

Privacy Management Plan

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1. Abbreviations and definitions

Abbreviations

AEC	Australian Electoral Commission
EFED Act	<i>Election Funding, Expenditure and Disclosures Act 1981</i>
GIPA Act	<i>Government Information (Public Access) Act 2009</i>
GSE Act	<i>Government Sector Employment Act 2013</i>
HPPs	Health Privacy Principles
HRIP Act	<i>Health Records and Information Privacy Act 2002</i>
IPC	NSW Information & Privacy Commission
IPPs	Information Protection Principles
IR Act	<i>Industrial Relations Act 1996</i>
LG Act	<i>Local Government Act 1993</i>
LOGO Act	<i>Lobbying of Government Officials Act 2011</i>
PE&E Act	<i>Parliamentary Electorates and Elections Act 1912</i>
PPIP Act	<i>Privacy and Personal Information Protection Act 1998</i>
NSWEC	NSW Electoral Commission
WHS Act	<i>Work Health and Safety Act 2011</i>

Definitions

Personal health information includes information or an opinion about:

- the physical or mental health or disability of an individual;
- information about a health service provided or to be provided to an individual; or
- an individual's express wishes about the future provision of health services to him or her.

Personal information is 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.

Public register is a register of personal information that is required by law to be publicly available or open for public inspection.

2. Introduction

2.1 The NSW Electoral Commission [**NSWEC**] is committed to the privacy protection of all personal information and personal health information it collects, manages and stores.

3. Purpose

3.1 Under s 33 of the *Privacy and Personal Information Protection Act 1998* [**PPIP Act**] all NSW agencies must have a Privacy Management Plan. This plan details how the NSWEC manages personal information collected to ensure compliance with the PPIP Act and the *Health Records and Information Privacy Act 2002* [**HRIP Act**].

4. Scope

- 4.1 This plan applies to all people who work at the NSWEC, including employees, contractors and other stakeholders who in the course of their work have access to personal information held by the NSWEC. It applies to all personal information and personal health information collected, received and held by the NSWEC.

5. Policy details

Privacy Principles

- 5.1 The NSWEC complies with the Information Privacy Principles [IPPs] and Health Privacy Principles [HPPs] outlined in the PPIP Act and the HRIP Act for the collection, use and storage of personal and health information.

What is ‘personal information’ and ‘personal health information’?

- 5.2 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.”

- 5.3 The person’s identity does not have to be expressly indicated by the information, it is only necessary that it “can reasonably be ascertained from the information”.

- 5.4 The PPIP Act also defines what is **not** personal information, including:

- information about an individual who has been dead for more than 30 years;
- information about an individual that is contained in a publicly available document;
- information about an individual arising out of a royal commission or special commission of enquiry;
- information about an individual that is contained in a public interest disclosure;
- information about an individual’s suitability for employment or employment as a public sector official; and
- several exemptions relating to the conduct of law enforcement agencies.

- 5.5 Personal health information is defined in the HRIP Act to include information or an opinion about:

- the physical or mental health or disability of an individual;
- information about a health service provided or to be provided to an individual; or
- an individual’s express wishes about the future provision of health services to him or her.

- 5.6 Personal health information is given a higher level of protection than other personal information. The NSWEC does not routinely collect personal health information as part of its functions (see Part 11 of this plan for further information).

Privacy awareness

- 5.7 The NSWEC ensures that all staff are aware of this plan and their privacy obligations. Privacy obligations are discussed during staff inductions and periodically brought to the attention of

staff through awareness campaigns and the placement of privacy awareness posters in prominent positions in the office. The NSWEC promotes public awareness of this plan by writing the plan in plain English, referring to the plan in privacy notices and telling people about the plan when we answer questions about how we manage personal and health information.

6. Information protection principles

- 6.1 All staff and contractors of the NSWEC are required to understand and comply with the IPPs. The NSWEC is also subject to specific privacy provisions contained in its governing Acts and other relevant legislation.
- 6.2 There are 12 IPPs which are discussed in general terms below. All staff should consider the IPPs as a starting point to the PPIP Act. Exemptions to the IPPs may apply in some instances. These may be found within the IPPs themselves, in Public Interest Directions made by the Privacy Commissioner under the PPIP Act, and in the PPIP Act and other legislation, including the *Parliamentary Electorates and Elections Act 1912 [PE&E Act]*.
- 6.3 The summary below is a guide only, and is extracted from a fact sheet published by the NSW Information & Privacy Commission [IPC], entitled *The Information Protection Principles (IPPs) Guidance for agencies and organisations*.¹ Staff can locate the *IPPs in full* at sections 8 to 19 of the PPIP Act.

Collection

IPP1. Lawful

- 6.4 Only collect personal information for a lawful purpose, which is directly related to the agency's function or activities and necessary for that purpose.

IPP2. Direct

- 6.5 Only collect personal information directly from the person concerned, unless they have authorised collection from someone else, or if the person is under the age of 16 and the information has been provided by a parent or guardian.

IPP3. Open

- 6.6 Inform the person you are collecting the information from why you are collecting it, what you will do with it and who else might see it. Tell the person how they can view and correct their personal information, if the information is required by law or voluntary, and any consequences that may apply if they decide not to provide their information.

IPP4. Relevant

- 6.7 Ensure that the personal information is relevant, accurate, complete, up-to-date and not excessive and that the collection does not unreasonably intrude into the personal affairs of the individual.

¹ See IPC Fact Sheet FS2017/003: http://www.ipc.nsw.gov.au/sites/default/files/file_manager/Fact_Sheet_IPPs.pdf

Storage

IPP5. Secure

- 6.8 Store personal information securely, keep it no longer than necessary and dispose of it appropriately. It should also be protected from unauthorised access, use, modification or disclosure.

