

Mr Anthony SMITH
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Our ref: MF/2025/2287
IPC ref: IPC25/R000889

STRICTLY CONFIDENTIAL
NEW SOUTH WALES POLICE FORCE
FINDINGS OF INTERNAL REVIEW
PRIVACY AND PERSONAL INFORMATION PROTECTION ACT 1998

Applicant: Anthony SMITH
Date of Internal Review: 18 December 2025

1 Introduction

- 1.1 On 03 November 2025, by email to InfoLink, you requested an internal review pursuant to section 53 of the *Privacy and Personal Information Protection Act 1998 (PIPP Act)* in relation to your complaint about the NSW Police Force (**NSWPF**) refusing to amend your personal information (**IR Application**).
- 1.2 On 05 November 2025, your Application was allocated to a lawyer within the Commercial and Administrative Law team of the Office of the General Counsel (**OGC**) within the NSW Police Force (**NSWPF**).
- 1.3 On 05 November 2025, I wrote to you to advise that I will be conducting the internal review and the 60 days deadline for the internal review ends on 02 January 2025.
- 1.4 I am an employee of NSWPF and have been directed to conduct this internal review. I have not been involved in any matter relating to the conduct under review.
- 1.5 I have considered the following material in conducting the internal review:
 - (a) your IR Application;
 - (b) your email correspondence with InfoLink;
 - (c) your GIPA Application No. 2025-0858525;
 - (d) your GIPA Internal Review Application No. REV-2025-0858525;
 - (e) the documents responsive to your GIPA Applications in paragraphs 1.5(c) and (d) above;
 - (f) your Optus invoices with the following dates:
 - (i) 08 August 2023;
 - (ii) 08 September 2023; and
 - (iii) 08 October 2023
 - (g) Brief of Evidence H 81615839; and
 - (h) Case Management C 78394809;

2 Background

- 2.1 On 15 August 2022 an apprehended violence order was granted by the Court, naming your former partner, Isaac Rushton (**Isaac**) as the protected person and you, as the offender (**AVO**). That AVO was due to expire on 14 August 2024.
- 2.2 On 01 December 2023, Mr Rushton provided a statement to the NSWPF regarding his allegations that you had breached the AVO (**Witness Statement**). In his Witness Statement, Isaac alleged that, in breach of the AVO, you had telephoned him on 04 September 2023 from mobile number, "0433 813 180". Isaac alleged that, due to his previous association with you, he was confident that mobile number was owned by you as it is saved under your name on his mobile phone.
- 2.3 In response to Isaac's report in paragraph 2.2 above, Police commenced an investigation into your alleged breach of the AVO. Accordingly, a Brief of Evidence H81615839 (**BoE**) was created for the breach of AVO proceedings and Case Management C78394809 (**CF**) was maintained to record Police's management of the investigation.
- 2.4 On 10 June 2025 the breach of AVO proceedings were listed before the Downing Centre Local Court and the matter was withdrawn after Isaac refused to continue with the Court proceedings (**AVO Breach Proceedings**).
- 2.5 On 01 July 2025 (later amended on 04 July 2025), you made an application for access to records under the *Government Information (Public Access) Act 2009* (NSW) (**GIPA Act**). Your application, was designated reference no. GIPAA-2025-0834706, and requested access to the following records (**GIPAA Application**):
- 1. *Records Regarding Police Brief of Evidence (H81615839 / Offence Ref No. 9331365)*
 - a. * *The "Facts Sheet" prepared by Constable Dellenty regarding the initial complaint made by [person named] in July 2023.*
 - b. *Any records omitted from the brief that were received by the OIC, including the Meta data for [social media usernames provided] especially the follower and messaging history.*
 - c. *Internal police reports or documents detailing the investigation and outcome of the allegation that I contacted [person named] via phone and Instagram. Including a phone call made from my number 0433 813 180 to [person named] on 4/9/2023. Despite that phone number having been cancelled in August 2023.*
 - 2. *Reports made by Anthony Smith against [person named]:*
 - o *Crime Stoppers Reports: 996961, 999823, 1002693, 1012217, 1015185.*
 - o *CIRS Reports: CIRS-20241002-79, CIRS-20241121-242.*
 - a. * *Investigation reports, running sheets and final outcome reports*
 - b. * *Investigation report and running sheet related to fraud allegations submitted on my behalf by Woolf Associates on 29/9/2022 at the Rocks Police Station and declined by police.*
 - c. *Any documents recording the receipt of the private Cybertrace Report (Our Ref: 2025-4663) by NSW Police, and any subsequent reports or records created in response to its findings, as it directly relates to the allegations in CIRS-20241121-242*
 - 3. *Records of Official Correspondence and Decisions*
 - *In regards to the letter from Commander David El-Badawi sent to me, dated 21 February 2025, regarding restrictions on correspondence.*
 - a. * *Any formal record or document that outlines the specific reasons for the decision to restrict my contact with the police command.*
- 2.6 On 28 July 2025 InfoLink released its Notice of Decision and decided to grant you access to redacted versions of the Facts Sheet H 81615839 and the Outcome of Cybercrime Report from SCC Cybercrime (**InfoLink GIPAA NoD**) (annexure A).

