



Government of South Australia

Privacy Committee
Of South Australia

Annual Report of the Privacy Committee of South Australia

For the year ending 30 June 2009

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This annual report has been issued pursuant to Clause 3 (1) of the Proclamation of the Privacy Committee of South Australia.

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The Hon Jay Weatherill MP
MINISTER ASSISTING THE PREMIER
IN CABINET BUSINESS AND PUBLIC SECTOR MANAGEMENT

Dear Minister

The Privacy Committee of South Australia is pleased to provide you with this report of its activities for the year ending 30 June 2009. The report is provided pursuant to Clause 3(1) of the *Proclamation establishing the Privacy Committee of South Australia*, as amended and republished in the South Australian Government Gazette on 11 June 2009.

A handwritten signature in black ink, appearing to read 'Terry Ryan', with a stylized flourish at the end.

Terry Ryan
PRESIDING MEMBER
PRIVACY COMMITTEE OF SOUTH AUSTRALIA

1 October 2009

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1 Introduction

This is a report of the activities of the Privacy Committee of South Australia (the Privacy Committee) for the year ending 30 June 2009. It has been developed pursuant to Clause 3(1) of the Proclamation establishing the Privacy Committee (see [Appendix B](#)).

The year was marked by a significant rise in the number of submissions received by the Privacy Committee, particularly those seeking exemptions from the Information Privacy Principles (IPPs). A considerable number of these submissions considered issues involving the contracting of third party service providers. The Privacy Committee has been working to address the issue of third party service providers for some time. In light of this, a significant achievement for the year was the finalisation and Cabinet approval of amendments to the IPPs to allow personal information to be provided to third party service providers that provide a service on behalf of Government. To ensure the ongoing management and protection of the personal information a set of model contractual terms and conditions were developed along with a new State Records Standard on *Contracting and Official Records*.

The Privacy Committee continued to support Government agencies on the application of the IPPs and the promotion of good privacy practice. This included responding to numerous requests for advice, supporting the Privacy Officer Network and conducting privacy awareness training.

The year also saw the Privacy Committee provide advice on privacy protection in relation to the further development of the South Australia and Northern Territory Data Linkage Project. This project involves the development of a system that will enable the conduct of research utilising data linked across government databases, while maintaining a high standard of information privacy.

The Privacy Committee was also involved in providing advice that supported privacy policy reforms both in South Australia and at a national level. This included participating in consultations by the Commonwealth Government on their response to the recommendations of the Australian Law Reform Commission's Report 108 *Review of Australian Privacy Law and Practice*.

It also included participating in consultation to the Australian Health Ministers' Advisory Council (AHMAC) in relation to the privacy arrangements for the National Accreditation and Registration Scheme for the Health Professions. A submission was also provided to AHMAC.

During the reporting year, the Privacy Committee granted 10 exemptions from the IPPs to South Australian Government agencies (see [item 3.7](#)), concluded six of seven complaints (see [item 3.6](#)) and contributed to a number of consultation programs and inquiries (see [items 3.2](#) and [3.3](#)). The Executive Support to the Privacy Committee received fewer telephone and email enquiries from the public and South Australian Government agencies than in the previous year (see [item 2.2.4](#)).

2 South Australian Public Sector Privacy Framework

2.1 The Information Privacy Principles

South Australia's Information Privacy Principles (IPPs) were introduced in July 1989 by means of *Cabinet Administrative Instruction 1/89*, issued as *Premier & Cabinet Circular No. 12*, and more commonly known as the Information Privacy Principles Instruction.

The IPPs regulate the way South Australian Public Sector agencies collect, use, store, and disclose personal information. A link to the Information Privacy Principles Instruction can be found on the State Records website at www.archives.sa.gov.au/privacy, and in [Appendix A](#) of this report.

2.2 The Privacy Committee of South Australia

2.2.1 Establishment and Functions

The Privacy Committee of South Australia (the Privacy Committee) was established by proclamation in the Government Gazette on 6 July 1989. The functions of the Privacy Committee, as described in this Proclamation, are:

- 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.

The scope of these functions is broader than the application of the IPPs and not necessarily restricted to activity within the South Australian Public Sector. However, the primary focus of the available resources (see [item 2.2.4](#)) is on matters that carry the greatest impact on the handling of personal information within State Government agencies bound by the IPPs.

A copy of the Proclamation can be found following the Information Privacy Principles Instruction, and in [Appendix B](#) of this report.

2.2.2 Reporting

During the reporting year, the Privacy Committee reported to the Hon Jay Weatherill MP, Minister Assisting the Premier in Cabinet Business and Public Sector Management.

