

**The Privacy Code of Practice
for the NSW Public Sector
Workforce Profile**

Public Employment Office

NSW Premier's Department

2004

**The Privacy Code of Practice
for the NSW Public Sector
Workforce Profile**

**Public Employment Office
NSW Premier's Department
2004**

The Privacy Code of Practice for the NSW Public Sector Workforce Profile

NSW Premier's Department
Public Employment Office

© 2004

Level 23
Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000

Telephone: 02 9228 5323
Facsimile: 02 9228 4185
Email: workforceprofile@premiers.nsw.gov.au
Website: www.premiers.nsw.gov.au

Cataloguing-in-Publication entry

New South Wales.
The Privacy Code of Practice for the NSW Public Sector Workforce Profile

ISBN 0 7313 32652

1. 1. Privacy, Right of - New South Wales
2. 2. Electronic data processing

354.944

TABLE OF CONTENTS

PART 1: PRIVACY CODE OF PRACTICE FOR THE NSW PUBLIC SECTOR WORKFORCE PROFILE

1	NSW Public Sector Workforce Profile: Overview	1
2	Management Arrangements for the Workforce Profile	1
3	Code of Practice	2
4	Information Covered by the Code	2
5	Usage of the Workforce Profile Data	3
6	Information Protection Principles	3
7	Implementation and Breaches of the Code of Practice	7
8	Review of the Code of Practice	8

PART 2: MANAGEMENT ARRANGEMENTS FOR THE NSW PUBLIC SECTOR WORKFORCE PROFILE 9

1	The Purpose of this Document	10
2	Broad Overview of the NSW Public Sector Workforce Profile	10
3	The Purposes of the Workforce Profile Data Collection	10
4	Responsibility for Managing the Workforce Profile	11
5	Data Collection Process	12
6	Workforce Profile Reports	12
7	Privacy and Confidentiality Issues	13
8	Existing Instruments Requiring Confidentiality	13
9	The Code of Practice and Management Arrangements	14
10	Access to the Workforce Profile Data	14
11	Storage and Transmission of the Workforce Profile Data	16
12	Alteration of the Workforce Profile Data	16
13	Implementation and Breaches of the Code of Practice and Management Arrangements	17

APPENDICES:

A Confidentiality Agreement Form

B References

**The Privacy Code of Practice
for the NSW Public Sector
Workforce Profile**

PART 1: PRIVACY CODE OF PRACTICE FOR THE NSW PUBLIC SECTOR WORKFORCE PROFILE

1 NSW PUBLIC SECTOR WORKFORCE PROFILE: OVERVIEW

The Workforce Profile is a data collection conducted by the Premier's Department that allows analysis and reporting about the NSW public sector's employment characteristics. Data on EEO group membership and other equity indicator data required by the Director of Equal Opportunity in Public Employment are included in the Workforce Profile.

Data is also collected from private sector employment agencies about the provision of labour hire to the NSW public sector. Labour hire refers to resources charged at an hourly rate and engaged through a private employment agency.

2 MANAGEMENT ARRANGEMENTS FOR THE WORKFORCE PROFILE

The Workforce Profile database is managed, under delegation from the Commissioner for Public Employment and in a manner consistent with the intent and provisions of this Code of Practice, by the occupants of authorised positions within Premier's Department, as nominated from time to time by the Director-General in his capacity of Commissioner for Public Employment.

In the first instance, the responsibility for managing and administering the Workforce Profile collection within Premier's Department will be delegated to nominated officers within the Public Employment Office.

The Commissioner for Public Employment will also provide a copy of the Workforce Profile database to the Director of Equal Opportunity in Public Employment for the purpose of fulfilling the Director's program, monitoring and reporting responsibilities as set out in the Anti-Discrimination Act. Access to the database will be given to occupants of positions within the Public Employment Office, as nominated from time to time by the Director of Equal Opportunity in Public Employment, for the same purpose.

