



Privacy Committee Members' Handbook

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Members' Handbook

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Department of the Premier and Cabinet

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This publication is available in its most recent version on the State Records of South Australia web site at:

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Introduction

This handbook has been prepared by State Records of South Australia as a guide for members of the Privacy Committee of South Australia (the Committee). The handbook contains information on the role of the Committee, members' responsibilities and Committee processes and activities.

History of Privacy in South Australia

- 1971, July - Law Reform Committee Report and Model Privacy Bill making recommendations that a general right of privacy be created by the State and that the use of surveillance techniques, computers, data banks and similar electronic inventions of the present day be regulated. The *Listening Devices Act 1972 (SA)* (now the Listening and Surveillance Devices Act) was assented to, fulfilling part of the second recommendation of that report.
- 1974, September - Draft Privacy Bill (Attorney-General, Mr L J King, QC) – introduced into the House of Assembly but not passed.
- 1980, February - Law Reform Committee Report – recommending the adoption of emerging developments in data protection.
- 1980, September - Introduction of OECD *Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data*, which established the basis for data protection regimes to follow.
- **1983, December - Appointment of first Privacy Committee of South Australia.**
- 1984 - the Committee published a Discussion Paper on “Proposals for reform”. Over 170 copies were distributed and only 25 written responses received.
- 1987 - the Committee prepared its final report to the Attorney-General from the above discussion paper making 24 recommendations.
- 1988 – Commonwealth Privacy Act enacted.
- 1988 - Cabinet approved the form and content of the IPPs Instruction and approved the establishment of the Privacy Committee.
- **1989, July - Operation of the Information Privacy Principles Instruction and another Privacy Committee appointed.**

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- 1990 - Draft Privacy Bill (Private Member's Bill - Mr T R Groom, MP) The Government supported the Bill and its carriage was transferred to the Attorney-General, Mr Chris Sumner, MP.
- 1990, December – A select Committee of the House of Assembly was formed to consider deficiencies or otherwise in the laws relating to privacy.
- 1991, Autumn – The draft Privacy Bill was reintroduced and passed the House of Assembly. It was later shelved during second reading debate in the Legislative Council.
- **1992, January – Following four years of an established administrative access regime, the *Freedom of Information Act 1991* was enacted, providing a legislative scheme for access to government information.**
- 1997, November – An independent consultant provided a report making recommendations for a strategy for privacy and data protection. One of the recommendations was to commission a short term report for the Minister on the best strategy and approach for SA (see “Inquiry” below).
- 1998, October – The Privacy Committee launched its Report from *Inquiry into how privacy may best be managed in South Australia*.
- 2001, July 18 – *Code of Fair Information Practice* approved for use by the Department of Human Services.
- 2001, December – The protection of personal information held by the private sector was addressed in the Commonwealth Government’s *Commonwealth Privacy Amendment (Private Sector) Act 2000*. It applied to large businesses in South Australia as well as all private health providers and some small businesses. Government agencies are excluded from the scope of the Act.
- **2004, November 9 – Current Privacy Committee of South Australia appointed (subsequently extended for a term ending 9 November 2008).**

General laws affecting Privacy in SA

Whilst there is currently no set of principles designated as privacy law in SA, there are a number of legislative provisions that affect personal privacy. They either incorporate secrecy provisions, direct access rules, provide for disclosure of information or mandatory collection of information, or establish public registers. For example: *Freedom of*

Information Act, State Records Act, Child Protection Act, Summary Offences Act, Motor Vehicles Act, Births, Deaths and Marriages Act, Electoral Act, Listening and Surveillance Devices Act, Real Property Act etc.

Self regulation - voluntary codes

Privacy is managed in different ways across the public sector. Whilst the Information Privacy Principles apply across Government, various forms of self-regulation exist, in which agencies establish codes of practice and undertake self-regulation. For example:

- A Code of Fair Information Practice for the public health sector has been developed.
- The JIS Privacy Committee assesses proposed applications to form part of the Justice Information System.

Codes of Practice established by an agency may be endorsed by the Privacy Committee but approval is not necessary unless an exemption is required from the IPPs.

Privacy in other jurisdictions

Privacy laws and regimes vary between Australian States and Territories. Those with legislative regimes include, the Commonwealth, Australian Capital Territory, New South Wales, Victoria, the Northern Territory and, most recently, Tasmania. Adoption of the Information Privacy Principles or similar has taken place in Queensland, as with South Australia. Western Australia has no privacy protection regime, however, that State's Government is considering the introduction of privacy legislation.

The *Privacy Act 1988* protects personal information held by the federal public sector and tax file numbers wherever held, and regulates the collection, use and disclosure of consumer credit information by private sector organisations. The Act contains eleven Information Privacy Principles (IPPs), based on those in the OECD Guidelines, which apply to Commonwealth and ACT government agencies. Rules about handling of consumer credit information were added in 1989. In April 2000 the legislation was extended to include parts of the private sector and all health service providers and incorporated ten National Privacy Principles (NPPs).

On 30 January 2006 the Commonwealth Attorney-General commissioned the Australia Law Reform Commission (ALRC) to conduct a review of privacy. While the review is

primarily focussed on Commonwealth law, the terms of reference include consideration of relevant existing and proposed Commonwealth, State and Territory laws and practices. The ALRC was asked to consult with relevant stakeholders, including the Office of the Federal Privacy Commissioner, relevant State and Territory bodies and the Australian business community, and ensure widespread public consultation. The ALRC is due to report to the Attorney-General no later than 31 March 2008. The South Australian Government continues to participate in the consultation process.

