

## Privacy Management Plan

NUMBER TI-G-155

VERSION 1

AUTHORISED BY Director General

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ISSUED BY Finance, Strategy & Operations

EFFECTIVE DATE 20/01/2014

### Policy Statement

NSW Trade & Investment takes the privacy of our staff and the people of NSW seriously, and we will protect privacy with the use of the Privacy Management Plan as a reference and guidance tool.

The Privacy and Personal Information Protection Act 1998 (NSW) (PPIP Act) requires each public sector agency to prepare and implement a Privacy Management Plan (the Plan). Under s33 of the PPIP Act, the Plan must include

- policies and practices to ensure compliance with the requirements of the PPIP Act or the Health Records and Information Privacy Act 2002 (NSW) (HRIP Act);
- dissemination of those policies and practices to persons within the agency;
- internal review procedures;
- other matters considered relevant by the agency in relation to privacy and the protection of personal information held by the agency.

### Scope

This plan applies to NSW Trade and Investment. It does not automatically apply to the Cultural Institutions, Local Lands Services, Destination NSW or other statutory authorities within the cluster, but may be adopted by those bodies.

The plan provides guidance on PPIP Act obligations. You are encouraged to contact the Governance & Information Access Unit for assistance regarding specific issues arising under the PPIP Act.

### Requirements

As the State's economic development agency NSW Trade & Investment

- promotes trade and investment locally and internationally
- provides business support, technical knowledge and science and research capabilities to industries
- supports profitable food and fibre industries, and best practice natural resource management
- secures and regulates energy and mineral resources for NSW
- supports tourism, hospitality, racing and cultural sectors.

#### *Types of Personal Information held*

You have obligations whenever you collect or deal with personal information. Personal information means information or opinions about an identifiable individual. It includes material recorded in a database or a form. There are some exclusions from the definition of personal information - if you are not sure if you are dealing with personal information please contact the Governance & Information Requests Unit.

The types of personal information NSW Trade & Investment holds includes for example:

- correspondence records including
  - contact details of people who have phoned, written to or emailed the department
  - details of the nature of their correspondence
  - copies of replies to correspondence
  - records of who (if anyone) correspondence referred to
- financial information (types of payment made for NSW Trade & investment Services)
- health information provided in response to mining incidents
- information obtained during investigations, including names of people involved, contact details, drivers licence and photos

- health information provided in response to food complaints
- personal information of employees such as personnel files, work health and safety records and investigation reports

#### *Privacy Principles*

Privacy Principles refers to the combination of the 12 information protection principles (IPPs) set out in sections 8 to 19 of the PPIP Act and the 15 Health Privacy Principles (HPPs) in schedule 1 of the HRIP Act. Our privacy obligations have been condensed into one set of 12 privacy principles to be followed by staff.

#### *1. NSW Trade & Investment will not collect personal information unless*

- it is reasonably necessary to be collected for a lawful purpose directly related to our functions

Staff should use the Information & Privacy Commission's (IPC) identifying privacy issues checklist when assessing the need to collect personal information.

#### *2. NSW Trade & Investment will collect personal information directly from the individual it relates to unless*

- they have authorised information to be collected from someone else; or
- the information relates to a person less than 16 years of age and has been provided by a parent or guardian

#### *3. NSW Trade & Investment will inform people*

- why their personal information is being collected
- what it will be used for
- who it will be disclosed to
- how people can access and amend their personal information
- whether the information is required or voluntary and any consequences if people do not provide their personal information

When collecting personal information staff should use a privacy statement; failure to do so may prevent agencies from carrying out their administration functions. A template is given in Appendix A.

#### *4. NSW Trade & Investment will ensure the collection of personal information does not intrude to an unreasonable extent on the affairs of the individual.*

In determining what personal information is required, staff will ensure that it is:

- relevant and applicable to the function or purpose for which it is being collected,
- is not excessive, and
- is accurate, up to date and complete.

Staff responsible for or considering implementing CCTV should also read the 'NSW Government Policy Statement and Guidelines for the use of CCTV in public places'.

