

Direction relating to the Disclosure of Information to Credit Reporting Agencies

As Privacy Commissioner appointed under Part 4, Division 1 of the *Privacy and Personal Information Protection Act 1998* (the PPIP Act), I Elizabeth Coombs, hereby direct pursuant to section 41 of the PPIP Act that:

Overview

1. This is a direction made under section 41(1) of the PPIP Act. It should be read in conjunction with that Act.

Interpretation

2. For the purpose of this Direction:
 - "**credit reporting agency**" has the meaning given to that term by the *Privacy Act 1988 (Cth)*.
 - "**default judgment debtor**" means a person who has been the subject of a default judgment in the Local Court, given in accordance with Part 16 of the *Uniform Civil Procedure Rules 2005 (NSW)* or equivalent provisions.
 - "**Department**" means the Department of Justice and all agencies within that Department (including courts).
 - "**personal information**" has the same meaning as in section 4 of the PPIPA Act.

Background

3. The need for an exemption from compliance with the relevant privacy principles within the *PPIP Act* concerning the use of information arises because the Department may need to compile reports about default judgment information before sending it to a credit reporting agency.

Public Interest

4. This Direction has been made to allow the Department to provide personal information to credit reporting agencies to enable lenders to be better informed about the creditworthiness of individuals who have been subject to default judgments. There is a public interest in providing credit risk information to credit lenders and credit assistance providers prior to the making of a credit decision.

Under responsible lending legislation, credit lenders and credit assistance providers must make reasonable inquiries about a consumer's requirements and objectives and financial circumstances. Credit lenders and credit assistance providers must take steps to verify the consumer's financial situation.

I am satisfied that the public interest in making this Direction is greater than the public interest in requiring the Department to comply with the Information Protection Principles referred to in the provisions set out below.

Application

5. This Direction is intended to cover the Department of Attorney General and Justice, including business units and courts within the Department, as a public sector agency as defined in section 3 of the PPIP Act.

Provisions

6. This Direction applies to the use and disclosure of personal information for the purpose of disclosing personal information recorded as a detail of the judgment debt, to a credit reporting agency, where that disclosure is subject to conditions that:
 - (a) the agency not retain details of a judgment debt which remains unsatisfied for a period of more than 5 years; and
 - (b) if a judgment debt is satisfied, the agency not retain details of a judgment debt for more than two years from the date that debt is satisfied.
7. The Department need not comply with sections 17 or 18 of the PPIP Act, *if* the Department is using or disclosing personal information concerning a default judgment debtor to a credit reporting agency.

Health Information

8. This Direction does not apply to 'health information', as defined in section 6 of the *Health Records and Information Privacy Act 2002 (NSW)*.

Duration

9. This Direction has effect from **1 July 2015** to **31 December 2015**, or until legislative amendments are made to incorporate this Direction, whichever is earlier.

Signed by me on **19 June 2015**

Elizabeth Coombs

Privacy Commissioner