



Public Registers and the Internet

The *Privacy and Personal Information Protection Act (the PPIP Act)* and public registers

The PPIP Act sets out legal obligations that describe what NSW government agencies, statutory bodies and local councils must do when they collect, store, use, and disclose personal information. In addition, Part 6 of the PPIP Act also contains specific rules that regulate when agencies can disclose personal information contained in public registers. This fact sheet describes the circumstances in which an agency can disclose personal information from a public register and looks at whether an agency can publish all or part of a public register on the Internet.

What is a public register?

A public register is an official or formal list recording names, events or transactions. Public registers are compiled by a government agency and required by law to be made publicly available or open to public inspection (such as electoral rolls, lists of development applications, etc.). Public registers in NSW can contain a wide range of personal information: electoral rolls contain details of individuals eligible to vote; local councils keep registers of development applications, development consents, and building certificates; and some agencies may keep a register of professional or trade membership details.

Because every public register is different, the type of personal information contained will depend upon the particular purpose of the register. However, personal information kept on public registers could include names, home addresses, telephone numbers, email addresses, gender, occupation, and professional details.

When can personal information contained on a public register be disclosed?

Generally, before giving out personal information contained in a public register, an agency must first find out why access is being sought. An agency can only disclose

personal information kept in the register if it is satisfied that the information is to be used for a purpose relating to:

- ◆ the purpose for which the register is kept, (for example, the purpose of the registers of development applications and consents kept by local councils is to identify applications for consent and to confirm determinations), or
- ◆ the law under which the register is kept (for example, local councils are required to keep a register of development applications and consents under the *Environmental Planning and Assessment Act 1979*. One of the purposes of the Act is to provide increased opportunity for public involvement and participation in environmental planning and assessment).

The agency will need to be sure that the information requested is going to be used for one of these purposes. In order to do this, they may ask the person who wants to see the information to provide a statutory declaration about how he or she is going to use the information. If an agency is not satisfied that access to the information is being sought for one of these two purposes, then access should be refused.

Can information be suppressed from a public register?

Where the safety or wellbeing of a person would be affected, an individual may request that his or her personal information should not be made available in the register or to the public.

Notifying an individual that their personal information will be published in a public register

When collecting personal information which will be contained in a public register, an agency must inform the person as to what information is being collected, why it is being collected, whether the supply of the information is required by law or is voluntary, and who will be storing and using it. This includes explaining to them that it will be published in a public register. For best practice, agencies should also inform the person that they can ask to have their information suppressed from a public register in certain circumstances.

Can public registers be published on the Internet?

The Internet can greatly improve public access to information. However, publishing all or part of a public register online, even when it is already publicly available by other means such as by paper based register being available for inspection during office hours does not provide privacy protection for the individuals whose information is contained in public registers.

When all or part of a public register is published on the Internet, this information can be accessed freely by anyone anywhere in the world. An agency loses all control over how that personal information may be accessed and used by other parties. This information can then be easily copied, searched, matched and linked to other data, and may be used for purposes not related to the register. Providing unrestricted access to personal information contained in public registers could raise the risk of identity fraud as well as affecting a person's security and safety.

Under the PPIP Act an agency must not disclose personal information contained in a public register unless it is satisfied that the intended use of the information is for a purpose relating to the register, or the law under which the register is kept. Where unrestricted Internet access to a public register is provided, it would be impossible for an agency to know by whom, how or why the infor-

Providing unrestricted Internet access to public registers containing personal information would in most cases breach the public register provisions of the PPIP Act.

Privacy NSW recommends that agencies should not provide unrestricted Internet access to public registers.

mation is being used. It would therefore be impossible for an agency to fulfil its legal obligations under the PPIP Act.

What if a person consents to their personal information contained in a public register being published on the Internet?

The consent of an individual does not provide an exemption for agencies from the rules about disclosing personal information from a public register. Even if a person consents to their personal information contained in a public register being published on the Internet, an agency must still comply with its obligations to satisfy itself that the information is to be used for a purpose relating to the register or the law under which the register is kept.

If someone's personal information is disclosed from a public register, can they complain?

If a person believes that their personal information has been disclosed in breach of the PPIP Act rules which regulate when agencies can disclose personal information contained in public registers, he or she can apply for an internal review. An internal review is an internal investigation that an agency is required to conduct into the complaint.

An agency would need to prove that it had disclosed the information from the public register because it was satisfied that the information was to be used for a purpose relating to the register or the law under which the register is kept. There is a right of appeal from an internal review to the Administrative Decisions Tribunal.

Case study

An agency was required to maintain a register of its members' registration details, including names and addresses. The agency decided that that it would publish the register on the Internet including its members' residential addresses. Some members were very concerned about the plans to publish residential addresses which could put their personal safety and security at risk. After we negotiated with the agency it was agreed that the register would not be published on the Internet.

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Ref: AS01-2004-04

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