#### *5. NSW Trade & Investment will store personal information securely and protect it from unauthorised use, access and disclosure.*

Personal information will be kept for no longer than is reasonably necessary. Personal information will be stored, used, retained and disposed of in accordance with

- NSW Trade & Investment Records Management Policy TI-A-153
- NSW Government Digital Information Security Policy M2012-15
- Premiers Memorandum M2007-08 Efficient and Cost Effective Management of Records
- NSW State Records standard on the appraisal and disposal of State Records
- State Records Act 1998

#### *6. NSW Trade & Investment is transparent about the information we hold. People can contact us to ask*

- if we hold their personal information
- the nature of the information
- the main purpose for which the information is used
- about their right to access their own personal information

7. *NSW Trade & Investment will allow people to access their own personal information without unreasonable delay or expense.*

People can make a request by contacting the Governance & Information Requests Unit.

8. *NSW Trade & Investment will allow people to update, correct or amend their personal information where necessary.*

People may be required to verify their identity.

9. *Before using personal information NSW Trade & Investment will ensure that it is relevant, accurate, up to date and not misleading.*

10. *NSW Trade & Investment will only use personal information for the purpose it was collected unless*

- the person has consented to the use of their information for another purpose, or
- the other purpose for which the information is used is directly related to the purpose for which it was collected, or
- use of the information is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual to whom the information relates or of another person.

11. *NSW Trade & Investment will not disclose personal information or sensitive personal information to another person or body without consent unless*

- the disclosure is directly related to the purpose for which the information was collected and the agency has no reason to believe the individual concerned would object to disclosure, or
- the person concerned is reasonably likely to have been aware, or has been made aware, that information of that kind is usually disclosed to that person or body, or
- use of the information is reasonably necessary to prevent or lessen a serious and imminent threat to the life or health of the individual to whom the information relates or of another person.

NSW Trade & Investment has Memorandum of Understanding agreements (MOUs) in place with other agencies. The MOUs provide guidelines for exchanging specific information. Any personal information exchanged is subject to privacy legislation. For more information about specific MOU agreements, please contact the relevant agency within NSW Trade & Investment. You will find contact details on our website [www.trade.nsw.gov.au/contact](http://www.trade.nsw.gov.au/contact)

12. *NSW Trade & Investment will not disclose personal information to a jurisdiction outside NSW or to a Commonwealth agency unless a relevant privacy law applying to the personal information concerned is in force in that jurisdiction or applies to that Commonwealth agency.*

#### *Exemptions*

- Investigative agencies

There are limited exceptions to the IPPs to enable complaint handling or investigative functions. Staff working in those areas are encouraged to contact the Governance & Information Requests Unit for assistance.

- Statutory exemptions

Non-compliance with the IPPs may be expressly or impliedly authorised in other legislation. It is often difficult to work out the extent to which non-compliance is authorised. Staff are encouraged to contact the Legal Branch for assistance.

- Public Registers

NSW Trade & Investment must not disclose personal information held on a public register unless the agency is satisfied that it is to be used for a purpose relating to the Act under which the register is kept. A person who applies to inspect personal information contained in the public register may be required to provide a statutory declaration as to the intended use of any information obtained from the inspection.

For more information about specific public registers or to request details on a public register be suppressed from disclosure or publication, please contact the relevant agency within NSW Trade & Investment. You will find contact details on our website [www.trade.nsw.gov.au/contact](http://www.trade.nsw.gov.au/contact)

- Public Interest Directions

A public interest direction modifies the application of the IPPs or code of practice to particular projects or activities of the agency. A public interest direction does not override any other laws, contracts or

agreements which may already affect an agency, such as obligations to protect confidentiality or secrecy.

Public Interest Directions which affect NSW Trade & Investment

- Direction on Disclosures of Information by Public Sector Agencies for Research Purposes
- Direction on Processing of Personal Information by Public Sector Agencies in relation to their Investigative functions
- Direction on Information Transfers between Public Sector Agencies

All public interest directions are available on the Information & Privacy Commissioners website [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au).

