GOVERNMENT OF
WESTERN AUSTRALIA

Privacy and Responsible Information Sharing

Readiness Guidance 10: Privacy Policy

Introduction

The WA Government has drafted new legislation that will form the basis of Privacy and Responsible Information Sharing (PRIS) reforms. These reforms build on an extensive consultation process that commenced in 2019 to develop a model that is right for Western Australia.

Your agency is to develop and publish a Privacy Policy, describing how it handles personal information.

Agency PRIS Readiness Plan and Checklist

An Agency PRIS Readiness Plan has been developed to help agencies prepare for and implement the legislation. The Readiness Plan describes the approach, governance, key activities, deliverables and milestones to ensure agencies are prepared to meet both the privacy and responsible information sharing requirements of the PRIS legislation once it commences.

The aim of the Readiness Plan is to ensure your staff and supporting personnel:

- understand and are engaged with the process of reform;
- are prepared and capable of complying with the proposed privacy provisions; and
- are ready to meet the responsible information sharing provisions within the PRIS legislation.

The Agency PRIS Readiness Checklist supports the Readiness Plan and provides a snapshot of the readiness actions. It includes a timeline of five self-assessment and reporting activities, and 18 key actions required for PRIS readiness by the time the legislation comes into force.

The Checklist outlines the minimum policies and processes an agency should have in place (it does not include all the actions from the Readiness Plan). These actions are based on established best practices for information management and are not dependent on the new legislation.

The WA Government has provided the authorising environment for agencies to prioritise this program of activities by June 2025.

Key Action 8: Develop and publish a Privacy Policy

This is the eighth action in the Agency PRIS Readiness Checklist.

Agencies develop and publish a Privacy Policy, describing how they handle personal information, by **30 September 2024**.

Purpose

The PRIS legislation establishes a framework that strengthens privacy protections for Western Australians and introduces Information Privacy Principles (IPPs) to govern the handling of personal information by IPP entities.

This guide is designed to help agencies develop and maintain a publicly available Privacy Policy aligned with IPP 5 Openness and Transparency.

Agencies may also develop internal policies and procedures that offer more detailed guidance to staff about their responsibilities and how to handle personal information in the course of their duties.

You should read this guide together with the full text of the IPPs and Part 2 of the PRIS legislation.

What is a Privacy Policy?

The PRIS Bill introduces 11 IPPs that govern the collection, use, disclosure and security of personal information.

