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# Update Summary

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**UPDATE 122**

**APRIL 2023**

**NEW SOUTH WALES ADMINISTRATIVE LAW**

**M Robinson**

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Updated commentary has been provided by **Juliet Lucy**  
**Privacy and Personal Information Protection Act 1998**

Updated:

- Death is not a criterion for incapacity for the purpose. See *Nepean Blue Mountains Local Health District v ENY* [2022] NSWCATAP 356, at [70.40390].
- An “authorised representative” does not include an executor of a deceased person’s estate. See *Nepean Blue Mountains Local Health District v ENY* [2022] NSWCATAP 356, at [70.40420]

**Health Records and Information Privacy Act 2002**

Updated:

- An individual’s belief that there may be a staff member at an agency who is “acting inappropriately” is personal information about the individual. See *HealthShare NSW v CJU* [2022] NSWCATAP 316, at [70.11300].
- “Disclosure” in s 18 of the PPIP Act has the same meaning as in s 13 of the *Criminal Records Act 1991*. See *HealthShare NSW v CJU* [2022] NSWCATAP 316, at [70.13640].
- The Tribunal rejected the submission that the terms of s 18(1)(a) were satisfied. See *Kelloway v Registrar of Births Deaths and Marriages* [2023] NSWCATAD 34, at [70.13740].
- Section 11 of the *Local Government Act 1993* implies non-compliance with s 18 of the PPIP Act. See *North Sydney Council v EIG* [2022] NSWCATAP 331, at [70.14560]
- The Tribunal found that the Registrar of Births, Deaths and Marriages had disclosed personal information kept in a public register. See *Kelloway v Registrar of Births Deaths and Marriages* [2023] NSWCATAD 34, at [70.18860].
- Where the agency responded to an email stating that the writer was making a complaint, this was a factor in support of the conclusion that it was properly characterised as such. See *Kelloway v Registrar of Births Deaths and Marriages* [2023] NSWCATAD 34, at [70.18910].