

Redacting signatures on public-facing documents

Increasingly, the public sector is publishing information in digital form. This brings with it the benefits of greater public access to information but can also create the unintended harm of potentially disclosing personal information for which there is an overriding public interest against disclosure under the *Government Information (Public Access) Act 2009* or disclosing personal information in breach of an information protection principle (IPP) under the *Privacy and Personal Information Protection Act 1998* (PPIP Act). Personal information includes the signatures of public servants. The purpose of this guidance is to provide public sector agencies with a framework to consider the redaction of signatures from information to be made publicly available and provide an overview of contemporary public interest considerations, including cybercrime and the risk of identity theft.

Public facing documents are documents that are available to the general public, including documents published on an agency's website. Public facing documents may include:

- information provided in response to an access application under the GIPA Act
- information provided in relation to an informal request for information
- information an agency decides to proactively release
- open access information which is to be made publicly available free of charge on an agency's website (unless to do so would impose unreasonable costs on the agency)
- submissions and reports.

Public facing documents often contain personal information, including both physical and digital signatures of public servants. Digital signatures are becoming more prevalent as agencies seek to save

time, reduce operational costs and increase cyber security.

When making decisions to disclose signatures on public facing documents, agencies should keep in mind the purpose of the disclosure provisions in the GIPA Act and GIPA Regulation. These provisions are designed to assist the public to be informed of government decisions, and by promoting public disclosure, ensure transparent decision-making. They do not operate to undermine privacy protections by making individuals' personal information available to the world at large. The public interest test under the GIPA Act, which requires agencies to consider whether personal information, such as signatures, should be deleted if inclusion of the information would result in there being an overriding public interest against disclosure works to protect privacy while also promoting information access rights.

The definition of personal information differs between the PPIP Act and GIPA Act

The PPIP Act defines personal information as 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.¹ The PPIP Act contains a number of exclusions to this definition, including:

- information about an individual that is contained in a publicly available publication
- information which may have been obtained or accessed for law enforcement or public safety purposes
- certain information in relation to adoption
- Cabinet information
- public interest disclosure information
- requests for information relating to suitability for employment of a public servant.²

¹ PPIP Act section 4(1)

² PPIP Act section 4(3)

The definition of personal information under the GIPA Act is very similar to the PPIP Act however, fewer exclusions apply.³ Under the GIPA Act, the following is not considered personal information:

- information about an individual who has been dead for more than 30 years
- information about an individual (comprising the individual's name and non-personal contact details) that reveals nothing more than the fact that the person was engaged in the exercise of public functions
- information about an individual that is of a class, or is contained in a document of a class, prescribed by the regulations for the purposes of clause 4(3) of the Act.⁴

Is a signature personal information under the PPIP Act and GIPA Act?

A signature is information about an individual whose identity is apparent or can reasonably be ascertained from the information and therefore falls within the scope of personal information under both the PPIP Act and GIPA Act. If a request for personal information is made or processed under the PPIP Act, agencies must apply the definition of personal information under the PPIP Act. If a request for personal information is specifically made and processed under the GIPA Act, the agency must apply the definition of personal information under the GIPA Act. However, a signature is not personal information where one of the exclusions above applies. Consequently, a signature that is not personal information under the PPIP Act due to an exclusion may still be personal information under the GIPA Act which contains fewer exclusions. For example, a signature contained in a publicly available publication may not be personal information under the PPIP Act however, the same signature may fall within the scope of personal information under the GIPA Act because information about an individual that is contained in a publicly available publication is not an exclusion under the GIPA Act.

Redacting signatures on information provided in response to requests

If the applicant specifies which legislation they are making the application under, the agency should process the application under that legislation.

If the applicant does not specify which legislation they are making the request under, it would be good practice for an agency to suggest to the applicant that

it be processed under the PPIP Act wherever possible because that means no cost to the applicant.

If there are different timeframes for processing requests under the two Acts, agencies should let the applicant know.

PPIP Act

If the applicant for the information is the person the information is about or their authorised representative, the application may be dealt with under the PPIP Act. In these circumstances, it is unnecessary for an agency to redact signatures as the information is the applicant's personal information.

GIPA Act

If the applicant is a third party, the application may only be dealt with under the GIPA Act, in which case the agency will need determine whether there is a public interest against disclosure of the signature by applying the public interest test (see the [IPC Fact Sheet – What is the public interest test?](#) for further information). Section 14 of the GIPA Act lists public interest considerations against disclosure which may be taken into account. However, section 14 is not a limitation to disclosure, but rather, lists considerations that must be weighed against the strong presumption in favour of disclosure.

