



information
and privacy
commission
new south wales

The Honourable Catherine Cusack MLC
Chair
Committee on the Ombudsman,
The Police Integrity Commission
and The Crime Commission
Parliament House
Macquarie Street
SYDNEY NSW 2000

1 FEB 2013

Dear Ms Cusack *Catherine,*

Privacy Commissioner's responses to questions on notice

I refer to your letter dated 10 December 2012 which attached questions on notice for me in preparation for the second General Meeting with the Information and Privacy Commission and the Committee.

Please find attached my responses to your questions.

[Redacted]

Yours sincerely

[Redacted signature]

Dr Elizabeth Coombs
NSW Privacy Commissioner



Joint Select Standing Committee on the Ombudsman, the Police Integrity Commission and the Crime Commission

Second General Meeting with the Information and Privacy Commission

Questions on Notice for the NSW Privacy Commissioner

- 1 **In the Privacy Commissioner's overview in the IPC annual report for 2011/12 you state that in your first six months in the role, you have focused primarily on raising the profile of privacy among government agencies (p 25). To date, what strategies has the OPC developed and implemented to raise the profile of privacy issues?**

In order to effectively raise the profile of privacy issues among NSW public sector agencies, the Office of the Privacy Commissioner (OPC) has implemented a range of strategic approaches:

- meetings with Director Generals and their Executives
- involvement in key initiative developments, for example the development of the NSW ICT Strategy
- discussions with other bodies concerned with governance, for example the Audit Office, to ensure that privacy issues feature in their reviews and discussions with agencies
- meetings with key advocacy and community groups to understand issues of concern to them and matters raised with agencies
- regular briefings and presentations to practitioners from agencies covered by NSW privacy legislation
- assistance to agencies with privacy-related matters as well as engagement on our core functions
- participation in national meetings of Privacy Commissioners (PAA) and the Australia Pacific Privacy Authorities (APPA)
- membership of professional bodies that are concerned with privacy, for example International Association Privacy Practitioners Australia New Zealand (iappANZ), or in related areas such as Society of Consumer Affairs Professionals (SOCAP), and
- speaking engagements and provision of resources that assist agencies and individuals better manage their privacy responsibilities.

Operationally, the OPC has developed an improved online presence through the new IPC website and the placement of privacy information on this website. In addition, the OPC continues to communicate with the public and agencies through our core complaint handling work.

In terms of raising the profile of privacy in the broader community, the annual Privacy Awareness Week was a high-profile event drawing attention to important privacy issues and in particular, encouraging agencies to hold their own events to raise awareness of privacy issues with staff and their clients. Please see further information about this initiative below.



2 In the annual report you state that the focus of Privacy Awareness Week 2012 was the protection of children and young adults' privacy, and that the OPC used the event to educate and assist young people to protect their personal information while enjoying online tools such as social media (p 25). What activities did the OPC undertake to promote this message?

A major annual event of which the IPC participates is Privacy Awareness Week (PAW); a joint Asia Pacific Privacy Authorities (APPA) initiative. This is an opportunity for government agencies, workplaces and schools to raise awareness about the importance of privacy obligations of their staff and to educate individuals about how to better protect their privacy.

The focus for 2012 was on children and young adults and their awareness about protecting their privacy online. This week-long event drew significant attention to privacy issues, and the consequences of failing to properly protect and manage personal information.

Our launch of PAW was attended by some 70 representatives from government agencies and other organisations such as child welfare groups. Coverage for PAW was extensive, with both Channels 9 and 10 running news stories on the event, and a range of newspaper articles explaining the purpose of the event. I also participated in a number of radio interviews, particularly for regional areas, in which I spoke about the importance of sensible online behaviour, and how individuals should treat their own, and their friends' and families', personal information.

The IPC designed a variety of resources to be distributed in conjunction with the event, including:

- guide for parents, *Are your kids safe on the internet?*
- brochure for individuals, *How to safeguard against identity theft*
- poster to raise awareness of privacy issues among agency staff and members of the community, *Your privacy, protecting your information*, and
- postcard for children, parents and other members of the community, *Your virtual ID affects your real ID*.