Access and accuracy

IPP6. Transparent

- 6.9 Explain to the person what personal information about them is being stored, why it is being used and any rights they have to access it.

IPP7. Accessible

- 6.10 Allow people to access their personal information without excessive delay or expense.

IPP8. Correct

- 6.11 Allow people to update, correct or amend their personal information where necessary.

Use

IPP9. Accurate

- 6.12 Make sure that the personal information is relevant, accurate, up to date and complete before using it.

IPP10. Limited

- 6.13 Only use personal information for the purpose it was collected unless the person has given their consent, or the purpose of use is directly related to the purpose for which it was collected, or to prevent or lessen a serious or imminent threat to any person's health or safety.

Disclosure

IPP11. Restricted

- 6.14 Only disclose personal information with a person's consent or if the person was told at the time that it would be disclosed, if disclosure is directly related to the purpose for which the information was collected and there is no reason to believe the person would object, or the person has been made aware that information of that kind is usually disclosed, or if disclosure is necessary to prevent a serious and imminent threat to any person's health or safety.
- 6.15 However, s 23 of the PPIP Act provides that a public sector agency (whether or not a law enforcement agency) does not need to comply with this IPP if use of the information for another purpose is reasonably necessary for law enforcement purposes or for the protection of the public revenue.

IPP12. Safeguarded

6.16 An agency cannot disclose sensitive personal information without a person's consent, for example, information about ethnic or racial origin, political opinions, religious or philosophical beliefs, sexual activities or trade union membership. It can only disclose sensitive information without consent in order to deal with a serious and imminent threat to any person's health or safety.

7. Other laws regulating privacy

7.1 Other laws regulating privacy include the following:

Government Information (Public Access) Act 2009

7.2 The PPIP Act does not override the NSWEC's obligations under the *Government Information (Public Access) Act 2009* [**GIPA Act**]. Requests by individuals to obtain access to personal information about themselves are dealt with under the PPIP Act, however individuals can also request access to other personal and non-personal information under the GIPA Act.

7.3 Under the GIPA Act there is a public interest consideration against the disclosure of information if the disclosure could reveal another individual's personal information or contravene a principle outlined in the PPIP Act.

7.4 Schedule 1 to the GIPA Act specifies categories of government information for which it is presumed there is an overriding public interest against disclosure. Under Schedule 1, any document containing information provided to the Electoral Commissioner for the purposes of updating and administering the electoral roll and any database maintained by the Electoral Commissioner for the purposes of administering the electoral roll is information that will not be accessible by applicants under the GIPA Act.

7.5 Schedule 2 to the GIPA Act provides that information that relates to the investigative and prosecution functions of the NSWEC is excluded information. Under s 43 of the GIPA Act, an access application cannot be made to an agency for the excluded information of the agency.

Government Sector Employment Act 2013

7.6 Information about the findings of a disciplinary inquiry under the *Government Sector Employment Act 2013* [**GSE Act**] and information contained in selection committee reports will include information or opinions about a person's suitability for public sector appointment or employment. Under s 4(3)(j) of the PPIP Act and s 5(3)(m) of the HRIP Act, such information or opinions are excluded from the definition of personal information for the purposes of the PPIP Act or HRIP Act and may be disclosed in certain circumstances, e.g. where another agency or employer makes a reference check.

Industrial Relations Act 1996

7.7 Certain disclosures of personal information contained in staff files held by the NSWEC's Human Resources Business Unit are lawful under the *Industrial Relations Act 1996* [**IR Act**]. Further information about disclosures allowable under the IR Act is available in the Treasury Circular NSW TC 14/20 *Privacy Guidelines on Disclosure of Information during Industrial Consultations*.

Jury Act 1977

7.8 The *Jury Act 1977* requires the NSWEC to prepare and provide a list of people who might qualify and be required for jury duty.

Office of State Revenue

7.9 The NSWEC may disclose certain information to the Office of State Revenue to administer penalty notice enforcement orders under the PE&E Act, *Election Funding, Expenditure and Disclosures Act 1981* [**EFED Act**], *Local Government Act 1993* [**LG Act**] and the *Fines Act 1996*.

Public Interest Disclosures Act 1994

7.10 The protection of information contained in a public interest disclosure is dealt with in the *Public Interest Disclosures Act 1994*. Note that the definition of personal information under the PPIP Act excludes information about an individual that is contained in a public interest disclosure.

State Records Act 1998

7.11 The *State Records Act 1998* sets out when the NSWEC can destroy its records. It also authorises the State Records Authority to establish policies, standards and codes to ensure that NSW public sector agencies manage their records appropriately.

Work Health and Safety Act 2011

7.12 The *Work Health and Safety Act 2011* [**WHS Act**] requires that employees must ensure the health, safety and welfare at work of all employees. If an authorised representative of a union or industrial organisation suspects a breach of the WHS Act has occurred they are authorised under that Act to enter the premises of an employee's work and may require the production of documents which directly deal with the work health and safety of employees working at those premises.

8. Offences

Offences under the PPIP Act

8.1 Offences can be found in sections 62 to 68 of the PPIP Act. It is an offence for the NSWEC to:

- intentionally disclose/use personal information otherwise than in connection with the lawful exercise of official functions;
- offer to supply personal information that has been disclosed in contravention of s 62;
- hinder the Privacy Commissioner or a member of staff from doing their job.

Offences under the HRIP Act

8.2 Offences can be found in sections 68 to 70 of the HRIP Act. It is an offence for the NSWEC to:

- intentionally disclose or use health information otherwise than in connection with the lawful exercise of official functions;
- offer to supply health information that has been disclosed unlawfully in contravention of s 68;
- attempt to persuade a person from making or pursuing a request for health information, a complaint to the Privacy Commissioner or an internal review under the PPIP Act.