2.2.3 Membership

There are six members of the Privacy Committee:

- three nominated by the Minister responsible (one of whom is not a public sector employee and one of whom will have expertise in information and records management)
- one nominated by the Attorney-General
- one nominated by the Minister for Health
- one nominated by the Commissioner for Public Employment.

For this reporting year, the Privacy Committee comprised:

Presiding Member:

- Terry Ryan, Director, State Records of South Australia, Department of the Premier and Cabinet

Members, in alphabetical order:

- Samantha Doherty, non-public sector employee (commenced November 2007)
- Bernadette Quirke, Legal Counsel, Department of Treasury and Finance, Crown Solicitor's Office
- Christopher Radbone, Principal Consultant, Governance, Department for Environment and Heritage (commenced March 2008)
- Nancy Rogers, Manager, Research & Analysis, Department for Families and Communities
- Andrew Stanley, Director, Strategic Planning, Policy and Research, Department of Health.

The term of appointment for each of the current members expires on 9 November 2010.

2.2.4 Resources

State Records of South Australia provides support to the Privacy Committee, including an enquiry and advice service to both agencies and the public and a limited research function. This resource includes the commitment of time equivalent to approximately 1.2 full-time staff.

During the reporting year State Records responded to 234 telephone and e-mail enquiries from the public and State Government agencies relating to privacy of personal information collected and held by State Government agencies. This represented a decrease of 25% from the previous reporting year.

Throughout the year, State Records conducted two Privacy Awareness presentations for State Government agencies. Privacy management awareness is also included in the curriculum for the nationally accredited Certificate III in Business (Recordkeeping), developed and delivered by State Records.

Premier & Cabinet Circular No. 16: Remuneration for Government Appointed Part-time Boards and Committees specifies the conditions under which members of Boards and Committees may be paid. In general, fees are not paid to Government employees, and so only the non-government member of the Privacy Committee receives a sessional fee. The sessional fees are drawn from State Records' recurrent operating budget. More information about the payment of fees can be found at *Premier & Cabinet Circular No. 16* available at www.premcab.sa.gov.au/pdf/circulars/Remuneration.pdf.

2.2.5 Meetings

During the reporting year the Privacy Committee met on six occasions. Meetings were supplemented by the conduct of business out of session.

2.2.6 Guidelines for members

A handbook for members contains information on the role of the Privacy Committee, its relationship to other approval and advisory bodies, duties and obligations of members, the process for handling complaints, and other information of value to members in performing their role. It contains a brief history of privacy law and self-regulation in South Australia, and an overview of the protection of personal information in other Australian jurisdictions. The handbook also contains a Code of Conduct for members consistent with *Government Boards and Committees: Guidelines for Agencies and Board Directors* (Department of Premier and Cabinet, 2000). At the close of the reporting year this Guideline was under review.

A copy of the handbook can be found on the State Records website at www.archives.sa.gov.au/privacy/committee.html.

2.2.7 South Australia's Strategic Plan

South Australia's Strategic Plan 2007 calls for performance improvement across the South Australian public sector in both government decision-making and administrative efficiency (Objective 1: Growing Prosperity: Targets T1.8 and T1.9). The Privacy Committee continues to improve in this area by implementing strategies such as the conduct of business out of session where appropriate to do so. In addition, the establishment of the Privacy Officer Network in 2006 has provided further efficiencies in the handling of complaints and enquiries from members of the public.

The constitution of the Privacy Committee meets Target T5.1 (Objective 5: Building Communities) to 'increase the number of women on all State Government boards and committees to 50% on average by 2008'. During the reporting year the Privacy Committee maintained 50% female membership.

The activities of the Privacy Committee contribute to the achievement of other South Australia's Strategic Plan targets and priority actions across the South Australian Public Sector. Examples include:

- Objective 1: Growing Prosperity: Target T1.7: 'performance in the public sector – customer and client satisfaction with government services' – the Australian public expects a high degree of privacy protection when accessing government services, and also expect a degree of control over how their personal information will be collected, stored, used and disclosed¹. There is also a high level of expectation and trust by the public that personal information held by State Government agencies is safe.

- Objective 2: Improving Wellbeing: there is a growing need for more holistic research and development in the areas of health, wellbeing and public safety. The use of personal information for research requires consideration of the IPPs to ensure the information is appropriately managed during and after completion of these activities.
- Objective 5: Building Communities: Priority Actions: *'collaborate to improve access to services [and] increase ... resource sharing'*; and Objective 6: Expanding Opportunity: all targets – there has been a marked increase in data matching and information sharing activities. This presents a challenge for agencies in their obligations to comply with the IPPs when handling personal information.