Insofar as international jurisdictions are concerned there are over fifty countries around the world with various privacy regimes in place. New Zealand has had a Privacy Act since 1993, and Hong Kong implemented an Ordinance in 1996.

Canada implemented an Act in 2000 that applies to private enterprises, federal agencies, and includes employee records. Health information is regulated by provincial jurisdiction.

The United States of America seems to be one of the few western democratic jurisdictions that have not enacted any general privacy legislation, but they have developed an agreement with the European Union (EU) for data trade purposes and have varieties of privacy law in other legislation.

The Electronic Privacy Information Centre (EPIC), in conjunction with Privacy International, regularly reviews the state of privacy in countries around the world. Whilst it is not appropriate to summarise all of the issues and events canvassed in *Privacy & Human Rights: An International Survey of Privacy Laws and Developments, 2002*, it provides an invaluable tool for any further research to be undertaken in the future. It also indicates the general trend towards improving protections for privacy. Further information is available about EPIC at www.epic.org and Privacy International at www.privacyinternational.org.

Role of the Privacy Committee of South Australia

The Terms of Reference of the Committee are described in the Proclamation by which it was established. Further detail about the powers of the Committee is found in *Cabinet Administrative Instruction 1/89*. The Instruction is also referred to as *Premier and Cabinet Circular No. 12*, but it is more commonly known as “The Information Privacy Principles” (IPPs). Both of these documents form Appendices to this Handbook.

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These Terms of Reference, or functions, of the Committee give Government agencies a central source of advice and expertise as to how they may best protect privacy of personal information. They provide a mechanism through which the public may make complaints if they believe their privacy has been breached. The Committee also serves the Minister by advising on privacy protection within South Australian State Government and in other jurisdictions.

For ease of reference, they are summarized as follows:

- to advise the Minister as to the need for, or desirability of, legislation or administrative action to protect individual privacy and for that purpose to keep itself informed as to developments in relation to the protection of individual privacy in other jurisdictions;
- to make recommendations to the Government or to any person or body as to the measures that should be taken by the Government or that person or body to improve its protection of individual privacy;
- to make publicly available information as to methods of protecting individual privacy and measures that can be taken to improve existing protection;
- to keep itself informed as to the extent to which the Administrative Scheme of Information Privacy Principles are being implemented;
- to refer written complaints concerning violations of individual privacy received by it (other than complaints from employees of the Crown, or agencies or instrumentalities of the Crown, in relation to their employment) to the appropriate authority;
- such other functions as are determined by the Minister; and also
- to prepare a report of its activities annually in accordance with section 66 [now 6A] of the *Public Sector Management Act 1995* and must submit the report to the Minister as required by that section.

The powers conferred on the Committee are:

- may exempt a person or body from one or more of the Information Privacy Principles on such conditions as the Committee thinks fit (details of any exemptions must be included in the annual report); and
- may at any time on its own initiative appoint a person (whether or not that person is a public employee) or the Commissioner for Public Employment to investigate or assist

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in the investigation of the nature and extent of compliance of an agency with the Principles and to furnish a report to the Committee accordingly; and

- may require each principal officer to furnish to the Committee such information as the Committee requires; and that principal officer shall comply with any requirements determined by the Committee concerning the furnishings of that information including:
 - (a) the action taken to ensure that the Principles are implemented, maintained and observed in the agency for which he or she is responsible;
 - (b) the name and designation of each officer with authority to ensure that the Principles are so implemented, maintained and observed;
 - (c) the result of any investigation and report [as requested by the Committee above] in relation to the agency for which he or she is responsible and, where applicable, any remedial action taken or proposed to be taken in consequence.

Membership appointment

Criteria for, and terms of, membership of the Committee are also described in the Proclamation establishing the Privacy Committee. These criteria and terms can be found under Clause 1 of the Proclamation.

Disclosure of information about members

Details of members appointed to Government Boards and Committees, where at least one member receives a fee, are entered on the Boards and Committees Information System (BCIS). BCIS is managed by the Department of Premier and Cabinet and details recorded include full name, honorifics, gender, title, position on board, who nominated by, term of membership, entitlement to fees and employment status (ie public sector, private citizen etc). A record is also made of any affirmative action criteria. Address, telephone number, qualifications and interests are provided if available but it has not been the practice of the Executive Officer to submit this information to BCIS.

The information is used to manage reviews and re-appointments and to establish gender balance in accordance with Government policy. Reports from BCIS are made to

Parliament each year as of 30 June, as part of the Government's commitment to corporate governance, transparency and accountability.

Members' names and a brief description of their qualification for the position are posted on the State Records website at <http://www.archives.sa.gov.au/privacy/committee.html>, and in the Annual Report.

Remuneration

A Premier & Cabinet Circular specifies the conditions under which members of the Privacy Committee may be paid. Fees may not be paid, in general, to Government employees. Therefore only one member of the Privacy Committee receives payment. Remuneration is made by payment of a sessional fee, which includes a loading of up to three hours preparation or reading time per meeting. For more details about the payment of fees, see *Premier & Cabinet Circular No. 16*, available at www.premcab.sa.gov.au, under Publications.

Quorum

Under Clause 1 (5) (c) of the Proclamation establishing the Privacy Committee, four members constitute a quorum for a meeting of the Committee. If a meeting is found in advance to have less than four members attending, it will be cancelled (see also *Apologies for non-attendance* below).

Proxy members

Under Clause 1 (5) (e) of the Proclamation establishing the Privacy Committee, a member who is unable to attend a meeting of the Committee may, with the approval of the presiding member, be represented for voting and all other purposes at the meeting by his or her nominee. Use of proxies is to be limited to exception circumstances only, in respect for the individual nature of the Ministerial appointment.