The details of administrative provisions giving effect to this Code of Practice are contained in a companion document issued by the Premier's Department and entitled Management Arrangements for the NSW Public Sector Workforce Profile. All staff given access to the Workforce Profile database are required to comply with the provisions of both documents.

The Commissioner for Public Employment will also provide aggregated data to occupants of positions within the NSW Department of Commerce, as nominated by the Director General of the Department of Commerce from time to time. The data supplied will relate to shared corporate services strategy. The data will be used for monitoring and further development of the NSW Government's Shared Corporate Services Strategy which is managed by the Department of Commerce.

3 CODE OF PRACTICE

This Code of Practice is the NSW Premier's Department policy document on information privacy for the Workforce Profile data. It is also intended to satisfy the requirements of a Privacy Code of Practice under Part 3 Division 1 of the Privacy and Personal Information Protection Act 1998 (PPIP Act) to the extent that the collection, storage and use of personal data for the purposes of the Workforce Profile involve departures from the Information Protection Principles in Part 2 of the PPIP Act.

All employee data collected for the Workforce Profile is considered to be personal information within the meaning of the PPIP Act. However, statistical or aggregated information disclosed in reports does not constitute personal information. The Code of Practice was developed with the advice of the office of the Privacy Commissioner (Privacy New South Wales).

4 INFORMATION COVERED BY THE CODE

The classes of information this Code applies to include, for all public sector officers and employees quarterly and over a 12-month period:

- biographical, including EEO data provided by employees for the purpose of developing and monitoring equal employment opportunity management plans
- employment status (ie. permanent, temporary, casual, etc.)
- remuneration levels (totals and some specific payments such as overtime and higher duties allowance)
- leave accruals and leave taken (recreation, sick, etc)
- movement in and out of the sector (ie. separation or recruitment)
- full-time equivalent (FTE)
- occupation and function

This information has been collected on an annual basis from July 1999 and on a quarterly basis from January 2004.

The classes of information this Code applies to include, for all labour hire workers:

- government agency that the worker is supplied to
- category of work
- job title
- total amount and hours invoiced - standard and overtime hours
- start and finish dates for the amount invoiced
- gender

This information will be collected on a six monthly basis commencing from July 2004.

5 USAGE OF THE WORKFORCE PROFILE DATA

The information is collected for the purpose of establishing a Workforce Profile that will be used at whole-of-sector or agency level for:

- Workforce planning: For instance, the Workforce Profile will provide data on the age of the workforce, which will assist in determining recruitment and/or training needs in specific areas.
- Benchmarking: Agencies will be able to use the Workforce Profile data to compare their own profile with the whole-of-sector profile.
- Forecasting and costing human resources: The annual collection of information will allow analysis of trends and also future projections of staff levels and costs, based on past experience.
- Assessing policy and strategy development needs: The Workforce Profile data will be helpful in identifying areas in which new policy approaches might be beneficial, for instance flexible working arrangements to assist staff in managing personal and work commitments.
- Assessing the impact of new policies and procedures: The Workforce Profile data will make it much easier to evaluate the effectiveness of new policies and procedures.

6 INFORMATION PROTECTION PRINCIPLES

The Workforce Profile collection consists of anonymous information about individuals using a unique identification code rather than a personal name. It is intended to use this information to generate statistical and aggregated reports, which will not identify individual officers or employees. However, in a small number of instances there will be a capacity to indirectly identify an individual based on a unique combination of characteristics. These features of the data determine a number of requirements that depart from the IPPs. The manner in which the information protection principles are to be applied to the classes of information and the activities described are as follows:

Principle 1: Collection of personal information for lawful purposes

There is no intention to depart from this principle. The collection of information for the purposes of the Workforce Profile comes within the exemptions under section 25(a) or (b) of the Privacy and Personal Information Protection Act, by virtue of the Premier's Department's/Public Employment Office functions under the Public Sector Employment & Management Act 2002. However, to the extent that this collection of personal information involves a further collection by the Premier's Department that is not authorised or intended by the Public Sector Employment and Management Act, it is authorised by this Code of Practice.

