

Privacy and Information Management Framework

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1. What this Framework covers

This Privacy and Information Management Framework outlines the type of information held by the Ageing and Disability Commission (ADC) and our obligations in relation to the collection, storage, use and disclosure of that information.

It also explains when individuals may request access to certain information we hold, and the processes for complaints, requests and reviews relating to our obligations.

The Framework incorporates the ADC's Privacy Management Plan, which we are required to have under the [Privacy and Personal Information Protection Act 1998](#) (PPIP Act), outlines our non-disclosure obligations under the [Ageing and Disability Commissioner Act 2019](#) (ADC Act), and explains our obligations under the [Government Information \(Public Access\) Act 2009](#) (GIPA Act).

This Framework applies to the Ageing and Disability Commissioner and all staff of the ADC, including ongoing and temporary employees, employees seconded to the ADC, contract and agency staff working for or on behalf of the ADC, and interns and volunteers.

Public Interest Disclosures and State Records obligations are outside the scope of this Framework.

2. About the ADC

The ADC operates under the ADC Act to protect and promote the rights of adults with disability and older people, and to protect them from abuse, neglect and exploitation. We do this through a range of functions, including:

- Responding to allegations of abuse, neglect and exploitation of adults with disability (18 years and over) and older people (65 years and over or, if Aboriginal and/or Torres Strait Islander, 50 years and over), including by providing advice, making referrals and conducting investigations.
- Following an investigation, taking further action that is necessary to protect the adult from abuse, neglect and exploitation.
- Raising awareness and educating the public about matters relating to the abuse, neglect and exploitation of adults with disability and older people.
- Inquiring into and reporting on systemic issues relating to the protection and promotion of the rights, or the abuse, neglect and exploitation, of adults with disability and older people.
- Providing general oversight and coordination of the Official Community Visitor (OCV) scheme in NSW.
- Meeting other obligations as outlined in the ADC Act.

3. Types of information held by the ADC

Different obligations apply to different types of information. We use the below categories for the purposes of explaining our information obligations. Some information falls into more than one category.

Personal information

This is information or an opinion about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion. Exceptions to this definition

include information that is contained in publicly available publications, and health information.¹

For example, the ADC holds the names and details of parties involved in a report to the ADC about abuse, neglect and exploitation of an adult with disability or older person, to exercise our report-handling functions.

Health information

This is:

- a) personal information that is information or an opinion about an individual's physical or mental health or disability, their express wishes about the future provision of health services to them, or a health service that has or will be provided to them
- b) other personal information collected to provide, or in providing, a health service,
- c) other personal information about an individual collected in connection with the donation, or intended donation, of their 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 them in a form that is, or could be, predictive of their health or of a genetic relative of theirs.²

For example, the ADC holds information relating to the physical, mental health or disability of adults with disability and older people who are the subject of a report to the ADC, to exercise our report-handling functions.

ADC information

This is information obtained or created when exercising report handling, investigative, monitoring, review and inquiry functions, and OCV scheme functions, under the ADC Act. Much of this information will also be personal information or health information.

Employee information

This is information about the Commissioner and staff of the ADC relating to their employment. Some of this information will also be personal and health information.

Government/Parliament information

This is information from or about government agencies (other than ADC information) or the NSW Parliament. It is usually not personal or health information, but there may be other obligations to keep it secret or confidential (for example, it may be Cabinet in Confidence).

Office information

This is information about entities that the ADC contracts, such as IT software providers. It is usually not personal or health information, but may be protected by contractual confidentiality.

4. How the ADC collects, stores, uses and discloses information

4.1 Collection

In compliance with the Information Protection Principles (IPPs) and the Health Privacy Principles (HPPs), the ADC collects personal and health information only for a lawful purpose, and only where reasonably necessary for purposes directly related to our

¹ See [section 4 of the PPIP Act](#) for the full definition of 'personal information' and the full list of exceptions.

² See [section 6 of the HRIP Act](#) for the full definition of 'health information'.

functions. We collect personal or health information from third parties when receiving, handling, and investigating reports about abuse, neglect and exploitation of adults with disability and older people. We may also collect personal or health information in the course of coordinating the OCV scheme, such as when assisting OCVs to refer matters of concern to appropriate bodies.

When collecting personal or health information, we will take reasonable steps to ensure that the 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. We seek to ensure that this is the case through the provision of guidance during staff induction, intake and report-handling processes, and ongoing staff training.

As an investigative agency, much of the work of the ADC is exempt from the general obligations under the IPPs and HPPs to collect information directly from the person concerned, and/or inform the individual that we have collected their personal or health information. This is because doing so might detrimentally affect or prevent the proper exercise of our report-handling and investigative functions.

Where our report-handling or investigative functions are not likely to be affected, we will:

- collect personal or health information directly from the person to whom it relates, unless it is unreasonable or impractical to do so
- take reasonable steps to inform individuals that we will collect/have collected their personal or health information, why we are collecting it, what we will do with it, and who else might see it.

4.2 Storage

All information held by the ADC is kept securely, disposed of appropriately, and retained only so long as it is required.

