



NSW Police Force Privacy Management Plan

December 2023

Contents

1. INTRODUCTION	3
WHO DOES THE PLAN APPLY TO?.....	3
NSWPF FUNCTIONS	3
THE PRIVACY PRINCIPLES.....	3
<i>How the privacy principles apply to NSWPF.....</i>	<i>4</i>
PERSONAL INFORMATION	4
<i>Types of personal information held by NSWPF</i>	<i>5</i>
<i>What is not personal information</i>	<i>6</i>
HEALTH INFORMATION	
2. INFORMATION PROTECTION PRINCIPLES AND HEALTH PRIVACY PRINCIPLES	7
COLLECTION.....	7
<i>Collection for lawful purpose</i>	<i>7</i>
<i>Direct collection.....</i>	<i>7</i>
<i>Requirements when collecting personal and health information</i>	<i>7</i>
RETENTION AND SECURITY	8
ACCESS	9
<i>Employees</i>	<i>9</i>
<i>Members of the public</i>	<i>9</i>
<i>Incident Reports</i>	<i>9</i>
<i>Security industry licenses</i>	<i>9</i>
<i>Government Information (Public Access) Act 2009.....</i>	<i>10</i>
<i>Victims.....</i>	<i>10</i>
ALTERATIONS.....	10
USE AND ACCURACY.....	11
DISCLOSURE.....	11
<i>When NSWPF discloses personal information.....</i>	<i>11</i>
<i>Disclosure of sensitive personal information</i>	<i>12</i>
3. PUBLIC REGISTERS	13
4. IF YOU THINK NSWPF HAS BREACHED YOUR PRIVACY	14
YOUR RIGHT OF INTERNAL REVIEW	14
<i>Time frames</i>	<i>14</i>
<i>The Privacy Commissioner’s role.....</i>	<i>14</i>
YOUR RIGHT TO EXTERNAL REVIEW	15
OFFENCES UNDER THE PPIA ACT AND THE HRIPA ACT	15
5. THE MANDATORY NOTIFICATION OF DATA BREACH SCHEME.....	16
6. RAISING AWARENESS OF NSWPF PRIVACY OBLIGATIONS.....	16

Document information

Title: NSWPF Privacy Management Plan **Subject:** Compliance of NSW Police Force with obligations under the *Privacy and Personal Information Protection Act 1998 (PPIPA)* and the *Health Records and Information Privacy Act 2002 (HRIPA)* **Command responsible:** InfoLink, Communication Services Command. **Available to:** Unrestricted **Published:** December 2023 **To be reviewed:** December 2024
Document number: D/2023/1145743

Copyright of this document is vested in the Commissioner of Police. © 2023

1. Introduction

This Privacy Management Plan explains the NSW Police Force's (NSWPF) plan to ensure compliance with obligations under the *Privacy and Personal Information Protection Act 1998* (PPIP Act) and the *Health Records and Information Privacy Act 2002* (HRIP Act).

The NSWPF takes its responsibilities under the PPIP Act and the HRIP Act seriously.

This plan sets out our commitment to respecting the privacy rights of NSWPF employees and members of the public. The NSWPF is required to have and implement a Privacy Management Plan, in accordance with section 33 of the PPIP Act, which deals with five key issues:

1. The devising of NSWPF policies and practices to ensure compliance with the PPIP Act and the HRIP Act.
2. The dissemination of those policies and practices within NSWPF.
3. NSWPF procedures for internal review of relevant conduct.
4. NSWPF policies and practice to ensure compliance with its obligations and responsibilities in respect of the mandatory notification of data breach scheme in Part 6A of the PPIP Act.
5. Other matters about privacy and protection of personal information held by the NSWPF. We may amend this plan from time to time, in accordance with section 33(4) of the PPIP Act.

Who does the plan apply to?

NSWPF's Privacy Management Plan applies to:

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

NSWPF functions

Our function, as stated in section 6 of the *Police Act 1990*, is to provide police services for the state of 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.