Principle 2: Collection of personal information directly from the individual

The Commissioner for Public Employment and his delegates within Premier's Department are responsible for conducting the data collection, assisted by each agency participating in the Workforce Profile. This code authorises collection otherwise than directly from the subject:

- to the extent, if any, that the Workforce Profile involves a collection of personal information which is additional to the collection by the employing public sector agency;
- to the extent that collection of personal information from agencies which are exempted from a requirement to comply with the IPPs (in particular State Owned Corporations) amounts to an initial collection or additional collection.

The Premier's Department is authorised to collect personal information about a person from a private sector employment agency to the extent reasonably necessary for the Premier's Department to collect information described in Part 1.4 of this Code, where that purpose cannot be served by the collection of de-identified information.

The Department of Commerce is authorised to collect personal information about a person from the Premier's Department to the extent reasonably necessary for the Department of Commerce to monitor and further develop the NSW Government's Shared Corporate Services Strategy, where that purpose cannot be served by the collection of de-identified information.

Principle 3: Requirements when collecting personal information

Public sector agencies which collect personal information which will be incorporated into the Workforce profile will be expected to comply with principle 3 where information is collected from the individual and to nominate the Premier's Department as an intended recipient. Agencies which are exempted from a requirement to comply with the IPPs (in particular State Owned Corporations) will be expected to incorporate notification provisions into their internal management provisions.

Collections of the relevant datasets by agencies will include a notice indicating that personal data will be routinely disclosed as anonymous data as part of the Workforce Profile.

Where personal information is collected from agencies which are exempted from a requirement to comply with the IPPs (in particular State Owned Corporations), the Premier's Department's collection is not to be regarded as a further collection requiring notification under this principle.

Principle 4: Other requirements relating to collection of personal information

There is no intention to depart from this principle. Agencies supplying information will be requested to follow standard quality management procedures to ensure the accuracy of information provided for the Workforce Profile.

Principle 5: Retention and security of personal information

There is no intention to depart from the requirements of this principle. The following measures will be applied with respect to retention and security of personal information collected for the Workforce Profile:

- The data will be kept in safe custody, sufficient to prevent unauthorised access.
- The data will be properly handled and preserved to prevent loss, corruption or deterioration.
- Information about the data held will be made available when required for legislative purposes consistent with this Code of Practice.
- The data will be preserved for as long as the purposes for which it was collected may require. Decisions concerning long term retention and final disposal of data from previous years will be made in accordance with the provisions of the State Records Act.
- The data will be protected from unauthorised destruction and/or disposal.
- Where transmission of the data is required, all reasonable measures will be taken to ensure its safety and confidentiality.
- The same requirements for storage, retention and transmission of the data will apply to previous annual datasets kept for comparison and trend analysis purposes.

Principle 6: Information about personal information held by agencies

This Code of Practice contains a summary of the kind of personal information held as part of the Workforce Profile, the uses to which this information will be put and the rights of individuals to access and correct their personal information.

This Code of Practice and the companion document entitled Management Arrangements for the Workforce Profile will be provided to participating agencies in the Workforce Profile. These agencies are responsible for advising their staff of their availability.

Principle 7: Access to personal information held by agencies &
Principle 8: Alteration of personal information

As the Premier's Department will not have the capacity to identify the data relating to a specific applicant, individuals applying for access to or wishing to correct their personal information will be referred to the agency or agencies which provided that information.

Agencies will provide access in accordance with the Public Sector Personnel Handbook or agency policies on access to staff records. It is the responsibility of each agency providing information for the Workforce Profile to make appropriate amendments (whether by way of corrections, deletions or additions), at the request of the individual to whom the data relates.

Individuals who have had information corrected are entitled, under section 15 (3) of the Privacy and Personal Information Protection Act, to have recipients of the information notified. The agency will inform the NSW Premier's Department about any correction made.

Principle 9: Checking accuracy of personal information before use

The Premier's Department relies on the agency or agencies providing personal information to ensure that, as far as possible, the data is accurate. The Premier's Department and the Director of Equal Opportunity in Public Employment will utilise validity testing procedures to check the accuracy of their aggregate data reports.

