

NSW Right to Information & Privacy Practitioners Forum - Meeting Minutes

Jubilee Room, Parliament House, Macquarie Street, Sydney.

Wednesday 27 March 2019

9.30 am – 1.00 pm

Session 1 (Practitioners only)		
Item 1	Welcome and Apologies Minutes and actions of the previous meeting	9:30 (5 minutes)
	<p>Nikki advised:</p> <ul style="list-style-type: none"> • A review of the HRIP Act has commenced and that there will be opportunities for the forum to provide feedback • Ms Juillerat has stepped down from the Consultative Committee. • Ms Marianne Moore was nominated as a new member of Consultative Committee. This was agreed by the Forum. • Further nominations for the Consultative Committee were sought. Tim Long (Department of Justice) and Nick Yetzotis (Road and Maritime Services) were nominated. Nominations were accepted. 	
Item 2	Consultative Group Report – questions and business arising (Robert, Sonya, Toni, Lilli and Adrienne)	9:35 (5 minutes)
	<p>Adrienne gave an update on the March Consultative Committee meeting:</p> <ul style="list-style-type: none"> • IPC would like practitioners to review new resources and provide feedback. They would like these guides to answer all questions. Alternatively you can always send feedback to the Committee • IPC has reviewed their privacy management plan and advised that this should serve as an example of a model plan. 	
Item 3	Discussion – dealing with difficult complainants - Deptment of Justice	9:40 (15 minutes)
	<p>Department of Justice gave a presentation on dealing with difficult applicants.</p> <ul style="list-style-type: none"> • Department of Justice requested that practitioners send: <ul style="list-style-type: none"> ○ Anonymised examples of behavior (eg excessive email, social media/cyber bullying) ○ Type of application (GIPA, PPIP Act other legislation noting that the issue appears to be across all of government) ○ Number and frequency of applications ○ Number of staff affected and impact ○ Action taken (restrictions, NSW Police report, escalation) ○ Contact infoandprivacy@justice.nsw.gov.au 	
Item 4	Andrea Calleia & Anna Johnson - Salinger Privacy – New Resources	9:55 (5-10 minutes)
	<p>SalingerPrivacy gave an overview of new resources:</p> <ul style="list-style-type: none"> • New Compliance Kit for NSW Public Sector Agencies • New online training module <ul style="list-style-type: none"> ○ specifically for NSW public sector agencies ○ Privacy Awareness Training for NSW Public Sector ○ covers PPIPA & HRIPA ○ the information life cycle ○ applying privacy principles in practice ○ GIPA ○ Handling complaints ○ Interactive ○ Can also customise – include examples that are specific for particular agency 	

Item 5	Megan Carter – Information Consultants – Q&S on the GIPA Act/Reg amendments (refer to separate sheet)	10.10 (15 minutes)
	<ul style="list-style-type: none"> Due to lack of time this session was deferred to the next meeting Practitioners should send any areas of focus or questions prior to the next meeting. 	
Item 6	Any other business, questions from floor, events and training coming up etc.	10.25 (15 minutes)
	<ul style="list-style-type: none"> None 	
Morning tea break (10.40 am – 11.00 am)		
Session 2 (Open Session)		
Item 7	IPC Updates – Information Commissioner, Ms Elizabeth Tydd	11.00 (15 minutes)
	<p>Ms Tydd gave an update to the group (TAB A)</p> <p>Ms Tydd reminded the group that the IPC always welcomes feedback on the website and resources.</p>	
Item 8	IPC Updates – Privacy Commissioner, Ms Samantha Gavel	11.15 (15 minutes)
	Ms Gavel gave an update to the group (TAB B)	
Item 9	GIPA case updates - Crown Solicitor's Office, Kirri Mattes	11.30 (15 minutes)
	<p>The following cases were discussed by Ms Mattes:</p> <ul style="list-style-type: none"> Lock the Gate Alliance v Department of Planning and Environment & Department of Premier and Cabinet [2019] NSWCATAD 6 Hindmarsh v NSW Ministry of Health [2019] NSWCATAD 30 <ul style="list-style-type: none"> This case included a discussion about capacity to consent to the release of information and distinguished between release under the GIPA Act and disclosure in context of civil proceedings. Zonneville v Minister for Education [2019] NSWCATAD 28 <ul style="list-style-type: none"> These proceedings concerned an application for review by this Tribunal of a decision made under the GIPA Act. One of the grounds for the application were in relation to section 112 of the GIPA Act seeking a review of “improper conduct”. This part of the application was dismissed by the Tribunal with the reasoning that section 112 is not an independent source of jurisdiction. Zonneville v Department of Justice [2019] NSWCATAP 44 <ul style="list-style-type: none"> These proceeding considered the section 111 and 112 of the GIPA Act. The Tribunal stated that “section 112 has four elements: <ul style="list-style-type: none"> the formation of the opinion (“if NCAT is of the opinion”); the circumstances in which the opinion may be formed (“as a result of an NCAT administrative review”); the nature of the opinion (“that an officer of an agency has failed to exercise in good faith a function conferred on the 	

	<p>officer by or under this Act”); and</p> <ul style="list-style-type: none"> ▪ the fact that bringing the matter to the attention of the Minister is discretionary (“may bring the matter to the attention of the Minister”).” ○ This also applies to section 111 of the GIPA Act. 	
Item 10	Privacy Case Updates – Salinger Privacy, Anna Johnston,	11.45 (20 minutes)
	<ul style="list-style-type: none"> • Ms Johnston gave an update on recent privacy cases (TAB C) 	
Item 11	Questions from the floor / any other business / close	12.05 (20 minutes)
	<ul style="list-style-type: none"> • None 	
Item 12	Meeting closed – Next meeting Wednesday 12 June 2019	12.25 (20 minutes)