- 2.7 On 31 July 2025 you made an application for internal review of the InfoLink GIPAA NoD, your application, which was designated reference no. REV-2025-0858525 (**GIPAA IRA**) stated in part:

I am seeking an Internal Review because the decision to refuse access to information under section 58(1)(b) of the GIPA Act, on the grounds that the information is "not held," is incorrect. The searches conducted by the NSW Police Force were demonstrably inadequate, as I am in possession of multiple records that prove the requested documents exist and are, in fact, held by the agency.

- 2.8 On 16 September 2025 InfoLink notified you of its decision in relation to your GIPAA IRA and released to you, redacted versions of the following documents:

- a) various email correspondence in relation to the AVO Breach Matter;
- b) COPS Event E 81768181;
- c) Case Report C 78394809; and
- d) records relating to Cybertrace Report documents.

(**InfoLink IR NoD**) (annexure **B**).

- 2.9 On 27 October 2025 you emailed InfoLink and requested an amendment to the references to the mobile number, "0433 813 180" in the BoE and CF.
- 2.10 On 03 November 2025 LLwellyn Horgan, Privacy Manager InfoLink, replied to you email and advised you that your request for amendment has been denied and that you may make an application for internal review of that decision. On even date, you applied for internal review (IR Application).
- 2.11 On 05 November 2025 your Application was allocated to me.
- 2.12 On 05 November 2025 I emailed you and requested a copy of your identification for verification purposes. On even date, I also wrote to the IPC attaching a copy of your Application and the letter to you (Annexure **C**).
- 2.13 On 05 November 2025 you replied to my email advising of your postal address and attaching a scan of your NSW Driver's Licence and Medicare Card.
- 2.14 On 05 November 2025 I emailed InfoLink and requested a copy of your GIPAA Application.
- 2.15 On 06 November 2025 I emailed you to acknowledge receipt of your verified identity and confirmation of your address for service.
- 2.16 On 07 November 2025 the IPC confirmed receipt of your request for internal review and provided the reference no. IPC25/R000889.
- 2.17 On 12 December 2025, I wrote to the IPC noting the due date of 02 January 2026 for findings of the internal review and enquiring whether the IPC required extra time to review the findings as it is closed for the Christmas holidays from 25 December 2025 to 12 January 2026 (inclusive) (annexure **D**).

3 Scope

- 3.1 Section 53 of the PPIP Act allows a person who is aggrieved by the conduct of a public sector agency to have that conduct reviewed. Importantly, "*public sector agency*" means the NSWPF. Section 52 of the PPIP Act provides that the "conduct" which may be reviewed under s 53 is limited to:

- (a) the contravention by a public sector agency of an information protection principle that applies to the agency;

