

PRIVACY MANAGEMENT PLAN





Foreword

I am pleased to present this Privacy Management Plan which sets out how Hunter Water Corporation (“Hunter Water”) manages and protects the personal and health information of its customers and its people.

Our integrity in this area is essential to build trust and confidence with our people, our customers and our stakeholders. Everyone at Hunter Water has a role to play in ensuring openness, transparency and accountability in the management and protection of personal and health information.

This PMP ensures that the way we collect, use, disclose and store personal and health information meets legislative requirements and community expectations. It also equips our people with the knowledge and skills to manage personal and health information appropriately and it forms part of our robust and vigilant Privacy Framework which is continually reviewed and improved.

I look forward to your ongoing commitment to ensuring that privacy is prioritised at Hunter Water and to upholding our core values of wellbeing, trust, leading, learning and inclusion.

Darren Cleary
Managing Director
Hunter Water Corporation

OUR VALUES:

WELLBEING
TRUST
INCLUSION
LEADING
LEARNING



BODY

Be safe.

SOUL

Do the right thing.

MIND

**Look both ways
before crossing.**



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1. Executive Summary

1.1. Introduction

Hunter Water is required to comply with the Health Privacy Principles (HPPs) under the *Health Records & Information Privacy Act 2002* (NSW) (HRIP Act) with respect to health information¹. In relation to all other types of personal information, Hunter Water voluntarily complies with the Information Privacy Principles (IPPs) in the *Privacy and Personal Information Protection Act 1998* (NSW) (PIIP Act).

This Privacy Management Plan (“PMP”) includes the following:

- ☑ how Hunter Water devises policies and practices to ensure voluntary compliance with the PIIP Act and compliance with HRIP Act;
- ☑ how Hunter Water disseminates these policies and practices within the organisation to ensure everyone understands and complies with the requirements;
- ☑ what to do if you are concerned about how Hunter Water has managed your privacy; and
- ☑ other matters Hunter Water considers to be relevant to privacy and the personal or health information it holds.

The PMP details who you should contact with questions about your personal or health information that is collected and held by Hunter Water, how to access and amend your personal or health information and what to do if you are concerned that Hunter Water has not managed your personal or health information in a way that follows the PIIP Act or HRIP Act.

This PMP applies to all of Hunter Water’s people (as defined).

1.2. About Hunter Water

Hunter Water serves a population of almost 600,000 people in homes and businesses across the Lower Hunter region. Our core responsibility is to supply reliable, high quality water and wastewater services to the people in our region. We provide stormwater services to about one third of our water and wastewater customers. We also provide trade wastewater, recycled water and raw water services.

Hunter Water’s area of operations is 5,366 square kilometres and includes the local government areas of Cessnock, Dungog, Lake Macquarie, Maitland, Newcastle, Port Stephens and a small part of Singleton.

We collaborate with stakeholders, advocacy groups, and all levels of government so that together we can achieve value for money customer and community outcomes. Hunter Water is owned by the NSW Government. The *Hunter Water Act 1991* (NSW) and *State Owned Corporations Act 1989* (NSW) established Hunter Water and set out our principal functions.

Hunter Water has adopted core values that inform how we approach our work every day. They are as follows:

Trust - we are honest, open and ethical

We care and act in the best interests of the communities and customers we serve. We act with integrity, holding ourselves accountable and admit our mistakes. We are skilled and capable and we can be relied upon.

Wellbeing - we care for each other’s wellbeing and that of our communities and our environment

The safety and health of our people and our communities is our first priority. We actively look after the wellbeing of our people and our environment.

¹ Hunter Water is a “private sector person” and thus an “organisation” for the purposes of the HRIP Act.



Leading – we step up!

We step up, individually and collectively, to face and address challenges. We take action and we are agile and resilient in the face of constant change. We have confidence in our capabilities, and those of our team[s], to deliver on our commitments. We innovate and influence change.

Learning - we have a thirst for learning

We are continually seeking opportunities to better ourselves, by learning from those around us through collaboration and enquiry. This leads to innovation. We listen to and engage with our stakeholders, especially our people and our customers. We welcome feedback and the generosity of those that provide it. We are generous and share our learnings willingly.

Inclusion - we value and respect diversity

We commit to creating an inclusive environment in which differences are recognised, valued and celebrated. All of our people have the opportunity to contribute their different skills, experiences and perspectives. We work together to overcome the challenges we face. We strive for an environment in which everyone can achieve their potential.