Principle 10: Limits on use of personal information

It is not intended to depart from this principle as:

- use by Premier's Department will not involve personal identification of individuals concerned, and
- proposed uses are directly related to the purposes for which the information is collected.

Principle 11: Limits on disclosure of personal information

Data included in reports and otherwise made available as part of the Workforce Profile will not involve a disclosure of personal information as the data will be presented in an aggregated form that does not allow the identification of individuals.

Data requested by Commonwealth and state agencies exercising investigative law enforcement or revenue protection functions for purposes not directly related to the purpose of the Workforce Profile will be made available in accordance with legal exemptions from the IPPs and in accordance with the following provisions:

- the precise authority of the person requesting access must be checked
- the nature of the access requested must be checked to ensure that only material relevant to the request is released
- compliance with the legislation under which access is required
- the information provided should be restricted to the minimum necessary to satisfy the request.

The Premier's Department is authorised to disclose personal information about a person to the Department of Commerce where the Premier's Department is satisfied that the disclosure of the information is reasonably necessary for the Department of Commerce to monitor and further develop the NSW Government's Shared Corporate Services Strategy.

Principle 12: Special restrictions on disclosure of personal information

Special classes of information may include data on disability status, language background or Aboriginality, provided in compliance with Equal Employment Opportunity policies. Data on leave may directly or indirectly include health-related data. To the extent that disclosure of this data by the collecting agency is not authorised by sections 25, 26 (2) or 28 (3) of the PPIP Act, this code authorises disclosure to the extent that it is necessary to fulfil the requirements of the specified data collections of the Workforce Profile.

The Premier's Department is authorised to disclose personal information about a person to the Department of Commerce where the Premier's Department is satisfied that the disclosure of the information is reasonably necessary for the Department of Commerce to monitor and further develop the NSW Government's Shared Corporate Services Strategy and that purpose cannot be served by the disclosure of de-identified information.

7 IMPLEMENTATION AND BREACHES OF THE CODE OF PRACTICE

7.1 Responsibility for implementation

The Director-General of the Premier's Department is responsible for the implementation of the Code of Practice within the Department. Officers of the Premier's Department responsible, under delegation from the Commissioner for Public Employment, for working directly with the Workforce Profile data (and any other employees or contractors granted access to undertake work related to the Workforce Profile for legitimate purposes) will be required to sign a confidentiality agreement form which specifies compliance with the provisions of this Code.

7.2 Compliance

Once an order making the Code is published in the NSW Government Gazette (or on such later date as may be specified in the order), a public sector agency, person, or body to whom this Code of Practice applies must comply with its provisions. Failure to comply will be subject to established public sector disciplinary procedures. Prompt and rigorous action will be taken to review any allegation of conduct or process that breaches the Code of Practice's provisions. Breaches of the Code can give rise to a right for review involving an investigation of that conduct and unauthorised disclosure of information protected by this Code could attract penalties under the Privacy and Personal Information Protection Act.

7.3 Complaints

Concerns regarding possible breaches of this Code of Practice should be addressed to the Director-General of the NSW Premier's Department in the first instance.

8 REVIEW OF THE CODE OF PRACTICE

The Premier's Department will review the Code of Practice at regular intervals to ensure that it still reflects the processes whereby personal information is collected and used. The Director-General of the NSW Premier's Department is responsible for ensuring that reviews are conducted and that key stakeholders are consulted as appropriate as part of the reviews.

Management Arrangements for the NSW Public Sector Workforce Profile

PART 2: MANAGEMENT ARRANGEMENTS FOR THE NSW PUBLIC SECTOR WORKFORCE PROFILE

1 THE PURPOSE OF THIS DOCUMENT

This document is a companion to the Code of Practice for the Workforce Profile, approved by the NSW Attorney-General. It provides additional information about the data collection, including its purposes and uses, and about some aspects of the responsibilities and arrangements for its management, with particular regard to privacy and confidentiality considerations.