We also dedicated a page on our website to publicise PAW among agencies and the community. The NSW government website (www.nsw.gov.au) publicised PAW with a banner on the homepage during the week. Other agencies such as the Department of Education and Communities also featured PAW on their website.

We provided our resources to APPA, so that it could publicise them on their own website and through their own networks, along with the consolidated PAW-related resources from other privacy offices in other jurisdictions locally and internationally.

At the conclusion of the PAW event, we obtained a detailed post-campaign report, which set out the distribution breakup of our promotional materials to schools, and the take up of these resources. In total, we distributed 19,380 promotional postcards to 197 schools over a one month period. Feedback from the distributor was that the card was well-received across the school networks.



As the IPC is a small agency with limited resources, one of our key strategies with PAW is to encourage other NSW government agencies and community organisations to hold their own privacy-related events during that week. This could range from a community-based event to raise awareness of privacy rights and issues among the public to an opportunity for agencies to provide further training to staff on privacy obligations.

- 3 In the annual report, you refer to the Parliament having articulated a ‘clear need to increase resources available to (the former) NSW Privacy’ (p 25). In the context of the merger of the OPC and the OIC into a single entity, is it your view that the OPC is adequately resourced to conduct its business in a timely manner, particularly in respect of its investigatory functions and responding to complaints?**

The OPC continues to receive a high demand for assistance from members of the public and agencies. Increased demand takes the form not just of increase in the number of enquiries or complaints received but also at the strategic level with requests for advice in the development of initiatives and policies.

At this stage, it is more appropriate to address the potential for increased productivity internally through for example, integration of IPC’s privacy and access case management teams, than to seek further resourcing for the OPC.

- 4 In the annual report, reference is made to the PPIP Act online training program, and to the participant feedback which stated that half of the users felt that the program met its stated objectives (p 31). Based on the feedback received, is the training program undergoing a process of review that is targeted towards increasing the percentage of users that feel the program meets its stated objectives?**

The percentages reported in the IPC’s annual report were based on a relatively small number of returned evaluation forms. Nevertheless, the PPIP Act online program has been comprehensively reviewed. Changes to both the module for government agencies and the module for local government went live in October 2012 and feedback is being actively sought on these changes. We will continue to monitor any feedback that we receive and assess the need for further changes.

The OPC provided training seminars on best practice in developing Privacy Management Plans over the period August to December 2012. These seminars were oversubscribed and plans are underway to provide more sessions with a focus on Local Government. The OPC also participated in a series of seminars targeted to privacy practitioners within NSW, with topics such as the overlap between information access and privacy rights and applying the public interest test. 85% of attendees were highly satisfied with the seminars, and 94% expressed an interest in attending further seminars. The seminar on the overlap between information access and privacy rights was so popular that it was fully subscribed within 40 minutes of the invitation being issued. A variety of new products were launched including guidelines, knowledge updates and factsheets. This has supported the educational resources available on our website.



- 5 **The Committee notes that on 3 December 2012, the security of one of Macquarie University’s websites was breached and hackers claimed to have gained over 1 million passwords stored in plain text. Did the University report the breach to the OPC and, if so, is the OPC conducting an investigation into the incident?**

While the *Privacy and Personal Information Protection Act 1998* does not require NSW government agencies to notify the Privacy Commissioner of privacy breaches, the General Counsel of Macquarie University wrote to the IPC on 6 December 2012 regarding the media reports about the alleged data breach. Macquarie University provided background to the breach and invited us to seek any further information from them that we considered necessary.

The Deputy Privacy Commissioner wrote to Macquarie University on 24 December 2012 and responded to their invitation to seek further information. We are currently awaiting their response and will assess the matter further at that stage.

We encourage agencies to notify our office about possible or actual privacy breaches. We are happy to provide them with guidance about:

- strategies to rectify the breach
- how best to communicate with the affected individuals regarding the breach and any rectification action taken
- strategies to minimise the risk of a similar breach occurring in the future.

There have been other occasions where agencies have proactively notified us of privacy breaches and we have provided guidance of the kind referred to above.