



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

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

Dear Ms Maxwell

Re: Questions on notice for the Informationer Commissioner and the Privacy Commissioner

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 in my capacity as Chief Executive Officer, Information and Privacy Commission and as Information Commissioner. These roles are performed concurrently. Dr Elizabeth Coombs has been provided with a copy of this response and will also provide a separate response.

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 [REDACTED]

Yours sincerely

[REDACTED]

Ms Elizabeth Lydd
CEO IPC, NSW Information Commissioner

12 March 2014

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?

During 2013, the Information and Privacy Commission NSW (IPC) set out a new three year strategic plan. Measures of success have been articulated. A business framework for implementing these priorities within this financial year's operations has been established and strategic priorities have been informed by these plans.

The IPC has been focussing attention to case management reporting. The implementation of the Resolve case management system and its current enhancement has provided the opportunity for the IPC to harness a technological solution in providing an end to end case management system for all IPC matters. This system has enabled the IPC to move to consistent and transparent case management practices, support Investigation and Review Officers with an IT solution and access to case management tools such as templates for reports and correspondence.

The introduction of Resolve also provided the opportunity to enhance performance reporting internally and ultimately across agencies. The establishment of a single IPC and integration of all statutory functions within the IPC has advanced consistent and effective case management and reporting systems. Actions to deliver further enhancements and embed the single structure and systems approach are detailed in the IPC 2013/14 business plan. Additionally a review of our performance reporting framework is current underway with the objective of delivering a suite of performance indicators that represent measures of effectiveness and facilitate greater trend analysis.

Further work to progress these enhanced outcomes is underway. Staff met with other agencies with experience in using Resolve and these agencies include the NSW Ombudsman and the OAIC. This knowledge sharing has enhanced capacity and will inform work that is currently underway to map processes, develop a suite of investigation tools and measure performance and outcomes.

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?

The IPC is enhancing its program of staff professional development and including training in effective team performance and statutory decision writing. This development program will ensure that the IPC is informed by new developments and can apply that knowledge to deliver enhanced performance.

The IPC is also undertaking an examination of its information management capacity and capabilities. This project involves an expert examination of Resolve, it's functionality, the IPC's application of that functionality, our maintenance and service arrangements with the systems owner, our reporting requirements and the system's capacity to deliver identified enhancements in the most efficient and effective way. It is anticipated that this work will be completed by June 2014.

INFORMATION AND PRIVACY COMMISSION NSW

Accordingly improvements to deliver more meaningful and granular measures and reports are underway. In the meantime the IPC will apply existing reporting frameworks to manage its case load and inform our regular reports.

A specific focus on improved case management practices and the introduction of a differential case management approach is also underway and it is envisaged that stage 1 of this work will be completed in June 2014. This work will further develop our triage and categorisation system, enhance timeliness, examine our enquiries area to deliver more effective outcomes including documenting our most commonly asked questions. Documenting this information will provide a consistent and accessible resource to citizens and agencies.

In preparing our regular and statutory reports, the IPC has examined national and international standards and reporting frameworks. This work will inform case management reporting together with more strategic reporting including measurement of the public value of an Open Government agenda. The United Kingdom in particular has developed the measurement of the public value of Open Government with regard to better service delivery through an enhanced capacity to identify service delivery requirements, the most effective service delivery channel and target the most effective geographical location for services.

The IPC will continue to advance the access and privacy agenda through identification of best practice nationally and internationally. The provision of the inaugural Information Commissioner report to Parliament on the Operation of the Act (s37 Government Information (Information Commissioner) Act 2009) will provide this baseline report.

The Information Commissioner and CEO is attending a meeting of the NSW Government Senior Management Council to outline the s37 Report process and promote engagement with NSW Government agencies to actively champion the proactive release agenda together with a discussion of future priorities including the public value of open government.

Additionally Ms Tydd as CEO IPC will be attending an ANZOG 2 day residential program for CEOs which includes a workshop conducted by Professor Mark Moore, an internationally recognised expert in measurement of public value.

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?