1.3. Privacy Management at Hunter Water

Hunter Water has developed a comprehensive Privacy Framework. It supports all Hunter Water’s people to make sure that privacy is managed effectively and consistently throughout the organisation and in line with the Hunter Water values.

The Privacy Framework consists of the following:

- (a) The Privacy Policy;
- (b) This PMP; and
- (c) The Privacy Fact Sheet.

1.4. Definitions and abbreviations

Collection	the way that Hunter Water acquires personal or health information, which can include a written or online form or chat, a verbal conversation, a voice recording, or a photograph.
Disclosure	when Hunter Water makes known to an individual or entity personal or health information not previously known to them.
Employee	All permanent, temporary and casual employees, as well as secondees, work experience students and volunteers.
Health Information	information or an opinion about a person’s physical or mental health or disability, or a person’s express wishes about the future provision of his or her health services or a health service provided or to be provided to a person. See the definition at section 6 of the HRIP Act.
HPPs	the Health Privacy Principles set out in Schedule 1 of the HRIP Act. They are the minimum standards for the handling of health information. See Appendix 2 of this PMP.
IPPs	the Information Privacy Principles set out in Division 1 of Part 2 of the PPIP Act. They are the minimum standards for the handling of personal information. See Appendix 1 of this PMP
NSW Privacy Laws	the <i>Privacy and Personal Information Protection Act 1998</i> (NSW) and the <i>Health Records and Information Protection Act 2002</i> (NSW).
Personal Information	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, including such things as name, email



	address, mobile phone number or residential address. See section 4(1) of the PPIP Act. Personal Information does not include those matters specifically exempt from the definition by section 4(3) of the PPIP Act and does not include Health Information.
PMP	this Privacy Management Plan which Hunter Water will update from time to time. Check the Hunter Water website to make sure you have the current version.
Public Official	Includes an individual who is an employee of or otherwise in the service of a public authority, such as Hunter Water, and an individual who is engaged by a public authority under a contract to provide services to or on behalf of the public authority.
Hunter Water's people	any individual employed by Hunter Water on a permanent, temporary or casual basis and all individuals performing work in any capacity for Hunter Water, such as contractors, subcontractors, agents, consultants, and those undertaking work experience, secondment and volunteer work.

2. Roles and Accountabilities

The following sets out the responsibilities for various positions and divisions within Hunter Water in relation to their privacy management obligations.

2.1. Hunter Water Board

The Board of Directors are aware of and understand the obligations of Hunter Water under NSW Privacy Laws.

In complying with their governance disclosure requirements, the Board will ensure that any personal or health information that is disclosed to shareholders is done so in accordance with PPIP Act and HRIP Act.

In addition to their compliance with NSW Privacy Laws, the Board will:

- (a) as part of their fiduciary duties, at all times avoid the disclosure of confidential information;
- (b) in line with Schedule 10 of the *State Owned Corporations Act 1989*, not make improper use of information; and
- (c) follow the requirements of the Directors' Code of Conduct with respect to handling information.

The Board's Audit & Risk Committee monitors and evaluates privacy risk management activities within Hunter Water.

2.2. Managing Director and Executive Management Team

The Managing Director and the Executive Management Team reinforce transparency and compliance with the NSW Privacy Laws at Hunter Water by:

- (a) endorsing the Privacy Framework including the PMP;
- (b) identifying and addressing privacy issues when improving systems or implementing new systems;
- (c) holding everyone at Hunter Water accountable for reporting identified privacy risks and breaches to the Audit & Assurance team;
- (d) committing to continual learning with a focus on training for all Hunter Water's people and ongoing support to ensure that all Hunter Water's people are aware of sound privacy management practices; and
- (e) supporting best practice in respect to privacy across all business functions.



The Managing Director, together with the Executive Management Team, has overall responsibility for promoting public awareness of the PMP through ensuring the PMP is:

- (a) written in plain English;
- (b) readily available on the Hunter Water website;
- (c) provided in hard copy on request;
- (d) referred to when Hunter Water's people, customers, stakeholders and members of the public are completing forms or surveys that collect personal or health information; and
- (e) referred to when answering enquiries regarding the management of, or access to, personal information.

