

WESTERN PARKLAND
CITY AUTHORITY

Privacy Management Plan and Guidelines



October 2021

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Executive Summary

All NSW Government agencies are required to have a privacy management plan under section 33 of the *Privacy and Personal Information Act 1998 (NSW) (PPIP Act)*.

The WPCA has developed its Privacy Management Plan to demonstrate and ensure that our organisation applies correct procedures to manage the personal information of our stakeholders and staff.

The purpose of the Plan is to:

- demonstrate to the people of New South Wales how the WPCA upholds and respects the privacy of its staff and all those who deal with the WPCA;
- explain how we manage personal information in line with the PPIP Act; and
- provide guidance and training for WPCA staff in dealing with personal information. This helps to ensure that we comply with the PPIP Act.

The introduction of this Plan indicates that the WPCA takes the privacy of its staff and the people of NSW seriously and we will protect privacy with the use of this Plan as a reference and guidance tool.

This internal guidelines document aims to ensure that correct procedures are followed in applying and responding to the Plan.

1 Introduction

Key Points

This Plan has been developed by the WPCA as per section 33 of the PPIP Act. This Plan identifies:

- collections of Personal Information (as defined at section 2.1 below) which the WPCA holds or is responsible for;
- the policies and practices used by the WPCA to comply with the Act;
- how details of those policies and practices are made known to staff of the WPCA and all engaged by the WPCA; and
- how the WPCA conducts Internal Reviews under section 53 of the PPIP Act.

1.1 The role and functions of the WPCA

The WPCA has functions in, or in relation to land in its operational area including (s 13 WPCA Act 2018 (NSW)):

- preparing master plans for development within precincts;
- carrying out development;
- participating in the planning, funding, prioritisation and co-ordination of public infrastructure that is provided in association with the carrying out of development within precincts;
- co-ordinating, securing and attracting investment;
- developing and implementing schemes for funding, if directed by the Minister;
- promoting, organising, managing, providing and conducting cultural, educational, commercial, transport, tourist and recreational activities and facilities;
- providing consultancy and other services relating to the carrying out of development;
- entering into joint ventures, project delivery agreements and other arrangements with landowners, developers, State and Commonwealth agencies and local councils; and
- liaising and working collaboratively with State and Commonwealth agencies and local councils.

The WPCA collects, holds, uses and discloses Personal Information for the purpose of carrying out its functions. For instance, the WPCA may handle Personal Information for the purpose of:

- managing correspondence on behalf of the CEO and Board;
- human resources (**HR**) management;
- recruitment;
- complaints handling; and
- managing applications for Government information (meaning information contained in a record held by an agency) under the GIPA Act.

The WPCA takes the privacy of its staff and the people of NSW seriously and we will protect privacy with the use of this Plan as a reference and guidance tool.

As a NSW public sector agency, the WPCA is regulated by the PPIP Act.

2 Personal Information

2.1 Definition

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 (section 4 of the PPIP Act).

2.2 Exclusions from the definition

Both the PPIP Act and the GIPA Act exclude certain information from the definition of Personal Information. These exclusions include information which:

- relates to a person who has been dead for more than 30 years; or
- is contained in a publicly available publication; or
- refers to a person's suitability for employment as a public sector official.

Information in a publicly available publication

The definitions exclude information about named or identifiable people which is published in newspapers, books or the Internet, broadcast on radio or television, posted on social media such as Facebook or Twitter, or made known at a public event. Because such information is publicly available, it cannot be protected from use or further disclosure.

Employment-related information

Information referring to suitability for employment as a WPCA member of staff (such as selection reports and references for appointment or promotions, or disciplinary records) is excluded from the definitions and therefore from the provisions of the Acts.

Such information, however, is still treated by the WPCA with the same care as if it were protected by the Acts.

Other employee-related Personal Information is protected by the Acts.

For example, records or information about work activities such as video or photographs of staff in their workplace, are protected and may only be used in compliance with the Acts' provisions.

Other examples of work-related Personal Information are staff training records, leave applications and attendance records. All these are within the scope of the definitions and are protected by the Acts.

2.3 Types of Personal Information held by the WPCA

Employee records for staff of the WPCA are held by the WPCA. This information includes, but is not limited to:

- records of dates of birth, addresses and contact details;
- payroll, attendance and leave records;
- performance management and evaluation records;
- training records;
- workers compensation records;
- occupational health and safety records; and
- records of gender, ethnicity and disability of employees for equal employment opportunity reporting purposes.

Information on file cannot be accessed without consent of the respective employee. An employee of the WPCA may access their own file under the supervision of People and Culture (P&C) Branch staff.

Apart from the employee the file relates to, P&C Branch staff are the only other members of the WPCA that have authorised access to personnel files.

The records of Personal Information are stored in soft copy on the SAP database, maintained by GovConnect.

GovConnect is formed by two outsourced vendors managed by the Vendor Management Office, a division of NSW Finance, Services and Innovation. Corporate services functions are managed by Infosys (Human Resources & Finance) and Unisys (Information Technology) on behalf of the WPCA. Therefore, GovConnect holds and is responsible for more detailed personal information about WPCA staff such as recruitment, payroll and leave records.

