



information
and privacy
commission
new south wales

Fact Sheet

Updated August 2020

About the IPC's functions

This fact sheet has been developed to inform agencies and citizens about the functions and role of the Information and Privacy Commission NSW (IPC).

Our purpose

The IPC provides a single point of service for information access and privacy rights for citizens of NSW, ensuring that agencies and individuals can access consistent information, guidance and training.

The IPC is committed to providing a holistic service to members of the public and agencies and strives for operational excellence. Taking a contemporary, proactive approach our regulatory efforts aim to ensure that the IPC and regulated entities operate in ways that advance information access and privacy rights for the citizens of NSW.

Our regulatory objectives reflect the strategic objectives set out in the [IPC Strategic Plan](#) to:

- contribute to social and economic wellbeing in NSW by leading, and
- advancing effective information access and privacy rights.

Our Commissioners and legislation

Elizabeth Tydd was appointed as the NSW Information Commissioner in December 2013. Ms Tydd is also the NSW Open Data Advocate and the IPC CEO.

The NSW Privacy Commissioner, Samantha Gavel was appointed in September 2017.

Our Commissioners administer the following legislation:

- *Government Information (Public Access) Act 2009* (GIPA Act)
- *Government Information (Public Access) Regulation 2018* (GIPA Regulation)
- *Government Information (Information Commissioner) Act 2009* (GIIC Act)
- *Privacy and Personal Information Protection Act 1998* (PPIP Act)
- *Privacy and Personal Information Protection Regulation 2014* (PPIP Regulation)

- *Health Records and Information Privacy Act 2002* (HRIP Act)
- *Health Records and Information Privacy Regulation 2022* (HRIP Regulation)

Who we regulate – our jurisdiction

The following types of NSW organisations are subject to our legislation and within the jurisdiction of the Commissioners:

- NSW Government Agencies
- Universities
- Local Government
- Ministers
- State Owned Corporations
- Public authorities

More information about the application of the GIPA Act is available in the IPC's [Fact Sheet: What is an Agency?](#)

In summary, privacy legislation applies to:

- NSW Government agencies
- Universities
- Ministerial Offices
- Statutory bodies representing the Crown, and
- NSW Local government.

In addition, private health service providers that collect, hold or use health information are also subject to the NSW privacy legislation. This includes a private sector person.

What we do

Privacy

The Privacy Commissioner's functions¹ include to:

- oversee the conduct of internal reviews by agencies
- deal with complaints about privacy related matters
- assist public sector agencies in preparing and implementing privacy management plans, and
- prepare and publish guidelines relating to the protection of information and health privacy.

The Privacy Commissioner's role includes promoting privacy as well as preparing and publishing reports recommending legislative, administrative or other action

¹ Section 36 PPIP Act, Section 58 HRIP Act

in the interests of privacy, and conducting inquiries and investigations into privacy related matters.

In some circumstances there is overlapping privacy legislation in relation to complaints against private health service providers with the Office of the Australian Information Commission (OAIC).

If your complaint is about the actions of a private health service provider we may ask you to decide if you wish to make your complaint under either the NSW or Commonwealth privacy legislation. Once you choose the jurisdiction you would like your complaint to be dealt under, you cannot seek further assistance from other jurisdictions if you are later dissatisfied with the outcome of your complaint.

More information about the application of Commonwealth information access and privacy laws is available at the [OAIC's website](#).

Information access

The Information Commissioner upholds and protects information access rights.

The Information Commissioner's functions² include the power to:

- review decisions made by NSW Government agencies and deal with complaints about information access
- undertake investigations, issue guidelines and other publications to assist agencies and citizens in understanding the operation of the GIPA Act
- monitor, audit and report on the exercise of agency functions and compliance with the GIPA Act, and
- make reports and provide recommendations to the NSW Attorney General about proposals for legislative or administrative change.

Additionally, the Information Commissioner provides feedback about the legislation, relevant developments in the law and technological change as it impacts on the right to information access.

Handling of out-of-jurisdiction matters

The IPC will assist in identifying matters that fall within our responsibilities.

The IPC will refer out-of-jurisdiction matters to the appropriate organisation where we are unable to provide the service requested, including where we are asked to:

- review a decision or consider a complaint about a Commonwealth government agency or an agency in another state/territory
- review a decision or consider a complaint about a non-government organisation or private company (e.g. a bank or real estate agency), unless it is

undertaking a government function on behalf of a government agency

- consider or investigate complaints that are:
 - maladministration (NSW Ombudsman)
 - a serious and substantial waste of public money (Auditor General)
 - corrupt conduct (ICAC)
 - misconduct of a public official (the public sector agency where the official is employed)
 - complaints about records management of Government organisations (State Records NSW)
 - prosecute one of the offences in the GIPA Act (DPP)
 - provide advice related to individual rights and obligations in relation to surveillance laws. You can obtain general information about the *Workplace Surveillance Act 2005* on the [IPC website](#). You may also contact [LawAccess](#) for further information about surveillance. The IPC does not hold or have access to information held by the regulated entities described above. Therefore, if you want information from another agency or service provider you should apply direct to them.

If you are unsure about whether your issue or concern falls under our jurisdiction please contact the IPC directly (see **More Information** below).

Our values

The IPC operates within a Values Framework, which was developed in line with the Government Sector Core Values. The IPC's values are:

- Accountable
- Service focused
- Proactive
- Independent
- Integrity and Trust

Our Service Charter

The IPC Service Charter outlines our commitment in providing you with the best service we can and to ensuring that you are able to provide feedback by:

1. Delivering the best standard of service that reflects our values
2. Ensuring that you can provide us with feedback on the service you received, how we treated you and how we dealt with your information.

² Section 17 GIPA Act

How to complain to us

The IPC welcomes feedback on its performance. In accordance with the IPC's Values Framework the IPC aims to provide a high standard of service. This means you can expect us to:

- be professional, courteous and respectful
- provide you with reasonable assistance
- communicate clearly
- provide clear reasons for any decisions or actions

If you are dissatisfied with the level of service you have received from us, you may wish to make a complaint. Further information is available in the IPC's [Fact Sheet: How to make a complaint about us](#).

More information

Fact sheets related to IPC's functions:

- [IPC Privacy Statement of Jurisdiction](#)
- [Information Commissioner's right of appearance in the NSW Civil and Administrative Tribunal](#)
- [Privacy Commissioner's right of appearance in the NSW Civil and Administrative Tribunal](#)

More information about the application of Commonwealth information access and privacy laws is available at the [OAIC's website](#).

More information about the IPC's functions and operations can be found in our [Annual Reports](#).

For more information

Contact the Information and Privacy Commission NSW (IPC):

Freecall: 1800 472 679
Email: ipcinfo@ipc.nsw.gov.au
Website: www.ipc.nsw.gov.au

NOTE: The information in this fact sheet is to be used as a guide only. Legal advice should be sought in relation to individual circumstances.