- (b) the contravention by a public sector agency or a privacy code of practice that applies to the agency; and
 - (c) the disclosure by a public sector agency of personal information kept in a public register.
- 3.2 The purpose of an internal review is to determine whether any conduct amounted to a contravention of one or more of the privacy principles: *Department of Education and Training v GA (No 3)* [2004] NSWADTAP.
- 3.3 This internal review will therefore be limited to considering whether there has been a breach of your privacy with respect to the information protection principles (**IPPs**) set out in the PPIP Act.
- 3.4 This internal review will not be considering any allegations of misconduct as regards employees of the NSWPF.
- 3.5 The scope of the conduct the subject of this internal review is obtained by reference to the correspondence between you and employees of the NSWPF.
- 3.6 Your IR Application states that the specific conduct you are complaining about is the refusal to correct your personal information in NSWPF records:
- (a) Brief of Evidence H 81615839; and
 - (b) Case File C 78394809.
- 3.7 On the basis set out above, I consider the relevant IPP's to be considered are:

Retention IPP – s 12

A public sector agency that holds personal information must ensure that the information that it holds is kept no longer than is necessary, disposed of securely, protected from unauthorised access, use, modification or disclosure.

Alteration IPP – s 15

A public sector agency that holds personal information must, at the request of the individual to whom the information relates, make appropriate amendments, either by way of corrections, deletions or additions to ensure that the personal information is accurate, relevant, up to date, complete and not misleading.

Accuracy IPP – s 16

A public sector agency that holds personal information must not use the information without taking reasonable steps to ensure that the personal information is accurate, relevant, up to date, complete and not misleading.

4 The *Personal Information and Privacy Protection Act 1998*

- 4.1 The PPIP Act outlines how NSW government agencies manage “*personal information*”. Specifically, the PPIP Act provides for the protection of personal information that has been collected, stored and used by NSW government agencies.
- 4.2 Section 4 of the PPIP Act defines “*personal information*” to include:
- (1) *information or an opinion about an individual (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion*

(2) ...such things as an individual's fingerprints, retina prints, body samples or genetic characteristics.

4.3 Section 12 of the PPIP Act requires public sector agencies that hold personal information to retain and keep secure that information:

12 Retention and security of personal information

A public sector agency that holds personal information must ensure—

(a) that the information is kept for no longer than is necessary for the purposes for which the information may lawfully be used, and

(b) that the information is disposed of securely and in accordance with any requirements for the retention and disposal of personal information, and

(c) that the information is protected, by taking such security safeguards as are reasonable in the circumstances, against loss, unauthorised access, use, modification or disclosure, and against all other misuse, and

(d) that, if it is necessary for the information to be given to a person in connection with the provision of a service to the agency, everything reasonably within the power of the agency is done to prevent unauthorised use or disclosure of the information.

4.4 Section 15 of the PPIP Act imposes a duty on the public sector agency to make appropriate amendments and provides as follows:

15 Alteration of personal information

(1) A public sector agency that holds personal information must, at the request of the individual to whom the information relates, make appropriate amendments (whether by way of corrections, deletions or additions) to ensure that the personal information—

(a) is accurate, and

(b) having regard to the purpose for which the information was collected (or is to be used) and to any purpose that is directly related to that purpose, is relevant, up to date, complete and not misleading.

(2) If a public sector agency is not prepared to amend personal information in accordance with a request by the individual to whom the information relates, the agency must, if so requested by the individual concerned, take such steps as are reasonable to attach to the information, in such a manner as is capable of being read with the information, any statement provided by that individual of the amendment sought.

(3) If personal information is amended in accordance with this section, the individual to whom the information relates is entitled, if it is reasonably practicable, to have recipients of that information notified of the amendments made by the public sector agency.

(4) This section, and any provision of a privacy code of practice that relates to the requirements set out in this section, apply to public sector agencies despite section 25 of this Act and section 21 of the State Records Act 1998.

(5) The Privacy Commissioner's guidelines under section 36 may make provision for or with respect to requests under this section, including the way in which such a request should be made and the time within which such a request should be dealt with.