2.3. Privacy Officer

Hunter Water has appointed a Privacy Officer who handles all matters related to privacy, including the handling of personal and health information. The role of the Privacy Officer is to:

- (a) ensure this Plan remains up to date (including monitoring and continuously improving this Plan);
- (b) make a copy of this Plan available to all current and new Hunter Water's people and contractors;
- (c) train and educate staff (with the assistance of members of the Learning and Development team) in aspects of the PPIP and HRIP Acts;
- (d) provide advice to staff and the Executive on privacy and the application of the PPIP and HRIP Acts;
- (e) provide a first point of contact for members of the public for all matters related to privacy and the handling of personal and health information within Hunter Water;
- (f) participate in the development of new initiatives within Hunter Water that have a potential privacy impact;
- (g) handle formal complaints about how Hunter Water has managed privacy; and
- (h) liaise with the NSW Information and Privacy Commission and other government agencies.

2.4. Managers, Supervisors and Team Leaders

All Managers, Supervisors and Team Leaders need to be aware of Hunter Water's privacy obligations and act on any areas of weakness by notifying and liaising with the Privacy Officer. They should ensure that their team members are aware of the policies and procedures at Hunter Water that support the Privacy Framework, including how and to whom they should report privacy concerns.

2.5. All Hunter Water's people

All Hunter Water's people must comply with the requirements of the Hunter Water Code of Conduct. It contains a requirement that Hunter Water's people uphold all confidentiality and privacy obligations, including those related to the personal information of Hunter Water's people and customers, contractors and stakeholders. A breach of the Code of Conduct can result in disciplinary action up to and including termination.

Hunter Water's people have all undertaken training about Hunter Water's privacy obligations. They understand this PMP and how it applies to the work that they do.

Specific ways that Hunter Water ensures all Hunter Water's people are aware of their privacy obligations include:

- (a) providing privacy training, including specific training in relation to this PMP, in induction packs and providing ongoing training in relation to privacy as part of the internal training schedule and otherwise as required;



- (b) publishing this PMP in a prominent place on the Hunter Water website, further supported by the Privacy Policy and Privacy Fact Sheet which are available on the Hunter Water intranet (internal network);
- (c) including privacy obligations in the Code of Conduct; and
- (d) highlighting and promoting the PMP internally as required and in particular when relevant to emerging issues and projects.
- (i) Information and Privacy Commission and other government agencies.

3. Personal and Health Information

3.1. What is Personal Information?

Personal information is defined in section 4(1) of the PPIP Act 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.

In summary, personal information is any information or any opinion that is capable of identifying an individual. Common examples of personal information that Hunter Water could hold include a person's name, address, bank account details, a photograph or video, and billing information.

3.2. What is not Personal Information?

Under sections 4(3) and 4A of the PPIP Act, there are several types of information that are not considered to be personal information and the IPPs do not apply to the handling of this information. These include:

- (a) information about an individual who has been dead for more than 30 years;
- (b) information about an individual that is contained in a publicly available publication (for example, information provided in a newspaper or a court judgement available on the internet); and
- (c) information or an opinion about an individual's suitability for appointment or employment as a public sector official (for example, recruitment records, referee reports and performance appraisals).

3.3. What is Health Information?

Under section 6 the HRIP Act, health information means:

- (a) *personal information that is information or an opinion about –*
 - (i) *the physical or mental health or a disability (at any time) of an individual, or*
 - (ii) *an individual's express wishes about the future provision of health services to him or her, or*
 - (iii) *a health service provided, or to be provided, to an individual, or*
- (b) *other personal information collected to provide, or in providing, a health service, or*
- (c) *other personal information about an individual collected in connection with the donation, or intended donation, of an individual's body parts, organs or body substances, or*
- (d) *other personal information that is genetic information about an individual arising from a health service provided to the individual in a form that is or could be predictive of the health (at any time) of the individual or of a genetic relative of the individual, or*
- (e) *healthcare identifiers*

but does not include health information, or a class of health information or health information contained in a class of documents, that is prescribed as exempt health information for the purposes of this Act generally or for the purposes of specified provisions of this Act.



3.4. What is not Health Information?

Any information that is not covered in the above categories is not health information for the purposes of the HRIP Act.

4. Information held by Hunter Water

4.1. Types of Personal Information held by Hunter Water

Hunter Water undertakes a diverse range of functions and activities and collects the personal information of customers and other stakeholders as part of these functions and activities. Hunter Water also holds personal information in relation to Hunter Water's people.