Offences under the PE&E Act

8.3 There are specific offences in relation to the disclosure and use of enrolment information that apply to registered parties, members, candidates and other persons or entities in receipt of enrolment information from the NSWEC. For example, s 42 and s 43 of the PE&E Act limit the use and disclosure of enrolment information. Failure to comply with the relevant provisions may result in a maximum penalty of 1,000 penalty units (\$110,000).

8.4 There is also a specific offence in relation to the disclosure of electoral information that applies to all NSWEC officers. Section 48 of the PE&E Act limits the use and disclosure of electoral information. Failure to comply with s 48 may result in a maximum penalty of 50 penalty units (\$5,500).

9. NSWEC Code of Conduct

9.1 All NSWEC staff members are required to complete a Code of Conduct Acknowledgement form in which each member agrees that he or she has read and understood the standards and expectations of the NSWEC Code of Conduct, including the obligation to protect the privacy of personal information. This obligation survives the expiration or termination of employment.

9.2 All staff members are required to comply with the Code of Conduct and related policies, guidelines and legislation. The NSWEC will take action against staff who breach the Code of Conduct, including contractors. This may result in the imposition of sanctions, up to and including, termination of employment. Action may include disciplinary action for 'misconduct' or 'serious misconduct' under any contract of employment or other form of engagement, up to termination of employment pursuant to s 69(4)(a) of the GSE Act.

9.3 In some circumstances, breaches of the Code of Conduct will result in NSWEC notifying a relevant statutory authority or agency, and action being taken where breaches of relevant legislation may be evident. This may result in criminal action, fines or imprisonment.

10. Privacy statement

- 10.1 The NSWEC will collect personal information that is reasonably necessary to perform its statutory functions and when it has been authorised by law. The NSWEC will collect personal information directly from the individual to whom the information relates unless the individual has authorised collection of the information from someone else, or it is lawfully authorised to collect the information from third parties.
- 10.2 The NSWEC may use private sector companies or contractors to provide services to or for our office that may involve the collection, use and disclosure of personal information.
- 10.3 The NSWEC will:
- use personal information for the primary purpose for which it was collected unless authorised by law or the individual concerned. Notification of authorised use and disclosure is provided at the time of collection, on the NSWEC website and in this plan.
 - take such steps as are reasonable in the circumstances to ensure that, having regard to the purpose for which personal information is proposed to be used, the information is relevant, accurate, up to date, complete and not misleading.
 - make every reasonable effort to ensure that the personal information collected is accurate, up to date and complete (see Part 16 of this plan for further information).
 - take such security safeguards as are reasonable in the circumstances against the loss, unauthorised access, use, modification or disclosure of personal information.
- 10.4 All electronic information is stored on secure information systems. The systems comply with relevant standards pursuant to the Information Security Management System Policy. IT security precautions include firewalls, access control and employment of user IDs and passwords allocated to individual staff. Officers of the NSWEC are not permitted to share passwords or let anyone else use their computer login. Information of a sensitive nature is subject to access controls.
- 10.5 All sensitive information must be removed from printers and securely stored when not in use. Hard copy information is located in our offices at Kent Street and Queen's Square, Macquarie Street, Sydney NSW, and at our warehouses. The NSWEC archives older physical files in a secure storage facility in compliance with the *State Records Act 1998*. All premises are secure premises.
- 10.6 The NSWEC will retain and dispose of personal information in accordance with its obligations under the *State Records Act 1998*.

11. Categories of information

- 11.1 Information collected and held by the NSWEC includes the following:

Enrolment information

- 11.2 Under the PE&E Act, copies of the electoral rolls used at the last Parliamentary election or by-election containing electors' name, address and gender (excluding silent elector addresses) must be made available for public inspection. They may be inspected at the NSWEC or at other places determined by the NSWEC.

- 11.3 Under the LG Act and the *City of Sydney Act 1988*, council general managers must ensure copies of the latest non-residential rolls and the roll of occupiers and rate paying lessees are available at council offices for public inspection.
- 11.4 People inspecting the roll may not make copies or record the information by electronic means (see the NSWEC Disclosure of Enrolment, Electoral and Election Information Policy for further information).
- 11.5 Under s 40 of the PE&E Act, the NSWEC must provide a current list of electors and their particulars to political parties, members of parliament, groups and candidates. A registered party, member and candidate must not use or disclose enrolment information that is so provided except for a purpose in connection with an election. Use of enrolment information for a commercial purpose is strictly prohibited (see the NSWEC Disclosure of Enrolment, Electoral and Election Information Policy for further information).
- 11.6 Under s 41 of the PE&E Act the NSWEC may consider applications for current lists of electors from third parties. In such circumstances NSWEC is required to identify the public interest in providing the requested information and determine whether the public interest in providing such information outweighs the public interest in keeping such information private. Access pursuant to s 41 is limited (see the NSWEC Disclosure of Enrolment, Electoral and Election Information Policy for further information).
- 11.7 Provisions in the PE&E Act concerning enrolment information are applied by the LG Act with respect to public inspection of the residential roll and the provision of enrolment information to candidates.
- 11.8 Under s 49 of the PE&E Act, the NSWEC may exchange information with the Australian Electoral Commission [AEC] as required for the maintenance of the NSW and Commonwealth electoral rolls.
- 11.9 The PE&E Act implicitly authorises the NSWEC to provide elector information to certain contractors in order for the NSWEC to conduct its business. The NSWEC provides elector information to a mail house contractor and a printer. Such contractors are required to sign a confidentiality agreement.

