



New South Wales

Privacy Code of Practice (General) Amendment (Human Services) 2005

under the

Privacy and Personal Information Protection Act 1998

I, the Attorney General, in pursuance of section 31 of the *Privacy and Personal Information Protection Act 1998*, do, by this my Order, make the following Privacy Code of Practice.

Dated, this 28th day of June 2005.

BOB DEBUS, M.P.,
Attorney General

Explanatory note

The object of this Order is to amend the *Privacy Code of Practice (General) 2003* to permit, in certain limited circumstances, the collection, use and disclosure of personal information by human services agencies without the consent of the person to whom the personal information relates.

This Order is made under section 31 of the *Privacy and Personal Information Protection Act 1998*.

2005 No 328

Clause 1 Privacy Code of Practice (General) Amendment (Human Services) 2005

Privacy Code of Practice (General) Amendment (Human Services) 2005

under the

Privacy and Personal Information Protection Act 1998

1 Name of Order

This Order is the *Privacy Code of Practice (General) Amendment (Human Services) 2005*.

2 Commencement

This Order commences on 1 July 2005.

3 Amendment of Privacy Code of Practice (General) 2003

The *Privacy Code of Practice (General) 2003* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 3)

[1] **Clause 3 Limitations**

Omit clause 3 (a).

[2] **Part 4**

Insert after Part 3:

Part 4 Human services

9 Definition

In this Part:

human services agency means a public sector agency that provides any one or more of the following types of services to the public:

- (a) welfare services,
- (b) health services,
- (c) mental health services,
- (d) disability services,
- (e) drug and alcohol treatment services,
- (f) housing and support services,
- (g) education services.

10 Collection, use and disclosure of personal information by human services agencies

(1) In this clause:

allied agency means an agency (other than a public sector agency) that is wholly or partly funded by a human services agency and that is approved in writing by the head of that human services agency as an allied agency for the purposes of this clause.

senior officer means a senior member of staff of a human services agency who has been nominated in writing for the purposes of this clause by the head of that agency.

substantial adverse impact includes, but is not limited to, serious physical or mental harm, significant loss of benefits or other income, imprisonment, loss of housing or the loss of a carer.

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Privacy Code of Practice (General) Amendment (Human Services) 2005

Schedule 1 Amendments

- (2) Despite the information protection principles, a human services agency may collect and use personal information about an individual, and may disclose personal information about the individual to another human services agency or an allied agency, if the collection, use or disclosure is in accordance with a written authorisation given by a senior officer of the agency.
- (3) An authorisation under subclause (2) must specify:
- (a) the period (maximum 12 months) for which the authorisation has effect, and
 - (b) the classes of personal information to which the authorisation is to apply (*the specified information*), and
 - (c) the human services agencies or allied agencies (if any) to whom the specified information may be disclosed (*the specified agencies*).
- (4) A senior officer may give an authorisation under subclause (2) only if the officer is satisfied that:
- (a) the individual to whom the specified information relates is a person to whom services are provided or proposed to be provided by a human services agency or an allied agency, and
 - (b) the individual (or a person authorised by or under the Act or any other law to give consent on the individual's behalf) has failed to consent to the agency collecting or using the specified information, or disclosing the specified information to the specified agencies, and
 - (c) there are reasonable grounds to believe that there is a risk of substantial adverse impact on the individual or some other person if collection or use of the specified information, or disclosure of the specified information to the specified agencies, does not occur, and
 - (d) the collection or use of the specified information, or disclosure of the specified information to the specified agencies, is likely to assist in developing or giving effect to a case management plan or service delivery plan that relates to the individual, and
 - (e) reasonable steps have been taken to ensure that the individual has been notified by the agency of each of the following:
 - (i) the specified information,
 - (ii) the specified agencies,

- (iii) the period for which the authorisation is proposed to be sought to have effect.

Note. Notification under this paragraph would normally be in writing. However, other notification methods may be more appropriate in the case of certain clients. For example, if the client is illiterate.

11 Collection of personal information from third parties

A human services agency is not required to comply with section 9 of the Act if it is unreasonable or impracticable in the circumstances to do so.