The Service Partnership Agreement between the WPCA and GovConnect notes that GovConnect will have access to information from and about the WPCA in the course of business, and that GovConnect is bound to comply with the PPIP Act. The Agreement States:

"Staff employed, appointed or otherwise engaged to work for GovConnect are bound by the DFSI Code of Conduct and the Privacy and Personal Information Protection Act 1998 (the Act). The Code of Conduct guides the ethical standards, obligations and principles that regulate the professional standards of Public Service employees. The Act provides a legislative framework which applies to the handling of customer information under this agreement.

In the course of business, GovConnect will have access to information from and about the client. GovConnect is bound to handle all customer information in accordance with the Act, as well as relevant information security policies and the Code of Conduct. Such information will be used strictly for purposes relevant to delivering services and will not be released to third parties without the express written consent of the client."

Information collected relating to conflict of interest

All WPCA staff and contractors are required to declare any conflict of interest on appointment. This information is reviewed annually and updated as necessary.

Digital images

The WPCA holds digital images of all staff members which are used for the production of staff identification cards and other internal uses including publication on the WPCA's intranet.

Contact details

WPCA holds contact details such as contact details for:

- government agency CEOs, members of inter-departmental working groups and similar, members of government boards and advisory committees;
- stakeholders participating in stakeholder consultation forums; and
- people who have made formal access applications under the GIPA Act.

Correspondence records

WPCA holds the following correspondence records:

- contact details of people who have written to or emailed the CEO or WPCA;
- details of the nature of their correspondence, which can include sensitive Personal Information about matters such as ethnicity, religion or sexuality;
- copies of replies to correspondence; and
- records of to whom, if anyone, their correspondence was referred.

This information is only used for the purpose of communicating a reply to the correspondent either from WPCA or the WPCA Board. Once a matter has been progressed and processed, it is closed and filed accordingly on relevant files stored and secured by GovConnect, as the WPCA's primary provider of records management services.

3 The Information Protection Principles (IPPs)

3.1 Applying the privacy principles in NSW

The WPCA is guided by sections 8 to 19 of the PPIP Act. These sections provide a set of privacy standards which public sector agencies are expected to follow when dealing with Personal Information. The IPPs govern the collection, retention, accuracy, use and disclosure of Personal Information, including rights of access and correction.

12 Information protection principles

Collection	1	Lawful
	2	Direct
	3	Open
	4	Relevant
<hr/>		
Storage	5	Secure
<hr/>		
Access	6	Transparent
	7	Accessible
	8	Correct
<hr/>		
Use	9	Accurate
	10	Limited
<hr/>		
Disclosure	11	Restricted
	12	Safeguarded

3.2 Collecting Personal Information (sections 8 to 11 of the PPIP Act)

The WPCA will only collect Personal Information if it is:

- for a lawful purpose that is directly related to one of our functions; and
- reasonably necessary for the WPCA to have the information.

The WPCA will ensure that when Personal Information is collected from an individual, either verbally or in written forms, the individual will be advised accordingly. This advice will include the purpose of the collection; any intended recipients of the information (where applicable); their right to access and correct the information; and the details of any agency or Department that is collecting or holding the information on the WPCA's behalf (if applicable).

The WPCA also advises individuals if the collection is voluntary or if it is lawfully required and informs individuals of any penalties or other possible consequences for not complying with the WPCA's request.

When collecting Personal Information from an individual, the WPCA endeavours to ensure that the information is relevant, accurate, up to date and complete for the purposes for which it is being collected. The WPCA will also endeavour to ensure that the collection of the information does not intrude to an unreasonable extent on the personal affairs of the individual, having regard to the purposes for which it is being collected.

Collection tips:

- When designing a form, ask yourself: “do we really need each bit of this information?”
- By limiting the collection of Personal Information to only what you need, it is much easier to comply with the principles.
- If collecting Personal Information about someone, collect it from the source to ensure accuracy and gain any permission for disclosure of the information.
- Do not ask for information that is not relevant or very sensitive.
- Individuals providing their Personal Information to the WPCA have a right to know the full extent of how the information they provide will be used and disclosed, and to choose whether or not they wish to go ahead with providing information on that basis.

3.3 Storing Personal Information (section 12 of the PPIP Act)

The WPCA takes reasonable security safeguards against the loss, unauthorised access, use, modification and disclosure of Personal Information.

The WPCA has in place information security policies which provide guidance to staff around the handling and storage of Personal Information.

The WPCA’s security measures further include the use of restricted drives and authorised access. Personal Information is kept for no longer than is necessary and is disposed of once no longer required in a secure manner in accordance with governmental requirements.

Storage tips:

The WPCA must:

- only provide Personal Information to a contractor or service provider if they really need it to do their job; and
- take reasonable steps to prevent any unauthorised use or disclosure of the Personal information by a contractor or service provider, and remember to bind our contractors to the same privacy obligations.