3 Activities of the Privacy Committee

3.1 Advice to the Minister

The Privacy Committee has the function, under clause 2(a) of the Proclamation, ‘*to advise the Minister as to the need for, or desirability of, legislative or administrative action to protect individual privacy*’.

Throughout the reporting year, the Privacy Committee briefed the Minister on a range of matters relating to privacy. This included briefings related to national privacy law reform and inquiries into particular privacy issues in other jurisdictions. The Privacy Committee also provided the Minister advice in relation to a number of State Government initiatives that had the potential to impact on the privacy of individuals in South Australia.

3.2 Developments in other jurisdictions

The Privacy Committee has the function, under clause 2(a) of the Proclamation, ‘*to keep itself informed of developments in relation to the protection of individual privacy in other jurisdictions*’. Some key instances are described below.

3.2.1 Commonwealth, States and Territories

The Commonwealth and each state and territory government within Australia operate under varying legislative and administrative regimes for privacy protection. These regimes are of interest to the Privacy Committee as it considers its own responses to local and national issues. The following synopsis presents some of the more significant developments in other jurisdictions that have been noted by the Privacy Committee.

3.2.1.1 Australian Law Reform Commission Review of Australian Privacy Law

On 30 May 2008, the Australian Law Reform Commission (ALRC) presented its final report to the Commonwealth Government on the review of Australian Privacy Law and Practice. The Report was launched by the Commonwealth Special Minister of State, the Hon Senator John Faulkner, and the Attorney-General the Hon Robert McClelland MP on 11 August 2008. The Report was released in three volumes, amounting to over 2,700 pages. It recommended 295 changes to privacy laws and practices.

The key recommendations of the Report that have the potential to affect how privacy is managed in South Australia include:

- Uniform Privacy Principles and National Consistency
 - ▶ The ALRC recommended that the *Privacy Act 1988* should prescribe a single set of Privacy Principles to apply to all federal government agencies and the private sector. It recommended that these principles also be applied to state and territory government agencies through an intergovernmental cooperative scheme.
- Regulation of Cross Border Data Flows
 - ▶ The ALRC recommended further regulation of cross border data flows including that an agency or organisation that transfers personal information outside the country remains accountable for it, except in certain specified circumstances.

- Health Privacy
 - ▶ The ALRC recommended the drafting of new privacy regulations to specifically regulate health information. The recommendation also aims to deal with electronic health records, and the greater facilitation of health and medical research.

The Report also included recommendations aimed at improving the protection of citizens from serious invasions of Privacy:

- Cause of Action for a Serious Invasion of Privacy
 - ▶ The ALRC recommended that federal law should provide for a private cause of action where an individual has suffered a serious invasion of privacy, in circumstances in which the person had a reasonable expectation of privacy. Courts should be empowered to tailor appropriate remedies, such as an order for damages, an injunction or an apology.
 - ▶ The ALRC's recommended formula for determining whether an invasion of privacy is serious enough to warrant a cause of action, sets a high bar for plaintiffs, having due regard to the importance of freedom of expression and other rights and interests. A claimant would have to show that there was a reasonable expectation of privacy and that the act or conduct was highly offensive to a reasonable person of ordinary sensibilities.

At the close of the reporting year, the Commonwealth Government was reviewing the ALRC's recommendations and consulting with key stakeholders prior to announcing its intentions in relation to the Report. It is anticipated that the Commonwealth will release draft exposure legislation for consideration in late 2009.

During the year, the Privacy Committee was involved in consultation with the Commonwealth Department of the Prime Minister and Cabinet through the Privacy Authorities of Australia on the ALRC's recommendations.

The Privacy Committee hosted a meeting of privacy officers from South Australian Government agencies to discuss the recommendations made by the ALRC and brief agencies on the timing of the Commonwealth Government's response to the Report. Representatives of the Local Government Association and South Australian Universities were also invited to participate in the meeting.

The Privacy Committee will continue to participate in consultations and address the draft exposure legislation as it relates to South Australia.

3.2.1.2 National Registration and Accreditation Scheme for the Health Professions

In February 2009, the Privacy Committee was invited to participate in stakeholder consultations with the Australian Health Minister's Advisory Council (AHMAC) in relation to the privacy arrangements for the National Registration and Accreditation Scheme for the health professions.

The aim of the scheme was to deliver improvements to the safety and quality of Australia's health services through a modernised national regulatory system for health practitioners. This would be achieved through the adoption of nationally consistent accreditation and registration framework replacing existing State and Territory based regulatory standards, boards and committees.