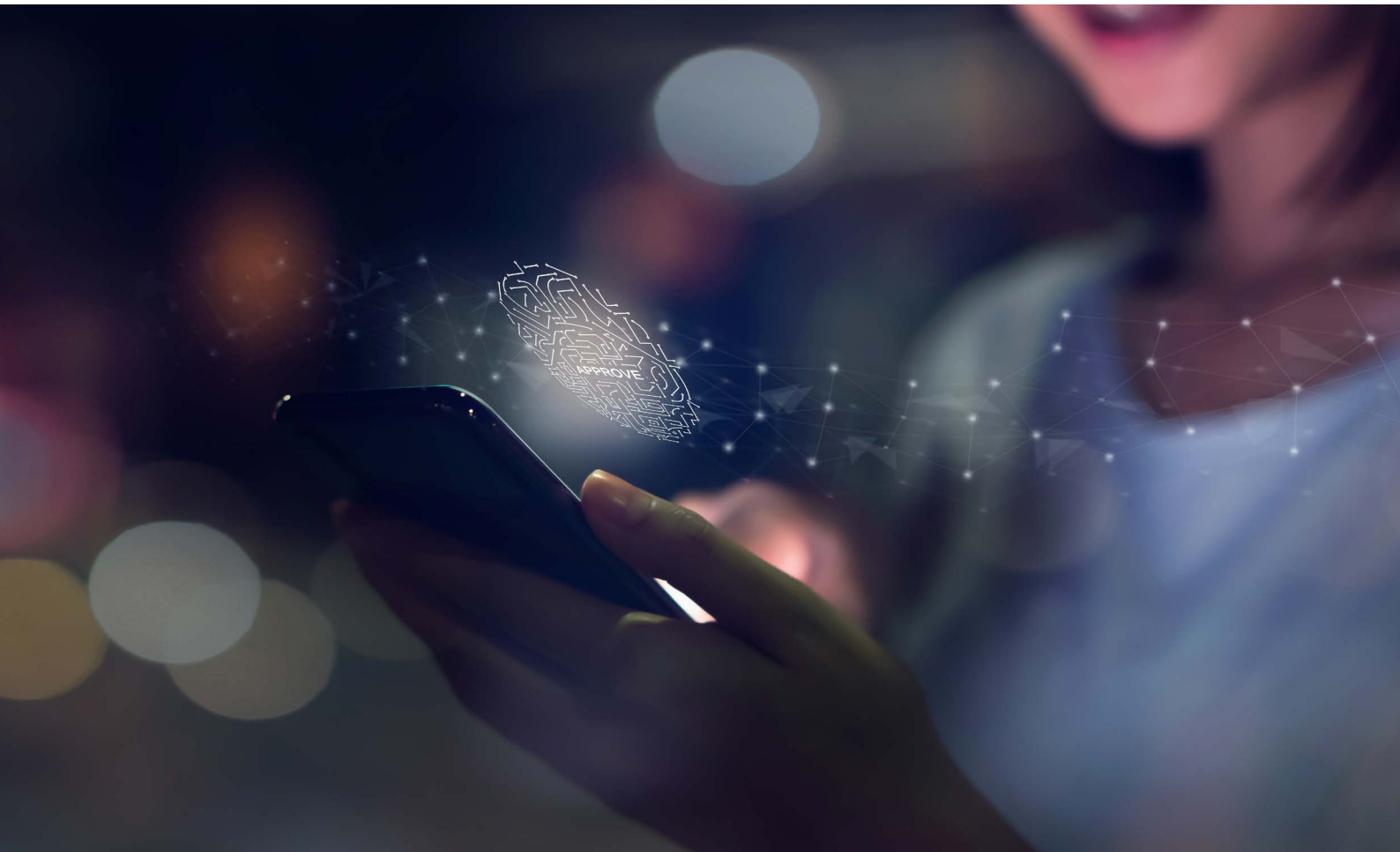
IPP 5: Openness and Transparency requires an IPP entity to develop a document that clearly sets out its policies on the handling of personal information, and to make the document available to anyone who asks for it.

This document is commonly referred to as a Privacy Policy.

A Privacy Policy is an important document to inform customers, clients and stakeholders how your agency handles the personal information it collects, holds, uses and discloses.

A Privacy Policy is an important statement about how your agency handles personal information. It demonstrates your agency's commitment to protect the privacy of personal information and promotes public confidence.

A concise and easy to read Privacy Policy helps to demonstrate your agency's commitment to protecting the privacy of personal information by explaining how it meets its privacy obligations.



Why is a Privacy Policy required?

A Privacy Policy is required by **Information Privacy Principle 5: Openness and Transparency.**

An open and transparent Privacy Policy helps build trust with your agency's customers, clients and stakeholders by keeping them informed about how your agency handles personal information. It gives people confidence that your agency collects, uses and discloses personal information in accordance with the privacy protections contained in the IPPs.

As a clear expression of your agency's intentions, a Privacy Policy provides direction to staff about their obligations to handle personal information according to the requirements of the PRIS legislation. It helps staff understand the context for their responsibilities and expected behaviours, building a privacy-aware organisational culture.

In addition to meeting the requirements of IPP 5, other benefits of having a Privacy Policy include:

- supporting your agency to handle personal information in accordance with the PRIS legislation;
- informing staff about the new PRIS legislation and providing key messages about their responsibility to handle personal information appropriately;
- helping to prevent unauthorised collection, use or disclosure of personal information;
- providing a framework to assist your agency when responding to a privacy complaint; and
- promoting public confidence in your agency's handling of personal information.

Figure 1 sets out the full text of IPP 5.

Principle 5: Openness and Transparency

5.1 An IPP entity must develop a document setting out policies on its handling of personal information and must make the document available to anyone who requests it.

5.2 A document referred to in subclause 5.1 must be up-to-date, clear, conconcise and expressed in plain language.

5.3 On request by a person, an IPP entity must take reasonable stapes to let the person know, generally -

(a) the kinds of personal information that the IPP entity collects and holds; and

(b) how the IPP entity handles personal information; and

(c) the purposes for which the IPP entity handles personal information; and

(d) whether any personal information held by the IPP entity is used for an automated decision-making process.