3.4 Accessing Personal Information (sections 13-14 of the PPIP Act)

It is the WPCA’s intention to provide the fullest opportunity for individuals to access information which it holds on them. Generally, requests for access by an individual to their Personal Information will be available on an informal basis. Where a decision to grant access to information contained within documents is refused, individuals have the right to make an application under the GIPA Act.

The WPCA will endeavour to ensure that all Personal Information is accurate, complete and current. Further, should an individual become aware of, or detect an error in the WPCA’s records about their personal affairs, the WPCA will make the necessary changes.

If the WPCA disagrees with the person about whether the information needs changing, we must instead allow the person to add a statement to our records.

Access tips:

- People should generally be able to see easily what information we hold about them.
- The WPCA will let complainants, clients and staff see their own Personal Information at no cost and through an informal request process.

- The WPCA cannot charge people to lodge their request for access or amendment. The WPCA can, however, charge reasonable fees for copying or inspection, if we tell people what the fees are up-front.

3.5 Using Personal Information (sections 15-17 of the PPIP Act)

The WPCA will only use Personal Information for the purposes for which it was collected or for other directly related purposes. At the time the WPCA collects Personal Information from an individual, they will notify the individual of the primary purpose for which the information is collected.

For example:

If the primary purpose of collecting a complainant's information was to investigate their workplace grievance, directly related secondary purposes within the reasonable expectations of the person for which their Personal Information could be used by the WPCA would include independent auditing of workplace grievance files.

Use tips:

The primary purpose for which the WPCA has collected the Personal Information should have been set out in a privacy notice (Appendix A). To use Personal Information for a purpose set out in the privacy notice is usually permissible, but for any other purpose, check with the WPCA's Privacy Coordinator first.

3.6 Disclosing Personal Information (sections 18-19 of the PPIP Act)

The WPCA will only disclose Personal Information if:

- at the time the WPCA collected their information, the person was given a privacy notice (template at **Appendix A**) to inform them their Personal Information would or might be disclosed to the proposed recipient, or
- the disclosure is directly related to the purpose for which the information was collected, and the WPCA has no reason to believe that the individual concerned would object to the disclosure, or
- the person concerned has consented to the proposed disclosure.

If an individual's Personal Information is disclosed to other NSW Public sector agencies, those agencies can only use information for the purpose for which it was disclosed to them. The information continues to be covered by the PPIP Act.

Disclosure tips:

The WPCA can usually disclose information in the way it notified the individual about at the time their Personal Information was collected.

However, if the WPCA did not tell the person about the proposed disclosure in a privacy notice, the individual's consent is usually required.

The disclosure of Personal Information, without prior notice, is also allowable under where the exchange of information is reasonably necessary 'for the purpose of referring inquiries between agencies', or 'to allow agencies to deal with or respond to correspondence from Ministers or Members of Parliament'. (For more information see the [Direction on Information Transfers between Public Sector Agencies](#) (2015)).

3.7 Exemptions

There are a number of exemptions to the IPPs that limit their coverage in a number of ways including:

- information that is contained in a publicly available publication (section 4(3) of the PPIP);
- exchanges of information which are reasonably necessary for the purpose of referring inquiries between agencies;
- disclosure relating to law enforcement and related matters (section 24 of the PPIP Act); and
- where non-compliance is lawfully authorised or required or otherwise lawfully permitted.

4 Code of Practice and PPIP section 41 Directions

Under the PPIP Act, Privacy Codes of Practice can be developed by agencies that provide for the modification of the application of one or more IPPs to particular activities or categories of information.

This is undertaken to take account of particular circumstances relating to legitimate use of Personal Information by agencies that might otherwise be in contradiction to the IPPs under the PPIP Act.

The Information and Privacy Commission can also prepare Codes of Practice common to a number of agencies. All Codes are approved by the NSW Attorney-General.

In addition, under section 41 of the PPIP Act the Privacy Commissioner may make a direction to waive or modify the requirement for an agency to comply with an IPP.

4.1 Privacy Code of Practice for the NSW Public Service Commission

The NSW Public Service Commission has developed a [Privacy Code of Practice for the Public Service Commission](#) to allow analysis and reporting about employment characteristics.

The WPCA provides Personal Information to the NSW Public Service Commission for this purpose. Confidentiality and privacy arrangements underpin the workforce profile.

4.2 Direction on information transfers between Public Sector Agencies

The Privacy Commissioner recognises that there are many transfers of Personal Information between government agencies in NSW which are both legitimate and necessary.

The direction provides certain exemptions from the requirements of the PPIP Act relating to where exchanges of Personal Information between agencies are reasonably necessary for the purpose of dealing with:

- responses to correspondence from Ministers or MPs;
- referral of inquiries;
- auditing accounts or performance of a program or programs administered by an agency or agencies;
- law enforcement purposes not covered by the exemptions in the PPIP Act; and
- performance agreements between agencies.

4.3 Direction on the use of information for investigative purposes

The direction provides certain exemptions from the requirements of the PPIP Act to an agency where non-compliance is reasonably necessary for the proper exercise of any of the agency's investigative functions or its conduct of any lawful investigations.