Some examples of the main types of personal information Hunter Water holds are:

- Customer name
- Customer address
- Customer bank account details
- Customer phone number
- Customer email address
- Customer concession information
- Hunter Water customer number
- Images on CCTV at various sites with appropriate signage to notify of its presence
- Images of Hunter Water's people for security ID card.
- Worker name, address, email address, phone number, date of birth
- Worker payroll, attendance and leave records
- Worker bank account details
- Worker training records
- Worker performance management and evaluation records
- Worker qualifications, certifications, resume.
- Records of gender, ethnicity and disability of employees for equal employment opportunity reporting purposes.

4.2. Types of health information held by Hunter Water

In some instances, Hunter Water collects health information in relation to its customers and its people. Examples of the types of health information Hunter Water holds are:

- Customer or someone living with them requiring kidney dialysis treatment
- Customer or someone living with them who uses some other health aid that requires water supply
- Customer or someone living with them who has a disability or physical or mental illness
- Worker disability
- Worker injury
- Worker illness
- Workers compensation records
- Work health and safety records

5. Management of Personal and Health Information at Hunter Water

5.1. Collection

5.1.1. Collection for lawful purposes

Hunter Water will only collect personal and health information if it is:

- (a) for a lawful purpose that is directly related to one of Hunter Water's functions; and
- (b) reasonably necessary for Hunter Water to have the information.

Direct collection



Hunter Water will collect personal and health information that you specifically give us in a variety of ways, including:

- (a) telephone;
- (b) writing;
- (c) email;
- (d) fax;
- (e) in person at Hunter Water head office, other customer centres and depots;
- (f) in person at Hunter Water kiosks hosted at events throughout our area of operations;
- (g) in person during field visits;
- (h) customer surveys;
- (i) Hunter Water's website, including by enquiries, online forms and live webchat; and
- (j) social media platforms and other interactive online forums or platforms through which we promote and provide our services.

Indirect collection

Hunter Water may collect personal or health information about you from a third party, usually with your authority. For example:

- (a) those applying for a concession card holder rebate will authorise us to obtain information from Centrelink to verify their status;
- (b) those who instruct a solicitor for some purpose or retain a real estate agent to manage an investment property will authorise Hunter Water to obtain information from that solicitor or real estate agent, but only with respect to the areas within their authority;
- (c) information may be received from another government agency or Member of Parliament when you have directed an enquiry to them and Hunter Water's input is sought in order to reply to you;
- (d) by way of our Customer Contract you authorise Hunter Water to exchange information with credit reporting agencies in relation to your payment or credit history, creditworthiness, credit standing or credit capacity;
- (e) where information is publicly available;
- (f) where collecting the information from you or with your authority would prejudice your interests; or
- (g) if you apply for employment or a contract with Hunter Water you will authorise us to collect personal information about you from your referees and educational or vocational institutions regarding your qualifications and you will authorise us to perform a police check.

Hunter Water may collect *personal information* from someone else, but only where this has been authorised by the person (or if the person is under 16 years and it is collected from their parent/guardian). Hunter Water may collect *health information* from someone else where this has been authorised (or if the person is under 16 years and it is collected from their parent/guardian) or where it is unreasonable and impractical to collect it from the individual.

Unsolicited collection

Where an individual provides Hunter Water with unsolicited personal or health information, then that information will still be treated in accordance with this Plan and the Policy. However, such information is not considered "collected" by Hunter Water for the purposes of the PPIP Act or the HRIP Act. This means the collection principles do not apply to unsolicited personal or health information.



5.1.2. Requirements when collecting personal and health information

When collecting personal information or health information from an individual, Hunter Water takes reasonable steps to tell the individual to whom the information relates:

- (a) that the information is being collected;
- (b) what it will be used for;
- (c) what other parties (if any) routinely receive this type of information from us;
- (d) whether the collection is required by law or if voluntary;
- (e) what the consequences will be for the person if they do not provide the information to Hunter Water;
- (f) the right of the person to access and/or correct their personal information; and
- (g) contact details for Hunter Water as the public sector agency that holds the information.

Notification may be made in a number of ways including by way of a collection notice, on Hunter Water's website, by audio recording or in person. If notification cannot be made prior to collection of the personal information, it will be made as soon as practicable afterwards.