Figure 1: Information Privacy Principle 5 (IPP 5)

What should a Privacy Policy contain?

At a minimum, a Privacy Policy should include:

- the date and version number of the policy;
- the identity of the agency;
- who in the agency is the officer responsible for the Policy;
- the agency's main functions;
- the types of personal information the agency generally collects and holds to fulfil its main functions;
- how the agency collects personal information (including, for example, the use of cookies on the agency's website);
- whether the collection of personal information is compulsory or optional (including referring to any relevant legislation that authorises the collection, use or disclosure of the information);
- the purposes for which the agency uses and discloses personal information;
- how the agency will use and disclose the personal information it collects, including the types of third parties the personal information may be disclosed to;
- whether any personal information is used for an automated decision-making process;
- how the agency handles unique identifiers;
- whether the agency has processes to de-identify personal information and if so, how the de-identification is undertaken and how the de-identified information is handled;
- how the agency ensures the personal information is securely stored and for how long it may be stored;
- how the privacy of personal information is protected if it is transferred or stored outside Australia;
- how the agency controls and manages access to personal information; and
- how an individual can contact the agency, request access to the information held about themselves, or make a privacy complaint.

Your agency may have an existing Privacy Policy. If so, it should be reviewed and updated, or replaced, to ensure it meets the requirements of the PRIS legislation and supports your agency to handle personal information appropriately.

A Note of Caution

Agencies should take care not to make explicit references to the provisions of the PRIS Bill in the Privacy Policy, until the relevant provisions (the IPPs) come into force

Privacy Policies and Collection Notices

Although they both inform individuals about how an agency will handle their personal information, Privacy Policies and Collection Notices are different.

A Privacy Policy speaks about an agency's practices for handling personal information in a broad sense.

A Collection Notice outlines an agency's information handling practices for a specific purpose or activity.

Example

When collecting personal information from an individual who is registering their pet, a local council will provide the pet owner with a notice about how it will handle that specific information.

This is different to the council's Privacy Policy, which will outline the council's commitment to handle personal information in accordance with the IPPs in a more general sense.

The requirements for a Collection Notice are provided in IPP 1.9 and further information will be included in **Readiness Guidance 13**.

Tips to keep in mind

Although every agency's Privacy Policy must contain the information outlined in IPP 5, they don't need to look and read the same. Here are some tips to help make your Privacy Policy genuinely informative and helpful for your audience.

More details are provided in the following section, which outlines the steps to develop your Privacy Policy.

Use plain language, short, clear sentences and avoid legal jargon or technical words.

Tips for developing your Privacy Policy

~ Consider your audience. Don't treat your Privacy Policy as a legal document to manage legal risk. Create trust in your agency by genuinely speaking to your customers, clients or stakeholders.

~ Use your own words. Your Privacy Policy shouldn't just restate the IPPs. It should demonstrate the steps that your agency will take to comply with the IPPs.

~ Make it specific to your agency's business or operations. Think about what your agency does (its core functions and activities) and how it handles personal information to do it.

~ Consult before drafting. Identify whether your agency has an existing Privacy Policy. Speak to all areas of your agency, including your communications team, to seek feedback on what should be included in your Privacy Policy and how best to communicate it to your audience. There might be innovative ways to do this, such as infographics or videos. Speak to your in-house legal team or contact the State Solicitor's Office if you require legal advice.

~ Focus on what's important. Don't attempt to include every tiny detail. Don't re-state obligations that appear in other policies or legislation. Include references or links as appropriate.

~ Use a layered approach. For example, provide a summary version of the key matters in your Privacy Policy on your website, with a link to the full document.

~ Keep it simple. Use simple language, as required under IPP 5.2. Test the readability of the content and format with your communications area. Make sure the document is accessible by all audiences.

~ Think about the different technologies your agency uses. Your general Privacy Policy doesn't need to be technology specific. However, you might want to include specific sections, or create standalone policies about your agency's use of particular technologies. For example, your Privacy Policy could contain a distinct section about your agency's handling of personal information collected via its website, or you may choose to develop a separate website Privacy Policy.

