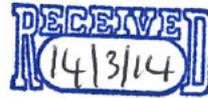




information
and privacy
commission
new south wales

Our reference: IPC13/000189



Ms Carly Maxwell
Director
Legislative Assembly Committee
Parliament of NSW
6 Macquarie Street
SYDNEY NSW 2000

12 MAR 2014

By email: ombopic@parliament.nsw.gov.au

Dear Ms Maxwell

Re: Questions on Notice

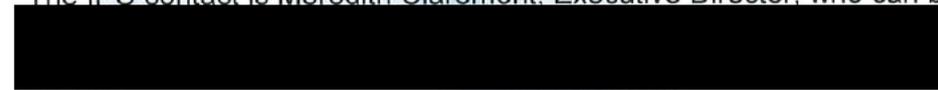
I refer to your letter dated 28 February 2014 attaching questions by the Committee on the Ombudsman, the Police Integrity Commission and the Crime Commission following the General Meeting held on 18 February 2014.

Please find attached my responses to these questions with regard to my role as Privacy Commissioner. My colleague, the Information Commissioner, will be responding separately.

I also bring to the Committee's attention an error which appears on page 32 of the Information and Privacy Commission NSW's 2012 – 2013 Annual Report. In the table included under "Complaints (Privacy)", the third column heading should read "2012 – 2013".

The IPC contact is Meredith Claremont, Executive Director, who can be contacted on

Yours sincerely



Dr Elizabeth Coombs
NSW Privacy Commissioner



Privacy Commissioner's responses to Questions on Notice

- 1. Have you introduced any new methods for measuring the IPC's performance in the last twelve months or are there any plans to do so in the future?**

This matter has been dealt with by the Information Commissioner.

- 2. Have you come across any innovative ideas in the past year for further enhancing the way in which your office carries out its functions or measures its performance, for example through staff attending conferences, liaising with similar agencies etc?**

Late in 2013, the Privacy Commissioner joined the Global Privacy Enforcement Network (GPEN). This is an exciting development as it enables IPC staff to interact with privacy agencies throughout the world by monthly teleconferences. Topics have included dealing with unreasonable complainants; joint regulatory investigations, staff development. The March 2014 teleconference included speakers from the Federal Trade Commission of the United States.

The NSW Privacy Commissioner is on the GPEN board which sets the annual development program. Other functions entailed in GPEN include performance measurement and establishing common survey approaches.

The Privacy Commissioner is a regular speaker at conferences on a diversity of privacy issues ranging from community awareness raising to biometrics.

The Asia Pacific Privacy Authorities meetings continue to provide a rich source of ideas and comparative ways of addressing privacy issues.

- 3. The annual report notes that 'the IPC carried out no research and development projects during the reporting period' (page 17). Do you view this as a significant issue?**

Yes.

In previous years NSW Privacy had published a number of thought provoking and valuable research papers. It's regretted that over the years the Office has lost that capacity and that our current budget does not provide for this function to be undertaken, even in a limited manner.

An example of an area the Privacy Commissioner has identified she would like to prepare a research report is a paper to the Parliamentary Committee on the privacy impacts of advances in technology such as 'drone surveillance' and the scope of NSW privacy legislation.

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4. **The annual report notes that in 2012-2013 reporting period, there were delays in the processing of GIPA reviews and complaints, due to continued higher than expected request for assistance (page 28). What processes have been introduced to resolve the issues of delays in processing GIPA complaints?**

Information Commissioner to address.

5. **The annual report notes that the number of privacy-related enquiries has more than doubled in the period from 2007 to 2013 (page 24).**
- **In light of this increased trend, what steps have been taken to ensure that you are able to respond to enquiries in a timely and appropriate manner?**
 - **What impact has managing the increasing number of enquiries had on other aspects of the IPC's work**

In 2007, Privacy NSW was a small business unit in the Department of Attorney General without dedicated enquiries officers. Then all privacy officers handled enquiries in addition to their case management and other duties. This arrangement continued until very recently. Under the integrated structure this activity is undertaken by the two enquiry officers who respond to both privacy and GIPA related enquiries.

Privacy enquiries increased by over 300 per cent by the end of 2011 – 2012 reporting period as stated in the *Information and Privacy Commission NSW's 2011 – 2012 Annual Report*: "In the last five years the number of privacy related inquiries dealt with by the Office of the Privacy Commission has increased on a consistent basis from 858 per annum in 2007 – 2008 to the current figure of 2,712." (p31).

The new software system records all enquiries and requests for assistance and provides an automatic connection between any enquiries related to matters already logged into the system.

Data on the enquiries received is monitored to identify any recurring themes or questions that could be answered via a factsheet or news item displayed prominently on the IPC's website. These measures assist in managing the volume of enquiries.

The Privacy Commissioner will monitor the trends in enquiries to assess if the timeliness of responding to enquiries is declining or if there are any adverse impacts on other work.

6. **How do you determine priorities when responding to requests for written advice from agencies (page 24)?**

The vast majority of agencies requesting advice from the Privacy Commissioner seek guidance on the applicability of the privacy legislation. The requests are assessed to determine the nature of the request for example specific legal advice or general policy advice within the remit of the IPC.

The Privacy Commissioner's primary assessment is typically based on the privacy impact and the public interest issues associated with the matter.

Other considerations include relationship to prior requests or related projects, government policy, the timeframe and the work program previously agreed and

underway. The assessment and priority that can be provided is discussed with the requesting agency.

7. Could you update the Committee on the work of the newly established Information and Privacy Advisory Committee (IPAC)?

This question is being addressed by the Information Commissioner in her role as Chair of the IPAC. The Privacy Commissioner has nothing further to add other than to make specific mention of the work the IPAC is considering in the privacy arena and specifically the privacy impacts of new technologies.