5.1.3. Relevance of the information collected

When collecting information from an individual, Hunter Water will take reasonable steps to ensure it:

- (a) does not collect excessive personal information or health information;
- (b) collects only the minimum amount of information necessary to ensure the purpose/s to which it was collected are satisfied;
- (c) does not collect personal or health information in an unreasonably intrusive manner; and
- (d) ensures that personal and health information collected is relevant, accurate, up-to-date and complete.

5.2. Storage, Retention and Security

Hunter Water takes reasonable security safeguards to protect personal and health information from loss, unauthorised access, use, modification or disclosure, and against all other misuse. Hunter Water will ensure that personal and health information is stored securely, not kept longer than necessary, and disposed of appropriately.

Where it is necessary for personal or health information to be transferred to a person in connection with the provision of a service to Hunter Water, we will take reasonable steps to prevent unauthorised use and disclosure of that information.

Hunter Water stores personal and health information in a variety of ways including:

- (a) on Hunter Water's database;
- (b) on icloud storage;
- (c) by third parties who are engaged to perform services in relation to Hunter Water's core functions; and
- (d) in physical office locations.

Hunter Water implements and maintains reasonable security measures to protect and secure personal and health information from unauthorised access and misuse. This includes measures around technical, physical and administrative controls. Examples of Hunter Water security measures include, but are not limited to:

- (a) restricting and managing access to IT systems and electronic files to those who require access to perform their day to day functions;



- (b) protecting computer access with individual passwords and requiring that such passwords meet strong thresholds and are changed regularly;
- (c) using follow me printing – which secures printing to the individual who has made the printing request;
- (d) having secure building entry via individually assigned identification cards;
- (e) providing Hunter Water's people with access to secure storage spaces at work stations;
- (f) physically separating business areas from others as needed to ensure confidentiality and security;
- (g) training in relation to security requirements;
- (h) requiring mandatory adherence to the Hunter Water Code of Conduct and Privacy Policy, with any breaches potentially leading to disciplinary action up to and including termination; and
- (i) ensuring the confidential destruction of personal information when no longer required.

5.3. Accuracy and Access

5.3.1. Accuracy

Hunter Water relies on the accuracy of the personal information provided by the individual. In some instances, Hunter Water will verify the accuracy of certain records it holds, including when a customer contacts Hunter Water to discuss their account or their personal information. Some personal information will be updated via the Hunter Water website (self-service).

There are certain circumstances when Hunter Water independently verifies the personal information provided, for example, in respect to a concession card holder. Consent is obtained prior to this action.

Hunter Water's people can amend their personal or health information themselves by logging into the Ellipse system. If there is no access to the Ellipse system or there is some other technical difficulty, Hunter Water's people are able to request amendment of their personal or health information by contacting the People and Culture Team.

5.3.2. Access

Hunter Water allows people to access their personal and health information without excessive delay or expense:

- An individual can access their personal or health information by contacting the relevant Hunter Water business section or via the Hunter Water call centre.
- Employees can access their personal or health information via the Ellipse system or by making a request to their relevant HR Business Partner.
- Other Hunter Water people can access their personal or health information through their line manager, who will direct the request to the appropriate area of Hunter Water.

5.4. Use

Before using personal information or health information, Hunter Water will take reasonable steps to ensure that the information is relevant, accurate, up-to-date, complete and not misleading.

Hunter Water will use personal and health information for:

- (a) the primary purpose for which it was collected – being the delivery of Hunter Water's functions or to manage our employment or business relationship with you;
- (b) a directly related secondary purpose;
- (c) another purpose where it is reasonably necessary to prevent or lessen a serious and imminent threat to life or health;



- (d) another purpose for which you have consented; or
- (e) another purpose where permitted or required by law or contained in an exemption in the PPIP Act or the HRIP Act (see below).

Examples of where Hunter Water may use personal information for a secondary purpose include, but are not limited to:

- (i) quality assurance activities such as monitoring, evaluating and auditing;
- (ii) to ensure the safety of Hunter Water's people;
- (iii) investigating a breach of the Hunter Water Code of Conduct or other disciplinary matters;
- (iv) where the information relates to a person's suitability for appointment or employment as a public sector official;
- (v) finding a missing person;
- (vi) preventing a serious threat to public health and safety; and
- (vii) generally accepted business purposes, such as debt collection activities. Generally accepted business purposes will be proper and fair and not incompatible with the primary purpose for which the information was collected.