The Privacy Committee was specifically represented at the AHMAC consultation forum on privacy arrangements and provided a submission on the proposed privacy arrangements for the scheme.

3.2.1.3 Other Commonwealth and National initiatives

Portable Storage Devices and Personal Information

Both the Commonwealth and Victorian Government's undertook surveys on the use of portable storage devices (PSDs) in their respective public sectors. The surveys were aimed at establishing the extent of PSD use. The purpose of the surveys was to also provide information on agency preparedness in management of the risks associated with PSD use, including risks to personal information and information technology infrastructure from theft or loss or lack of encryption. These risks are significant because of the large amounts of data that can be stored and transported on PSDs.

The Commonwealth Privacy Commissioner developed an information sheet as a result of the findings of the survey to promote secure use of PSDs in Australian Government agencies.

At the close of the reporting year, Privacy Victoria was developing a guide to assist Victorian Government agencies produce tailored policies on the management and use of PSDs.

The Commonwealth Survey Results can be found at <http://www.privacy.gov.au/>

The Victorian Survey Results can be found at <http://www.privacy.vic.gov.au>

Lost or Stolen Identity Documents

The Privacy Committee considered a proposal from the Commonwealth Government for a new national protocol for dealing with lost or stolen identity documents. The proposal was to be tabled at the National Identity Security Strategy Coordination Group Meeting. The Privacy Committee provided advice on the protocol for inclusion in the South Australian Government's response to the proposal.

3.2.2 Conferences and seminars

Throughout the year, representation of the Privacy Committee at various conferences, seminars and forums, included attendance at:

- one meeting of the Asia Pacific Privacy Authorities (APPA)
- two meetings of the Privacy Authorities of Australia (PAA)
- two consultation forums on the development of the National Registration and Accreditation Scheme for the Health Professions
- the Identity 08 Conference hosted by the Victorian Privacy Commissioner.

3.2.2.1 Asia Pacific Privacy Authorities (APPA)

APPA convenes twice a year with meetings hosted on a rotating basis by the various Privacy Commissioners. At the forum issues are discussed such as privacy and security, identity management, surveillance, cross-jurisdictional law enforcement between countries in the Pacific Rim, privacy legislation amendments, cryptography and personal data privacy.

In 2008-09, APPA again promoted the annual Privacy Awareness Week. Privacy Awareness Week was held in May 2009. The Week saw a variety of programs and initiatives hosted by public and private sector organisations from across the Asia-Pacific region to promote awareness of privacy rights and responsibilities.

A number of initiatives launched as part of Privacy Awareness Week were aimed at promoting information privacy protection to young people. This included a short animated video, developed as a joint initiative of APPA, highlighting the possible risks for young people of using online technologies such as social networking and gaming sites.

Further information about APPA can be found on the Commonwealth Commissioner's website at <http://www.privacy.gov.au/international/appa/index.html>

3.2.2.2 Privacy Authorities of Australia (PAA)

The Privacy Committee was represented at the two meetings of the PAA on 19 September 2008 and 27 March 2009.

The PAA grew out of the APPA, which has expanded its scope to now include Pacific Rim jurisdictions such as Canada. While, it was recognised that APPA served an important purpose there was a need for a group with membership limited to only Australian jurisdictions to encourage knowledge sharing and cooperation on issues specific to Australia.

The PAA terms of reference include:

- facilitating the sharing of knowledge and resources between privacy agencies and authorities within Australia
- fostering cooperation in privacy and data protection
- promoting best practice and consistency amongst privacy agencies and authorities
- working to continuously improve our performance to achieve the important objectives set out in our respective privacy laws or policies.

The PAA addressed a number of issues across Australian jurisdictions in 2008-09, including:

- participating in consultation with the Commonwealth on its response to the recommendations of the ALRC Review of Privacy
- data sharing in relation to the Victorian Bushfire Emergency
- privacy issues associated with National E-Health initiatives
- privacy issues associated with the operation of road tolls.

3.3 Recommendations and submissions

The Privacy Committee has the function, under clause 2(b) of the Proclamation, *'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'*.

The Privacy Committee responded to various requests for advice, support and recommendations. Key instances are described below.

3.3.1 Amendments to the Information Privacy Principles

On 18 May 2009 Cabinet approved amendments to the IPPs to recognise the activity of businesses performing services on behalf of government. These amendments addressed the gap that existed in the application of privacy principles to service providers contracted to the South Australian Government.