*(6) In this section (and in any other provision of this Act in connection with the operation of this section), **public sector agency** includes a Minister and a Minister's personal staff.*

- 4.5 Section 16 of the PPIP Act provides that a public sector agency that holds personal information must not use the information without taking such steps as are reasonable in the circumstances to ensure that, having regard to the purpose for which the information is proposed to be used, the information is relevant, accurate, up to date, complete and not misleading.
- 4.6 Section 18 of the PPIP Act provides that a public sector agency that holds personal information must not disclose that information to a person (**other than the individual to whom the information relates**) unless disclosure is directly related for which the information was collected, the individual is aware that the information is that of a kind that is usually disclosed, or, the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person.
- 4.7 Section 21 of the PPIP Act sets out that a public sector agency must not do anything, or engage in any practice, that contravenes an IPP applying to the agency.
- 4.8 Section 27(1) of the PPIP Act relevantly provides a specific exemption for the NSWPF from complying with the IPPs. However, this exemption does not apply if the disclosure of information is in connection with the NSWPF's exercise of its administrative and educative functions: s 27(2).

5 The Police Act 1990

- 5.1 The *Police Act 1990* (**Police Act**) establishes and governs the mission, functions and management of the NSWPF.
- 5.2 Section 6 of the Police Act outlines the functions of the NSWPF and section 6(3) defines "police services", that is, the law enforcement functions of the NSWPF to include:
- (a) services by way of prevention and detection of crime, and
 - (b) the protection of persons from injury or death, and property from damage, whether arising from criminal acts or in any other way, and
 - (c) the provision of essential services in emergencies, and
 - (d) any other service prescribed by the regulations.

6 Functional Retention and Disposal Authority – DA221

- 6.1 The NSWPF is required to abide by the records and retention authorities directed by the State Archives and Records Authority of NSW. Approved under s 21(2)(c) of the *State Records Act 1998*, the *Functional Retention and Disposal Authority – Police Investigations* also known as **DA221**, authorises the retention and disposal of Police investigations information maintained by the NSWPF.
- 6.2 Records of offences involving the breach of statutory rules or regulations such as harassment and private nuisance offences are governed by *DA221 No. 052*. This requires that records relating to the investigation of harassment and private nuisance offences be retained for a minimum of 5 years after the action is completed. DA221 No. 052 provides:

No.	Description of records	Disposal action
052	Records relating to the investigation of harassment and private nuisance offences . Includes: <ul style="list-style-type: none"> • harassment or intention to harass an individual (not amounting to assault, sexual assault, blackmail or extortion) • invasion or intention to invade the privacy of an individual or company • declaration of the intention to punish or hurt, via telephone or taped recordings, or in writing, to injure body, property or reputation, and give warning of intention to inflict harm or revenge. 	Retain minimum of 5 years after action completed, then destroy

	Includes stalking, nuisance phone calls, computer hacking (not involving theft, fraud, property damage or breach of government security group), opening mail, phone tapping (for non-espionage purposes), threats to cause a fire or explosion, threats to murder, threats to destroy or damage property or threatening behaviour.	
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7 The COPS Database

- 7.1 The NSWPF maintains a computerised operational policing system (**COPS**) that records all information related to offenders, victims, witnesses and incidents that are reported, or become known to Police, or require Police action. COPS Events are used to further the functions of the NSWPF (outlined above in paragraphs 5.1 and 5.2), that is, the protection of persons from injury or death and the detection and prevention of crime. Further, the information in COPS enables other Police officers to perform their duty in accordance with the relevant record.
- 7.2 Entries into COPS are designated a unique identifier for ease of retrieval of that information. Some of the records that exist in COPS are as follows:
- (a) records of interactions between Police Officers and members of the public are called “Events” and are designated an “E” identifier;
 - (b) notes created by Police Officers to record their management of an investigation are called “Case Management” and designated a “C” identifier; and
 - (c) briefs of evidence that are relied on in Court proceedings are designated a “H” identifier.

8 Amendments to COPS Events

- 8.1 Caselaw has highlighted that there is no entitlement to amendment of information in COPS under section 15 of the PPIP Act. In *GA v Commissioner of Police, NSW Police [2005] NSWADT 121*, which considered the question of whether the NSWPF was performing an administrative function by recording and using information on COPS that GA alleged was false, thereby, resulting in an unlawful investigation and prosecution of him, Deputy President Hennessy at [18], noted that, the information in COPS:

“is used not only for the direct purpose of preventing and prosecuting crimes but also indirectly for that purpose, namely to ensure that police officers are following the appropriate procedures and are fully investigating matters.”