Apologies for non-attendance

Apologies may be communicated to the Executive Officer by telephone or e-mail (see contact details in this Handbook). In order to cancel a meeting that will not have a quorum, it is preferred that apologies be made at least 48 hours in advance of the meeting.

Relationship to other approval and advisory bodies

Governor

The Governor made the Proclamation establishing the Privacy Committee of South Australia. Therefore, to effect any amendment to the Proclamation, such as membership criteria, the approval of the Governor must be sought.

Cabinet

Cabinet approved the Cabinet Administrative Instruction 1/89, also referred to as Premier and Cabinet Circular No. 12, but more commonly known as the “Information Privacy Principles” (IPPs). Cabinet approval would be required in any review of the IPPs.

Minister for Finance

The Privacy Committee reports directly to the Minister for Finance (Hon. Michael Wright MP), provides advice and submits an annual report of business. The Minister may nominate three members to the Committee, and appoints all six.

The Minister is kept informed of significant business of the Committee. The Committee may recommend to the Minister that submissions be made on various issues, when required.

Commissioner for Public Employment

The Privacy Committee is unable to handle complaints from employees of the Crown in relation to their employment. However, Determination 2 issued under the *Public Sector Management Act 1995* (the PSM Act), “Recruitment and Employment of Non Executive Employees”, refers to the IPPs in addressing how personal files of public sector employees should be managed.

The Personnel Management Standards of the PSM Act require agencies to ‘afford employees reasonable avenues of redress against improper or unreasonable administrative decisions’. Chief Executives are required to try to conciliate and resolve all grievances within their agencies. PSM Act employees within administrative units are entitled to access independent review and appeal processes through the Promotion and Grievance Appeals Tribunal in regard to a range of administrative decisions.

(Source: www.ope.sa.gov.au)

South Australian Ombudsman

Any person, group of people, body or organisation, which is directly affected by a decision or failure to act by an agency within the Ombudsman's jurisdiction, may make a complaint to the Ombudsman. This includes the administrative actions of a State government agency or authority, local government council or a public hospital or health service. Therefore members of the public who are unsatisfied with to the Privacy Committee's response to their complaint are referred to the SA Ombudsman for further investigation of the situation within the relevant agency. (Source: www.ombudsman.sa.gov.au)

Federal Privacy Commissioner

The *Privacy Act 1988* (Cth) is administered by the Federal Privacy Commissioner. The Act applies to Commonwealth Government agencies and, since December 2001, has applied to large businesses in South Australia as well as all private health providers and some small businesses.

Some complaints are referred to the Federal Privacy Commissioner if the subject of the complaint falls under the jurisdiction of the Privacy Act.

The Privacy Committee also looks to the policies and guidelines of the Federal Commissioner as a valuable resource when considering matters relevant to the South Australian Public Sector.

In 2002 the Privacy Committee approved the use of a *Code of Fair Information Practice* for the then Department of Human Services. The Code was based on the National Privacy Principles from the Privacy Act. Therefore the Privacy Committee has a strong interest in maintaining a good advisory relationship with the Federal Privacy Commissioner's Office.

Human Research Ethics Committee

Human Research Ethics Committee (HREC) is a shared service between the Department of Health and the Department for Families and Communities. The Committee receives, examines and recommends approval or rejection of research/evaluation/consultation proposals initiated or conducted by Department of Health or Department for Families and Communities staff and external researchers seeking access to Departmental data and/or clients. Proposals are assessed in accordance with the *National Statement on Ethical Conduct in Research Involving Humans* (1999) and the *Code of Fair Information*

Practice. The Executive Officer of HREC can be contacted via the Strategic Planning and Population Health Division of the Department of Health.

Ethics and Privacy Committee

The Ethics and Privacy Committee (EPC), within the Department of Health, is responsible for providing high quality, timely and balanced advice to the Senior Executives of the Department on matters requiring ethical and privacy considerations relevant to the Department, including those which have policy, decision-making and practice implications. The Presiding Member of the Privacy Committee is a member of this Committee. Further information is available by contacting the Executive Officer via the Strategic Planning and Population Health Division of the Department of Health.

Justice Information Systems Privacy Committee

The Justice Information System (JIS) provides secure, integrated information management for the Criminal Justice administration agencies of South Australia.

The JIS Privacy Committee provides expert advice to the JIS Business and Operations Committee (BOC) on privacy issues affecting JIS by:

- monitoring the effectiveness of privacy arrangements implemented by participating agencies in relation to the computer-based information systems,
- reviewing decisions made by agencies to disclose to third parties information from computer-based systems that form part of JIS, and to assess whether the Information Privacy Principles have been adhered to, and
- reviewing whether an appropriate contract or Memorandum of Understanding addressing the acceptable uses and privacy requirements of the disclosed information is in place between the agency and the receiving third party.

The Executive Officer of the Privacy Committee of South Australia is a member of this Committee and is able to refer enquiries.

Asia Pacific Privacy Agencies (APPA)

APPA is a forum for national and international discussion and development on privacy issues. The forum is held, on average, twice a year and involves representatives from each

Australian jurisdiction, New Zealand and, more recently, delegates from other Asia-Pacific region countries such as Hong Kong.

Duties and obligations of Committee members

Conduct standards for public employees are contained in a number of instruments, such as the *Public Sector Management Act 1995* and Commissioner's Circulars. A general code of conduct is also included in the *Government Boards and Committees: Guidelines for Agencies and Board Directors*, which applies to both government and non-government Board members. The code of conduct has been included in this Handbook at Appendix 5.