Public interest test

Disclosing information which reveals an individual's personal information is a public interest consideration against disclosure under clause 3(a) of the Table to section 14 of the GIPA Act, and will apply if disclosure of information "could reasonably be expected" to have this specified effect. Disclosing information that would reasonably be expected to contravene an IPP in the PPIP Act is also a public interest consideration against disclosure under clause 3(b) of the Table to section 14 of the GIPA Act.

To determine whether a signature should be redacted on information to be released in response to a formal access application, the agency should apply the public interest test. This requires the agency to consider whether the signature is the personal information of a person other than the person requesting the information,⁵ whether release would contravene an IPP under the PPIP Act,⁶ and any contemporary issues that present new considerations under the public interest test, including the risk of cybercrime and identify theft. The agency must then balance the considerations weighing in favour of and against disclosure.

³ GIPA Act clause 4(1) of Schedule 4

⁴ GIPA Act clause 4(3) of Schedule 4

⁵ GIPA Act section 14, clause 3(a)

⁶ GIPA Act section 14, clause 3(b)

If an agency determines that there is an overriding public interest against disclosure of a signature, the signature should be redacted before the information is released.

An agency can delete information from a copy of a record to which access is to be provided in response to an access application (so as to provide access only to the other information that the record contains) either because the deleted information is not relevant to the information applied for or because (if the deleted information was applied for) the agency has decided to refuse to provide access to that information.⁷

Alternatively, an agency can invite an access applicant to agree to amend their access application to exclude signatures and other personal information from the request.⁸

Agencies should also take the above steps when deciding whether a signature should be redacted on information to be released in response to an informal request for information. However, while a person who makes a formal access application has a legally enforceable right to be provided with access to the information,⁹ agencies are not required to release information in response to an informal request.¹⁰ Where an agency receives an informal request for information, the agency may request the applicant to make a formal access application, especially where the request seeks the information of third parties.

Redacting signatures on information to be released in response to informal requests

The GIPA Act allows an agency to facilitate public access to government information contained in a record by deleting matter from a copy of the record to be released in response to an informal request if inclusion of the matter would otherwise result in there being an overriding public interest against disclosure of the record.¹¹ The agency must conduct the public interest test each time it is considering informal release of a particular record.

Redacting signatures on open access information

Information which an agency is required to make available to the public as open access information may contain signatures.¹² For example, an agency's annual report is open access information, and the CEO

of an agency may include their signature with the annual report.

The GIPA Act provides that agencies can facilitate access to open access information by deleting matter from a copy of the record to be made publicly available if inclusion of the matter would otherwise result in there being an overriding public interest against disclosure of the record.¹³ Therefore, as noted above, the agency must conduct the public interest test and determine whether there is an overriding public interest against disclosure of a signature on information required to be published as open access information.

Redacting signatures prior to authorised proactive release of information

In addition to imposing mandatory requirements on agencies to proactively release open access information and formally provide information in response to access applications received under the GIPA Act, the GIPA Act enables agencies to authorise the proactive release of information to promote open government. Under the GIPA Act, an agency can make any government information held by the agency publicly available unless there is an overriding public interest against disclosure.¹⁴ For example, an agency may proactively release submissions that it makes in response to a public inquiry by publishing them on the agency's website.

Again, an agency can delete matter from a copy of the record to be proactively released if inclusion of the matter would otherwise result in there being an overriding public interest against disclosure of the record.¹⁵ Alternatively, the agency may decide not to include signatures in its public submissions.

Protecting signatures against unauthorised access, use, modification or disclosure

As government increasingly adopts digital technology it is essential that agencies maintain robust privacy protection information systems. The PPIP Act specifically imposes an obligation on NSW public sector agencies to ensure that personal information, such as signatures, is protected, by taking such security safeguards as are reasonable in the circumstances against loss, unauthorised access, use,

⁷ GIPA Act section 74

⁸ GIPA Act section 49(1)

⁹ GIPA Act section 9(1)

¹⁰ GIPA Act section 8(3)

¹¹ GIPA Act section 8(5)

¹² GIPA Act section 6(1)

¹³ GIPA Act section 6(5)

¹⁴ GIPA Act section 7(1)

¹⁵ GIPA Act section 7(4)

modification or disclosure and against all other misuse.¹⁶

Identity theft is a type of fraud that involves the compromise of identifying information, such as signatures, that may or may not result in the misuse of such information by another person without authorisation.