5 Public Registers

Under section 3(1) of the PPIP Act, a Public Register is defined as '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).'

The PPIP Act requires that a public sector agency responsible for keeping a Public Register must not disclose any Personal Information contained in it unless the agency is satisfied that it is to be used for a purpose relating to the purpose of the register.

The WPCA does not currently hold any Public Registers.

6 Other relevant legislation

- *Anti-Discrimination Act 1977*
- *Criminal Records Act 1991*
- *GIPA Act 2009*
- *Ombudsman Act 1974*
- *Public Interest Disclosures Act 1994*
- *State Records Act 1998*
- *Workplace Surveillance Act 2005*

7 Policies affecting processing of personal information

The WPCA Internal Policies and Procedures impacting on the processing of personal information include:

- WPCA Code of Ethics and Conduct;
- WPCA Use of communication devices policy;
- WPCA Management of IT assets and information access for staff on leave;
- WPCA Public interest disclosures internal reporting policy; and
- WPCA Fraud and Corruption Prevention Policy.

8 How to access and amend Personal Information

People have the right to access, amend and update Personal Information that the WPCA holds about them.

The WPCA must provide access to this information without excessive delay and does not charge any fees to access or amend it.

The WPCA encourages staff wanting to access or amend their own personal information to contact the WPCA Legal.

For members of the public, a request for access to any Personal Information held by the WPCA should be made in writing to the WPCA Privacy Coordinator (see section 12 for contact details).

Any person can make a formal application to the WPCA Privacy Coordinator and this 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);
- explain what personal information the person wants to access or amend; and
- explain how the person wants to access or amend it.

The WPCA aims to respond in writing to formal applications within 20 working days and will advise the applicant how long the request is likely to take, particularly if it may take longer than expected.

If an individual believes that the WPCA is taking an unreasonable amount of time to respond to an application, they have the right to seek an Internal Review.

Before seeking an Internal Review, we encourage individuals to first contact the WPCA to request provision of an update or timeframe.

9 Internal Review

9.1 Request for Internal Review

An individual who considers his or her privacy has been breached can make a complaint to the WPCA under section 53 of the PPIP Act and request a formal internal review of the WPCA's conduct in relation to the privacy matter (**Internal Review**).

A breach of an individual's privacy is where a breach of one or more of the IPPs has occurred.

Applications for Internal Review must:

- be in writing addressed to the WPCA;
- include a return address in Australia; and
- be lodged with the WPCA within six months of the time the applicant first became aware of the conduct which is the subject of the application.

The form for applying for a review of conduct under section 53 of the PPIP Act is at Appendix B.

Request for review must be either an alleged:

- breach of the IPPs or any Code of practice applicable to the WPCA; or
- disclosure of Personal Information from Public Registers held by the WPCA. Applicants who are not satisfied with the findings of the review or the action taken by the WPCA in relation to the Internal Review, have the right to appeal to the NSW Civil and Administration Tribunal (**NCAT**) under s 55 of the PPIP Act.

9.2 Internal Review Process

The Privacy Coordinator is responsible for receiving, allocating and overseeing Internal Reviews in relation to privacy matters.

Within the WPCA, the responsibilities of the Privacy Coordinator are currently held by the Director Legal.

Internal Reviews will generally be conducted by an Executive Director with no involvement in the matter giving rise to the complaint of breach of privacy. The Executive Director may seek legal or other assistance in conducting the review.

Under section 54(1) of the PPIP Act, the WPCA is required to notify the NSW Privacy Commissioner of the receipt of an application for an Internal Review of conduct and keep the NSW Privacy Commissioner informed of the progress, eventual findings and actions proposed to be taken in response to the internal review. In addition, the Privacy Commissioner is entitled to make submissions to the WPCA in relation to the application for Internal Review (section 54(2) of the PPIP).

Under section 53(6) of the PPIP, an Internal Review must be completed within 60 days of the receipt of the application.

Under section 53(8) of the PPIP Act, as soon as practicable, or in any event within 14 days, after the completion of the internal review the WPCA must notify the applicant in writing of the:

- findings of the review (and the reasons for those findings); and
- action proposed to be taken by the WPCA (and the reasons for taking that action); and
- the right of the person to have those findings, and the WPCA's proposed action, administratively reviewed by NCAT.

When the WPCA receives an Internal Review, the Privacy Coordinator will send:

- an acknowledgment letter to the applicant and advise that if the Internal Review is not completed within 60 days they have a right to seek a review of the conduct by NCAT; and
- a letter to the NSW Privacy Commissioner with details of the application and a photocopy of the written complaint.

There is an example of a letter of notification to the Privacy Commissioner of receipt of request for an Internal Review at **Appendix D**.

The Director responsible for completing the final determination must consider any relevant material submitted by the applicant or the Privacy Commissioner. Before completing the review, the Director should enquire if the Privacy Commissioner wishes to make a submission.

It is recommended that the Director send a draft copy of the preliminary determination to the Privacy Commissioner for comment.

The WPCA follows the model of the Internal Review process provided by the NSW Information and Privacy Commission (**Appendix C**).

