



NSW Police Force

Privacy Management Plan

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Opening Endorsement by the Commissioner

The mission of the NSW Police Force is to have police and the community working together to establish a safer environment by reducing violence, crime and fear. In doing so, the NSW Police Force takes all of the legitimate interests and rights of the community very seriously, including privacy.

The nature of work we do means that the NSW Police Force manages a large array of personal information and we use that information to make difficult decisions on a daily basis. It is therefore critical to community confidence for people to know that we will handle information lawfully and in a way that strikes the right balance between an individual's privacy and the community's safety.

On occasions, officers have to decide between disclosing information and taking the risks involved in not disclosing it. In some cases, the risks involved will be serious. Because of the role we play, a decision to disclose or not disclose information could in some circumstances put lives at risk. Breaches of privacy laws can result in a claim against the NSW Police Force and disciplinary action or in some cases prosecution of each individual involved.

However, getting it right means we can build trust and confidence and perform our duties effectively. This plan is about getting it right. It is designed to equip you with the knowledge and confidence that you need to make decisions with regard to privacy. It also includes guidance as to how to seek advice when you need it.

A P Scipione APM
Commissioner



Introduction

This *Privacy Management Plan* explains how the NSW Police Force (NSWPF) complies with obligations under the *Privacy and Personal Information Protection Act 1998* (PPIPA) and the *Health Records and Information Privacy Act 2002* (HRIPA).

NSWPF takes its responsibilities under the *Privacy and Personal Information Protection Act 1998* (PPIPA) and *Health Records and Information Privacy Act 2002* (HRIPA) seriously.

This plan sets out our commitment to respecting the privacy rights of NSWPF employees and members of the public. It is produced in accordance with section 33 of the PPIPA Act and deals with four key issues:

1. NSWPF policies and practices to ensure compliance with PPIPA and HRIPA.
2. The dissemination of those policies and practices within NSWPF.
3. NSWPF procedures for internal review application.
4. Other matters about privacy and protection of personal information held by NSWPF.

We may amend this plan from time to time (section 33(4), PPIPA).

Who does the plan apply to?

NSWPF's *Privacy Management Plan* applies to:

- sworn police officers
- administrative staff
- contractors
- special constables.

NSWPF core functions

NSWPF only collects personal and health information for a lawful purpose that is directly related to one of our functions or activities.

Our core function as stated in section 6, *Police Act 1990* is to provide police services for New South Wales. Police services include:

- preventing and detecting crime
- protecting persons from injury or death
- protecting property from damage
- providing essential services in emergencies.

The Privacy Principles

Both PPIPA and HRIPA contain privacy principles that set out how an agency must manage an individual's personal information and identifies the privacy rights of individuals and obligations of public sector agencies to protect those rights.

The privacy principles place obligations on how an agency:

- collects personal information
- retains personal information and maintains its security
- enables individuals to access their own personal information and make changes to it
- uses personal information
- discloses personal information.

How the privacy principles apply to NSWPF

The privacy principles apply to NSWPF when NSWPF is exercising administrative or educative functions.

Some examples of administrative and educative functions are:

- managing employees
- training staff
- corporate services such as budget and information technology
- developing and delivering community education programs.

The privacy principles do not apply to NSWPF when NSWPF is exercising functions other than administrative and educative functions. In particular, law enforcement functions.

This means that the privacy principles do not apply when NSWPF is carrying out activities such as:

- community protection
- detecting crime
- investigating crime
- collecting evidence or intelligence
- protecting people from injury
- protecting property from damage
- arresting, charging individuals
- anything else that is not an administrative or educative function.

Personal information

Personal information is any information or opinion that is capable of identifying a person.

Health information is a specific type of personal information. It is any information or opinion about a person's physical or mental health, or disability.

Any reference to personal information in this plan refers to personal and health information as defined in the PPIP and HRIP Acts.