More specific to this Committee is Clause 3 (2) of the Proclamation establishing the Privacy Committee, which states:

A member of the Committee must not disclose any information acquired by the member by virtue of his or her membership of the Committee except:

- (a) in the course of performing duties and functions as a member of the Committee;*
- or*
- (b) as required or authorized by law.*

Meetings of the Committee

Regular meetings

Meetings are scheduled to take place monthly on the first Wednesday of a month. If an alternative time is found to be mutually convenient, the membership may agree to amend the schedule.

A schedule of meetings for the calendar year is included at Appendix 2.

Extra-ordinary meetings

Extra-ordinary meetings may be called when urgent business arises that requires approval of members in session.

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If urgent business may be discussed out of session (ie if it is of a minor nature and requiring advice rather than approval), the matter will be communicated to members for response between meetings. Any agreements will be then verified at the next meeting and recorded in the minutes.

Management of papers

Members may retain copies of papers for their own reference. Where a member is a public sector employee, they should refer to their employing agency's records management advice for retention of Committee papers, particularly if notations have been made by members. It is recommended that each member retains a copy for at least 12 months, as some items of business will be referred to in multiple meetings during this timeframe.

Members are responsible for managing the secure destruction (ie shredding) of Committee papers upon disposal. Papers may also be forwarded to the Executive Officer, marked "Highly Confidential", for destruction.

Members are asked to be particularly aware of the confidentiality of matters relating to complaints, Cabinet submissions, briefings to the Minister and liaison with public or private sector agencies.

The Executive Officer retains a copy of all papers distributed and tabled and these records, as well as other records related to privacy management, are archived for permanent retention according to an approved Records Disposal Schedule.

The *Freedom of Information Act 1991* applies to documents held by State Records of South Australia. Access to papers may be made in consideration of the objects and provisions of that Act.

Committee delegations

Under Clause 1 (6) of the Proclamation establishing the Committee, the Committee may, in performing its functions, consult any person and may establish subcommittees of at least two of its members to assist and advise it.

Support to the Committee

Resources from State Records of South Australia within the Department of the Premier and Cabinet (DPC) support the Committee.

The Presiding Member is the Director of State Records. The Executive Officer is a Senior Policy Officer within Policy and Legislative Services in State Records of South Australia. The Manager, Policy and Legislative Services is also involved in providing support to the Committee.

Reporting requirements

The Committee is required by Clause 3 (1) of the Proclamation of the Privacy Committee of South Australia to prepare a report of its activities annually in accordance with sections 6A and 6B of the *Public Sector Management Act 1995* and must submit the report to the Minister as required by section 6A.

Policies and guidelines, processes and procedures

Two Guidelines have been developed by the Privacy Committee:

- Privacy Guidelines for SA Government Websites; and
- Fines Payment Unit Data Matching Protocol.

A third guideline for the handling of Public Registers is under development, as are various other papers and advice sheets.

Processes and procedures for the administration of the Committee's meetings and functions are recorded as necessary by the Executive Officer, in documents held by State Records of South Australia.

The process for handling complaints is included as Appendix 6 of this handbook.

Publications

Annual reports of the Privacy Committee and other relevant publications are available on the State Records web site at www.archives.sa.gov.au via the "Privacy" page.

Budget

The Committee does not administer a budget. Expenditure is absorbed by State Records.

Session fees are paid for the non-public sector member, in accordance with Premier and Cabinet Circular No. 16 "Remuneration for Government Appointed Part-time Boards and Committees and Women on Government Boards and Committees" (see also *Remuneration* under *Role of the Privacy Committee of South Australia*).

Contact information

The Executive Officer of the Committee can provide advice and assistance on matters associated with the Committee's role and business. The Presiding Member of the Committee is also available for consultation on matters related to the Committee's role and business.

Most documents referred to in this handbook, if produced by the Committee, are available either via the web site below, or upon request to the Executive Officer.

The Committee, the Presiding Member or the Executive Officer can be contacted as follows:

Privacy Committee of South Australia
c/- State Records of South Australia
Department of the Premier and Cabinet
GPO Box 1072
ADELAIDE SA 5001

DX 467

Telephone (08) 8204 8786

Fax (08) 8204 8777

Email privacy@sa.gov.au

Web site www.archives.sa.gov.au

Appendix 1 – Exemptions Granted

Please note there is a plan in progress to classify and review all exemptions.

Exemptions granted in the Transport sector:

07/09/1998	Department of Transport – Marine Safety Division	Mail out on behalf of the Animal and Plant Control Board, Department of Primary Industries, to approximately 400 boat owners – information regarding Golden dodder (<i>Cuscuta campestris</i>)
03/06/1998	Department of Transport – Marine Safety Division	Inclusion of advertising material with survey renewal notices
21/05/1998	Department of Transport	Inclusion of advertising material with survey renewal notices
16/06/1997	Department of Transport	Inclusion of advertising material from Mbfi Pty Ltd with regular boat registration renewals on the condition that no personal information is disclosed to Mbfi

Education:

17/07/1997	Department of Education and Children's Services	Release of school admission registers and individual school records (as detailed in correspondence) to Drs Peel and McCalman for research purposes
17/05/1995	Department for Education and Children's Services	Release of certain information concerning Aboriginal students to the Senior Secondary Assessment Board of SA
01/03/1990	Education Department & Children's Services Office	Release of academic and developmental progress reports to non-custodial parents amended on 24/10/1991 to also allow CAFHS to release similar reports to non-custodial parents

Health and Family Services Sectors:

10/04/2006	Department of Health (DH) and the Department for Families and Communities (DFC)	Exempting it from complying with Information Privacy Principle 8 in the conduct of the <i>Common Clients Project – Stage II</i> . This is an extension to a previous exemption granted on 15 March 2004 to the then Department of Human Services and therefore applies to the two departments as far as they are involved in the conduct of the project.
24/02/2005	State Emergency Management Committee (including the Department of Families and Communities and associated agencies)	Allows collection, use and disclosure of personal information about victims of bushfires occurring on the Eyre Peninsula in January 2005, for the purposes of assessing damage and managing the allocation of disaster recovery support.