Adopting clear processes for redacting signatures from public facing documents is vital in protecting signatures against misuse and reducing the risk of identity theft.

Please see the attached checklist at **Annexure A** which can assist your agency to implement this practice guide.

Other useful resources

Go to our website for more guidance on information access and tips, including:

- [Fact Sheet on processing requests for personal information](#)
- [Fact Sheet on open access](#)
- [Fact Sheet on de-identification of personal information](#)
- [Fact Sheet on reasonably ascertainable identity](#)
- [Fact Sheet on proactive authorised release of information](#)
- [Checklist on Open access information under the GIPA Act and GIPA Regulation](#)
- [Information Access Guideline 3 on personal information contained in development applications](#)
- [Information Access Guideline 4 on personal information as a public interest consideration under the GIPA Act](#)

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.

¹⁶ PPIP Act section 12

Annexure A

Checklist of agency considerations (tick applicable)**Is the signature:**

- ☐ information requested under the PPIP Act (applicant must be the person the information is about or their authorised representative)
- ☐ information requested informally under the GIPA Act
- ☐ information requested via an access application under the GIPA Act
- ☐ information which an agency is required to release as open access information under the GIPA.

Does the signature fall within the following definition of personal information under the PPIP Act and GIPA Act?

- ☐ 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.

If the signature is information requested under the PPIP Act, do any of the following exclusions to the definition of personal information under the Act apply?

Personal information under the PPIP Act does not include any of the following:

- ☐ information about an individual who has been dead for more than 30 years
- ☐ 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 a warrant issued under the *Telecommunications (Interception) Act 1979* of the Commonwealth
- ☐ information about an individual that is contained in a public interest disclosure within the meaning of the *Public Interest Disclosures Act 1994*, or that has been collected in the course of an investigation arising out of a public interest disclosure
- ☐ 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 Royal Commission or Special Commission of Inquiry
- ☐ information about an individual arising out of a complaint made under Part 8A of the *Police Act 1990*
- ☐ information about an individual that is contained in Cabinet information or Executive Council information under the *Government Information (Public Access) Act 2009*
- ☐ information or an opinion about an individual's suitability for appointment or employment as a public sector official
- ☐ information about an individual that is obtained about an individual under Chapter 8 (Adoption information) of the *Adoption Act 2000*
- ☐ information or an opinion about an individual's suitability for appointment or employment as a public sector official
- ☐ information about an individual that is of a class, or is contained in a document of a class, prescribed by the regulations for the purposes of this subsection.

A request under the PPIP Act can only be made for the applicant's personal information. If one of the above exclusions applies, the signature is not personal information and cannot be requested under the PPIP Act.

If the signature is information to be released under the GIPA Act, do any of the following exclusions to the definition of personal information under the Act apply?

Information contained in the current version and the most recent previous version of the following records:

- ☐ information about an individual who has been dead for more than 30 years

- ☐ information about an individual (comprising the individual's name and non-personal contact details, including the individual's position title, public functions and the agency in which the individual works) that reveals nothing more than the fact that the person was engaged in the exercise of public functions
- ☐ information about an individual that is of a class, or is contained in a document of a class, prescribed by the regulations for the purposes of this subclause.

If one of the above exclusions applies, the signature is not personal information and the public interest considerations clauses 3(a) and 3(b) to the Table to section 14 of the GIPA Act do not apply.

If the definition of personal information under the GIPA Act applies to the signature, and none of the above exclusions apply, an agency should:

- ☐ undertake the public interest test, balancing the public interest considerations weighing in favour of and against disclosure. In undertaking the public interest, the agency should:
 - ☐ have particular regard to the public interest considerations against disclosure in clauses 3(a) and 3(b) to the Table to section 14 of the GIPA Act
 - ☐ if the signature is the signature of a third party, the agency must take such steps (if any) as are reasonably practicable to consult the third party to ascertain whether they have any objections to the release of their signature. The agency must take any objections into account in the course of determining whether there is an overriding public interest against disclosure of the signature.

If an agency determines that there is an overriding public interest against disclosure of a signature, the signature should be redacted before the information is released.

Alternatively, an agency can invite an access applicant to agree to amend the scope of their access application to exclude signatures and other personal information from the request.

Is the signature contained in information to be made publicly available in one of the following ways?

- ☐ open access information
- ☐ information released proactively
- ☐ information released in response to an informal request for information.

An agency can delete signatures from a copy of a record to be released in one of the above three ways if inclusion of the signatures would otherwise result in there being an overriding public interest against disclosure of the record.