

Is that Private?

Privacy laws and the workplace



Introduction

- The *Privacy and Personal Information Protection Act 1998* (or PPIP Act) deals with how all NSW public sector agencies manage personal information.
- The Act includes:
 - 12 information protection principles (IPPs);
 - establishes methods for enforcement of privacy;
 - establishes a mechanism for complaints if a person think that their personal information has been mishandled;
 - sets out the role of the NSW Privacy Commissioner.
- The public sector agencies that are bound by the PPIP Act include Local Councils.

Introduction

- The 12 information protection principles contained in PPIP Act must be adhered to by all NSW public sector agencies (subject to exemptions).
- The principles are traditionally grouped under five main headings - collection, storage, access and accuracy, use, and disclosure.
- The Act also contains lawful exemptions from these principles, as well as the power to investigate and conciliate complaints concerning breaches.
- Remedies can be enforced against public sector agencies by the Administrative Decisions Tribunal.

Introduction

- The PPIP Act also allows the NSW Privacy Commissioner to investigate and conciliate privacy complaints made against any person or organisation. These investigations are not limited to complaints about mishandling of personal information.

Personal Information

- All of the 12 information protection principles seek to protect “personal information”.
- Personal information is defined in s4 to mean 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.
- Personal information includes such things as an individual’s fingerprints, retina prints, body samples or genetic characteristics.

Personal Information

- The definition of "personal information" is not limited to information concerning the "personal affairs" of a person, and is to be interpreted broadly
- Exclusions that may apply to a Local Council
- information about an individual that is contained in a publicly available publication
- information about an individual that is contained in a protected disclosure or that has been collected in the course of an investigation arising out of a protected disclosure
- information or an opinion about an individual's suitability for appointment or employment as a public sector official

Personal Information


- Personal information is held by a Local Council if the Local Council is in possession or control of the information, or the information is in the possession or control of a person employed or engaged by the Local Council in the course of such employment or engagement
- Personal Information is not “collected” by a Local Council if the receipt of the information by the Local Council is unsolicited.
- The term 'unsolicited' it refers to information that an agency finds itself receiving.

Personal Information

- Does not include information in the minds of employees as distinct from that contained in document form.
- Public agency is not responsible for use or disclosure of personal information by employee acting for a purpose extraneous to any purpose of the agency.

Information Protection Principles

Collection

1. Lawful (section 8)
 2. Direct (section 9)
 3. Open (section 10)
 4. Relevant (section 11)
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Information Protection Principles

➤ Storage

5. **Secure** (section 12)

➤ Access

6. **Transparent** (section 13)

7. **Accessible** (section 14)

8. **Correct** (section 15)

Information Protection Principles

➤ Use

9. Accurate (section 16)

10. Limited (section 17)

Information Protection Principles

➤ (e) Disclosure

11. Restricted (section 18)

12. Safeguarded (section 19)

Exemptions

➤ Exemptions

- There are four major sources of exemptions to the PPIP Act:
- exemptions written in the PPIP Act itself
- exemptions written in a regulation made by the Attorney General under the PPIP Act
- exemptions written in a privacy code of practice, made by the Attorney General under the PPIP Act
- exemptions written in a public interest direction, made by the Privacy Commissioner under the PPIP Act

Review

- Internal
- External