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07/04/2003 Re-issued 18/01/2005 to Department of Health and Department of Families and Communities	Department of Human Services and incorporated hospitals and health centres	Allowing collection of health information from a health consumer about a third party without the consent of the third party, where the collection is necessary to provide a health service directly to the consumer and the third party's information is relevant to the family, social or medical history of the consumer
18/07/2001 Re-issued 18/01/2005 to Department of Health and Department of Families and Communities	Department of Human Services and incorporated hospitals and health centres	Exemption from compliance with the IPPs as they relate to the collection, use and disclosure of personal health information for health research purposes, on condition that the Department complies with National Privacy Principle 2.1(d) as detailed in the Code of Fair Information Practice.
10/11/1997	Department for Family and Community Services	Release of information to Donovan and Associates, on behalf of the Crown Solicitor, for research purposes relating to native title claims
16/02/1995	Department for Family and Community Services	Exchange of information, subject to certain conditions, with persons or organisations involved in the investigation of abuse or neglect of a child
24/10/1991	CAFHS, or all agencies	Release of developmental progress reports to non-custodial parents, where it is considered appropriate.
05/08/1991	All agencies bound by the IPPs	Where a notification has been made under S91 of the Community Welfare Act, 1975....may exchange information with any person or organisation reasonably involved in the investigation
30/01/1991	Dept of Family and Community Services and others	Allow the exchange of certain information concerning a child where it is suspected on reasonable grounds that a child may be in need of care within Section 12 of the Children's Protection and Young Offenders Act, 1979
27/09/1990	Education Department, Dept of Family and Community Services and SA Health Comm.	Allow the identification and disclosure of certain information concerning school children displaying behavioural problems or anti-social tendencies for the purpose of initiating the Interagency Referral Process.

Justice:

13/06/2007	SA Police Department	Allowing disclosure of personal information to the Office of Crime Statistics and Research (OCSAR) for that personal information to be used for the purposes of statistical monitoring, research and evaluation projects. Conditions apply.
13/06/2007	Office of Crime Statistics and Research (OCSAR)	Allowing collection of personal information from South Australia Police (SAPOL), and use of that personal information for the purposes of statistical monitoring, research and evaluation projects. Conditions apply.

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16/11/2005	Office of Crime Statistics and Research (OCSAR)	Exempting OCSAR personnel from complying with the IPPs to collect, use and disclose personal information for the purposes of the research project <i>Tracking Child Abuse Cases from CYFS notification through to police incident report</i> .
29/10/2003	SA Police Department	Allows the release of Vehicle Collision Report (VCR) information to Allianz, in its capacity as an approved insurer of the Motor Accident Commissioner (MAC), when conditions are met.
14/04/1998	Office of Crime Statistics	Release of information to Cavan Training Centre, on behalf of the Youths / Children's Court, for research purposes relating to the Secure Care Psychological Screening (SECAPS) assessment for youths placed in secure areas
25/08/1997	SA Police Department	Release of information to the State Government Insurance Commission (SGIC)
15/02/1996	SA Police Department	Release of certain specified information to Mr C. Boltje for research purposes
22/09/1995	SA Police Department	Release of certain information, subject to certain conditions being met, to Street Legal
12/04/1995	SA Police Department	Amended - amendment subject to 3 month trial
18/07/1994	SA Police Department	Amended to allow the SA Police Department's Youth Officer to be involved in the Interagency Referral Process
23/12/1993	SA Police Department	Release of certain information to the Road Accident Research Unit of the University of Adelaide for research purposes
08/02/1993	Attorney General's Department	Release of certain information concerning Justices of the Peace to the Royal Association of Justices
13/01/1993	SA Police Department	Release of certain information to the Commissioner for the Ageing for research into cases of suspected or actual cases of elder abuse
26/11/1991	SA Police Department	Release of criminal history to SGIC in cases of suspected fraud
21/06/1991	SA Police Department	Release of certain information to the Decoration Advisory Committee with conditions.
15/04/1991	SA Police Department	Release of criminal history to SGIC in cases of suspected fraud
20/03/1991	SA Police Department	Release of certain information to victims of crime where an alleged offender has, or has not been charged.
18/09/1990	SA Police Department	Allow the release of accident report forms to interested parties (subject to future modification of reporting forms)

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Electoral Commission:

16/06/1997	Electoral Commissioner	Release of certain information to the Western Australian Adoption Service
21/11/1995	Electoral Commissioner	Release of names and addresses of women between the ages of 18 and 45 years to Dr R. Seshadri, Flinders Medical Centre, for research purposes
21/11/1995	Electoral Commissioner	Release of names, addresses and dates of birth of electors within the Adelaide metropolitan area to Dr C. Anderson, Flinders University of SA, for research purposes
16/02/1994	State Electoral Commission	Release of the names and addresses of women between the ages of 50 and 69 years to the SA Cervix Screening Program (CSP)
08/08/1990	Electoral Commission	Release of names and addresses of females aged between 40 and 70 years in South Australia to the SA Breast X-Ray Service

Other:

06/12/2006	Department of Trade and Economic Development	Allowing use of personal information about approximately 350 graduates of South Australian Universities who currently reside interstate, for the purpose of conducting a survey.
22/09/1995	Industrial and Commercial Training Commission	Release of certain information to Mr Allan Osborne for research purposes – details of people apprenticed to Mr David Garvie in the 1920s and early 1930s

Appendix 2 – Meeting dates for 2008

Regular meetings are held on the first Wednesday of the month from 2:00pm to 4:00pm.