Types of personal information held by NSWPF

Examples of personal information that NSWPF holds about employees include:

- personal contact details and next of kin contact details
- financial information such as:
 - salary
 - overtime
 - allowances
 - bank account information
 - tax file number
 - compensation payments
 - HECS/FEE-HELP debt
 - child support payment obligations
 - trade union membership payments
 - reimbursements
- medical files including fitness for duty assessments, physical and psychological assessments, counselling records
- injury management information such as workplace injuries, workers compensation claims, workers compensation payments, return to work plans, conditions on return to work, recommendations regarding restricted duties.
- general staffing matters such as attendance records, leave balances, qualifications, training records
- personal background information such as ethnic background, languages spoken, marital status, disability.

Examples of personal information that NSWPF holds about members of the public include:

- names, addresses, aliases, phone numbers, employment, family members and associates
- crime information and intelligence
- information given as part of security license or firearm license applications
- drivers licence and vehicle registration details
- criminal histories
- fingerprints, DNA profiles, photographs
- Court Orders including Apprehended Violence Orders
- statements and police reports.

What is *not* personal information

There are certain types of information that are not considered personal information or health information and are therefore not protected by the privacy principles.

The privacy principles do not apply to NSWPF in handling the following types of:

- information about a person arising out of a complaint made under Part 8A of the *Police Act 1990*
- information or an opinion about a person's suitability for appointment or employment as a public sector official
- information about a person who has been deceased for more than 30 years.
- information about a person arising out of a Royal Commission or Special Commission of Inquiry.
- other information that is exempted by PPIPA and HRIPA.

Health Information

Health information is a highly sensitive type of personal information which may reveal intimate and private details about a person. The collection and handling of this information by NSWPF is governed by the HRIP Act.

Due to its highly sensitive nature NSWPF has developed separate *Management and Storage of Employee Health Records – Guidelines*. These guidelines can be found on the NSWPF Intranet under Policies.



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Information Protection Principles

The Information Protection Principles only apply when NSWPF are exercising their administrative or educative functions.

Collection

Collection for lawful purpose

NSWPF only collects personal information for a lawful purpose that is directly related to one of our functions or activities.

Our community education programs that are designed to educate community members and key partners about our law enforcement functions, are also directly related to our core functions.

Direct collection

NSWPF generally collects personal information directly from the person concerned.

Otherwise, we will only collect personal information from a third party if the law allows or requires us to do so. For example:

- The person has authorised NSWPF to collect their personal information from someone else.
- NSWPF is investigating a complaint made under Part 8A, *Police Act 1990*.
- NSWPF is exercising a law enforcement function, such as preventing, detecting or investigating crime.
- NSWPF has obtained a subpoena from a Court or Tribunal.

To ensure the safety of all those who enter NSWPF premises and the protection of NSWPF property, overt surveillance cameras are used on NSWPF premises. Warning signs alert people to this fact.

Requirements when collecting personal and health information

When NSWPF are collecting information exercising an administrative or educative function, NSWPF will take reasonable steps to ensure that, before the information is being collected, or as soon as practicable after collection, an individual is made aware of:

- the purpose for collection
- the intended recipients of the information
- details of the agency that collects or holds the information
- whether the supply of information by an individual is required by law or is voluntary, and any consequences for the individual if the information is not provided.

For example, if you are being assessed by a Police Medical Officer, you will be informed that you are being examined to determine your fitness for duty and that the information may be provided to your Commander. If a claim is being made against NSWPF, the information may be provided to NSWPF solicitors and/or insurers if the information is relevant to defending that claim.

The *NSWPF Code of Conduct and Ethics* requires all employees to behave honestly and have the highest professional standards and integrity. When NSWPF collects your personal information, you also have a responsibility to ensure that you provide accurate and truthful information.

Personal information collected about a person's fitness to work as a frontline police officer is more intrusive than that which is collected for other positions such as administrative positions. However, the information does not intrude to an unreasonable extent on personal affairs. The information we collect is necessary to ensure that police officers are fit and capable to perform all the duties involved in protecting the community.

Personal information that is collected by NSWPF is held within the relevant unit/s of NSWPF.

Retention and security

NSWPF holds a large amount of personal and sensitive information. It considers the security of that information a very important issue. NSWPF has systems in place to ensure that only people with a lawful excuse can have access to this information. Unlawful access to information by members of NSWPF will result in disciplinary action and, in some cases, criminal prosecution.