Electoral information

- 11.10 Information collected by the NSWEC for the maintenance of the roll under s 46 of the PE&E Act includes the identifying particulars of an elector such as names, addresses, date of birth, elector status, contact email and phone numbers, the geo-code location reference of residences and other unique identifiers or codes used by the NSWEC or the other agencies from whom we request information.
- 11.11 Under s 46 and s 47 of the PE&E Act, the NSWEC may collect personal information about individuals from other people or organisations in order to correct any mistake or alter an elector's particulars on a district roll, or perform other administrative functions associated with the preparation of and maintenance of the roll.
- 11.12 Section 48 of the PE&E Act provides for the protection of personal information in that it prohibits any person who acquires electoral information in carrying out their functions under the PE&E Act from making a copy of, or divulging the information to, another person except in the exercise of those functions.

- 11.13 Electoral information may be divulged under s 48 to a particular person or persons, if the Electoral Commissioner certifies that it is necessary in the public interest that the information be divulged to the person or persons, or to a person who is expressly or impliedly authorised to obtain it by the person to whom the information relates.
- 11.14 Electoral information is sourced from government agencies such as the AEC and, via the AEC, the Federal Department of Immigration and Border Protection. Other agencies include the NSW Roads and Maritime Services, NSW Board of Studies, NSW Registry of Births, Deaths and Marriages, TAFE NSW and the NSW Office of State Revenue.
- 11.15 The PE&E Act requires the NSWEC to identify persons who are eligible to be enrolled and notifies them of the NSWEC's intention to automatically enrol them. Recipients of notices of intention are advised to contact the NSWEC if they believe an error has occurred and they are not eligible to be enrolled. If they agree they are eligible they are not required to take any further action.
- 11.16 Pursuant to the PE&E Act, the NSWEC may also request certain people or organisations to provide personal information about individuals in order to prepare, maintain and review the electoral roll. Such people or organisations include:
- a person employed in the public service;
 - a police officer;
 - a member of a staff of a council;
 - the Sydney Water Corporation;
 - a distribution network (i.e. energy) service provider;
 - a university established or constituted by an Act of NSW; and
 - an elector or person entitled to be enrolled.
- 11.17 Where necessary, the NSWEC may have Memoranda of Understanding with those organisations providing information. Please refer to the NSWEC Disclosure of Enrolment, Electoral and Election Information Policy for further information.

Election information

- 11.18 Under both the PE&E Act and the LG Act, the NSWEC collects the names and addresses of people who voted in an election, other than silent or itinerate electors, whether they voted personally or by post, and if they voted at a polling place for the district for which they were enrolled, the location of the polling place.
- 11.19 Under s 138 of the PE&E Act, the NSWEC must provide election information to political parties and independent members of parliament, if requested. The NSWEC does not collect information about which candidate any person has voted for in an election.
- 11.20 Certain types of voting such as postal votes and absentee votes are received and briefly held by the NSWEC inside ballot paper envelopes that have the voter's names and address attached. There are strict security and scrutiny procedures in place to ensure that the vote is counted and voting secrecy is maintained.
- 11.21 Technology assisted voting - the iVote[®] system - also has strict security and scrutiny procedures in place to ensure that the secrecy of the ballot is maintained. Information received electronically is immediately encrypted or de-identified by the NSWEC and the voter's name is

marked off the electoral roll. When the votes are counted, the data is decrypted by officials under strict security conditions and simultaneously randomised - i.e., separated from the elector name - so there is no information linking an individual to a vote.

Silent elector information

11.22 Under the PE&E Act, a person may apply to be a silent elector if they believe that having their residential address shown on the electoral roll will put them or their family at risk. Under a joint enrolment arrangement with the Commonwealth, such applications are forwarded to and processed by the AEC.

Research information

11.23 One of the functions of the NSWEC is to conduct and promote research into electoral matters and other matters that relate to its functions, and publish the results of any such research. The NSWEC may seek voluntary completion of surveys to help it identify current issues. The NSWEC ensures any proposed survey or other kind of collection complies with the PPIP Act and HRIP Act and relevant Public Interest Directions. In most cases, survey data is depersonalised. For example, an elector may be asked general questions about his or her voting experience. As another example, persons who have participated in an information seminar conducted by the NSWEC may be asked for feedback concerning the content of the presentation and seminar facilities. The NSWEC will not ask an elector for whom they intend to vote, or did vote.

Candidate information

11.24 The NSWEC collects personal information associated with nominations of candidates for elections. In relation to local government elections, s 308 of the LG Act requires the returning officer to make each candidate information sheet available for public inspection at the office of the returning officer and at any other place determined by the returning officer. Section 308 also requires candidate information sheets to be made available for inspection at each polling place. Clause 290 of the *Local Government (General) Regulation 2005* requires the Electoral Commissioner to publish candidate information sheets on the NSWEC website until at least election day.

11.25 In relation to state elections, as soon as practicable after a nomination paper for a candidate is delivered to the Electoral Commissioner or returning officer, the Electoral Commissioner must publish on its website the candidate's name, the district for which the candidate is nominated for election, and the suburb, town or other locality of the place of residence at which the candidate is enrolled (as stated on the nomination paper).

11.26 Child-related conduct declarations are also required to be made public by the NSWEC and are available for public inspection at the NSWEC.

Party registration information

11.27 The NSWEC maintains a state and a local government Register of Parties. The full registers are available to be inspected at the office of the NSWEC during ordinary office hours. A list of the registered parties is available from the NSWEC website.

11.28 The party registers contain the name of each registered party and its abbreviated name, the name of the registered officer and deputy registered officer of the party and the address of the party headquarters. A party register also contains other particulars or documents required under the PE&E Act (and the PE&E Act as applied by the LG Act) – this may include the constitution of the party, the latest annual return with respect to continued registration and the names and addresses (as enrolled) of electors who are members of the party and on whom the party relies for the purpose of qualifying as an eligible party.