~ Is one Privacy Policy enough? Depending on the range and diversity of its core functions, an agency may choose to publish more than one Privacy Policy. If your agency is large or complex with different operating environments, you should consider whether you need more than one Privacy Policy.

Steps to develop your Privacy Policy

The IPPs are principles rather than detailed rules. They are outcomes-focused, which enables them to be applied flexibly and adapted to the different operating environments.

Consider the following practical steps to develop a Privacy Policy.

STEP 1 Gather the right information

STEP 2 Work out the content and structure

STEP 3 Provide information in layers

STEP 4 Draft your Privacy Policy

STEP 5 Test your Privacy Policy

STEP 6 Make your Privacy Policy available to anyone who requests it

STEP 7 Regularly review and update your Privacy Policy

Step 1. Gather the right information

The key to developing a Privacy Policy is to have an overview of the personal information held by your agency, as well as your personal information handling practices, procedures and systems. This will enable you to accurately describe (and summarise) how your agency handles personal information.

You may have gathered some of this information already, for example as part of your agency's existing Privacy Policy or in an Information Asset Register. If you have not yet gathered any of this information, consider conducting an information survey and make a list of the personal information held by your agency and any relevant policies and procedures. **Readiness Guidance 8** provides more suggestions for conducting and information survey.

Clearly describe your agency's functions and activities

To be able to write a Privacy Policy (or to review and update an existing Privacy Policy), you should be able to describe your agency's functions and activities and understand your agency's personal information handling procedures.

You should be able to describe your agency's main functions and activities and identify those that involve personal information handling. For example:

- The provision of specific services
- Handling complaints
- Managing employee records
- Operating your website

For each function or activity, you should be able to describe:

- What personal information your agency collects and holds
- How your agency collects and holds that personal information
- What personal information your agency uses and discloses
- Why your agency collects, holds, uses and discloses that personal information
- Whether your agency discloses personal information to overseas entities

Understand your agency's personal information handling procedures

You should understand your agency's current personal information handling practices, procedures and systems (written or otherwise), for your agency as a whole, and for each of its key functions and activities including:

- specific approaches, principles or commitments your agency has decided to adopt for handling particular types of personal information or in relation to a particular process

Example

If an agency collects personal information about equity markers for its clients, is that information:

- linked across all business processes and systems; or
- linked only in certain, specified circumstances; or
- linked only with the client's consent; or
- never linked.

- » processes for identifying, assessing and managing privacy and security risks, as well as developing and monitoring controls for those risks
- » security protections (for example, encryption, audit and monitoring) your agency has in place
- » approaches to identifying and handling personal information your agency no longer needs. For example, your agency's practices under the *State Records Act 2000* (WA)
- » how and why personal information is used by your agency for automated decision-making processes (if applicable)
- » processes for providing access to and correction of personal information (refer to existing procedures for handling requests under the *Freedom of Information Act 1992* as applicable)
- » complaints handling processes
- » policies relevant to your agency's personal information handling. For example, your agency's approach to maintaining the quality of personal information that is used and disclosed, anonymity or pseudonymity
- » policies for managing contractors when personal information may be disclosed
- » alignment with other agency policies or procedures which relate to the collection, storage, use or disclosure of information. (For example, research data, appropriate use of technology; security and access restrictions; complaints handling.)

Your agency's Privacy Policy does not have to include all of the above information. However, understanding your agency's personal information handling practices procedures and systems will enable you to identify what is going to be most important to readers and work out what your Privacy Policy should focus on in detail, or summarise, or link to existing documents under a heading "Related Documents".

Step 2. Work out the content and structure

Although your Privacy Policy must cover the topics outlined in IPP 5, the information doesn't have to be presented in that order. The goal is to make it as easy as possible for individuals to find the information that is most important to them.

Arrange information in a way that makes sense

You should arrange the information in a way that makes sense for your agency's functions, activities and audience. For example, you could separate out personal information flows for particular groups for whom your agency has different information handling practices.

If you decide to have more than one Privacy Policy, make the scope of each policy clear and, if practical, explain how each Policy links to the others.

Focus on what is likely to be most important to your clients, customers and stakeholders

Focus more on the areas of personal information handling that individuals are:

» Most concerned about or may find objectionable.