The IPC considers opportunities for Research and Development where they arise in collaboration with other jurisdictions or bodies such as the university sector. Given no annual dedicated budget for this area, the IPC takes the approach of contributing funds to projects/research that align with our objectives. For example, in the previous financial year, the IPC indicated support for an ARC linkage grant sponsored by all Information Commissioners in Australia. The Information and Privacy Advisory Committee (IPAC) offers a further opportunity to apply the expertise of this Committee to provide advice regarding emerging issues of relevance to the IPC's statutory responsibilities. Further information regarding this approach is provided in response to Question 7.

- 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?**

I refer to the answer to Questions 1 and 2, outlining the IPC work to implement and improve case management systems and processes in the 2014 year.

A review of case management practices will focus on expeditious case management practices to deal different types of applications. Resources have been allocated to address backlogs and improvements have been delivered, including the reduction in aged cases and an overall improvement in the age profile of cases within the Commission.

The Acting Information Commissioner, Kathrina Lo outlined progress achieved in the period July to December 2013 in her correspondence with the Committee. Significant progress was made during that period to reduce the age profile of the Government Information (Public Access) Act 2009 (GIPA Act) casework. By December 2013, the IPC had finalised cases pre-dating 2013.

Additionally during that time, the IPC reviewed its procedures for conducting Information Commissioner reviews and implemented a number of improvements.

The restructuring of the IPC has provided tangible benefits which are demonstrated by the new capacity of the IPC to allocate resources across both privacy and information to manage workloads.

This restructure will enable the IPC to meet an increase in work volumes across all areas. This approach recognises the increase in privacy enquiries and the increase in the number of GIPA applications for review. Accordingly resources are applied to address work streams and types including preliminary enquiries and substantive matters that require on-going case management and dedication of high level case management resources. The demand for assistance has continued to be high in January and February 2014.

To assist with the higher than expected demand, processes were implemented that include triage of cases on receipt for identification of matters which can be closed expeditiously, implementation of improved and systematic case load monitoring, and increases resources such as template correspondence and reports.

- 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 with no dedicated enquiries officers. All privacy related enquiries were dealt with across the unit, and this continued to up until and during the formation of the IPC.

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

To manage the rapid increase and ensure all enquiries are responded to in a timely and appropriate manner, the IPC has implemented an integrated structure with dedicated enquiries staff responding to both privacy and GIPA related enquiries. This initiative has also assisted in managing the impact of the increasing number of enquiries on other aspects of the IPC's workload.

Additionally, the introduction of a new software system to record all enquiries and requests for assistance has also been implemented to manage the impact of an increase in the number of enquiries. The software is a case management system that also records all privacy and GIPA related matters under investigation and/or review. This provides an automatic connection between any enquiries related to matters already logged into the system.

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

The vast majority of agencies that request advice from the IPC seek guidance on the applicability of the 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 following are key indicators which influence the priority given to an advice request:

- Does the matter affect the role of the Commissioner?
- Is the agency seeking an exemption from particular principles of the legislation or reporting requirements?
- Is the matter of high government interest?
- Does the matter align with the Commissioner's priorities?
- What is the given timeframe? Is it realistic to provide quality advice?

Although advice requests are prioritised with target dates set for efficient management, all requests are to be addressed as quickly as possible and if a matter may take an extended period of time due to the nature or complexity of the request then the agency is contacted for further clarification or and progress updates. These approaches will continue to be refined to ensure that the IPC is well placed to allocate its resources to matters within its jurisdiction and expertise and to proactively promote development of effective and consistent resources for agencies. Adopting this approach will ensure that a body of knowledge is developed in specialist areas for consistent, effective and efficient application.

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

The IPAC has commenced in its role in providing advice to the Commissioners. In November 2013, the Committee advised on two key areas of current focus by the IPC: the s37 Report, referred to in response to Question 2 and the education and training role of the IPC.

Following the appointment of the new Information Commissioner, the Committee held its first meeting in 2014, and has agreed to hold a facilitated workshop in May 2014 to formalise the areas of advice and the modes of provision of advice. To assist this discussion, the Information Commissioner has scoped a number of areas for consideration which include the following:

- Collection of information using new technologies
 - National and international developments in privacy and information law
 - Measuring advancement of information and privacy rights
 - Information governance practices.
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