Funding and Disclosure information

11.29 The NSWEC collects information associated with regulating the campaign finances of political parties, candidates, elected members, third party campaigners, political donors and official agents. Declarations for political donations received and electoral expenditure incurred are required to be published on the NSWEC's website pursuant to the EFED Act. Personal information contained in declarations include the name of candidates, elected members, official agents, the names and addresses of donors and the name of suppliers or service providers.

Investigative information

11.30 The NSWEC collects personal information with respect to its investigative and compliance functions under the EFED Act, the PE&E Act, and the *Lobbying of Government Officials Act 2011* [**LOGO Act**].

Lobbyist information

11.31 The application and renewal process required of lobbyists require the NSWEC to collect personal information pertaining to the lobbyist, employees of the lobbyist, business registration details, address details and other relevant information. A failure to provide all the necessary personal information will prevent the application being considered. The NSWEC is required under the LOGO Act to make publicly available certain information. The following information provided by lobbyists may be included in the Register of Third-Party Lobbyists and may be accessed via the NSWEC website:

- business registration details including, where the business is not a publicly listed company, the names of owners, partners or major shareholders, as applicable;
- the names and positions of persons employed, contracted or otherwise engaged by the lobbyist to carry out lobbying activities, and the names of clients on whose behalf the lobbyist conducts lobbying activities.

11.32 The LOGO Act requires the NSWEC to maintain a Lobbyists Watch List that contains the names and other identifying details of any lobbyist whom the NSWEC determines should be placed on the Lobbyists Watch List because of contraventions of that Act or of the Lobbyists Code. Further information concerning lobbyist information can be found on the NSWEC website.

Statutory ballots

11.33 The NSWEC collects personal information associated with ballots that the NSWEC is authorised to conduct for registered clubs, industrial organisations and Aboriginal land councils. The way personal information is collected and disclosed in order to conduct such statutory ballots is determined by the PPIP Act and the legislation or regulations governing the particular entity. For example, an eligible voter member list may, according to the regulations of a club or organisation, be required for inspection at the office of the returning officer.

Feedback and complaints information

11.34 The NSWEC accepts complaints in verbal, written and electronic form and keeps records of complaints in hardcopy files and in a complaints register in order to manage complaints and feedback. Personal information is collected for managing such complaints. It is the policy of the NSWEC to keep the identity of complainants confidential unless lawfully authorised to disclose.

NSWEC websites

11.35 When visiting NSWEC websites, the site server makes a record of the visit and logs non-personal information for statistical purposes only. Further information is available from the privacy statement on the NSWEC website.

Business contracts and contracts with third parties for the provision of services

11.36 Under the GIPA Act, the NSWEC is required to keep a register of government contracts that records information about particular contracts. The register is made available on the NSWEC website and the NSW e-tendering website.

Administrative and finance records

11.37 Administrative and finance records include vehicle usage, telephone records, internal internet access and usage, stored electronic mail messages, network and electronic mail accounts and invoices and financial data.

11.38 Financial records containing information about debtors, creditors and service providers are also held by the finance department in paper and electronic form and personal information collected is used only for administration purposes.

Human resources information

11.39 The NSWEC collects information associated with employment at an election or at the NSWEC, including expressions of interest to work at an election, personnel records, attendance and leave records, medical certificates, injury management records, training records and pay records.

11.40 The NSWEC holds past and current employee records containing personal and health information relating to ongoing, contract and temporary staff. These personnel records

maintain and enable employee history, payroll and administrative and security related activities.

11.41 As noted in para 5.4, information about an individual's suitability for employment or employment as a public sector official is not personal information within the meaning of the PPIP Act.

11.42 Personal information collected on the Expression of Interest form on the NSWEC website is used to assess a candidate's suitability for employment as an election official with the NSWEC and, with the consent of the applicant, may be provided to the AEC for similar purposes.

Health Information

11.43 It is not the usual practice of the NSWEC to collect or use health information. In some circumstances the NSWEC may obtain health information when exercising its functions, for example:

- when people apply to vote electronically for state elections;
- when people apply to vote by post for state or local government elections; or
- when NSWEC staff provide medical certificates or reports in relation to leave entitlements or work health and safety issues.

11.44 An individual may vote electronically or by post only if they are eligible to apply. The eligibility requirements are outlined in the PE&E Act and the LG Act. There are a number of eligibility requirements that pertain to health information. For example, an individual with a vision impairment or disability within the meaning of the *Anti-Discrimination Act 1977* may be eligible to vote electronically for NSW state elections. As another example, an individual who is ill, infirm or in hospital or an individual with a disability, may be eligible to vote by post for NSW state or local government elections.

11.45 The eligibility requirements to vote electronically or by post are already set out on the relevant application form. An applicant only needs to select which ground or grounds are applicable, e.g. that the individual is ill. There is no requirement to identify their illness, infirmity, type of vision impairment, or disability.

11.46 The NSWEC only uses this information for the purpose of ascertaining an individual's eligibility to vote electronically or by post as required under the PE&E Act and LG Act. In some instances, the NSWEC may obtain from the AEC a list of general postal voters. This list does not contain the grounds on which those individuals are eligible to postal vote.

11.47 The NSWEC does not retain an individual's application to vote electronically or by post for future election events, i.e. an applicant is required to complete an application for each election event. All applications are held securely and kept for no longer than is necessary for the purposes for which the information may lawfully be used.

11.48 As mentioned, the NSWEC may collect health information about its employees with respect to injury management notes, medical certificates or medical reports disclosed by an employee for purposes relating to leave requirements or working conditions and other associated purposes. The information is stored securely on the employee's personal record.