The ADC protects information from unauthorised access, use, modification or disclosure through a range of information management practices, including:

- annual information security assessments
- regular staff training and Code of Conduct
- internal guidance on exchange of information
- up-to-date information management policies, including this Framework.

The ADC does not keep any public registers of personal or health information.

4.3 Use and disclosure

Before using any personal or health information we hold, we will take reasonable steps to ensure that (having regard to the purpose for which the information is proposed to be used) the information is relevant, accurate, up-to-date, complete and not misleading.

We will only use or disclose personal and health information for the purpose that it was collected or a directly related purpose, unless:

- the person the information is about consents to us doing this
- it is reasonably necessary for us to exercise our report handling and investigative functions
- where doing so is necessary to prevent or lessen a serious and imminent threat to a person's life or health
- other law authorises or requires us to do otherwise.

The ADC has mandatory disclosure obligations, including:

- Referring to the NSW Police Force any report, or part of a report, that may provide evidence of the commission of a criminal offence.
- Referring to the Health Care Complaints Commission, Aged Care Quality and Safety Commission, NDIS Quality and Safeguards Commission, and Office of the Children's Guardian any report, or part of a report, that could be the subject of a complaint to the respective agency.
- Referring to the Independent Commission Against Corruption any matter that concerns, or may concern, corrupt conduct.
- Making open access information publicly available on our website unless there is an overriding public interest against its disclosure.
- Complying with the GIPA Act when responding to valid access applications made under that Act (see GIPA Act applications in section 8).

We may also disclose information:

- in connection with the administration or execution of the ADC Act
- for the purposes of legal proceedings arising out of the ADC Act or of any report of any such proceedings
- in accordance with a requirement imposed under the *Ombudsman Act 1974*
- with the consent of the person from whom the information was obtained
- relating to the outcome of a report, to a person who made the report and another person concerned for the welfare of the older person or adult with disability who was the subject of the report, where the ADC considers that disclosure is consistent with the objects and principles of the ADC Act
- to a 'relevant agency' under section 14 of the ADC Act for the purposes of assisting the agency to provide a service, take other action, or make a decision or assessment in relation to the safety, welfare and wellbeing of an adult with disability or older person, or to take action in respect of the safety, welfare and wellbeing of adults with disability or older people more generally
- with other lawful excuse.

5. Notification of data breaches

A data breach may occur where there is a failure to protect personal information held by the ADC from being lost or being subject to unauthorised access or disclosure. This may be by human error, including by ADC staff, or by malicious intent by a third party, such as a cyber attack. Examples may include:

- accidental loss of a paper record, or a laptop or USB stick that provides access to electronically stored records
- sending emails to the wrong recipients, including emails that contain attached documents
- cyber attacks such as malware, hacking, and data theft.

We respond promptly to data breaches, as it can reduce the impact of a breach on individuals and the ADC, and may prevent future breaches. The ADC's processes and procedures for managing data breaches, including practices to ensure compliance with the obligations and responsibilities under Part 6A of the PPIP Act (Mandatory Notification of Data Breach Scheme) are set out in our Data Breach Policy³.

³ Available at: <https://ageingdisabilitycommission.nsw.gov.au/about-us/policies.html>

6. How to access or correct your information

The PPIP Act and HRIP Act permit individuals to access and amend their own personal or health information in certain circumstances. However, because we are an investigative agency, there are circumstances where we are not required, or are not permitted, to provide access to make amendments.

The ADC is exempt from the requirement to provide access to, or make amendments to, personal information about an individual, at their request, if doing so might detrimentally affect or prevent the proper exercise of our reporting handling, investigative or reporting functions. Such requests will be considered on a case-by-case basis, after carefully balancing the range of affected interests.

To make a request to view or amend your own personal or health information, you or someone authorised to act on your behalf can contact the ADC officer you have been dealing with, or email the ADC's Privacy Officer at Commissioner@adc.nsw.gov.au.

We will advise as soon as reasonably practical whether access or amendment is permitted.

If you believe we are taking an unreasonable time to respond, you have the right to seek an internal review by the ADC. Before seeking an internal review, we encourage you to contact us to ask for an update on your request.

If we are not permitted to provide access to, or amend, personal or health information we will explain why.

Decisions we make about these requests may be the subject of internal or external review (see section 7).

7. Internal and external reviews

If you believe we have not complied with our obligations under this Framework or the PPIP Act or the HRIP Act, you can ask the ADC to conduct an internal review.⁴ If you are not satisfied with the outcome of our review, or you do not wish to seek an internal review from us, you can contact the Privacy Commissioner for an external review.⁵

Internal review

Anyone with a complaint about our compliance with information obligations should email the Privacy Officer at Commissioner@adc.nsw.gov.au.

A complaint should be made within six (6) months of any alleged non-compliance. The ADC may, depending on the circumstances, permit complaints to be made outside that time.

We must notify the Privacy Commissioner of any complaints we receive that relate to the PPIP Act or HRIP Act obligations, and to meet the other requirements under section 54 of the PPIP Act.

