treasury Operations Handbook (DTH) for the latest authorisations. Should there be a conflict between the summary provided below and the authorisations in the DTH, those in the DTH will take precedence over appendix F.

Authorised Roles	Function	Authorisation Type
<ul style="list-style-type: none"> <li>General Counsel</li> <li>Special Counsel, Governance, Ethics, &amp; Integrity</li> </ul>	<ul style="list-style-type: none"> <li>To accept referrals of complaints from the Privacy Commissioner</li> </ul>	Section 47 (PPIP Act)
<ul style="list-style-type: none"> <li>All PSSE Officers holding the grade of B3, B2, and B1</li> <li>All officers at Clerk 5/6 or above within the Office of General Counsel</li> </ul>	<ul style="list-style-type: none"> <li>Responding to the Privacy Commissioner, when undertaking her complaints function under division 3 of the PPIP Act</li> </ul>	Division 3 – Complaints relating to privacy (PPIP Act)
<ul style="list-style-type: none"> <li>All PSSE Officers holding the grade of B3, B2, and B1</li> <li>All officers at Clerk 11/12 or above within the Office of General Counsel</li> </ul> <p>To be exercised with concurrence from either officer:</p> <ul style="list-style-type: none"> <li>General Counsel</li> <li>Special Counsel, Governance, Ethics, &amp; Integrity</li> </ul>	<ul style="list-style-type: none"> <li>Undertaking the Review functions of the agency under Part 5 of the PPIP Act</li> </ul> <p><i>When nominated by the Deputy Secretary of the responsible Group and with the concurrence of the General Counsel or Special Counsel, Governance, Ethics, &amp; Integrity within the Office of General Counsel</i></p>	Part 5 – Review of certain conduct (PPIP Act)

<ul style="list-style-type: none"> <li>• Special Counsel, Governance, Ethics, &amp; Integrity</li> </ul>	<ul style="list-style-type: none"> <li>• Undertake the functions of the Privacy Coordinator &amp; Officer</li> </ul>	Privacy Management Plan - Policy
<ul style="list-style-type: none"> <li>• All officers within the Governance, Ethics, &amp; Integrity Branch reporting to the Office of General Counsel</li> </ul>	<ul style="list-style-type: none"> <li>• Undertake the functions of the Privacy Officer</li> </ul>	Privacy Management Plan - Policy
<ul style="list-style-type: none"> <li>• All PSSE Officers holding the grade of B3, B2, and B1</li> <li>• All officers at Clerk 11/12 or above within the Office of General Counsel</li> </ul>	<ul style="list-style-type: none"> <li>• Approving Privacy Impact Assessments in accordance with this Policy</li> </ul>	Privacy Management Plan - Policy
<ul style="list-style-type: none"> <li>• All PSSE Officers holding the grade of B3, B2, and B1</li> <li>• All Grade 11/12 Officers</li> </ul>	<ul style="list-style-type: none"> <li>• Responding to applications for personal information</li> </ul>	Privacy Management Plan - Policy



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