11.49 The NSWEC takes such security safeguards as are reasonable in the circumstances to protect health information from unauthorised access, use, modification or disclosure. The information

is only used or disclosed in accordance with the HPPs contained in the HRIP Act. See Part 16 of this plan for further information on how individuals may obtain access to or amend their information.

12. Public registers

- 12.1 Under the PPIP Act, a public register is a register of personal information that is required by law to be publicly available or open for public inspection. The PPIP Act regulates the way in which government agencies deal with public registers. Under the PPIP Act, particularly Part 6, personal information may only be disclosed from a public register if it is for a purpose related to the purpose of the register or the Act under which the register is kept.
- 12.2 The PPIP Act also provides for suppression of personal information contained in a public register. A person may request to have personal information removed from or not placed on the register as publicly available and not disclosed to the public if they feel their safety and wellbeing would be affected.
- 12.3 The NSWEC maintains the following registers available for public inspection at the office of the NSWEC, or in some instances online;
- Electoral rolls for state elections and the residential roll for local government elections;
 - Register of Parties for state and local government elections;
 - Register of Candidates;
 - Register of Official Agents;
 - Register of Party Agents;
 - Register of Third-Party Campaigners; and
 - Register of Third-Party Lobbyists.
- 12.4 People may conveniently access a list of the registered parties for state and local government elections and the Lobbyist Register on the NSWEC website. Individuals may also check if they are enrolled and whether their details are correct through the NSWEC's enrolment verification facility, which is also available on the NSWEC website, free of charge.
- 12.5 If individuals wish to attend the office of the NSWEC to inspect these registers, it is advisable that they organise an appointment with an appropriate NSWEC officer beforehand.
- 12.6 Persons wishing to inspect an electoral roll for a district or local government area or the register of parties will be required to complete an application form to inspect these registers (an applicant must produce identification upon request). The application form will be used to determine whether the inspection of the register is for a purpose relating to the purpose of the register or the Act under which the register is kept.
- 12.7 For example, persons seeking to find out the address of acquaintances and relatives in order to renew contact, persons seeking to undertake research into their antecedents, solicitors seeking information for the completion of probate processes or Councils seeking to augment their council rates mailing lists are not considered by the Electoral Commissioner as valid reasons to inspect or gain access to the electoral rolls. Please refer to the NSWEC Disclosure of Enrolment, Electoral and Election Information Policy for further information.

12.8 Importantly, the state Register of Parties, Register of Candidates, Register of Official Agents, Register of Party Agents, Register of Third-Party Campaigners and the Lobbyist Register are exempt from the requirements of Part 6 of the PPIP Act.

13. Implementation and development of policy instruments and systems

13.1 The relevant officer responsible for the development or amendment of a policy instrument must consider whether it will require the NSWEC to collect, use, disclose and store personal or health information. When developing or amending a policy instrument, the relevant officer must consider each IPP, the PPIP Act and the HRIP Act and other related policies. The Information and Privacy Commissioner has also developed a checklist which will assist in this process. The checklist can be found on IPC's website and is also available in the NSWEC's Policy Framework. The Policy Framework sets out when the relevant officer should consult with the NSWEC Privacy Officer.

13.2 The relevant officer should also consult with the NSWEC's Audit and Risk Committee and Information Services Division security officers who can identify and monitor privacy breaches, and ensure risk frameworks adequately consider the risk to privacy.

13.3 It is the responsibility of all Executive Directors and Directors of the NSWEC to implement policies and procedures concerning the handling of personal information across their business unit activities, including projects, programs and service delivery.

13.4 All staff must actively consider and comply with privacy policies and procedures.

13.5 Procurement officers are responsible for ensuring that contracts with external service providers who may have access to personal information held by the NSWEC or who may collect personal information on behalf of the NSWEC contain confidentiality clauses or separate confidentiality agreements. Procurement officers must also ensure that service providers are required to comply with PPIP Act and relevant privacy and information security policies. The NSWEC may do this by asking for evidence of their information-handling processes and inserting a privacy clause into contracts.

14. Data breach notification

14.1 Guidelines published by the Office of the Australian Information Commissioner recommend the following best practice steps where a data breach has occurred:²

- Step 1: Contain the breach and do a preliminary assessment
- Step 2: Evaluate the risks associated with the breach
- Step 3: Notification (where appropriate, will depend on the outcome of a risk assessment)
- Step 4: Prevent future breaches

14.2 If a data breach creates a real risk of serious harm to the individual, the affected individuals will be notified. The relevant NSWEC Business Unit or officer responsible for the data breach must also notify the Privacy Officer.

² See the OAIC's Data breach notification guide: <https://www.oaic.gov.au/agencies-and-organisations/guides/data-breach-notification-a-guide-to-handling-personal-information-security-breaches>

15. Police requests for enrolment information

15.1 As noted throughout this plan, there are exemptions relating to the disclosure of personal information. For example, under the PPIP Act an agency can disclose personal information if:

- the agency believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person;
- the disclosure is to a law enforcement agency (or such other person or organisation as may be prescribed by the regulations) for the purposes of ascertaining the whereabouts of an individual who has been reported to a police officer as a missing person;
- the disclosure is authorised or required by subpoena or by search warrant or other statutory instrument, or
- the disclosure is reasonably necessary for the protection of the public revenue, or in order to investigate an offence where there are reasonable grounds to believe that an offence may have been committed.

15.2 Any request for enrolment information from NSW Police should be made by notice to produce or subpoena. In the absence of a notice to produce or subpoena, the NSWEC will, depending on the circumstances, seek written notice from NSW Police as to what information is required and the grounds for the request. Ideally, any written notice should come from a senior Police Officer. Any requests for enrolment information will be dealt with in accordance with the NSWEC Disclosure of Enrolment, Electoral and Election Information Policy.