In finalising the determination, the Director will prepare a report containing their finding and recommended action.

The WPCA may:

- take no further action on the matter;
- make a formal apology to the applicant;
- take appropriate remedial action, which may include the payment of monetary compensation to the applicant;
- undertake that the conduct will not occur again; and/or
- implement administrative measures to ensure that the conduct will not occur again.

The reviewing Director will notify the applicant in writing of:

- the findings of the review;
- the reasons for the finding, described in terms of the IPPs;
- any action the WPCA proposes to take;
- the reasons for the proposed action (or no action); and/or
- their entitlement to have the findings and the reasons for the findings reviewed by NCAT.

The Privacy Coordinator provides a single point of contact for individuals seeking further information on how the WPCA complies with the PPIP Act. The Privacy Coordinator will receive all correspondence and enquiries regarding the PPIP Act and Internal Review requests.

The Privacy Coordinator's role also includes monitoring, recording and reporting on the progress of all Internal Review applications received.

9.3 Recording of Internal Reviews

The WPCA records all applications for Internal Review in a secure Objective file and workflow. The workflow tracks the progress of the Internal Review process and the determination of the completed review.

The details recorded in this system will provide the statistical information on Internal Review applications to be included in the WPCA's Annual Report.

10 External Review

An external review process is also available.

10.1 External Review by the Privacy Commissioner

Any individual who considers his or her privacy has been breached can make a complaint to the Privacy Commissioner under section 45 of the PPIP Act without going through the Internal Review process of the WPCA. The complaint must be made within 6 months (or such later time as the Privacy Commissioner may allow) from the time the individual first became aware of the conduct or matter the subject of the complaint.

10.2 External Review by NCAT

If the applicant is not satisfied with the outcome of the WPCA's Internal Review they may apply to NCAT to review the decision. If the WPCA has not completed the Internal Review within 60 days, the applicant can also take the matter to NCAT.

To seek an external review to NCAT, the individual must apply within 28 days from the date of the Internal Review decision.

A person must seek an Internal Review before they have the right to seek an external, administrative review under the *Administrative Decisions Review Act 1997* (section 55(1) of the PPIP Act).

NCAT has the power to make binding decisions on an external review (section 55(2) of the PPIP Act).

For more information including current forms and fees, please contact NCAT:

website: <https://www.ncat.nsw.gov.au/ncat/about-ncat/contact-us.html>

phone: 1300 006 228

visit/post: NSW Civil & Administrative Tribunal
Level 9, John Maddison tower,
86-90 Goulburn Street, Sydney NSW

NCAT cannot give legal advice; however, the NCAT website has general information about the process it follows and legal representation.

11 Promoting the Plan

11.1 Executive & Governance

The WPCA's Board is committed to transparency in relation to compliance with the Acts. The Board reinforces transparency and compliance with the Acts by:

- endorsing this Plan and making it publicly available;
- providing a copy of this Plan to the Audit and Risk Committee;
- reporting on privacy issues in the WPCA's Annual Report in line with the *Annual Reports (Departments) Act 1985* (NSW); and
- identifying privacy issues when implementing new systems.

11.2 Staff Awareness

To ensure that WPCA staff are aware of their rights and obligations under the Act, the WPCA currently:

- introduces the Plan during staff induction with training provided as required;
- provides refresher, specialised and on-the-job privacy training;

- as a minimum, highlights the Plan annually during Privacy Awareness Week;
- provides privacy briefing sessions at appropriate management forums; and
- notifies staff of the privacy offence provisions (Part 8 of the PPIP Act contains offences for certain conduct of public sector officials and other persons. Such offences include any relating to corrupt disclosure and use of personal information by public sector officials; and inappropriately offering to supply personal information that has been disclosed unlawfully.)

12 Further Information and Contacts

For further information about this Plan, the personal information the WPCA holds, or if you have any concerns, please contact the Privacy Coordinator of the WPCA:

governance@wpcasidney

For more information on privacy rights and obligations in New South Wales, please contact the NSW Privacy Commissioner at:

NSW Information and Privacy Commission

Level 15, McKell Building, 2-24 Rawson Pl, Haymarket NSW 2000

Telephone: 1800 472 679

Web: <http://www.ipc.nsw.gov.au>

Email: ipcinfo@ipc.nsw.gov.au

Appendix A: Privacy notice and consent template text

About privacy notices

When collecting Personal Information, the WPCA should tell the person:

- whether the collection is required by law;
- what the consequences will be if they do not provide the information;
- what it will be used for;
- who will hold/store the information (if not the WPCA);
- who else might receive the information from the WPCA; and
- how they can access or update/correct their information.

The following **Template privacy notice** should be used when the WPCA is collecting Personal Information in writing, and only intends to use or disclose the information for the purpose for which it is collected.

If any other secondary use or disclosure is contemplated, insert the highlighted wording in the box below after the second paragraph.

If Personal Information is being collected verbally, see **Verbal collections** below.

Template privacy notice

Providing us with the requested information is not required by law. However if you choose not to provide us with the requested information, ... *[describe the main consequences for person if information is not provided – e.g. the WPCA cannot investigate your complaint]*.