The work undertaken during the year included finalising the drafting of the proposed amendments, the development of model privacy clauses for government contracts that involve the handling of personal information and consultation with State Government agencies on the changes.

While the central purpose of the amendments was to ensure the ongoing protection of personal information when agencies were contracting for services, a number of other minor administrative anomalies in the IPPs were also addressed including:

- changes to superseded names of agencies to which the IPPs do not apply
- updates to reflect changes to the *Public Sector Management Act 1995*
- provisions to maintain gender balance on the Privacy Committee of South Australia
- amendments to the Proclamation establishing the Privacy Committee of South Australia.

A detailed communication plan for the changes was also developed with implementation to commence in early 2009-10.

The amendments to the IPPs were developed alongside a Contracting and Official Records Standard (the Standard). The aim of the Standard is to ensure that records collected or created by service providers under contract to South Australian Government agencies are managed in line with the *State Records Act 1997*.

3.3.2 SA NT DataLink

During 2008-09, a consortium of government and non-government bodies was established under a joint venture agreement to continue the development and implementation of a population, health and wellbeing data linkage system for South Australia and the Northern Territory (SA NT DataLink). The SA NT DataLink System (the System) is designed to facilitate research projects utilising de-identified data from multiple government data sets. The Consortium comprises of the Department of Health, the Department of Education and Children's Services, the Department for Families and Communities, the Motor Accident Commission, the three South Australian Universities, the Cancer Council of South Australia and the Northern Territory Government.

A steering committee, representing the Consortium, has direct oversight of the development of the System and its associated linkage systems and protocols. The Department of Health is the lead Government agency and the System is hosted by the University of SA.

Throughout 2008-09 the Privacy Committee was mainly involved in providing advice on the establishment of appropriate governance arrangements for the System to ensure privacy protection in the conduct of research utilising data linkage. These arrangements included agreement on the scope of projects that can be undertaken utilising the System and the approval process for individual data linkage projects. Each research project utilising the System is required to have approval from a properly constituted and

registered Human Research Ethics Committee (HREC) and specifically the Department of Health or the Department for Families and Communities HRECs. It was agreed that these committees would develop expertise in the privacy and ethical issues associated with data linkage projects.

In addition, the Privacy Committee provided two exemptions from the IPPs to facilitate the establishment of the System. These exemptions were provided where the Privacy Committee deemed them to be in the public interest.

(See [Appendix I](#) for the full text of the exemptions provided in relation to the SA NT DataLink)

3.3.3 SACE – Personal Learning Plan

The Department of Education and Children’s Services sought the Privacy Committee’s advice on an online Personal Learning Plan system for all South Australian Certificate of Education students. The Privacy Committee provided advice on how to mitigate any privacy risks to students in the implementation of the system. These included recommending the development of a comprehensive privacy statement available to all students and their parents and the consideration of short and long term retention of records created within the system.

3.3.4 Stolen Generations Research Project

The Department for Families and Communities (DFC) sought advice from the Privacy Committee in relation to the disclosure of personal information for research purposes. The information related to records and case files of the former Welfare Department for the purposes of independent research for a book about the Stolen Generation. The Privacy Committee advised DFC that information could not be disclosed without an exemption from the IPPs. In addition it recommended that DFC’s Human Research and Ethics Committee (HREC) first assess the matter before the Privacy Committee considered any potential exemption. The DFC’s HREC subsequently determined that there was not sufficient public interest in the project to outweigh the significant risks involved in disclosing the records to the researcher.

3.3.5 Australian Statistics Advisory Council Draft Principles for Data Linkage

The Privacy Committee provided advice to Cabinet Office in relation to a set of draft principles for data linkage developed through the Australian Statistics Advisory Council. This advice was based on the work the Privacy Committee had already undertaken in considering privacy issues related to the SA NT DataLink System. In particular, the Privacy Committee provided specific advice on the importance of the establishment of a robust governance framework for the management and approval of research utilising data linkage.

3.3.6 Data Matching – Housing SA

The Privacy Committee received a submission from Housing SA in relation to the establishment of a data matching program. The purpose of the program was to assist the agency to track down absconding debtors and identify fraudulent claims by public tenants. While the Privacy Committee noted the public interest in locating absconding debtors and the prevention of fraud, it also noted that data matching had the potential to pose significant risks to personal privacy. The Privacy Committee recommended that

Housing SA undertake an assessment of the potential privacy risks of the data matching program to ensure that any risks were identified and appropriately managed.