5.5. Disclosure

Hunter Water may disclose personal or health information if:

- (a) the disclosure is directly related to the purpose for which the information was collected, and we have no reason to believe the individual concerned would object to the disclosure, e.g. disclosure to our contractors to enable them to carry out essential activities (for example, in relation to billing and IT support) or to provide employee training;
- (b) the individual has been made aware in our privacy notice that information of the kind in question is usually disclosed to the recipient;
- (c) we instruct a debt collection agency to collect a debt on behalf of Hunter Water;
- (d) the individual authorises the disclosure, e.g. if you provide us with an authority for a nominate representative to deal with us, such as spouse or family member.
- (e) we can reasonably assume you have consented, e.g. where a customer instructs a solicitor or managing agent to act on their behalf.
- (f) Hunter Water reasonably believes that the disclosure is necessary to prevent or lessen a serious and imminent threat to life or health; or
- (g) the disclosure is otherwise authorised or required by law, e.g.:
 - (i) where Police have a warrant;
 - (ii) where a subpoena or notice to produce has been issued;
 - (iii) to resolve a customer complaint to the Energy and Water Ombudsman of NSW (EWON);
 - (iv) to SafeWork NSW in the event of a work health and safety investigation;
 - (v) to superannuation trustees and/or administrators in relation to employees;
 - (vi) in response to an access application made under under the *Government Information (Public Access) Act 2009* (NSW) (GIPA Act);
 - (vii) to provide potential buyers with details of any outstanding debts on the property when a property is being sold;
 - (viii) to comply with requests made in accordance with other legislation e.g. by bodies that regulate Hunter Water activities; or



- (ix) to provide a tenant of a property the details of outstanding debts and payment arrangement options.

Hunter Water may or may not consult with you before releasing your personal information to a third party depending on the circumstances.

Greater protections usually apply in relation to health information.

Hunter Water will only disclose sensitive information without consent in order to deal with a serious and imminent threat to any person's health or safety. Sensitive information includes information about ethnic or racial origin, political opinions, religious or philosophical beliefs, sexual activities or trade union membership.

5.6. Identifiers and Anonymity

Hunter Water will only identify individuals by using unique identifiers if it is reasonably necessary for Hunter Water to carry out its functions.

Where possible, Hunter Water gives its people and customers a right to remain anonymous or use a pseudonym when dealing with Hunter Water.

6. Enquiries and Complaints

A person who wishes to make an enquiry or lodge a complaint in relation to how Hunter Water has managed their privacy may do any of the following:

- (a) make an informal complaint by contacting the Hunter Water Privacy Officer;
- (b) make a formal complaint in writing with Hunter Water;
- (c) make a complaint with the Privacy Commissioner.

6.1. How to make an informal complaint

We encourage you to first try to resolve your privacy concerns with us informally. This can be done by contacting the Hunter Water Privacy Officer:

Contact details for the Hunter Water Privacy Officer:

Email: hunterwaterprivacy@hunterwater.com.au

Post: The Privacy Officer

Hunter Water

PO Box 5171

HRMC NSW 2310

6.2. How to make a formal complaint with Hunter Water

If you consider Hunter Water has not dealt with your personal or health information in accordance with NSW Privacy Laws, you can lodge a formal complaint with Hunter Water.

A formal complaint can be made in writing:

- (a) via the online feedback and complaints form on Hunter Water's website; or
- (b) by letter or email, addressed to the Hunter Water Privacy Officer (details above).

The complaint should include as many details as possible and include an Australian postal address or valid email address for return correspondence.

The handling of a formal complaint will follow the process set out in the Hunter Water Complaints and Enquiries Policy (available on the Hunter Water website or on request).



6.3. How to make a complaint with the Privacy Commissioner

The NSW Privacy Commissioner, among other things, investigates and conciliates complaints relating to public sector agencies, health service providers (both public and private) and some large organisations that deal with health information.

Hunter Water is presently considered a large organisation that deals with health information, so the Privacy Commissioner can investigate and conciliate a complaint about how Hunter Water has managed your *health information* under Part 6 Division 1 of the HRIP Act.

The Privacy Commissioner may consider a general complaint about the management of your *personal information* by Hunter Water under Part 4 Division 3 of the PPIP Act.

A complaint to the Privacy Commissioner must be:

- (a) made in writing (including as many details as possible); and
- (b) made within 6 months of the time you first became aware of the conduct that is the subject of your complaint.

The Privacy Commissioner may conduct a preliminary assessment of a complaint before deciding whether to deal with the complaint.