NSWPF also has functions arising under other laws.

The privacy principles

Both the PPIP Act and the HRIP Act contain privacy principles that set out how an agency must manage an individual's personal and health information and identify the privacy rights of individuals and obligations of public sector agencies to protect those rights.

The PPIP Act sets out the Information Protection Principles which apply to personal information, and the HRIP Act contains the Health Privacy Principles.

The Information Protection Principles and Health Privacy Principles place obligations on how an agency:

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

How the Information Protection Principles and Health Privacy Principles apply to NSWPF

The Information Protection Principles and Health 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 Information Protection Principles and Health Privacy Principles do not apply to NSWPF when NSWPF is exercising functions other than administrative and educative functions. In particular (and without limitation), the Information Protection Principles and Health Privacy Principles do not apply to NSWPF when exercising law enforcement functions.

This means that these 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 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, including such things as an individual's fingerprints, retina prints, body samples, or genetic characteristics. Exclusions to the definition of personal information are contained in section 4(3) of the PPIP Act.

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

of wishes about the future provision of his or her health services or a health service provided or to be provided to a person.

Any reference to personal information in this plan refers to personal information as defined in section 4 of the PPIP Act

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
- 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 licence or firearm licence applications
- drivers licence and vehicle registration details
- criminal histories
- fingerprints, DNA profiles, photographs, videos
- Court Orders including Apprehended Violence Orders
- statements and police reports.

Health Information

Health information is a highly sensitive type of personal information which may reveal intimate and private details about a person. Any reference to health information in this plan means health information as defined in section 6 of the HRIP Act. 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 *Employee Health Records – Management and Storage Guidelines*. These guidelines can be found on the NSWPF Intranet under Human Resources Policies.

Examples of health information that NSWPF holds about employees include:

- medical files including 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.

What is not personal information or health information

There are certain types of information that are not considered personal information or health information and are therefore not protected by the Information Protection Principles and Health Privacy Principles.

The Information Protection Principles and Health 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 about an individual that is contained in a publicly available publication
- information about a witness who is included in a witness protection program under the *Witness Protection Act 1995* or who is subject to other witness protection arrangements made under an Act
- information about an individual arising out of, or in connection with, an authorised operation within the meaning of the *Law Enforcement (Controlled Operations) Act 1997*
- information about an individual arising out of a warrant issued under the *Telecommunications (Interception) Act 1979* of the Commonwealth
- 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 excluded by the PPIP Act and the HRIP Act.

2. Information Protection Principles and Health Privacy Principles

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

This section sets out how the NSWPF will comply with the Information Protection Principles and Health Privacy Principles where they apply to the NSWPF.

Collection

Collection for lawful purpose

NSWPF only collects personal and health 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 directly related to our functions.

Direct collection

NSWPF generally collects personal and health information directly from the person concerned.

Otherwise, we will only collect personal and health 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 in 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 and health information, you also have a responsibility to ensure that you provide accurate and truthful information.

Personal and health 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. 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 and health 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 health 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
- 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 Employee Self Service my performance system which is accessed through SAP, the NSWPF employee database system
- 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 the PPIP Act and the HRIP Act, 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 and health information that is held in SAP. This includes your payslips, leave balances, My Performance comments from your supervisor, timesheet, leave history including sick leave, 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 personnel file by application to their Commander/Manager. Former employees can similarly make application to access their own personnel file by contacting their last place of attachment (Command or Business Unit). A member of the public may formally request access to their personal and health information held by NSWPF, by writing to:

Privacy Manager, InfoLink, Communication Services Command
Locked Bag 5102 Paramatta NSW 2124

Please note that NSWPF are only bound to provide access to a person's personal and health information under the PPIP Act and HRIP Act respectively in connection with the exercise of the NSWPF's administrative or educative functions.

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 police event report through the NSW Police Force Community Portal.