3.3.7 Data Matching – Fines Payment Unit

The Privacy Committee received a submission from the Fines Payment Unit (FPU) in the Courts Administration Authority in relation to the extension of its data matching program, established in 2001. The FPU proposed to extend its matching activities to include the SA Water customer database. At that time, the Privacy Committee recommended that the FPU develop a protocol based on the Commonwealth Government's Data Matching Guideline for each of the agencies participating in the program and report to the Privacy Committee annually on its operation. In response to the submission by the FPU, the Privacy Committee recommended it undertake an assessment of the potential privacy impacts of the data matching program, including its extension to SA Water, to ensure any potential privacy risks are adequately identified and mitigated.

In line with the Privacy Committee's recommendations of 2001, the FPU provided a report to the Privacy Committee on the operation of the program since 2006. (See [Appendix M](#) for a summary of the FPU data matching activities.)

3.4 Communication

The Privacy Committee has the function, under clause 2(c) of the Proclamation, *'to make publicly available, information as to methods of protecting individual privacy and measures that can be taken to improve existing protection'*.

3.4.1 Privacy Officer Network

The Privacy Officer Network (the Network) was established in September 2006 to assist Principal Officers of agencies to fulfill their obligation to comply with the IPPs, and to increase the efficiency of communications about the handling of personal information held by State Government agencies. State Records coordinates and provides support to the Network. The Network is contributing to a more robust culture of privacy awareness across the Public Sector.

A meeting of the Network was held on 23 March 2009 and dealt with two main issues, including:

- consultation in relation to proposed amendments to the IPPs
- an update on developments in National Privacy Reform.

3.4.2 Participation in committees and groups

When the opportunity arises, the Privacy Committee is represented at meetings with Commonwealth, State and Territory Governments as deemed appropriate.

The Privacy Committee is represented on the South Australian Identity Security and Management Group, the APPA forum (see also [item 3.2.3.1](#)) and the PAA (see also [item 3.2.3.2](#)).

The Presiding Member is also a member of the South Australian Government's ICT Security and Risk Steering Committee.

3.5 Keep informed as to the extent to which the Information Privacy Principles are implemented

The Privacy Committee has the function, under clause 2(d) of the Proclamation, *‘to keep itself informed as to the extent to which the Administrative Scheme of Information Privacy Principles are being implemented’*.

The Privacy Committee seeks reports from agencies from time to time. See [section 3.3](#) Recommendations and submissions for reviews and reports.

3.6 Complaints

The Privacy Committee has the function, under clause 2(e) of the Proclamation, *‘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’*.

During the reporting year there were five new formal complaints received and two pre-existing complaints that underwent further deliberation. Of the seven complaints handled, five were concluded, one was withdrawn and one remained outstanding. A summary of the complaints concluded during the year is outlined below.

3.6.1 Complaint 1

Complaint one concerned a South Australian Government department disclosing personal information to a private car park operator. This was a general in nature and did not relate specifically to a disclosure of the complainant’s own personal information. Following consideration of the complaint and a response from the department concerned, the Privacy Committee found that the disclosure was required by law and, therefore, no breach of the IPPs had occurred.

3.6.2 Complaint 2

Complaint two concerned the disclosure of personal information by a South Australian Government department on a public register of professional registration that was available via the Internet on the Department’s website. The personal information related to details of the suspension of the complainant’s registration.

Following consideration of the complaint and consultation with the department concerned, the Privacy Committee found that the disclosure was authorised by law. The Privacy Committee did, however, recommend that the department more clearly inform registrants of the disclosure of personal information on the register, including the recording of any disciplinary action. The Privacy Committee also recommended that the department take steps to limit the potential for the online register to be searched via third party search engines.

The department agreed to review its practices, particularly in regard to notifying registrants of the information to be held on the register.

3.6.3 Complaint 3

Complaint three concerned, amongst other things, the disclosure of personal information by a public health service. The complaint largely related to issues concerning the delivery of health services. In this case, the Privacy Committee determined that the South Australian Health and Community Services Complaints Commissioner (HCSCC) was the

appropriate authority to deal with the complaint and it was referred to the HCSCC and was resolved through mediation between the complainant and the health service.

3.6.4 Complaint 4

Complaint four concerned the alleged disclosure of personal information by an officer of the South Australia Police. The Privacy Committee determined that it was unlikely the IPPs had been breached but considered that the allegations concerned matters broader than privacy and consequently referred the complaint to the Police Complaints Authority.

3.6.5 Complaint 5

Complaint five concerned the disclosure of personal information by a Local Government Authority on their website. The complainant had made a submission in regard to a development under consideration by the Council. While the Council had made it clear that submissions would be made public the complainant did not understand that their personal information would be available via the Council's website and subsequently searchable via an Internet search engine. The complainant had asked the Council to remove the information from its website and any references from the search engine. The Council initially declined the request suggesting that it did not have the expertise to remove the material.