Some examples of retention and security measures that NSWPF has put in place include:

- all databases within NSWPF that hold personal information are restricted by password or other security measures to ensure that only people with a lawful reason have access to that information

- mandatory requirement that staff change passwords on a monthly basis to access their personal information held on SAP, the NSWPF employee database system
- a security system is put in place to give staff electronic access to end of financial year statements
- biannual performance reviews are conducted electronically on the Career Management System which is accessed with passwords
- secure recycling bins with locks are provided for disposal of confidential paper records
- system access warnings are given when access attempts to confidential systems are made
- security audits are conducted of electronic systems access such as email system, databases (such as Computerised Operational Policing System (COPS) and Roads and Maritime Services databases), access to and exits from NSWPF premises
- limiting access to information to only those who require access to perform lawful functions.

In addition to complying with PPIPA and HRIPA, NSWPF takes steps to comply with obligations under the *State Records Act 1998* regarding how information is stored, protected and disposed of.

Access

Employees

If you are a NSWPF employee, you have unlimited access to any of your own personal information that is held in SAP. This includes your payslips, leave balances, Career Management System comments from your supervisor, timesheet and other types of personal information. You are also entitled to access your personnel file.

Members of the public

If NSWPF has collected information about you for law enforcement purposes, you may not be able to access that information. However, as a member of the public, there will be limited circumstances when you will be able to access your own personal information.

A NSWPF employee can make application to access their own P file by application to their Commander/ Manager. A member of the public may formally request access to their personal information held by NSWPF, by writing to:

Privacy Co-ordinator, Employment Law Unit
Office of the General Counsel
NSW Police Force
Locked Bag 5102
PARRAMATTA NSW 2124

Please note that NSWPF are only bound to provide access to a person's personal information under the PPIP Act when they are exercising an administrative or educative function.

Incident Reports

If you are involved in a motor vehicle accident or an incident involving police, you or your authorised representative can apply for a copy of the incident report. The fee is currently \$79 per event.

The application form can be accessed here:

http://www.police.nsw.gov.au/services/additional_services/insurance_services_unit_-_application_for_incident_report

Please note that NSWPF may disclose information about motor vehicle accident or crime incident reports to an insurance company or insurer or its agent, where the information relates to a claim that has been lodged against the insurance company or insurer.

NSWPF may also provide motor vehicle accident reports to any person directly involved in the accident. For example, another driver or passenger.

Security industry licenses

NSWPF has two public registers which enables members of the public to verify persons who are licensed under the *Commercial Agents and Private Inquiry Agents Act 2004* and the *Security Industry Act 1997*.

Information contained on these registers can be accessed on the NSWPF website at this link:

Public Register of Licenses:

<https://www.ebiz.police.nsw.gov.au/spr/licenceCheck/Search.jsp>

Government Information (Public Access) Act 2009

Members of the public may also seek access to government information held by NSWPF. If you would like to make a formal application, please write to:

The Coordinator
Information Access Unit
NSW Police Force
Locked Bag 5102
PARRAMATTA NSW 2124

You can also find more information about GIPA applications on the NSWPF website here:

http://www.police.nsw.gov.au/services/information_access_unit_gipa/agency_information_guide

Victims

As the first response agency for victims of crime, NSWPF has a special responsibility to respond to victims with compassion. We are committed under the Customer Service Charter and the Charter of Victims Rights to respecting the rights of victims of crime. For more information about the type of information we provide to victims of crime, please see our Victims of Crime webpage:

http://www.police.nsw.gov.au/community_issues/victims_of_crime

Alterations

If you request NSWPF to amend your personal information, NSWPF must make appropriate amendments if:

- you are asking NSWPF to exercise an administrative or educative function; and
- the changes are appropriate; and
- the changes ensure that the personal information is accurate; and
- the changes ensure that the personal information is relevant, up to date, complete and not misleading having regard to the purpose for which the information was collected (or is to be used) and to any purpose directly related to that purpose.

If you are a NSWPF employee, you may change any of your own personal information that is contained in SAP. In fact, we encourage you to keep this up to date and accurate, particularly information about your personal contact details and next of kin contact details so that you (or they), can be contacted in an emergency. It is also your responsibility to inform Payroll Services if you wish to change your bank account details or payment details.