(NB: In the event of a limited amount of business, meetings may be cancelled.)

6 February 2008

5 March 2008

2 April 2008

7 May 2008

4 June 2008

2 July 2008

6 August 2008

3 September 2008

1 October 2008

5 November 2008

Membership expires on 9 November 2008.

Appendix 3 – Information Privacy Principles

A link to this document can be found on the Department of the Premier and Cabinet website at www.premcab.sa.gov.au/pdf/circulars/Privacy.pdf.

Cabinet Administrative Instruction No.1 of 1989

(Premier and Cabinet Circular No. 12)

(Re-issued 30 July 1992)

PART 1

PRELIMINARY

Short Title

1. This Instruction may be called the "Information Privacy Principles Instruction".

Commencement and Application

2. (1) This Instruction will come into effect on 30 July, 1992.
 - (2) Subject to any contrary determination by Cabinet, this Instruction shall apply to –
 - (i) "the public sector" as that expression is defined in Section 4 (1) of the Government Management and Employment Act 1985: and
 - (ii) any agency or instrumentality of the State of South Australia that is subject to control or direction by a Minister.
 - (3) This Instruction shall not apply to an agency that appears in the attached schedule.

Interpretation

3. (1) In this Instruction –

"agency" means an agency that falls within the scope of application of this Instruction pursuant to the provisions of Clause 2 (2):

"the Committee" means the Privacy Committee of South Australia constituted by Proclamation.

"personal information" means information or an opinion, whether true or not, relating to a natural person or the affairs of a natural person whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

"principal officer" means in relation to an agency:

- (a) the person holding, or performing duties of, the Office of Chief Executive Officer of the agency;
- (b) if the Government Management Board declares an office to be the principal office in respect of the agency – the person holding, or performing the duties of, that office; or
- (c) in any other case – the person who constitutes that agency or, if the agency is constituted by two or more persons, the person who is entitled to preside at any meeting of the agency at which the person is present:

"the Principles" means the Information Privacy Principles established under Clause 4 of this Instruction:

"record-subject" means a person to whom personal information relates.

PART II

INFORMATION PRIVACY PRINCIPLES

Principles

- 4. The principal officer of each agency shall ensure that the following Principles are implemented, maintained and observed for and in respect of all personal information for which his or her agency is responsible:

Collection of Personal Information

- (1) Personal information should be not collected by unlawful or unfair means, nor should it be collected unnecessarily.
- (2) An agency that collects personal information should take reasonable steps to ensure that, before it collects it or, if that is not practicable, as soon as practicable after it collects it, the record subject is told:
 - (a) the purpose for which the information is being collected (the "purpose of collection"), unless that purpose is obvious;
 - (b) if the collection of the information is authorised or required by or under law – that the collection of the information is so authorised or required; and
 - (c) in general terms, of its usual practices with respect to disclosure of personal information of the kind collected.
- (3) agency should not collect personal information that is inaccurate or, having regard to the purpose of collection, is irrelevant, out of date, incomplete or excessively personal.

Storage of Personal Information

- (4) An agency should take such steps as are, in the circumstances, reasonable to ensure that personal information in its possession or under its control is securely stored and is not misused.

Access to Records of Personal Information

- (5) Where an agency has in its possession or under its control records of personal information, the record-subject should be entitled to have access to those records in accordance with the *Freedom of Information Act* 1991.

Correction of Personal Information

- (6) An agency that has in its possession or under its control records of personal information about another person should correct it so far as it is inaccurate or, having regard to the purpose of collection or to a purpose that is incidental to or connected with that purpose, incomplete, irrelevant, out of date, or where it would give a misleading impression in accordance with the *Freedom of Information Act* 1991.

Use of Personal Information

- (7) Personal information should not be used except for a purpose to which it is relevant.
- (8) Personal information should not be used by an agency for a purpose that is not the purpose of collection or a purpose incidental to or connected with that purpose unless:
 - (a) the record-subject has expressly or impliedly consented to the use;
 - (b) the agency using the information believes on reasonable grounds that the use is necessary to prevent or lessen a serious and imminent threat to the life or health of the record-subject or of some other person.
 - (c) the use is required by or under law; or
 - (d) the use for that other purpose is reasonably necessary for the enforcement of the criminal law or of a law imposing a pecuniary penalty or for the protection of the public revenue or for the protection of the interests of the government, statutory authority or statutory office-holder as an employer.
- (9) An agency that uses personal information should take reasonable steps to ensure that, having regard to the purpose for which the information is being used, the information is accurate, complete and up to date.

Disclosure of Personal Information

- (10) An agency should not disclose personal information about some other person to a third person unless:
 - (a) the record-subject has expressly or impliedly consented to the disclosure;
 - (b) the person disclosing the information believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the record-subject or of some other person;
 - (c) the disclosure is required or authorised by or under law; or
 - (d) the disclosure is reasonably necessary for the enforcement of the criminal law, or of a law imposing a pecuniary penalty or for the protection of the public revenue or for the protection of the interests of the government, statutory authority or statutory office-holder as an employer.

Acts and Practices of, and Disclosure of Information to Staff of Agency Etc.

5. For the purposes of this Instruction –
 - (a) an act done or practice engaged in by, or personal information disclosed to, a person employed by, or in the service of, an agency in the performance of the duties of the person's employment shall be deemed to have been done or engaged in by, or disclosed to, the agency;
 - (b) an act done or practice engaged in by, or personal information disclosed to, a person on behalf of, or for the purposes of the activities of, an unincorporated body, being a board, council, committee, subcommittee or other body established by, or in accordance with, an enactment for the purpose of assisting, or performing functions in connection with, an agency, shall be deemed to have been done or engaged in by, or disclosed to, the agency.