The complaint was eventually resolved between the Council and the complainant without the need for the Privacy Committee's intervention. However, the Privacy Committee continues to further consider the issue of the publication of personal information on the Internet, including public registers.

The complaint highlighted the ongoing difficulties that apply in relation to the management of personal information in Local Government Authorities in South Australia. There is currently no legislative or administrative privacy regime applying to local government in South Australia and this makes it particularly difficult to resolve complaints in relation to alleged breaches of privacy.

3.7 Exemptions

The Privacy Committee may, under clause 4 of the Proclamation, '*exempt a person or body from one or more of the Information Privacy Principles (IPPs) on such conditions as the Privacy Committee thinks fit*'.

Requests for exemptions are considered on a case-by-case basis. In practice, exemptions are only applied in situations where the public interest for an activity outweighs the privacy protections afforded by the IPPs, or where otherwise warranted by unique circumstances. Exemptions are generally subject to conditions including an expiry date, and agencies are asked to report on the activity conducted under the exemption. Agencies can seek to have an exemption extended at which time the Privacy Committee will review the need for the exemption.

The *Code of Fair Information Practice*, approved by the Privacy Committee for use within the Department of Health and the Department for Families and Communities, contains provisions allowing the use of personal health information for research purposes, but excludes non-health information. The IPPs do not contain a provision for the use of personal information for research purposes.

During this reporting year, 13 individual exemptions were considered and 10 were approved. Following is a summary of each of the requests for exemption.

3.7.1 Rural Addressing Project

The Department of Primary Industries and Resources of South Australia (PIRSA) requested an exemption from IPP 10 to allow the disclosure of name and address information from its animal health database to the Lands Services Group (LSG). PIRSA advised the Privacy Committee that the disclosure was necessary for the verification of address data for the Government's Rural Addressing Project. The project aims to provide all South Australian rural properties with a national standard rural address by 2011. The Privacy Committee noted significant public interest in the project, particularly in improving rural safety in the access and delivery of emergency services. The Privacy Committee granted the exemption.

See [Appendix C](#) for the full text of the exemption.

3.7.2 SA Police / CrimTrac - National Police Referencing System

The Privacy Committee received a submission from the South Australia Police for an exemption from IPP 10 to allow the disclosure of personal information to other non-police law enforcement agencies through CrimTrac's National Police Reference System. The CrimTrac Agency was established in July 2000 by intergovernmental agreement to facilitate data and information sharing between Australian law enforcement agencies via new and existing information systems.

On the information provided, the Privacy Committee decided that it could not grant SA Police a blanket exemption for disclosing personal information through CrimTrac. The Privacy Committee advised SA Police that they would need to provide more specific information on the non-police law enforcement agencies that would access SA Police information through CrimTrac's National Police Reference System and the purposes for that access before it could properly consider granting an exemption.

3.7.3 Collection of Family, Social and Medical History

The Privacy Committee received a submission from the Department for Families and Communities (DFC) to update an exemption granted to both DFC and the Department of Health (Health) in 2005. The exemption expired in December 2007.

The submission sought exemption from IPP 2 to recognise the long-standing practice of the collection of family, social and medical history of health consumers during the delivery of a health service, recognising this may include the collection of information about third parties without consent.

The Privacy Committee granted the exemption for both DFC and Health. In making its decision, the Privacy Committee took into account the Public Interest Determinations (PIDs) made by the Commonwealth Privacy Commissioner in relation to the same issue. The PIDs issued by the Commonwealth recognised the clinical value of allowing the collection of third party information where it is relevant to a consumer's family, social and medical history.

See [Appendix D](#) for the full text of the exemption.

3.7.4 BASS Ticketing – SA Motorsport Board

The Privacy Committee received a submission from BASS Ticketing for an exemption from Information Privacy Principle 10 to allow it to disclose personal information to the South Australian Motor Sport Board (SAMSB). BASS has previously provided ticketing services to the SAMSB to support the Adelaide V8 Supercar Event. The SAMSB secured a new ticketing services provider for the 2009 Event but required patron ticketing information from the previous event to ensure continuity of service. This included acquiring ticketing information for pre-sold and price-capped tickets.

It was noted by the Privacy Committee that it would be extremely difficult to manage lost tickets, upgrades of tickets, verification of purchases and the distribution of tickets, without patron information from the previous event, which includes seating reservation details and price-capped ticket information. .