The document is intended to inform public sector employees (and others) about the management of the Workforce Profile and to serve as an internal procedures manual for officers of the Premier's Department who are authorised to access the Workforce Profile database.

2 BROAD OVERVIEW OF THE NSW PUBLIC SECTOR WORKFORCE PROFILE

The Workforce Profile is a data collection conducted by the Premier's Department that allows analysis and reporting about the NSW public sector's employment characteristics. The data includes items in the following areas: biographical (including EEO); employment status (eg permanent, temporary, etc); remuneration; leave; occupation, Full Time Equivalent (FTE) and movement in and out of the sector.

All budget and non-budget public sector agencies, including health services, Government Trading Enterprises (GTEs) and State Owned Corporations (SOCs), contribute to the Workforce Profile data collection. Data is also collected from private sector employment agencies [labour hire firms] about the provision of labour hire to the NSW public sector.

The Workforce Profile provides much of the data required by central agencies from all public sector agencies concerning the deployment and characteristics of human resources. Data on EEO group membership and other equity indicator data required by the Director of Equal Opportunity in Public Employment are consolidated in the Workforce Profile.

3 THE PURPOSES OF THE WORKFORCE PROFILE DATA COLLECTION

The following are the only purposes of collecting information for the Workforce Profile:

- To develop a common human resource data set and reporting system for the NSW public sector. This system will allow the development of effective workforce planning and management strategies, including benchmarking, at both the agency and sector wide level.

- To assess the effect of any social or economic trends on the composition of the sector's workforce, the need for new employment policies, procedures or systems, and the impact of any of these that are introduced.
- To provide the Director of Equal Opportunity in Public Employment with the necessary information to monitor the EEO progress of agencies and to report on EEO program outcomes to the Minister and, in general, to comply with its functions as established under the Anti-Discrimination Act.

4 RESPONSIBILITY FOR MANAGING THE WORKFORCE PROFILE

4.1 Commissioner for Public Employment

The Director-General of the Premier's Department, in his capacity of Commissioner for Public Employment, is the custodian of the Workforce Profile collection, and is responsible for its proper management.

4.2 Premier's Department Administration

The Workforce Profile database is managed, under delegation from the Commissioner for Public Employment, by the occupants of authorised positions within the Premier's Department, as determined by the Commissioner. Criteria for authorisation will be on a strict 'need to know' basis.

In the first instance, the responsibility for managing and administering the Workforce Profile collection within Premier's Department will be delegated to the occupants of nominated positions within the Public Employment Office.

4.3 The Director of Equal Opportunity in Public Employment

As some of the Director of Equal Opportunity in Public Employment data collection requirements are incorporated in the Workforce Profile, the Commissioner for Public Employment will provide the Director of Equal Opportunity in Public Employment with a copy of the annual Workforce Profile unit database, to be utilised for the purpose of fulfilling the Director's monitoring and reporting responsibilities as set out in the Anti-Discrimination Act. Access to the database will be given on a strict 'need to know' basis to occupants of positions, as nominated from time to time by the Director of Equal Opportunity in Public Employment.

5 DATA COLLECTION PROCESS

5.1 Responsibility for Conducting the Data Collection

The Commissioner for Public Employment and his delegates within Premier's Department are responsible for conducting the data collection, assisted by each agency participating in the Workforce Profile.

The data provided by agencies to the Workforce Profile is collected by, or available to, those agencies for their own management purposes. Agencies are therefore responsible for ensuring that the initial collection of data from employees is conducted in accordance with the four Privacy and Personal Information Protection Act principles related to the collection of personal information.

Privacy and confidentiality provisions applying to this primary collection of information will be encompassed in the Privacy Management Plan developed by each agency participating in the Workforce Profile or, in the case of non-budget sector agencies not covered by the PPIP Act, by relevant internal management provisions designed to protect the confidentiality and privacy of personal information.

