

**From:** [Policy MailIn](#)  
**To:** [REDACTED]  
**Subject:** FW: Consultative Committee Feedback: Privacy and Personal Information Protection Amendment Bill 2021  
**Date:** Thursday, 1 July 2021 9:19:38 AM  
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**From:** [REDACTED]  
**Sent:** Wednesday, 30 June 2021 5:30 PM  
**To:** Policy MailIn <policy@justice.nsw.gov.au>  
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**Subject:** Consultative Committee Feedback: Privacy and Personal Information Protection Amendment Bill 2021

Dear Policy Team,

Thank you for the opportunity to provide feedback on the Privacy and Personal Information Protection Amendment Bill 2021.

The Consultative Committee of the Privacy and NSW Right to Know Practitioners Network are broadly supportive of the introduction of a mandatory notification of data breach scheme, and inclusion of State-owned Corporations (SOCs) in the definition of a public sector agency within the PPIP Act.

In summary, we appreciate that the team continues to try to address the following previous submitted comments from the Consultative Committee.

The Committee is supportive of:

1. Consistency between the State and Commonwealth schemes (including expectations/ eligibility/ criteria/ definition of 'breach', 'serious harm', 'responsibilities' and 'timeliness')
2. Reporting of breaches limited to 'unauthorised access to, or disclosure of, personal information that has occurred' rather than breaches of other IPPs
3. Providing guidance and examples to assist NSW privacy practitioners to assess whether it is a breach, what the risk is, calculate serious harm and confirm responsibilities of each party (especially where distinct owner, steward, custodian etc)
4. Only reporting breaches once serious harm is assessed and still unacceptable residual risk of harm remains (reducing unnecessary distress to individuals affected)
5. Clarifying and distinguishing the notification process (and contents) between IPC and customer
6. The proposed and existing powers of the Privacy Commissioner and the IPC
7. Not introducing financial penalties but other forms of penalties to be considered

The Committee would like further clarification in the current version:

- i. SOCs are currently not expected to apply the PIPP Act but we believe they will be expected to apply the PIPP Act (with MNDB Scheme update) to information 'going forward' at the point the bill becomes 'operational/ applicable'. We would like the timing of both the MNDB and SOC requirements to be clarified further. For example, will retrospectivity of the PPIP Act be expected? Will SOCs have an additional 12 months to develop and implement a Privacy Management Plan (PMP) ([Sect 33](#))? Will the conduct of SOCs prior to the introduction of the PPIP Act requirements (particularly around the collection of personal information) be exempt from internal and external reviews?
- ii. The guidelines on the process for assessing the data breach (59ZH) is very important for privacy practitioners. We would like more committal language to this – for example clarification that these guidelines WILL BE ISSUED rather than MAY BE ISSUED (refer to point 1 and point 3 above).
- iii. We would like expectations, principles, scope and limitations of sharing data between agencies/ parties when assessing data, notifying relevant parties and resolving data breaches.
- iv. How will NSW entities notify/ inform/ communicate/ engage commonwealth functions when NSW customers are impacted by NSW entity data breaches.

Thanks and best regards,

[The Consultative Committee](#)

NSW Privacy and Right to Know Practitioners Network

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On behalf of the Committee, thanks again and best regards,

[Redacted signature block]



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