The Privacy Commissioner may refer a complaint to another person or body for investigation or other action, if considered appropriate.

In dealing with a complaint about *personal information*, the Privacy Commissioner must endeavour to resolve the issue by conciliation.

In considering a complaint about *health information*, the Privacy Commissioner may resolve the issue by one of the following means:

- resolution
- conciliation
- a report on the findings.

The NSW Privacy Commissioner can be contacted at the Information & Privacy Commission as follows:

Office: Information & Privacy Commission
Level 11, 1 Castlereagh Street Sydney NSW 2000
Post: GPO Box 7011 Sydney NSW 2001
Phone: 1800 472 679 Fax: 02 8114 3756
Email: ipcinfo@ipc.nsw.gov.au
Website: www.ipc.nsw.gov.au

6.4. External review

In relation to *health information* only, under Part 6 Division 6 of the HRIP Act, you can make an application for an inquiry into your complaint to the NSW Civil and Administrative Tribunal (NCAT), but only if the Privacy Commissioner has provided a report on its findings.

There are time limits, which you will be informed about the Privacy Commissioner, and there is a cost involved in going to NCAT. You may also need to have legal representation. NCAT will deliver an enforceable decision and can award compensation.

NCAT can be contacted as follows:

Office: NCAT, Administrative and Equal Opportunity Division
Level 10, John Maddison Tower, 86-90 Goulburn Street, Sydney
NSW 2000
Post: GPO Box 7011 Sydney NSW 2001
Phone: 1800 006 228
Website: www.ncat.nsw.gov.au



7. Exemptions

7.1. Exemptions relating to personal information

Part 2 Division 3 of the PPIP Act includes a number of specific exemptions from the IPPs relating to:

- law enforcement
- the handling of a complaint or investigation by an investigative agency (e.g. the Ombudsman's office, the Independent Commission Against Corruption, Health Care Complaints Commission, etc.)
- where non-compliance is authorised (e.g. under the *State Records Act 1998*)
- where non-compliance would benefit the individual concerned
- with consent of the individual concerned
- between public sector agencies in specific circumstances
- for research or the compilation or analysis of statistics
- in relation to credit information in specific circumstances.

There are four major sources of exemptions to the PPIP Act:

- exemptions in the Act itself (as outlined above)
- exemptions in a regulation made by the Attorney General
- exemptions in a privacy code of practice, made by the Attorney General
- exemptions in a Public Interest Direction, made by the Privacy Commissioner.

There are currently none of these that apply to Hunter Water, except those outlined in the PPIP Act, which have already been discussed in this PMP.

7.2. Exemptions relating to health information

Section 17 of the HRIP Act states that it does not apply to the following agencies, except in connection with the exercise of their administrative and educative functions:

- Independent Commission Against Corruption
- Inspector of the Independent Commission Against Corruption
- staff of the Inspector of the Independent Commission Against Corruption
- NSW Police Force
- Law Enforcement Conduct Commission
- Inspector of the Law Enforcement Conduct Commission
- staff of the Inspector of the Law Enforcement Conduct Commission
- New South Wales Crime Commission

The HRIP Act also has exemptions relating to:

- certain translation services provided by Multicultural NSW
- news media
- courts, tribunals and Royal Commissions
- personal or family household affairs.

There are four other sources of exemptions to the HRIP Act:

- exemptions written in the Health Privacy Principles (HPPs) directly
- exemptions written in a regulation made by the Minister for Health
- exemptions written in a Health Privacy Code of Practice, made by the Minister for Health
- exemptions written in a Health Public Interest Direction, made by the Privacy Commissioner.



There are currently none of these that apply to Hunter Water, except those outlined in the HRIP Act, which have already been discussed in this PMP.

8. Linked Legislation

8.1. Commonwealth *Privacy Act 1988*

Hunter Water is a 'file number recipient' for the purposes of the Commonwealth *Privacy Act 1988* (Privacy Act) because it holds records of employees that contain tax file number information. As such, Hunter Water must comply with any rules relating to tax file number information issued under section 17 of the Privacy Act by the Australian Information Commissioner, such as *Privacy (Tax File Number) Rule 2015*. For more information please refer to the website of the Office of the Australian Information Commissioner: www.oaic.gov.au.

8.2. *Government Information (Public Access) Act 2009 (NSW)*

The operation of GIPA is not affected by the operation of PPIPA and HRIPA.