16. Access to and alteration of personal information

16.1 Access to and alteration of personal information is dealt with in IPPs 6 to 8. Subject to any exemptions under the PPIP Act, such as in relation to the NSWEC's investigative function, and other relevant laws, the NSWEC will take reasonable steps to enable a person to ascertain whether the NSWEC holds personal information relating to that person (including the nature of that information) and may provide that individual access to that information without excessive delay or expense.

16.2 The NSWEC at the request of the individual to whom the information relates, may make appropriate amendments (whether by way of corrections, deletions or additions) to ensure that the personal information is accurate, relevant, up to date, complete and not misleading. If the NSWEC is not prepared to amend personal information in accordance with a request by the individual to whom the information relates, the NSWEC will, if requested by the individual concerned, take reasonable steps to attach to the information in a manner capable of being read with the information, any statement provided by that individual of the amendment sought. If personal information is amended, the individual to whom the information relates is entitled, if reasonably practicable, to have recipients of that information notified of the amendments made by the NSWEC.

16.3 Applications should be made in writing and directed to the NSWEC Privacy Officer by email or post (see contact details below). The application should:

- include the person's name and contact details (postal address, telephone number and email address if applicable);

- state whether the person is making the application under the PPIP Act (personal information) or HRIP Act (health information);
- explain what personal or health information the person wants to access or amend; and
- explain how the person wants to access or amend it.

16.4 The NSWEC will aim to respond in writing to applications within 20 working days after receiving the application.

17. Internal review of conduct

17.1 Part 5 of the PPIP Act establishes procedures for a person to apply for an internal review of the NSWEC's conduct which they believe breaches an IPP or HPP. A request for review can only be made where it is alleged that the NSWEC has breached any of the IPPs or HPPs that apply to the NSWEC.

Internal review guidelines

17.2 Applications for an internal review must:

- be in writing;
- be addressed to:
 - Privacy Officer
 - NSW Electoral Commission
 - GPO Box 832
 - Sydney NSW 2001
- specify an address in Australia to which the NSWEC may send notification of its findings; and
- be lodged within 6 months of the complainant becoming aware of the alleged privacy breach.

17.3 To assist an applicant, the IPC has prepared an internal review application form that is accessible from IPC's website. Use of the IPC's application form is not compulsory but is recommended.

17.4 The NSWEC Privacy Officer assists applicants by determining whether the matter concerns a breach of the PPIP Act and where an internal review is required the NSWEC Privacy Officer will conduct the review. If the Privacy Officer is unable to conduct the review, the reviewing officer will be a person who:

- was not substantially involved in any matter relating to the conduct which is the subject of the application;
- is an employee of the NSWEC; and
- is suitably qualified to deal with the matters raised by the application.

17.5 There is no requirement under the PPIP Act to formally delegate or authorise someone to act as a reviewing officer.

- 17.6 If upon investigation the Privacy Officer finds that the privacy complaint is not a complaint under the PPIP Act, the complaint will be handled as part of the regular complaints handling process outlined in the NSWEC Complaints Handling Policy.
- 17.7 When an individual or organisation makes a privacy complaint under the PPIP Act or the HRIP Act, the NSWEC Privacy Officer will notify the Privacy Commissioner of the application, the progress and findings of the internal review and the action taken in relation to the matter.

Service standards

- 17.8 The reviewing officer will write to the applicant to acknowledge receipt of the application, including a statement of the officer's understanding of the conduct complained about and the privacy principle/s at issue. The reviewing officer will confirm whether an internal review will be conducted and provide the name, title, and contact details of the reviewing officer, how the reviewing officer is independent of the person/s responsible for the alleged conduct and the estimated completion date for the review process. The applicant will also be advised of their review rights and informed that a copy of the letter will be provided to the Privacy Commissioner
- 17.9 The reviewing officer will endeavour to send both the applicant and the Privacy Commissioner a progress report during the review process.
- 17.10 Before completing the review, the reviewing officer should check whether the Privacy Commissioner wishes to make a submission. Ideally the reviewing officer should provide a draft copy of the preliminary determination to the Privacy Commissioner for comment. The reviewing officer must complete the review as soon as is practical within 60 days from the day the application was received.
- 17.11 Within 14 days after the completion of the review, the NSWEC Privacy Officer will notify the complainant of:
- the findings and the reason for the findings;
 - the action proposed by to be taken; and
 - the right of the person to have those findings and the NSWEC's proposed actions reviewed by the NSW Civil and Administrative Tribunal **[NCAT]**).
- 17.12 Following the review the NSWEC may do any one or more of the following:
- take no further action;
 - make a formal apology to the applicant;
 - take appropriate remedial action (as it thinks appropriate);
 - provide an undertaking that the incident will not happen again; and/or
 - implement administrative measures to ensure that it will not happen again.
- 17.13 The reviewing officer must keep a record of the review for the NSWEC's annual reporting requirements. The annual report of each public sector agency must include statistical details of any internal review conducted: see cl 6 of the *Annual Reports (Departments) Regulation 2015* and cl 8 of the *Annual Reports (Statutory Bodies) Regulation 2015*.

Review of conduct by NCAT

17.14 If the applicant is unsatisfied with the outcome of the review or the action taken by the NSWEC in relation to a privacy review he or she may apply to the NCAT for a review of the subject of the privacy complaint.