Example

Why the agency collects personal information such as date of birth or health information. How is the agency going to protect that personal information? Does the agency disclose personal information without the individual's knowledge or consent? Does the agency use the personal information to make automated decisions about the individual?

» Unaware of, won't reasonably expect, or may not understand.

Example

Does the agency collect personal information about individuals from other sources? Does the agency track individual users on its website? If so, what does the agency use the information for? Can individuals interact with the agency anonymously or pseudonymously?

Be as specific as possible

Be specific about the way in which your agency handles personal information as this will provide clarity to internal and external stakeholders and build trust. Creating clarity and trust will be most important in areas of common concern such as contact details, health information, financial information or other sensitive personal information.

Unqualified use of vague words such as ‘may’ could lead to concern about uses and disclosures that are not intended.

Summarise where possible

Accurately summarise policy information in areas that:

- Individuals know about already. For example, where they have provided personal information directly by filling out a form; or where a Collection Notice provides the detail.
- Individuals would expect as common business or administrative practice for a particular transaction or service. For example, using an address for billing purposes or to enable a contractor to perform these services on behalf of the agency.
- Are common across the agency for all personal information handling. For example, names or contact details.

Step 3. Provide information in layers

Take a layered approach to providing information about how your agency will handle personal information by providing a summary version (the summary Policy) that focuses on what the agency’s clients, customers and stakeholders would like to know, with a link to a more complex and detailed Privacy Policy. This is particularly effective in the online environment.

Headings in the summary Policy may vary according to the particular functions and activities of your agency, but often include:

- Scope — describes the range and extent of the Policy, the functions, business units, staff and systems covered by the Policy.
- Collection of personal information — provides the key information about what personal information is collected and why. Focus on areas that are most sensitive or that clients, customers and stakeholders would least expect.
- Disclosure (sharing) of personal information — describes the key uses and disclosures of personal information, the conditions around those disclosures, and why personal information is used or disclosed in this way. This is a good place to mention any overseas disclosures.
- Requests and choices — describes any requests or choices that individuals can make, in relation to the handling of their personal information. For example, a choice to accept or reject cookies on a website, a choice to interact anonymously, or how an individual may request access to or correction of personal information the agency holds about them.
- How to make a complaint — briefly describes how individuals can make a complaint about an alleged interference with their privacy and what the individual may do if they are not satisfied with the outcome.
- Contact details — it may be helpful to provide the details of the agency’s Privacy Officer. At a minimum, include a primary office telephone number and a general agency email address that won’t change with personnel.

Try to keep the summary Policy to 500 words or less.

Step 4. Draft your Privacy Policy

Once you have a list of the personal information that your agency holds, as well as the other necessary information identified above, and have worked out the content and structure of your Privacy Policy, you can begin drafting.

Your Privacy Policy must be up-to-date, clear, concise and expressed in plain language, in accordance with IPP 5.2. To ensure the Policy is accessible, easy to navigate and easy to read:

- Use the active tense (you, we, I) and simple language – no legal or government jargon or acronyms.
- Use short sentences and break up text up into small, digestible paragraphs.
- Use accessible, inclusive language and where possible provide alternative formats on request. For example, simple read, low vision alternative fonts or hardcopy.
- Use headings to help people find information easily, including information that may particularly apply to individual situations or particular client, customer or stakeholder relationships with the agency.
- Keep in mind how you are going to publish it. If it is going on your agency's website, make sure it is in a form suited to online publication and accessible to all readers.
- Consider your main audience in the design and format of the Privacy Policy and/or the summary Policy. For example, if your audience is likely to view the summary Policy via a mobile app, you should create a document that works effectively in that format. Consider how the full Policy will be made publicly available to anyone who requests it, in accordance with IPP 5.1.
- Avoid making it too wordy. Only include what is necessary and relevant to the way your agency handles personal information.
- Make sure the Privacy Policy is readable. Web Content Accessibility Guidelines (WCAG) recommend the style and choice of words should be suitable for a lower secondary education reading level (year 7 or between 12 and 14 years old).

Step 5. Test your Privacy Policy

Test out your Privacy Policy and the summary Policy with the target audience or audiences, including likely readers. Where your resources are limited and systematic testing is not possible, try to identify a staff member who has not been involved in the development of the Privacy Policy – ask them to read the documents for clarity and to provide feedback. Regardless of the target audience, it should be able to be easily read and understood.