5.2 Process for Agencies to Provide Data

Anonymous unit data will be down-loaded electronically from each agency's HR/payroll system (or entered from hard copy records if data is not computerised) in accordance with specified file transfer instructions. The electronic data will be forwarded by each agency to the nominated authorised officers within the NSW Premier's Department.

6 WORKFORCE PROFILE REPORTS

All reports produced from the Workforce Profile collection will be based upon aggregate data - it is not intended at any stage to report on employees/individuals from this collection. Statistical reporting parameters and protocols will be used in producing all aggregate level reports to ensure that they cannot be used to identify any employee/individual whose data is included in the Workforce Profile collection. Broad descriptions of the two kinds of reports to be produced follow.

6.1 Regular Reports

The NSW Premier's Department will produce an annual Workforce Profile report on the NSW public sector from the Workforce Profile data, including statistical analysis and commentary.

The Director of Equal Opportunity in Public Employment, in accordance with the Anti-Discrimination Act, will make reports and recommendations on EEO to the Premier. These reports will be public documents that will assist with workforce management and planning and provide information for comparison, for instance with other public sector jurisdictions.

6.2 Ad Hoc Reports

In addition to the regular reports described in 6.1, one-off reports will be produced from the Workforce Profile data when needed to support specific policy analysis or development needs or in response to external requests for information.

7 PRIVACY AND CONFIDENTIALITY ISSUES

The Workforce Profile is based on anonymous individual ('unit') data, rather than aggregate data, to allow analysis of data at a sub-group level. Individual employee serial numbers assigned by agencies are collected to serve as unique identifiers, however individuals cannot be identified from these, as names are not collected. It is not intended, at any stage, to produce reports on individuals from this collection, and this is not part of the purpose of the collection. However, the Workforce Profile does raise privacy and confidentiality concerns because, in a small number of cases, the identity of employees/individuals could become apparent due to a unique combination of characteristics. As it is not possible to predict in which cases this will happen, all employee data collected for the Workforce Profile is considered to be "personal information" within the meaning of the Privacy and Personal Information Protection Act.

Given the above, formal arrangements are necessary to ensure that the Workforce Profile data is managed in accordance with the provisions of the Act to protect privacy and confidentiality. These are described in the following sections.

8 EXISTING INSTRUMENTS REQUIRING CONFIDENTIALITY

A number of existing documents require public sector officers and employees to treat all information acquired in the course of their work, other than publicly available information, as confidential. Two key instruments are:

- Personnel Handbook, Public Service of NSW
- Code of Conduct for employees of NSW public agencies (developed by each agency, based on the Model published by NSW Premier's Department in 1997).

These instruments provide a general framework for protecting the confidentiality and privacy of information, including personal data. They are supplemented by the Code of Practice and these Management Arrangements, which spell out the specific requirements applying to the Workforce Profile data collection.

9 THE CODE OF PRACTICE AND MANAGEMENT ARRANGEMENTS

The Code of Practice is the NSW Premier's Department's policy document on information privacy and confidentiality for the Workforce Profile unit data. It identifies the areas in which the Workforce Profile collection departs from the Information Protection Principles listed in Part 2 of the Privacy and Personal Information Act.

As explained in Section 1, the purpose of the present document is to complement the Code of Practice by providing additional detailed information about certain aspects of the Workforce Profile and how it is managed.

The provisions of the Code of Practice and these Management Arrangements were developed in consultation with the Public Employment Office (PEO), the Director of Equal Opportunity in Public Employment, the Treasury, and union representatives (Labor Council and PSA). The Code of Practice was also developed with advice from the office of the Privacy Commissioner (Privacy New South Wales) and has been approved by the Attorney-General.

Some of the key arrangements in place to ensure that confidentiality and privacy considerations are managed in accordance with the highest standards are described in the following sections.

10 ACCESS TO THE WORKFORCE PROFILE DATA

10.1 General Principles

All requests to access the Workforce Profile data will be dealt with by the officers within Premier's Department with delegated authority from the Director-General to manage the collection on his behalf. The following sections describe the general categories of potential data users and the levels of access that will be granted to them. Other than those described in sections 10.2 and 10.3 below, no officers, employees or contractors of the Premier's Department, any other public sector agency or any other public or private organisation may directly access the unit database.