We aim to acknowledge receipt of your request within two (2) working days, and to conduct the review as soon as is reasonably possible, and in any event within 60 days of receiving a complaint.

⁴ PPIP Act, [section 53](#)

⁵ PPIP Act, [section 45](#)

If you are unhappy with the result of the review, or we are unable to complete the review within 60 days, you have 28 days to apply to the NSW Civil and Administrative Tribunal (NCAT) for a review of the conduct or decision complained about.

External review

You have the option of making a complaint to the Privacy Commissioner instead of the ADC. Contact details for the Privacy Commissioner are provided in section 10.

8. GIPA Act applications

Public sector agencies in NSW have a legal obligation under the GIPA Act to assist citizens with obtaining access to most government information openly and freely, unless there is an overriding public interest consideration against disclosure.

We are required to comply with our GIPA Act obligations. However, a significant amount of information we hold is excluded from the scope of that Act.

[Section 43](#) of the GIPA Act provides that applications for access to an agency's 'excluded information' are invalid. 'Excluded information' is defined as:

The office of Ageing and Disability Commissioner — report handling, investigative and reporting functions (including any functions of the Commissioner relating to Official Community Visitors appointed under the [Ageing and Disability Commissioner Act 2019](#)).

In practice, this means that any ADC information that is obtained or created when exercising report handling functions (inquiry, assessment, resolution, review, investigation) will be exempt from the GIPA Act as 'excluded information'. This would include, for example, information provided by the reporter; information and documents obtained from individuals, agencies and institutions; clinical advice received; and internal ADC case notes and assessments.

Information that is not excluded would include information related to corporate matters such as staffing and finance.

Applications may be made for access to information held by the ADC that is not 'excluded information'.

To lodge a GIPA Act request, you can do so via email to the ADC Privacy Officer at Commissioner@adc.nsw.gov.au or by mail to PO Box 40, Parramatta NSW 2124. GIPA Act applications attract a \$30 application fee, which can be waived on request, at the ADC's discretion.

GIPA applications are handled by our Privacy Officer. If you are dissatisfied with the determination of your GIPA application by the Privacy Officer, you may seek internal review of your application.

Decisions made about GIPA applications may be reviewed externally by the Information Commissioner and/or NCAT (see section 10).

9. Reviewing this Framework

The ADC will review this Framework, and the incorporated Privacy Management Plan, every three years. This review will be brought forward should there be any relevant

legislative or administrative change that significantly affects our privacy and information management practices.

10. Other information

Contacting the Information Commissioner or Privacy Commissioner

Requests for external review, or to obtain additional information about PPIP Act, HRIP Act or GIPA Act rights and obligations, can be made to the NSW Information and Privacy Commission (IPC).

Website: www.ipc.nsw.gov.au

Email: ipcinfo@ipc.nsw.gov.au

Phone: 1800 472 679

Address: Level 15, McKell Building, 2-24 Rawson Place, Haymarket NSW 2000

Post: GPO Box 7011, Sydney NSW 2001

Contacting the NSW Civil and Administrative Tribunal (NCAT)

The Administrative and Equal Opportunity Division of NCAT hears applications for external review of GIPA applications made to the ADC, and complaints about our compliance with information obligations imposed by the PPIP Act or HRIP Act.

Website: www.ncat.nsw.gov.au

Email: aeod@ncat.nsw.gov.au

Phone: 1300 006 228

Address: Level 10, John Maddison Tower, 86-90 Goulburn St, Sydney NSW 2000
(open 9am – 4:30pm)

Post: PO Box K1026, Haymarket NSW 1240

Offences under the PPIP Act and the HRIP Act

It is an offence under the PPIP Act and the HRIP Act to do any of the following:⁶

- intentionally disclose or use personal or health information accessed as part of our work for an unauthorised purpose
- offer to supply personal or health information that has been disclosed unlawfully
- hinder the Privacy Commissioner or a staff member from doing their job
- by threat, intimidation, or false representation require another person to give consent or to do, without consent, an act for which consent is required.

Staff awareness of this Framework and our information obligations

All staff bound by this Framework are required to ensure that they have read and understand how it applies to the work they do within the ADC. Staff receive a copy of the Framework at induction, can access the Framework via our website and intranet, and receive refresher, specialised and on-the-job training.

Breaches of the obligations in this Framework are reported to the Audit and Risk subcommittee and the ADC Executive.

Where a breach of our obligations under PPIPA or HRIPA occurs, the ADC makes a voluntary notification of the breach to the IPC, and advise any person affected by the breach of what has occurred and what we are doing to address it.

⁶ [PPIP Act Part 8](#); [HRIP Act Part 8](#)

11. Questions about this Framework

For any questions about the Framework or our information obligations, please contact the ADC's Privacy Officer at Commissioner@adc.nsw.gov.au or contact our office using the contact details below:

Phone: 1800 628 221 (9am – 4pm, M-F)

Web: www.adc.nsw.gov.au

Address: Level 6, 93 George St, Parramatta NSW 2150

Post: PO Box 40, Parramatta NSW 2124

The Framework is publicly available on our website as open access information under the GIPA Act.