You may request access to your information at any time. To access or update your personal information, or for more information on our privacy obligations, ask to speak to the Privacy Coordinator.

*[insert the following highlighted paragraph **only** where the WPCA wishes to use or disclose Personal Information for a secondary purpose not directly related to the primary purpose for which the information was collected.]*

With your permission, we would also like to [use/disclose] your information to: *[describe here the intended secondary purpose – e.g. put you on your mailing list for future community events]*.

I consent to my personal information being [used / disclosed] for the purpose of [name the secondary purpose].

Signature:

Verbal collections

When collecting Personal Information verbally (e.g. during telephone discussions), we can use less formal wording, so long as we explain how the person's Personal Information will be used, and to whom else it will likely be disclosed. If the person asks further questions about whether the information is really needed, then we can go into more depth, and we can also mention their access and amendment rights or offer to let them speak to the Privacy Coordinator.

However if we need to obtain the person's verbal consent to a secondary use or disclosure, we must explain what it is we are asking, and we must ensure that they understand they are free to say 'no'. We must also make a file-note of what was said.

Appendix B: Privacy Complaint (Internal Review Application) Form

Please complete this form to apply for a review of conduct under section s 53 of the [Privacy and Personal Information Protection Act 1998 \(PIIP Act\)](#).

If you need help in filling out this form, please contact the Privacy Coordinator at governance@wpcasidney or visit the Information & Privacy Commission website at www.ipc.nsw.gov.au.

- 1 Name of the agency you are complaining about:
The Western Parkland City Authority (WPCA)

- 2 Your full name:

- 3 Your postal address:
Telephone number:
Email address:

- 4 If you are complaining on behalf of someone else, please provide their details: here:

What is your relationship to this other person? (e.g. parent or lawyer)

Is the other person capable of making the complaint him or herself?
 yes
 no
 unsure

- 5 What is the specific **conduct** you are complaining about? (*'Conduct' can include an action, a decision, or even inaction by the WPCA. For example the 'conduct' in your case might be a decision to refuse you access to your personal information, or the action of disclosing your personal information to another person, or the inaction of a failure to protect your personal information from being inappropriately accessed by someone else.*)

- 6 Please tick which of the following describes your complaint: (*You can tick more than one*)

- collection of my personal information
 - security or storage of my personal information
 - refusal to let me access or find out about my own personal information
 - accuracy of my personal information
 - use of my personal information
 - disclosure of my personal information
 - other
 - unsure
-

7 When did the conduct occur (date)? *(Please be as specific as you can)*

8 When did you first become aware of this conduct (date)?

9 You need to lodge this application within 6 months of the date you have written at Q.8.

If more than 6 months has passed, you need to ask WPCA's Privacy Coordinator for special permission to lodge a late application. If you need to, write here to explain why you have taken more than 6 months to make your complaint:

10 What effect did the conduct have on you?

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

12 What would you like to see the WPCA 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.*)

13 I understand that this form will be used by the WPCA to process my request for an Internal Review.

I understand that details of my application will be referred to the NSW Privacy Commissioner as required by law, and that the Privacy Commissioner will be kept advised of the progress of the review.

I would prefer the Privacy Commissioner to have:

- a copy of this application form, or
 - just the information provided at Q's 5 - 12.
-

Applicant's signature and lodgement

Applicant's signature: Date:

Please post this form with the application fee to: Privacy Coordinator (Governance)

PO Box W162,
Parramatta Westfield NSW 2150

Please keep a copy for your own records

Appendix C: Internal Review Checklist

How to use this form

The *Privacy and Personal Information Protection Act 1998* (the PPIP Act) provides that public sector agencies deal with complaints by way of Internal Review. This process is the same under the PPIP Act, although you will be assessing the alleged conduct against different standards (as set out below).¹

A privacy complaint may come under the PPIP Act, section 53,² if it relates to personal information, and the Information Protection Principles (IPPs).

Preliminary steps	Date completed
1 Is the complaint about a person's <i>personal information</i> ? ³ <input type="checkbox"/> Yes – You should treat their complaint as a request for Internal Review. Go to Q.2. <input type="checkbox"/> Follow your agency's normal complaint handling procedures.	
2 According to the complainant, when did the alleged conduct occur?	
3 Is the complaint about conduct that occurred after 1 July 2000? <input type="checkbox"/> Go to Q4. <input type="checkbox"/> No – The PPIP Act does not apply. Follow your agency's normal complaint handling procedures.	
4 According to the complainant, when did they first become of the alleged conduct? ⁴	
5 When was this application/privacy complaint first lodged? ⁵	

6 If more than six months lapsed between the date at Q.4 and the date at Q.5, your agency must decide whether you will accept a late application.

Will you accept this late application?

Yes – Go to Q.7.

No – Explain your reasons as to why you are unable to accept this older than 6 months complaint to the complainant, then follow your agency's normal complaint handling procedures.