Agencies to comply with Principles

6. An agency shall not do an act or engage in a practice that is in breach of or is a contravention of the Principles.

Collecting of Personal Information

7. For the purposes of the Principles, personal information shall be taken to be collected by an agency from a person if the person provides that information to the agency in response to a request by the agency for that information or for a kind of information in which that information is included.

PART III

COMPLIANCE WITH PRINCIPLES

8. The Committee may at any time on its own initiative appoint a person (whether or not that person is a public employee) or the Commissioner for Public Employment to investigate or assist in the investigation of the nature and extent of compliance of an agency with the Principles and to furnish a report to the Committee accordingly.

Reporting Procedures Pursuant to this Instruction

9. Each principal officer shall furnish to the Committee such information as the Committee requires and shall comply with any requirements determined by the Committee concerning the furnishings of that information including:

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- (a) the action taken to ensure that the Principles are implemented, maintained and observed in the agency for which he or she is responsible;
- (b) the name and designation of each officer with authority to ensure that the Principles are so implemented, maintained and observed;
- (c) the result of any investigation and report, under Clause 8, in relation to the agency for which he or she is responsible and, where applicable, any remedial action taken or proposed to be taken in consequence.

Agencies Acting Singly or in Combination

10. This Instruction and the Principles shall apply to the collection, storage, access to records, correction, use and disclosure in respect of personal information whether that personal information is contained in a record in the sole possession or under the sole control of an agency or is contained in a record in the joint or under the joint control of any number of agencies.

SCHEDULE: CLAUSE 2 (3)

Agencies to which this Instruction does not apply

State Government Insurance Commission

Workers' Rehabilitation and Compensation Corporation

Appendix 4 – Proclamation of the Privacy Committee of South Australia

A link to this document can be found as an addendum to the Information Privacy Principles link on the Department of the Premier and Cabinet website at www.premcab.sa.gov.au/pdf/circulars/Privacy.pdf.

I, the Governor, with the advice and consent of the Executive Council proclaim as follows:

Establishment of Privacy Committee of South Australia

1. (1) The Government will establish a committee to be known as the Privacy Committee of South Australia.
- (2) The Committee will consist of six members appointed by the Minister as follows:
 - (a) three will be chosen by the Minister, and of these one must be a person who is not a public sector employee (within the meaning of the Public Sector Management Act 1995) and one must be a person with expertise in information and records management;
 - (b) one will be appointed on the nomination of the Attorney-General;
 - (c) one will be appointed on the nomination of the Minister for Human Services;
 - (d) one will be appointed on the nomination of the Commissioner for Public Employment.
- (2a) One of the persons appointed under subclause (2)(a) will be appointed (on the nomination of the Minister) to be the presiding member.
- (3) A member will be appointed for a term not exceeding four years.
- (3a) Where a member is appointed for a term of less than four years, the Minister may, with the consent of the member, extend the term of the appointment for a period ending on or before the fourth anniversary of the day on which the appointment took effect.

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- (4) The office of a member becomes vacant if the member —
 - (a) dies;
 - (b) completes a term of office and is not reappointed;
 - (c) resigns by written notice to the Governor; or
 - (d) is removed from office by the Governor on the ground of —
 - (i) mental or physical incapacity to carry out official duties satisfactorily;
 - (ii) neglect of duty;
 - (iii) disclosure of information by the member contrary to clause 3 (2); or
 - (iv) misconduct.
- (5)
 - (a) A meeting of the Committee will be chaired by the presiding member or, in his or her absence, by a member chosen by those present.
 - (b) Subject to paragraph (c), the Committee may act notwithstanding vacancies in its membership.
 - (c) Four members constitute a quorum for a meeting of the Committee.
 - (d) A decision in which a majority of the members present at a meeting concur is a decision of the Committee but if the members are equally divided the person presiding at the meeting will have a casting vote.
 - (e) A member who is unable to attend a meeting of the Committee may, with the approval of the presiding member, be represented for voting and all other purposes at the meeting by his or her nominee.
 - (f) Subject to this subclause the Committee may determine its own procedures.
 - (g) The Committee must keep minutes of its proceedings.
- (6) In performing its functions the Committee may consult any person and may establish subcommittees of at least two of its members to assist and advise it.

Functions of the Committee

2. The Committee will have the following functions:
 - (a) to advise the Minister as to the need for, or desirability of, legislation or administrative action to protect individual privacy and for that purpose to keep itself informed as to developments in relation to the protection of individual privacy in other jurisdictions;
 - (b) to make recommendations to the Government or to any person or body as to the measures that should be taken by the Government or that person or body to improve its protection of individual privacy;
 - (c) to make publicly available information as to methods of protecting individual privacy and measures that can be taken to improve existing protection;
 - (d) to keep itself informed as to the extent to which the Administrative Scheme of Information Privacy Principles are being implemented;

- (e) to refer written complaints concerning violations of individual privacy received by it (other than complaints from employees of the Crown, or agencies or instrumentalities of the Crown, in relation to their employment) to the appropriate authority;
- (f) such other functions as are determined by the Minister.