## Procedures

### *Internal Reviews*

People have the right to seek an internal review under Part 5 of the PPIP Act if they think NSW Trade & Investment has breached the PPIP Act or HRIP Act relating to their own personal or health information. We encourage people to try to resolve privacy issues with us informally before going through the review process or making a complaint to the Privacy Commissioner. We recommend individuals contact the Governance & Information Requests Unit before lodging an internal review to discuss the issue.

#### 1. *An application for internal review must*

- be in writing
- be addressed to NSW Trade & Investment
- include a postal address in Australia to which correspondence may be sent
- be submitted to NSW Trade & Investment within 6 months from the time the applicant first became aware of the conduct they want reviewed.

Applicants for internal review are encouraged to use the NSW Trade & Investment application form (Appendix B).

#### 2. *The internal review will be undertaken by an officer who*

- was not involved in any matter relating to the conduct the subject of the application
- is an employee of NSW Trade & Investment
- is qualified to deal with the subject matter of the complaint

#### 3. *NSW Trade & Investment will advise the applicant in writing*

- within 5 working days that their application for internal review has been received
- within 60 working days the findings of the review and the reasons for those findings
- any proposed action to be taken as a result of the findings
- their right to have decision reviewed by NSW Civil & Administrative Tribunal (NCAT)

#### 4. *NSW Trade & Investment is required to notify the Privacy Commissioner*

- when an internal review request is received by the department,
- the progress of the review
- the findings of the review and proposed action

The Privacy Commissioner is entitled to make submissions to NSW Trade & Investment outlining their views on the matter.

#### 5. *A person unhappy with the outcome of an internal review can*

- lodge a complaint with the Privacy Commissioner,
- apply for an external review by the NCAT.

## Roles and responsibilities

- All staff must comply with the PPIP and HRIP Acts.
  - Under s62 of the PPIP Act, it is a criminal offence, punishable by up to two years' imprisonment, for any employee (or former employee) to intentionally use or disclose any personal information about another person, to which the employee has or had access in the exercise of his or her official functions, except as necessary for the lawful exercise of his or her official functions

- The Governance and Information Requests Unit is NSW Trade & Investment's contact for privacy matters. The unit is responsible for the ongoing training and education of staff about their obligations under the PPIP Act and HRIP Act by
  - ensuring this Plan remains up to date
  - informing staff of any changes to the Plan
  - conducting or arranging staff training sessions on privacy matters as required
- The Organisational Performance Unit within People Learning and Culture is responsible for ensuring this Plan is provided to all new employees as part of the online induction.

### Definitions

- Collection of personal information means the way NSW Trade & Investment acquires the information. Collection can be by any means. Examples include a written form, a verbal conversation, an online form, or taking a picture with a camera.
- Disclosure means when we provide personal information to an individual or body outside the Department, including by publishing it on any media.
- Health information is a specific type of personal information which includes information or opinion about the physical or mental health or disability of an individual. Health information often contains more private and comprehensive details about an individual that cannot be found in any other record and the inappropriate use or disclosure of health information can have very serious consequences.
- Personal information is any information or opinion that relates to a person who can be identified from the information. Personal information does not include
  - information contained in a publicly available publication
  - information about an individual's suitability for public sector employment
  - information about people who have been deceased for more than 30 years
  - a number of exceptions relating to law enforcement investigations.
- Public register means a register of personal information that is required by law to be, or is made, publicly available or open to public inspection (whether or not on payment of a fee)
- Sensitive personal information means personal information that is also about a person's race, ethnicity, religion, sexuality, political or philosophical beliefs or membership of a trade union.