10.2 Access by Employees

The Code of Practice sets out arrangements in this area. Essentially, the employee/individual to whom the data relates is guaranteed the right of access to his/her own information under the provisions of the Privacy and Personal Information Protection Act and under the provisions of the Freedom of Information Act.

However, an employee/individual who requests access to his/her own information forming part of the Workforce Profile will generally be referred to the source agency for the following reasons:

- Agencies are the primary source and collection agent for the information collected for the Workforce Profile.
- The Workforce Profile data provided to authorised officers is anonymous and the unique identifier is the only link to the individual's identity.
- The information linking unique identifiers to individuals is held only by the source agency.

10.3 Access by Authorised Officers

The Director-General of the Premier's Department (for Premier's Department access) and the Director of Equal Opportunity in Public Employment will, from time to time, nominate the positions under their control requiring access to the unit data because of their direct involvement in the collection and analysis of the Workforce Profile. The occupants of those positions, and any contractor staff engaged to work on their behalf on the Workforce Profile collection and/or analysis will be required to sign a **"Confidentiality Agreement Form"** and abide by its conditions (see Appendix A).

An individual who has signed the Confidentiality Agreement Form has no authority to provide a third party with access to the information. Authority to access the unit data is automatically revoked when an individual occupying a position requiring access leaves that position.

10.4 Access by Other Central Agencies and Line Agencies

A range of Government agencies may request access to the data forming part of the Workforce Profile for sector or agency level information or planning purposes.

Data provided by Premier's Department authorised officers in response to such requests will not contain any items or information that could permit identification of employees/individuals.

10.5 Access by State and Federal Authorities with Specific Statutory Powers to Access Information

Some examples of agencies that may request access, acting under statutory provisions, are Courts and Tribunals, the Independent Commission Against Corruption (ICAC), the Ombudsman, the Police Integrity Commission (PIC), the Auditor-General, among others.

Factors to be considered by officers of the Premier's Department when requests for information are received from such agencies are spelled out in the Code of Practice.

10.6 Access under the Freedom of Information Act

An application by a third party for access to the Workforce Profile data under the Freedom of Information Act will be referred to the NSW Premier's Department's FOI officer as soon as possible to ensure the matter is dealt with within the legally required timeframe.

Data that identifies employee/individual will not be made available unless it relates to the person making the application. However, in keeping with the rationale established in section 10.2, it would generally be expected that requests by individuals for information related to themselves would be referred to the source agency.

11 STORAGE AND TRANSMISSION OF THE WORKFORCE PROFILE DATA

The principles to be applied by the Premier's Department authorised officers with respect to storing and/or transmitting the Workforce Profile data are set out in detail in the Code of Practice.

The data will be preserved for as long as the purposes for which it was collected may require. Decisions concerning long term retention and final disposal of data from previous years will be made, having regard to the provisions of the State Records Act.

12 ALTERATION OF THE WORKFORCE PROFILE DATA

The Code of Practice sets out arrangements in this area. Essentially, an employee/individual who requests amendment of his/her information forming part of the Workforce Profile data, will generally be advised to request that amendment through the source agency, in keeping with the rationale established in section 10.2.

"Source agency" refers to either a public sector agency or a private employment agency.

It is the responsibility of each agency providing information for the Workforce Profile to make appropriate amendments (whether by way of corrections, deletions or additions), at the request of the individual to whom the data relates. The agency will then inform the NSW Premier's Department, as custodian of the Workforce Profile data, about any correction made.

13 IMPLEMENTATION AND BREACHES OF THE CODE OF PRACTICE AND MANAGEMENT ARRANGEMENTS

13.1 Responsibility for Implementation

The Director-General of the Premier's Department is responsible for the implementation of the Code of Practice and the Management Arrangements within the Department. Officers of the Premier's Department responsible under delegation for working directly with the Workforce Profile data (and any other employees or contractors granted access to undertake work related to the Workforce Profile for legitimate purposes) have an obligation to be aware of and implement the provisions set out in the Code of Practice and this document.