An application can be made, and further information including applicable fees is provided at the following URL:

https://portal.police.nsw.gov.au/s/ctp-definition?reportType=CP_CTP

Please note that NSWPF may disclose information about motor vehicle accident or crime incident reports to an insurance company, an 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 a public register which enables members of the public to verify persons who are licensed under the *Security Industry Act 1997*.

OFFICIAL: SENSITIVE

Information contained on these registers can be verified at this link:

<https://verify.licence.nsw.gov.au/home/Security>

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, you can:

- apply online:
https://www.police.nsw.gov.au/online_services/requesting_information/gipaa
- write to:
NSW Police Force, InfoLink, Communications Services Command
Locked Bag 5102, PARRAMATTA NSW 2124
- lodge your application by hand to:
Police Headquarters, 1 Charles Street Parramatta NSW.
c/o InfoLink, Communication Services Command

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:

https://www.police.nsw.gov.au/safety_and_prevention/victims_of_crime

Alterations

If you request NSWPF to amend your personal or health 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 information is accurate; and
- the changes ensure that the 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. 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:

Office of General Counsel
NSW Police Force Locked Bag 5102
Paramatta NSW 2124

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

Use and Accuracy

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. The NSWPF has several methods to ensure the accuracy of information recorded, including:

- quality assurance conducted by staff when collecting and storing personal information
- policies and procedures to ensure information is recorded accurately and in accordance with the *State Records Act 1998*.

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 or health information for another purpose includes:

- where the individual involved has consented
- 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 and health 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 and health information include:

- it is necessary to prevent or lessen a serious and imminent threat to a person's life or 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
- work health safety laws require 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 of the PPIP Act.

Disclosure of sensitive personal information

The following personal information is considered sensitive information and is given particular recognition under the PPIP Act:

- 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.

3. 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 register which can be accessed on the NSWPF website:

- 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 of the conduct. 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 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:

Office of the General Counsel
NSW Police Force Locked Bag 5102
Paramatta NSW 2124

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

<https://www.ipc.nsw.gov.au/privacy/citizens/make-complaint-forms>

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, NSWPF may, but is not required to, accept your application.

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 the internal review is not completed within 60 days, you have the right to ask the NSW Civil and Administrative 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: <https://www.ipc.nsw.gov.au/privacy>
Email: ipcinfo@ipc.nsw.gov.au
Phone: 1800 472 679

Your right to external review

You have the right to apply to the NSW Civil and Administrative Tribunal (NCAT) 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.

You must apply to NCAT within 28 days of the internal review report.

Enquiries to NCAT can be made by calling 1300 006 228.

The location and contact details of all NCAT Registry offices can be found on NCAT's website:

<https://www.ncat.nsw.gov.au/about-ncat/contact-us.html>

Offences under the PPIP Act and the HRIP Act

Offences can be found in Part 8 of the PPIP Act and the HRIP Act.

It is an offence for the NSWPF to:

- intentionally disclose or use personal information accessed as a part of our work for an unauthorised purpose
- offer to supply personal information that has been disclosed unlawfully
- hinder the Privacy Commissioner or a staff member from doing their job.

5. The Mandatory Notification of Data Breach Scheme

Separate from this Privacy Management Plan, the NSWPF has a Data Breach Policy that sets out the NSWPF's procedures for managing a data breach, including the assessment and notification requirements for the Mandatory Notification of Data Breach Scheme (MNDB Scheme) under the PPIP Act.

6. Raising awareness of NSWPF privacy obligations

NSWPF has taken the following action to inform staff and members of the public about our obligations under the PPIP Act and the HRIP Act:

- publication of this Privacy Management Plan on NSWPF internal intranet site and external website
- publication of privacy articles in Police Monthly
- publication of a Data Breach Policy on NSWPF internal intranet site and external website
- development of a Data Breach Response Plan
- development of online Privacy and MNDB training package (PETE) for NSWPF employees
- development of a NSWPF internal online privacy resource page
- maintenance of a dedicated NSWPF Privacy Manager to manage, train, advise and liaise on privacy matters.