7 When will 60 days elapse from the date at Q.5?

After this date the complainant may go to the New South Wales Civil and Administrative Tribunal (**NCAT**) without waiting for the results of this review.

8 For complaints about a person's **personal information** tick all of the following types of **conduct**⁷ that describe the complaint. Then go to Q.9

collection of the complainant's personal information (IPPs 1-4)

security or storage of the complainant's personal information (IPP 5)

refusal to let the complainant access or find out about their own personal information (IPPs 6-7)

accuracy or relevance of the complainant's personal information (IPPs 8-9)

use of the complainant's personal information (IPP 10)

disclosure of the complainant's personal information (IPPs 11-12, and/or the public register provisions in Part 6 of the Act)

other/it's not clear

9 Appoint a reviewing officer. (*The reviewing officer must be someone who was not substantially involved in any matter relating to the conduct complained about. For other requirements see s.53(4) of the PPIP Act.*)

Insert the reviewing officer's name here:

-
- 10 Write to the complainant, stating:
- your understanding of the conduct complained about,
 - your understanding of the privacy principle/s at issue (either IPPs at Q.8),
 - that the agency is conducting an Internal Review under the PPIP Act,
 - 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,
 - the estimated completion date for the review process,
 - that if your review is not complete by the date at Q.7, the complainant can go to NCAT for an external review of the alleged conduct, and
 - that a copy of this letter will be provided to the NSW Privacy Commissioner for their oversight role.

-
- 11 Send a copy of your letter at Q.10 to the NSW Privacy Commissioner, GPO Box 7011, SYDNEY NSW 2001; or fax (02) 6446 9518 or email ipcinfo@ipc.nsw.gov.au.

Include a copy of the complainant's application – either the written request or the information provided on the *Privacy Complaint: Internal Review Application Form*.

12 **Under the PPIP Act**

You need to determine:

- whether the alleged conduct occurred;
- if so, whether the conduct complied with all the IPPs (and Part 6 public register provisions if applicable)⁸;
- and if the conduct did not comply with an IPP (or the public register provisions), whether the non-compliance was authorised by:

an exemption under the PPIP Act⁹,

a Privacy Code of Practice¹⁰, or

a s.41 Direction from the Privacy Commissioner.

13 Four weeks after sending the letter at Q.10, send a progress report to the complainant and the Privacy Commissioner.¹² Include:

- details of progress of the review;
- if there are delays, an explanation of this and a revised estimated completion date for the review process; and
- a reminder that if the review is not complete by the date at Q.7, the complainant can go to NCAT for an external review of the alleged conduct.

14 **Under the PPIP Act**

Write up your findings about the facts, the law, and your interpretation of the law.

Set out your preliminary determination about:

- whether there was sufficient evidence to establish that the alleged conduct occurred;
- which of the IPPs (and/or the public register provisions) you examined and why;
- whether the conduct complied with the IPPs/ public register provisions; and
- if the conduct did not comply with an IPP or public register provision, whether the non-compliance was authorised by:
 - an exemption under the PPIP Act,
 - a Privacy Code of Practice, or
 - a s.41 Direction from the Privacy Commissioner, and
 - an appropriate action for the agency by way of response/ remedy.

15 Before completing the review, check whether the Privacy Commissioner wishes to make a submission. Ideally you should provide a draft copy of your preliminary determination to the Privacy Commissioner for comment

16 **Under the PPIP Act**

Finalise your determination of the Internal Review, by making one of the following findings:

- insufficient evidence to suggest alleged conduct occurred;
 - alleged conduct occurred but complied with the IPPs/public register provisions;
 - alleged conduct occurred; did not comply with the IPPs/ public
-

register provisions; but non-compliance was authorised by an exemption, Code or s.41 Direction; and

alleged conduct occurred; the conduct did not comply with the IPPs/ public register provisions; the non-compliance was not authorised (a **breach**)

17 Did the agency breach an IPP or public register provision?

Yes – Go to Q.19

No – Go to Q.18

18 Even though the agency did not breach any IPP or public register provision, have you identified any need for improvement in policies, procedures, communicating with your clients, etc?

Yes – Go to Q.19

No – Go to Q.21

19 What action is proposed by the agency as a result of this review?
(You can have more than one.)

apology to complainant

rectification¹³ to complainant, e.g.:

access to their personal information

correction of their personal information

other type of rectification expenses paid to complainant

compensatory damages paid to complainant

other remedy to complainant

review of policies, practices or systems

change in policies, practices or systems

training (or further training) for staff

other action

no action

20 Is the proposed action likely to match the expectations of the complainant?

Yes

No

Unsure

21 **Under the PPIP Act**

Notify the complainant and the Privacy Commissioner¹⁴ in writing:

that you have completed the Internal Review,
What your findings are, i.e. which one of the following:

insufficient evidence to suggest alleged conduct occurred

alleged conduct occurred but complied with the IPPs/public register provisions

alleged conduct occurred; did not comply with the IPPs/public register provisions; but non-compliance authorised by an exemption, Code or s.41 Direction

alleged conduct occurred; the conduct did not comply with the IPPs/ public register provisions; the non-compliance was not authorised (a **breach**)

what the reasons for your findings are,

a plain English explanation of the law behind your findings, including quoting in full the relevant legislative provisions you are talking about,

what action/s you are going to take as a result,

that the complainant has the right to apply to NCAT for a review of the conduct complained about, and

the contact details for NCAT.