General

3. (1) The Committee must prepare a report of its activities annually in accordance with section 66 of the *Public Sector Management Act 1995* and must submit the report to the Minister as required by that section;
- (2) A member of the Committee must not disclose any information acquired by the member by virtue of his or her membership of the Committee except —
 - (a) in the course of performing duties and functions as a member of the Committee; or
 - (b) as required or authorized by law.
4. (1) The Committee may exempt a person or body from one or more of the Information Privacy Principles on such conditions as the Committee thinks fit.
- (2) The Committee must include details of exemptions granted under subclause (1) in its annual report.
5. In this proclamation, unless the contrary intention appears —
 - “Information Privacy Principles” means the principles set out in Part II of Cabinet Administrative Instruction No. 1 of 1989 entitled “Information Privacy Principles Instruction”;
 - “Minister” means the Minister who is, for the time being, responsible for the Committee.

Established 6 July 1989; amended 30 July 1992, 25 May 2000 and 17 May 2001 by proclamation in the Government Gazette.

Appendix 5 – Code of Conduct

The following Code of Conduct has been adapted from *Government Boards and Committees: Guidelines for Agencies and Board Directors* produced by the Department of the Premier and Cabinet.

The Guidelines are geared very heavily towards statutory boards of directors, particularly those responsible for government business enterprises. This is primarily because the guidelines were last revised in 2000, at which time the then government had a strong focus on the commercialization of government businesses. The guidelines are currently being reviewed with a particular emphasis on making them more applicable to other types of government boards. State Records will be notified when the new guidelines are released.

The Code of Conduct is general in nature and for guidance only and where it is inconsistent with relevant legislation, the legislation prevails.

Introduction

Any person who is appointed to a government board assumes a position of public trust. This means that s/he must act ethically so as to support the continuance of public trust in the process of Government and to observe the highest standards of behaviour and accountability. All members are expected to act on their duty to protect the interests of the public and the Government.

A Care and diligence in the performance of duties

Members of government boards have to ensure that they exercise care and are diligent in the performance of their duties. They must also take reasonable steps to inform themselves about the functions of the board, its business and activities, and the circumstances in which it operates. Members must obtain sufficient information and advice and exercise an active discretion at all times to enable them to make conscientious and informed decisions.

B Attendance at meetings

Members should strive to attend most, if not all, meetings of the board and spend a reasonable amount of time in preparation to ensure that they meet the obligations

identified in the terms of reference of the board, its legislative requirements and the member specification. They need to have a significant awareness of the environment and an understanding of the resources available to the board and the organisation to ensure high standards of ethical behaviour within the organisation.

C Honesty in the performance of duties

Members of boards must act honestly at all times in the performance of their duties. They must ensure that they do not use information acquired by virtue of their position to gain directly or indirectly an advantage for themselves or any other person or to cause problems for the board or its subsidiaries.

D Transactions with the authority / entity

Members of boards may not be directly or indirectly involved in a transaction with the authority or entity or its subsidiary without the approval of the appropriate Minister. To be indirectly involved in a transaction means initiating, promoting or taking part in any negotiations leading to the making of a transaction with a view to themselves or an associate gaining some financial or other benefit. These conditions do not apply, however, to:

- the receipt by the authority/entity of deposits of money or investments;
- the provision of loans or other financial accommodation by the authority/entity for domestic or non-commercial purposes;
- the provision of accident, health, life, property damage or income protection insurance or insurance against other risks (excluding financial or other risks) by the authority/entity; or
- the provision of services (other than financial or insurance services) by the authority/entity if in the ordinary course of the authority/entity's business it provides such services, and the services are provided to the member on the authority/entity's usual terms.

E Beneficial interests, shares, debentures or contracts

Members of government boards may not:

- have or acquire a beneficial interest, shares, debentures of, or prescribed interests made available by, the authority/entity or any subsidiary;

- have or hold or acquire a right or option in respect of the acquisition or disposal of shares in, debentures of, or prescribed interests made available by, the authority/entity or any subsidiary;
- be party to, or entitled to a benefit under, a contract under which a person has a right to call for or make delivery of shares in, debentures of or prescribed interests made available by, the authority/entity or any subsidiary;
- publicly criticise the Government, the management or administration of the authority/entity or any subsidiary; or
- discuss with, distribute or release confidential information received in his/her capacity as a member to a person outside the board (excepting disclosure to legal advisers to the extent necessary to obtain legal advice on board matters).

F Direct or indirect personal or pecuniary interests

Members of government boards who have direct or indirect personal or pecuniary interest in a matter decided or under consideration by the board must:

- as soon as reasonably practicable, disclose to the board full and accurate details of the interest;
- not take part in any discussion by the board relating to the matter or vote on it; and
- be absent from the meeting room when any such discussion or voting is taking place. Such absence should be recorded in the minutes of the meeting. However, in the instance when a member holds a small parcel of shares in an entity being discussed, these small holdings should be declared, but should not preclude the member from discussion and voting.

G General disclosure of interests

Where a member of a government board has or acquires a personal or pecuniary interest, or is or becomes the holder of an office so that it is reasonable to see that a conflict of interest may arise, he/she must, as soon as practicable, disclose full details of the interest or office to the board. Disclosure of this information must be recorded in the minutes of the meeting and reported to the Minister. The Minister may, if it is his/her opinion that a particular interest or office of a member is of such significance that the holding of the interest or office is not consistent with the proper discharge of the duties of the member, require the member to either divest himself/herself of the interest or office or to resign

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from the board. A member is considered to have an interest in a matter if an associate of the member has an interest.

“Associates” is a widely defined term, and includes relatives, relatives of spouses, trustees of a trust of which directors and their associates are beneficiaries, and bodies corporate where a member and/or an associate holds a relevant interest in shares of 10% or more of the body corporate.

Appendix 6 – Complaint handling process

The Committee approved the following plan for processing complaints on 13 August 2003. The circled numbers on this diagram refer to template letters.