### Legislation

Health Records and Information Privacy Act 2002 (NSW)  
 Government Information (Public Access) Act 2009 (NSW)  
 Privacy and Personal Information Protection Act 1998 (NSW)  
 State Records Act 1998 (NSW)  
 Workplace Surveillance Act 2005 (NSW)

### Related policies

Code of conduct TI-A-130  
 Complaints handling policy TI-A-134  
 Records Management Policy TI-A-153

### Other related documents

- Information & Privacy Commission website [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au)
  - identifying privacy issues checklist
  - Fact Sheet - Identification (ID) scanning
- Premiers Memorandum M2007-08 Efficient and Cost Effective Management of Records
- NSW State Records standard on the appraisal and disposal of State Records
- NSW Government Digital Information Security Policy M2012-15
- NSW Government Policy Statement and Guidelines for the use of CCTV in public places

### Revision history

Version	Date issued	Notes	By
1	20/01/2014	N/A	Manager Governance & Information Requests

### Review date

20/01/2017

## Contact

NSW Trade & Investment  
Governance & Information Requests Unit  
GPO Box 7060  
Sydney NSW 2001  
(02) 9995 0911  
(02) 9995 0676  
(02) 9995 0915  
[privacy@trade.nsw.gov.au](mailto:privacy@trade.nsw.gov.au)  
[www.trade.nsw.gov.au](http://www.trade.nsw.gov.au)

Information & Privacy  
Commission  
GPO Box 7011  
Sydney NSW 2000  
1800 472 679  
[ipcinfo@ipc.nsw.gov.au](mailto:ipcinfo@ipc.nsw.gov.au)  
[www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au)

NSW Civil and  
Administrative Tribunal  
Level 19, John Maddison  
Tower  
86-90 Goulburn Street,  
Sydney NSW 2000  
(02) 9377 5711  
[www.adt.lawlink.nsw.gov.au](http://www.adt.lawlink.nsw.gov.au)

## **Appendix A**

### **Privacy Statement**

The personal information you provide on this form is subject to the Privacy & Personal Information Protection Act 1998. It is being collected by NSW Trade & Investment and will be used for purposes related to \_\_\_\_\_.

NSW Trade & Investment will not disclose your personal information to anybody else unless authorised by law.

The provision of this information is \_\_\_\_\_ *[specify if the information is voluntary or required to be supplied]*. If you choose not to provide the requested information we may not be able to \_\_\_\_\_ *[list consequences, eg process your application]*.

You have the right to request access to, and correct details of, your personal information held by the department. Further information regarding privacy can be obtained from the NSW Trade & Investment website at [www.trade.nsw.gov.au/legal/privacy](http://www.trade.nsw.gov.au/legal/privacy)

*[This Privacy Statement is a guide, to discuss or request assistance contact the Governance & Information Requests Unit.]*



What date did the conduct occur? (please be as specific as you can)

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What date did you first become aware of this conduct?

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You need to lodge this application within six months of the date you first became aware of the conduct. If more than six months has passed, you can ask for special permission to lodge a late application. Please explain why you have taken more than six months to make your complaint.

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What effect did the conduct have on you?

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What effect might the conduct have on you in the future?

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What would you like to see the agency do about the conduct? (for example: an apology, a change in policies or practices, your expenses paid, damages paid to you, training for staff, etc)

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### **Privacy Statement**

The personal information you provide on this form is subject to the Privacy & Personal Information Protection Act 1989. It is being collected by NSW Trade & Investment and will be used for purposes related to the internal review of your privacy complaint.

NSW Trade & Investment will not disclose your personal information to anybody else unless authorised by law.

The provision of this information is required to be supplied. If you choose not to provide the requested information we may not be able to process your internal review.

You have the right to request access to, and correct details of your personal information held by the department. Further information regarding privacy can be obtained from the NSW Trade & Investment website at [www.trade.nsw.gov.au/legal/privacy](http://www.trade.nsw.gov.au/legal/privacy).

### **Lodgement of form**

Please post completed forms to:

Governance & Information Unit  
NSW Trade & Investment  
GPO Box 7060  
Sydney NSW 2001

Alternatively please email completed forms to:

[privacy@trade.nsw.gov.au](mailto:privacy@trade.nsw.gov.au)