Whether you are a NSWPF employee or a member of the public, you may formally request NSWPF to amend personal information that is held about you, by writing to:

Privacy Co-ordinator, Employment Law Unit
Office of the General Counsel
NSW Police Force
Locked Bag 5102
PARRAMATTA NSW 2124

Please note that if NSWPF has collected information about you for law enforcement purposes, you may not be able to alter that information.

Use

NSWPF is only bound by this protection principle when exercising their administrative or educative functions.

When NSWPF uses personal information, it means that we are using it internally *within* NSWPF. We are not lawfully able to use the information without taking reasonable steps to ensure that, having regard to the purpose for which the information is to be used, the information is relevant, accurate, up to date, complete and not misleading.

NSWPF will only use information for the purpose for which it was collected, unless the person has consented to the use for another purpose or the law permits or requires us to use it for another purpose.

Some examples of where the law may permit or require us to use personal information for another purpose includes:

- It is necessary to prevent or lessen a serious and imminent threat to a person's life or health.
- Work health safety laws require that we use information to ensure the safety of our employees.
- NSWPF may use health information as a necessary part of investigating employee disciplinary matters or in reporting our concerns to relevant persons/authorities.
- The information relates to a person's suitability for appointment or employment as a public sector official, including as an employee of NSWPF.
- The information about a person arises out of a complaint made under Part 8A of the *Police Act 1990*.
- The information is being used for law enforcement purposes.

Disclosure

NSWPF will not disclose personal information, unless the person has consented to the disclosure or the law permits or requires us to disclose the information.

When NSWPF discloses personal information

Some examples of when the law may permit or require NSWPF to disclose personal information includes:

- It is necessary to prevent or lessen a serious and imminent threat to a person's life of health.
- NSWPF may disclose health information as a necessary part of investigating employee disciplinary matters or in reporting our concerns to relevant persons/authorities.

- Workers compensation law requires us to provide our insurer with information about workers. Failure to do so within seven days without reasonable excuse is an offence (punishable by up to \$5,500).
- Work health safety laws requires us to ensure the safety of our workers.
- NSWPF has made the person aware that the information is usually disclosed to another person, such as our solicitors for the purposes of defending a claim made against NSWPF.
- NSWPF is exercising a law enforcement function.
- The information is disclosed to the NSW Department of Housing where that agency is investigating a complaint about a tenant or where NSWPF is investigating an offence which may breach a tenancy agreement with NSW Department of Housing.
- Information about motor vehicle accident or crime incident reports to an insurance company or insurer or its agent, where the information relates to a claim that has been lodged against the insurance company or insurer.
- The information about a person arises out of a complaint made under Part 8A of the *Police Act 1990*.
- Disclosure is to the Minister for Police and Emergency Services for the purpose of informing the Minister about a matter under the Minister's administration.
- Disclosure is to an agency administered by the Premier for the purpose of informing the Premier about a matter.
- NSWPF has been ordered to provide the information under a subpoena *or* other lawful direction.
- There is an exemption provided under the Privacy Code of Practice or a Practice Direction issued under section 41, PPIPA.

Disclosure of sensitive personal information

The following personal information is considered sensitive information and is given particular recognition under PPIPA:

- a person's ethnic and racial origin
- political opinions
- religious or philosophical beliefs
- trade union membership
- sexual activities.

When exercising administrative and/or educative functions, NSWPF does not disclose any of the above personal information unless the disclosure is necessary to prevent a serious and imminent threat to a person's life or health or where the law otherwise allows or permits NSWPF to do so.



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Public Registers

A public register is a register of personal information that is publicly available or open to public inspection (whether or not on payment of a fee).

NSWPF has the following public registers which can be accessed on the NSWPF website:

- Register of persons who are licensed under the *Commercial Agents and Private Inquiry Agents Act 2004*.
- Register of persons who are licensed under the *Security Industry Act 1997* – concerning the issue of security licences in relation to Master Licences and Operator Licences.