17.15 NCAT's details are as follows:

NSW Civil and Administrative Tribunal
Administrative and Equal Opportunity Division
Address: Level 10, 86-90 Goulburn Street, Sydney NSW 2000
Post: PO Box K1026, Haymarket NSW 1240
Website: www.ncat.nsw.gov.au
Telephone: 1300 006 228

Review of conduct by NSW Privacy Commissioner

17.16 Complaints about the NSWEC's conduct may also be made to the NSW Privacy Commissioner. A complaint must be made within 6 months (or such later time as the Privacy Commissioner may allow) from the time the complainant first became aware of the conduct or matter the subject of the complaint. The Privacy Commissioner may decide to deal with the complaint or take no further action. The Privacy Commissioner must endeavour to resolve the complaint by conciliation and may make a written direction for the NSWEC and the complainant to appear before the Commissioner in conciliation proceedings.

17.17 The Privacy Commissioner's details are as follows:

NSW Privacy Commissioner
Address: Level 17, 201 Elizabeth Street Sydney NSW 2000
Post: GPO Box 7011, Sydney NSW 2001
Website: www.ipc.nsw.gov.au
Email: ipcinfo@ipc.nsw.gov.au
Phone: 1800 472 679

18. Further information

18.1 Enquiries or complaints relating to the privacy of personal information at the NSWEC should be directed to:

Privacy Officer
NSW Electoral Commission
GPO Box 832 Sydney NSW 2001
Phone: 02 92905999
Email: enquiries@elections.nsw.gov.au

18.2 If staff have questions about how to manage personal and health information and this plan does not directly answer them, they should consult their Executive Director, Director, or the NSWEC's Privacy Officer.

19. Roles and responsibilities

19.1. The following table outlines the nature of the commitment expected from staff and the way that commitment should be implemented:

Who	Commitment	How
Electoral Commissioner Head of NSWEC Staff Agency	Promote a culture that values privacy protection.	<p>Report publicly on NSWEC's Privacy Management Plan.</p> <p>Provide adequate support and direction to key staff responsible for the plan.</p> <p>Encourage all staff to be alert to privacy protection matters and assist those responsible for privacy management to resolve them promptly.</p> <p>Recognise and reward good privacy management by staff.</p> <p>Support recommendations for privacy management improvements.</p>
Manager Governance	Monitor the implementation of and adherence to this Privacy Management Plan.	<p>Provide regular reports to the Electoral Commissioner (and the NSWEC where appropriate) on issues arising from privacy management work.</p> <p>Ensure recommendations arising out of privacy management reviews are canvassed with the Electoral Commissioner (and the NSWEC where appropriate) and implemented where appropriate.</p> <p>Empower staff to resolve privacy protection issues promptly and in accordance with NSWEC policies and procedures.</p> <p>Encourage all staff to be alert to privacy protection and assist those responsible for privacy management to resolve them promptly.</p> <p>Recognise and reward good privacy management by staff.</p>
Staff whose duties include handling privacy matters	Demonstrate exemplary privacy practices.	<p>Treat all people with respect, including people who raise privacy protection concerns.</p> <p>Comply with this plan and any associated procedures.</p> <p>Keep informed about best practice in privacy management.</p> <p>Provide feedback to management on issues arising from privacy protection.</p> <p>Provide suggestions to management on ways to improve the organisation's privacy management.</p>

Who	Commitment	How
All staff	Understand and comply with this Privacy Management Plan.	<p>Be aware of NSWEC's privacy policies and procedures; to be included in NSWEC induction program</p> <p>Be alert to privacy protection and assist staff handling privacy management to resolve matters promptly.</p> <p>Provide feedback to management on issues arising from privacy protection.</p>

20. Monitoring, evaluation and review

20.1 The Manager Governance is responsible for reviewing and updating this plan and arranging training and education of NSWEC staff about their privacy obligations where required.

21. Associated documents

21.1 There are a number of NSWEC policies that may be relevant to this plan:

- Code of Conduct;
- Complaints Handling Policy;
- Disclosure of Enrolment, Electoral and Election Information Policy;
- Government Information (Public Access) (GIPA) Policy and Procedures;
- Guidelines – Responding to Subpoenas, Summonses and Notices to Produce;
- Information Security Management System (ISMS) Framework; and
- Policy Framework (in particular the Procedure for the Development and Review of Policy Documents).

22. Relevant legislation

Anti-Discrimination Act 1977

Election Funding, Expenditure and Disclosures Act 1981

Government Information (Public Access) Act 2009

Government Sector Employment Act 2013

Health Records and Information Privacy Act 2002

Industrial Relations Act 1996

Jury Act 1977

Lobbying of Government Officials Act 2011

Local Government Act 1993

Parliamentary Electorates and Elections Act 1912

Privacy and Personal Information Protection Act 1998

Public Interest Disclosures Act 1994

State Records Act 1998

Work Health and Safety Act 2011

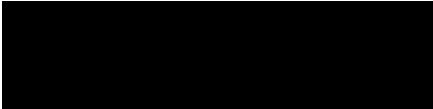


23. References

Office of the Australian Information Commissioner, *Data breach notification - A guide to handling personal information security breaches*, August 2014.

Office of the Privacy Commissioner, *The Information Protection Principles (IPPs) Guidance for agencies and organisations*, Fact Sheet FS2017/003, May 2017.

24. Document control

Document management

Approved by:	Signature:	Date approved:
John Schmidt Electoral Commissioner		3/7/17
Executive Director Review:	Signature:	Date approved:
Matt Phillips Executive Director Corporate		30/6/17
Director Review:	Signature:	Date approved:
Terrie Roberts A/Director Legal & Governance		30/6/17

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Revision record

Date	Version	Revision description
26/04/17	V 0.01	Existing instrument updated in new template.
28/06/17	V1.0	Content updated and finalised after consultation.

Next review date

24.1 This Policy is to be reviewed by the date being 3 years from anniversary of approval unless reviewed earlier in response to post-implementation feedback or as necessary.