- 8.2 Further, DP Hennessy elaborated that:

“(e)ven if some aspects of the COPS system involve administrative functions, that does not mean that the aspect of recording and using information for the purpose of preventing and detecting criminal activity is part of NSW Police’s administrative or educative functions.”

- 8.3 Ultimately, in response to the submission that section 27 of the PPIP Act can only apply to lawful investigations and prosecutions, DP Hennessy determined that section 27 gives a blanket exemption to the NSWPF and does not require a qualification as to the lawfulness or otherwise of the activity concerned.

9 Review of Merits or Legality of Official Action

- 9.1 The Court of Appeal in *Crewdson v Central Sydney AHS [2002] NSWCA 345 (Crewdson)* at [24] highlighted that the relevant section re accuracy in the of *Freedom of Information Act 1989* (now section 15 of the PPIP Act) is concerned with the accuracy of official records, not with the merits or legality of the official action recorded in them. Further, at [35] the Court of Appeal noted that an application for amendment cannot be construed to include amendments that seek to “rewrite history”.

9.2 This was reiterated in *AQL v NSW Trustee and Guardian* [2014] NSWCATAD 116 (AQL), where the Tribunal noted at [106] that amending records about the personal information that staff had said about the Applicant would be, “a rewriting of history”.

10 My Findings

10.1 I reiterate that, I have not considered, nor do I make any determination on the conduct of employees of the NSWPF. This review is limited only to your alleged breach of the PPIP Act by the NSWPF.

Retention of your Personal Information – Section 12 PPIP Act

10.2 The Retention IPP requires a public sector agency to ensure that personal information collected from an individual is kept for no longer than is necessary for the purposes for which the information may lawfully be used.

10.3 As outlined in paragraph 6.2 above the BoE and CF are records of a Police investigation and in accordance with DA221 No. 052, those records must be retained for a minimum of five (5) years after the action is completed.

Alteration of Your Personal Information – Section 15 PPIP Act

10.4 I have determined that the NSWPF is not required to make amendments or notations to information contained in the BoE and CF.

10.5 You have requested a formal notation to the BoE and CF, to note that, “*the statements regarding calls to the mobile number, “0433 813 180” are incorrect due to the number’s prior cancellation*”.

10.6 As outlined in paragraph 2.2 above, the BoE and CF, were created pursuant to a Police investigation into Isaac’s allegations that you breached the AVO when you attempted to contact him using the mobile number, “0433 813 180”. Therefore, the BoE and CF are contemporaneous records of that investigation and were thus, clearly created for a law enforcement purpose under section 6 of the Police Act (see paragraphs 5.1 and 5.2 above).

10.7 Importantly, as outlined in paragraph 2.3, the AVO Breach Proceedings were withdrawn and have therefore finalised. However, it does not alter the character of the BoE and the CF, that is, they remain records that have been created for a law enforcement purpose directly tied to the investigation of Isaac’s allegations that you breached the AVO and the AVO Breach Proceedings.

10.8 Section 15 of the PPIP Act does not require the constant review and revision of historic documents. In *GJO v Insurance and Care NSW* [2025] NSWCATAD 166 which considered the requirements of section 15 of the PPIP Act in relation to a report that no longer served a purpose as the claim had settled, Senior Member McIntyre noted at [108]:

“It would be unduly burdensome for public agencies to have to expend time and resources in making alterations to information that is no longer in use, absent good reason to do so. I see no reason to do so for the reasons set out above.”

10.9 Further, as highlighted in paragraphs 8.1 to 8.3 above, caselaw has confirmed that there is no entitlement under section 15 of the PPIP Act to seek an amendment to COPS records as the exemption under section 27 of the PPIP Act requires no qualification for it to provide and maintain an exemption from the IPPs for a law enforcement purpose.

10.10 Section 27(1) of the PPIP Act provides specific exemption from complying with the information privacy principles, if the disclosure of information is not connected to the exercise of the NSWPF’s administrative and educative functions.