To ensure that the Privacy Policy and summary Policy cover all relevant topics and accurately reflect your agency's information handling practices, you could also test the documents with internal staff with responsibilities for handling personal information in the course of their regular duties.

Consider your agency's requirements for policy consultation and policy approval processes. For larger agencies, ensure the Privacy Policy is aligned with policy statements that apply to other areas of the organisation.

Step 6. Make your Privacy Policy available to anyone who requests it

The Privacy Policy should be accessible to everyone.

IPP 5.1 requires IPP entities to make their Privacy Policies available to anyone who requests it.

Although IPP 5.1 does not specifically require the Privacy Policy to be published, making a summary Policy readily available on your website will develop trust and reduce the workload associated with responding to individual requests.

This approach also aligns with the requirements of section 97 of the *Freedom of Information Act 1992* (WA), and the Open by Design Principles published by the Office of the Information Commissioner WA.

Note

If your agency is publishing its Privacy Policy before the requirements of the PRIS legislation come into force, include a clear statement at the beginning of the policy document, such as:

"The requirements of the Privacy and Responsible Information Sharing (PRIS) legislation have not yet commenced, but [the agency] has drafted this Privacy Policy in anticipation of the law coming into effect."

Step 7. Regularly review and update your agency's Privacy Policy

IPP 5.2 requires IPP entities to ensure their Privacy Policies are up-to-date.
You should regularly review and update your Privacy Policy to ensure that it reflects your agency's current personal information handling practices.

When an agency adopts a new program, system or technology; is assigned new functions; or undergoes a restructure, it is worthwhile revisiting the Privacy Policy to ensure that it is still up to date and accurately reflects the flow of information through the agency.

If an agency begins to collect more information, or uses or discloses information in new ways, this should be immediately reflected in its Privacy Policy.

References

The information in this guidance is adapted from:

- Guide to developing an APP Privacy Policy, published by the Office of the Australian Information Commissioner (OAIC) *https://www.oaic.gov.au/privacy/privacy-guidance-for-agencies-and-government-agencies/more-guidance/guide-to-developing-an-app-privacy-policy*
- Privacy Policies, published by the Office of the Victorian Information Commissioner (OVIC) *https://ovic.vic.gov.au/privacy/resources-for-agencies/privacy-policies/*

The WA Government Interim Privacy Position can be found at:
https://www.wa.gov.au/government/announcements/interim-privacy-position

The Privacy and Responsible Information Sharing Bill can be found on the Parliament of Western Australia website, under Current Bills at:
https://www.parliament.wa.gov.au/parliament/bills.nsf/BillProgressPopup?openForm&ParentUNID=3329DA2DC25F557148258B1E003267FF

Examples of Privacy Policies:

- Department of the Prime Minister and Cabinet (Cth) Privacy Policy *https://www.pmc.gov.au/about-us/accountability-and-reporting/information-and-privacy/privacy-policy/full-version*
- OVIC Privacy Policy *https://ovic.vic.gov.au/about-us/internal-policies-procedures-and-registers/privacy-policy/*
- OAIC Privacy Policy *https://www.oaic.gov.au/about-the-OAIC/our-corporate-information/plans-policies-and-procedures/privacy-policy*

Other useful resources include:

- *Readiness Guidance 1: PRIS Champions*
- *Readiness Guidance 6: Privacy Officers*
- *Readiness Guidance 8: Information Survey and Information Asset Register*
- The Privacy Officer Toolkit, published by the OAIC. *https://education.oaic.gov.au/privacy-officer-toolkit/*
- Privacy Officer Toolkit, published by the OVIC. *https://ovic.vic.gov.au/privacy/resources-for-agencies/privacy-officer-toolkit/*
- Open by Design Principles, published by the Office of the Information Commissioner WA. *https://www.oic.wa.gov.au/en-au/About-Us/Open-Government/Open-by-Design-Principles*

Information about Privacy and Responsible Information Sharing can be found at:
https://www.wa.gov.au/government/privacy-and-responsible-information-sharing

Please email privacy@dpc.wa.gov.au for further information about these resources.