NSWPF only discloses personal information (including health information) kept in the above registers when we are satisfied that it is to be used for a purpose relating to the purpose of the register or the Act under which the register is kept.

If your personal information is contained in one of the above registers, you may request NSWPF to have your personal information removed from, or not placed on the register, and not disclosed to the public by writing to:

Security Licensing & Enforcement Directorate
NSW Police Force
Locked Bag 5099
PARRAMATTA NSW 2124

Website: www.police.nsw.gov.au/sled

If NSWPF is satisfied that a person's safety or wellbeing would be affected by having your personal information contained in the register, NSWPF may suppress your personal information. In making this decision, we will balance the rights of the individuals concerned with the public interest in maintaining public access to the information.



4

If you think NSWPF has breached your privacy

Your right of internal review

If you think NSWPF has breached your privacy, you have the right to ask for an internal review. An internal review is when a NSWPF employee reviews your allegations and writes a report about whether NSWPF has breached your privacy.

The internal reviewer is someone who is not substantially involved in any matter relating to your allegation and must be suitably qualified. Generally, the internal reviewer will be a solicitor or someone with legal qualifications.

To request an internal review, please write to:

Privacy Co-ordinator, Employment Law Unit
Office of the General Counsel
NSW Police Force
Locked Bag 5102
PARRAMATTA NSW 2124

If you wish, you may use the Generic Internal Review Application form developed by the Office of the Privacy Commissioner:

http://www.privacy.nsw.gov.au/lawlink/privacynsw/ll_pnsw.nsf/pages/privacy_internalreviews

Time frames

You have six months, from the time you first became aware of the alleged breach of privacy, to request an internal review. If more than six months have passed, and you have only become aware of your internal review rights within the last six months, then NSWPF will *generally* accept your request.

If NSWPF accepts your request, then the officer will complete the internal review as soon as possible, and normally within 60 days. If we need more time to complete the report, we will ask you for an extension. If you disagree with an extension, you have the right to ask the Administrative Decisions Tribunal to determine your request.

After completing the internal review report, NSWPF will normally send you a copy of the report within 14 days.

The Privacy Commissioner's role

NSWPF is required to give a copy of your internal review request to the Privacy Commissioner.

We will also send a copy of the draft internal review report to the Privacy Commissioner for any submissions about the subject matter of your request. NSWPF must take into account any submissions made by the Privacy Commissioner when finalising its internal review report.

You have the option of complaining directly to the Privacy Commissioner about NSWPF conduct. However, the Privacy Commissioner may decide not to deal with your complaint if she is satisfied that it would be more appropriate for you to request NSWPF to conduct the internal review.

The contact details for the Privacy Commissioner are:

Office of the Privacy Commissioner
GPO Box 7011
SYDNEY NSW 2001

Website: www.privacy.nsw.gov.au
Email: privacyinfo@privacy.nsw.gov.au
Phone: 8019 1600

Your right to external review

You have the right to apply to the Administrative Decisions Tribunal if:

- you are not satisfied with the findings of the internal review report
- you are not satisfied with the action taken in relation to your request
- NSWPF has taken more than 60 days to complete your internal review request.

The contact details for the Administrative Decisions Tribunal are:

Level 10, John Maddison Tower
86 Goulburn Street
SYDNEY NSW 2000

Website: www.adt.lawlink.nsw.gov.au
Phone: 9377 5711



5

Raising awareness of NSWPF privacy obligations

NSWPF has taken the following action to inform staff and members of the public about our obligations under PPIPA and HRIPA:

- Development of privacy training package for NSWPF employees.
- Face to face training delivered to a diverse range of NSWPF employees with a range of responsibilities and across various units/commands.
- Ongoing face to face training delivered to NSWPF staff members as requested.
- Development of an online privacy training course made available to all NSWPF employees.
- Endorsement of privacy training given by the Commissioner of Police.
- Development of the *Management and Storage of Employee Health Records Guidelines*.
- Publication of this *Privacy Management Plan* on NSWPF internal intranet site and external website.
- Publication of privacy articles in *Police Monthly* and *Policing Issues and Practice Journal*.
- Privacy matters included in the *Police Handbook*.
- Development of Code of Best Practice for Information Management.