13.2 Compliance and Complaints

The Code of Practice addresses these issues. Essentially, failure to comply with the provisions of the Code of Practice or of these Management Arrangements will be subject to prompt and rigorous action under the established public sector disciplinary procedures. Any complaints or concerns should be addressed to the Director-General of the NSW Premier's Department in the first instance.

CONFIDENTIALITY AGREEMENT FORM

The Confidentiality Agreement is a critical part of the overall framework for ensuring the highest privacy and confidentiality standards apply to the unit data held under the NSW Public Sector Workforce Profile.

The Confidentiality Agreement Form is to be signed and its protocols maintained by any person granted access to the unit data forming part of the NSW Public Sector Workforce Profile.

CONDITIONS OF ACCESS TO THE UNIT DATA

- 1 Each person to whom access is granted to the unit data must complete a Confidentiality Agreement form. This provision does not apply to the person to whom the information relates, when accessing his/her own information forming part of the Workforce Profile data.
- 2 An individual who has signed the Confidentiality Agreement Form has no authority to provide a third party with access to the unit data.
- 3 A separate Confidentiality Agreement Form has to be signed by every person accessing the unit data.
- 4 When access to the unit data is granted to a person, this person may not use it for a different purpose than that for which the access was granted.
- 5 Persons granted access to the unit data must undertake all reasonable steps to guarantee the privacy and confidentiality of the information.
- 6 Where unit data is accessed via, or stored on, a computerised medium, no other person (including other staff within Premier's Department) should be able to access the media where the unit data is stored.
- 7 If access to the unit data is secured by a password, this password must not be shared with, or disclosed to, any person who has not been granted access to the data.
- 8 Where unit data is stored on a computer's hard disk or other electronic media, the computer or media must be secured in a room or storage area, to prevent unauthorised access.
- 9 Authority to access the unit data is automatically revoked when an individual occupying a position requiring access leaves that position.
- 10 Any breach of privacy and/or security relating to the unit data must be reported immediately to the Director-General of the NSW Premier's Department.
- 11 All persons accessing the unit data must follow the guidelines and provisions contained in the Privacy Code of Practice, the Management Arrangements and this document.
- 12 Failure to comply with the provisions contained either in the Privacy Code of Practice, in the Management Arrangements or in this document will be subject to the relevant disciplinary procedures established in internal provisions.

TO BE COMPLETED BY THE PERSON REQUIRING ACCESS

Purpose for which access is required:

.....
.....
.....

I, (full name) employed in the
position of by (Agency) agree to abide
by the confidentiality and data security conditions and procedures set out in the Privacy Code of Practice, the
Management Arrangements and in this document.

.....(Signature)(Date)

TO BE COMPLETED BY PREMIER’S DEPARTMENT

I,(full name) employed in the

Position of by

(Agency) hereby confirm that the above person has been granted access to the unit data collected for the
Workforce Profile.

.....(Signature)(Date)

Note: Within NSW Premier’s Department, the Assistant Director General - Public Employment Office, the Director - Employee Relations and Workforce Planning Services and the Director of Equal Opportunity in Public Employment are the only persons who can grant access to the unit data forming part of the Workforce Profile, other than the Commissioner for Public Employment.

REFERENCES

1. NSW Legislation

- Privacy and Personal Information Protection Act 1998.
- Freedom of Information Act 1989.
- Public Sector Employment and Management Act 2002.

2. General

- Guidelines for the Preparation of Privacy Codes of Practice. Privacy New South Wales 1999.
- National Principles for the Fair Handling of Personal Information. Office of the Privacy Commissioner, Australia. Revised Edition, January 1999.
- Public Service of New South Wales, Personnel Handbook, March 2003 Edition.
- Code of Conduct of NSW Premier's Department, June 1995.