Note that GIPA provides access to various documents held by Hunter Water to any person, but subject to the operation of various exemptions in the GIPA Act, whereas under PPIPA and HRIPA access to information is provided only to the person to whom the information relates.

8.3. *State Records Act 1998 (NSW)*

Hunter Water is required to comply with the NSW *State Records Act 1998* and the associated Standard on Records Management issued by the State Archives & Records Authority of NSW. Those requirements provide overall guidance on the practical requirements for effective records and information management including retention periods and disposal of records and should be considered in conjunction with the NSW Privacy Laws.

9. Related Documents

External Documents

- *Hunter Water Act 1991*
- *State Owned Corporations Act 1989*
- *Health Records & Information Privacy Act 2002*
- *Privacy and Personal Information Act 1998*
- *Privacy Act 1988 (Cth)*
- *Government Information (Public Access) Act 2009*
- *State Records Act 1998*
- *Data Sharing (Government Sector) Act 2015*
- NSW Information and Privacy Commission website: www.ipc.nsw.gov.au
- NSW Civil and Administrative Tribunal website: www.ncat.nsw.gov.au
- Office of the Australian Information Commissioner website: www.oaic.gov.au

Internal Hunter Water Documents

- Privacy Policy
- Privacy Fact Sheet
- Code of Conduct
- Information Management Policy
- Complaints and Enquiries Policy

10. Document Control

Document Owner: Privacy Officer



Document Approver: Managing Director

Version	Author's Name	Details of change	Approval Date	Approved by	Next Scheduled Review
1	Rowena Horn		7 May 2021	Darren Cleary	7 May 2022



Appendix 1

Information Privacy Principles

Part 2, Division 1 of the PPIP Act contains 12 IPPs with which Hunter Water complies. Below is an overview of the principles.

Collection

1. Lawful

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

2. Direct

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.

3. Open

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.

4. Relevant

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.

Storage

5. Secure

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

6. Transparent

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.

7. Accessible

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

8. Correct

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

Use

9. Accurate

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

10. Limited

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

11. Restricted



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.

12. Safeguarded

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.

Full text of the Information Protection Principles, can be seen in the relevant sections of the *Privacy and Personal Information Protection Act 1998* available on the Legislation NSW website: www.legislation.nsw.gov.au



Appendix 2

Health Privacy Principles

Schedule 1 of the HRIP Act contains 15 HPPs that Hunter Water complies with. Below is an overview of the principles.

Collection

1. Lawful

An agency or organisation can only collect your health information for a lawful purpose. It must also be directly related to the agency or organisation's activities and necessary for that purpose.

2. Relevant

An agency or organisation must ensure that your health information is relevant, accurate, up-to-date and not excessive. The collection should not unreasonably intrude into your personal affairs.

3. Direct

An agency or organisation must collect your health information directly from you, unless it is unreasonable or impracticable to do so.

4. Open

An agency or organisation must inform you of why your health information is being collected, what will be done with it and who else might access it. You must also be told how you can access and correct your health information, and any consequences if you decide not to provide it.

Storage

5. Secure

An agency or organisation must store your personal information securely, keep it no longer than necessary and dispose of it appropriately. It should also be protected from unauthorised access, use or disclosure.

Access and accuracy

6. Transparent

An agency or organisation must provide you with details regarding the health information they are storing, why they are storing it and what rights you have to access it.

7. Accessible

An agency or organisation must allow you to access your health information without unreasonable delay or expense.

8. Correct

Allows a person to update, correct or amend their personal information where necessary.

9. Accurate

Ensures that the health information is relevant and accurate before being used.

Use

10. Limited

An agency or organisation can only use your health information for the purpose for which it was collected or a directly related purpose that you would expect (unless one of the exemptions in HPP 10 applies). Otherwise separate consent is required.

Disclosure

11. Limited

An agency or organisation can only disclose your health information for the purpose for which it was collected or a directly related purpose that you would expect (unless one of the exemptions in HPP 11 applies). Otherwise separate consent is required.



Identifiers and anonymity

12. Not identified

An agency or organisation can only give you an identification number if it is reasonably necessary to carry out their functions efficiently.

13. Anonymous

Give the person the option of receiving services from you anonymously, where this is lawful and practicable.

Transferrals and linkage

14. Controlled

Only transfer health information outside New South Wales in accordance with HPP 14.

15. Authorised

Only use health records linkage systems if the person has provided or expressed their consent.