22 Keep a record of this review for your annual reporting requirements.¹⁵

Notes:

¹The 12 IPPs in the PPIP Act are legal obligations the manner in which NSW government agencies (including statutory bodies and local councils) must handle personal information. The 12 IPPs cover the collection, storage, use and disclosure of personal information as well as access and correction rights.

² Section 53(1): a person (the applicant) who is aggrieved by the conduct of a public sector agency is entitled to a review of that conduct. The requirements under 53(3) of the PPIP Act for an application for Internal Review are as follows:

- be in writing; and
- be addressed to the public sector agency concerned;
- specify an address in Australia to which a notice of completion of review (under subsection 8 of the PPIP Act) may be sent;
- be lodged at an office of the public sector agency within 6 months (or such later date as the agency may allow) from the time the applicant first became aware of the conduct the subject of the application; and
- comply with such other requirements as may be prescribed by the regulations (there are no additional requirements prescribed at this time).

³ “Personal information” is defined at section 4 of the PPIP Act as *information or an opinion ... about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion*. There are some exemptions to the definition (for example *information or an opinion about an individual’s suitability for appointment or employment as a public sector official*) so check section 4 in full. However if you are thinking of relying on one of these exemptions, especially those in sections 4(3)(b) or 4(3)(j), please first seek advice from the Information and Privacy Commission as to the extent to which the exemption applies.

⁴ Note that in *Y v Director General, Department of Education and Training* [2011] NSWADT 149 (**Y v DET**), the Administrative and Disputes Tribunal (**ADT**) warned against agencies using ‘self-serving calculations’ when determining the date on which the complainant may have first become aware of the conduct complained of.

⁵ In *Y v DET*, the ADT found that “express reference” to the PPIP Act is not essential in correspondence with agencies, especially where the context suggests that a statutory right is being invoked. Therefore the complainant need not have used the phrase ‘Internal Review’ for their privacy complaint to be considered by law to be an Internal Review application. Agencies should therefore look to the date the first written complaint about a breach of privacy was made.

⁶ Your agency should have a clear and written policy on the grounds under which you will allow a late application, including the means by which you will notify complainants about those grounds and what the complainant must prove to you. Include your policy in your Privacy Management Plan.

⁷ ‘Conduct’ can include an action, a decision, or even inaction by your agency. For example the ‘conduct’ in this case might be a *decision* to refuse the complainant access to his or her personal information, or the *action* of disclosing his or her personal information to another person, or the *inaction* of a failure to protect the complainant’s personal information from being inappropriately accessed by someone else.

⁸ Don’t forget to look at all the IPPs, as they can be inter-related. For example a complaint about disclosure (IPPs 11 and 12, contained in sections 18 and 19 of the PPIP Act, and the public register provisions) might also raise issues about data security under IPP 5 (contained in section 12 of the PPIP Act), or notification about collection at IPP 3 (contained in section 10 of the PPIP Act).

⁹ Exemptions are found in the PPIP Act at sections 4-6, 20, and 23-28.

¹⁰ Privacy Codes of Practice are instruments made by the Attorney General (under the PPIP Act). Many can be found on the Information and Privacy Commission website at: www.ipc.nsw.gov.au.

¹¹ Section 41 Directions only modify the IPPs, not the public register provisions. These Directions are usually temporary so check the dates carefully, and contact the Information and Privacy Commission for earlier versions of Directions if necessary. View all current section 41 [Public Interest Directions](#).

¹² Sections 53(8) and 54 of the PPIP Act.

¹³ 'Rectification' means putting things right, the way they should have been in the first place.

¹⁴ See Q.14 on *Privacy Complaint: Internal Review Application Form*, if they have used that form. (it is not compulsory for the complainant to use any particular format, so long as their requests is in writing).

¹⁵ The annual report of each public sector agency must include statistical details of any Internal Review conducted under the PPIP Act. See section 6 of the *Annual Reports (Departments) Regulation 2010* and clause 10 of the *Annual Reports (Statutory Bodies) Regulation 2010*.

Appendix D: Draft letter to the Privacy Commissioner regarding receipt of application for internal review under section 53 of the PPIP Act

(WPCA letterhead)

File number:

Date

Ms Samantha Gavel
NSW Privacy Commissioner
GPO Box 7011
Sydney NSW 2001

Dear Ms Gavel,

Notification in accordance with s. 54(1) of the *NSW Privacy and Personal Information Protection Act of 1998*.

WPCA has received an application for Internal Review under s. 53 of the *Privacy and Personal Information Protection Act 1998*. A copy of the letter of application is attached.

The matter is being investigated. I shall keep you informed of the progress and outcome of the review.

Should you have any submissions regarding this matter, please send them to me at the above address.

Yours sincerely,

{INSERT ED responsible for Privacy}