- 10.11 The Tribunal in the matter of *HW v Commissioner of Police, NSW Police and Anor* [2003] NSWADT 214 (**HW**) suggested that “administrative function” consists of, “corporate services areas performing function such as personnel, budget and information technology.” This distinction was reinforced in *FBQ v Commissioner of Police* [2022] NSWCATAD 110 (**FBQ**), where the Tribunal found that the disclosure by a public relations officer to media about the applicant’s arrest and court dates was not an administrative function as it was, “unrelated to the internal management of the NSWPF” and thus, was exempt under section 27 of the PPIP Act as it had no connection with matters of internal administration.
- 10.12 Therefore, in accordance with section 27 of the PPIP Act, the NSWPF is exempt from complying with the alteration IPP and will not make an amendment or notation to the BoE and CF.

Accuracy of Your Personal Information – Section 16 PPIP Act

- 10.13 I have determined that the NSWPF is not required to amend the BoE and the CF.
- 10.14 In your IR Application, you allege that the BoE and CF:
- (a) are used not only for law enforcement but also for case management, disclosure, prosecution preparation, and the administration of justice – which are core administrative functions of the NSWPF;
 - (b) contain factual inaccuracies concerning a phone number that has a definitive disconnection date; and
 - (c) the factual inaccuracies are directly contradicted by the Police’s own evidence within the BoE, that is, the phone search communication records which show zero communication for the periods 01 September 2023 to 07 September 2023.
- 10.15 In reply to your allegation in paragraph 10.14(a) above, I have determined that the purposes for which you allege that your personal information may be used, are clearly law enforcement purposes of the NSWPF as highlighted in paragraph 5.2 above. They are not administrative functions as determined by the Tribunal in the cases of *HW* and *FBQ* in paragraph 10.11 above.
- 10.16 In reply to your allegations in paragraph 10.14(b) and (c) above, the BoE (which includes the Witness Statement) and the CF were created in relation to the AVO Breach Proceedings. The Officer in Charge investigated the matter and, in accordance with that investigation, collected evidence in relation to the mobile number “0433 813 180”. That evidence formed part of the BoE and was to be tested before the Court in the AVO Breach Proceedings. However, as outlined in paragraph 2.3 above, the AVO Breach Proceedings were withdrawn and thus, were finalised. Therefore, it is clear that the purpose for which the records were created has ended, and those records are now historical records of an investigation into Isaac’s allegation of your breach of the AVO.
- 10.17 Accordingly, as those records were created for a law enforcement purpose, the NSWPF is exempt from complying with the information privacy principles under the exemption in section 27(1) of the PPIP Act. In addition, as determined by the Court of Appeal in *Crewdson* and reiterated in *AQL*, an amendment to those records would be an attempt to rewrite history, which is contrary to the purpose of the accuracy IPP in the PPIP Act.

11 Recommendation

Update to Your Personal Information

- 11.1 Section 15 of the PPIP Act requires that a public sector agency that holds personal information, must, at the individual’s request, make appropriate amendments to the individual’s personal information so that it is accurate, up to date and not misleading.

- 11.2 Section 16 of the PPIP Act provides that, before using the personal information of an individual, the public sector agency must check that the personal information is relevant, accurate, up to date, complete and not misleading.
- 11.3 I have reviewed your contact information on COPS and determined that, in accordance with sections 15 and 16 of the PPIP Act, your contact information can be updated to comply with those provisions.

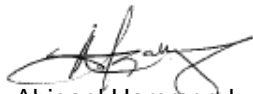
12 Conclusion

- 12.1 For the reasons set out above, the NSWPF did not breach your privacy. However, your personal information, that is, your contact information on COPS, can be updated in accordance with sections 15 and 16 of the PPIP Act.

Your right to external review

I confirm that, the Privacy Commissioner has reviewed this internal review and does not wish to make any submissions.

In accordance with s 53(8)(c) of the PPIP Act, if you are not satisfied with my findings, or the action taken, you may apply to the NSW Civil and Administrative Tribunal, within 28 days of notification of this internal review, for the matter to be administratively reviewed under s 55 of the PPIP Act.



Abigail Hammond
Senior Lawyer
Commercial and Administrative Law
Office of the General Counsel

cc: Privacy Commissioner, NSW