The Privacy Committee granted the exemption to BASS to disclose the ticketing information to the SAMSB. Following discussions with the SAMSB, it also granted an exemption to SAMSB to disclose the patron ticketing information to its new ticketing services provider.

See [Appendix E](#) for the full text of the exemption.

3.7.5 BASS Ticketing - Patron Information Sharing

The Privacy Committee received a submission from BASS Ticketing for an exemption from IPP 10 to allow it to disclose patron ticketing information to Flagship Arts Companies, such as Adelaide Symphony Orchestra and State Theatre Company.

The Flagship Arts Companies sought the information to enable them to contact their patrons direct to provide them with further information about upcoming shows, pre-show events and activities. BASS as the exclusive ticketing provider to the Companies did not have the functionality in its ticketing system to allow for the collection of patron consent to authorise disclosure of the information. A new system allowing this functionality was in development for implementation by August 2009.

The Privacy Committee granted the exemption to BASS on the condition that Flagship Arts Companies offered patrons the opportunity to opt-out of any further correspondence each time they are contacted and that patron information was otherwise managed in line with the IPPs.

See [Appendix F](#) for the full text of the exemption.

3.7.6 DTEI Way 2 Go Project

The Privacy Committee received a submission from the Department for Transport, Energy and Infrastructure (DTEI) to use public school student address information collected from the Department of Education and Children's Services (DECS) for a Geospatial Information Systems (GIS) mapping project that would focus on promoting safer, greener and more active student travel to public schools. A primary outcome of the mapping project would be the development of school route maps that indicated safe and efficient routes to school and assisted with planning active travel and transport engineering and infrastructure development around schools.

An exemption was granted to both DTEI and DECS by the Privacy Committee to allow the information sharing. The exemption included strict conditions on access to personal information and any GIS maps that indicated the specific location of student home addresses. It also recommended that a memorandum of understanding be established between the two agencies that outlined the information sharing arrangement.

See [Appendix G](#) for the full text of the exemption

3.7.7 SATC Travel Reservation System

The Privacy Committee received a submission from the South Australian Tourism Commission (SATC) for an exemption from IPP 10 to allow the disclosure of information to a contracted service provider.

Specifically, the purpose of the exemption was to allow a contracted service provider to host the SATC's travel reservation system.

The Privacy Committee granted the exemption to the SATC subject to the establishment of contractual terms with the service provider that applied a set of privacy clauses. The effect of the privacy clauses would be to ensure any information disclosed by the SATC would be managed by the service provider in accordance with the IPPs.

See [Appendix H](#) for the full text of the exemption

3.7.9 SA NT DataLink

The Privacy Committee received two submissions from the SA NT DataLink Consortium during the year seeking exemptions from the IPPs. The exemptions were to allow the use of information by the Data Linkage Unit in establishing the SA NT DataLink System.

In February 2009, the Privacy Committee granted approval for the use of personal information in the Public Hospital Inpatients Dataset and the Emergency Department Dataset for the establishment of the Master Linkage File of the Data Linkage System. The exemption made it clear that the Department of Health remained responsible for the security of the information in line with the IPPs and was conditional on the Department of Health ensuring that the information was only accessible by officers of the Department within the Data Linkage Unit.

In June 2009, the Privacy Committee granted approval for the use of personal information from the South Australian Cancer Registry Dataset for the establishment of the Master Linkage File of the Data Linkage System. The exemption was subject to the same conditions as the earlier exemption. The exemption was supported by the requirement that the SA NT DataLink Consortium establish a memorandum of understanding with the Department of Health on the management and use of the information.

See 3.3.2 for more information on the SA Data Linkage Project and [Appendix I](#) for the full text of the exemptions

3.7.10 SATC Gift Voucher System

The Privacy Committee received a submission from the SATC seeking an exemption from IPP 10 to allow the disclosure of personal information to a contracted service provider. The purpose of the disclosure was to allow for the hosting of a gift voucher system.

The Privacy Committee granted the exemption to the SATC subject to the establishment of contractual terms with the service provider that applied a set of privacy clauses. The purpose of the privacy clauses is to ensure any information disclosed by the SATC would be managed by the service provider in accordance with the IPPs.

See [Appendix J](#) for the full text of the exemption

3.7.10 Information Sharing Guidelines

The Privacy Committee provided an exemption from IPP 10(b) to all South Australian Government agencies utilising the *Information Sharing Guidelines for Promoting the Safety and Wellbeing of Children, Young People and their Families* (the Guidelines). The exemption noted that the Department for Families and Communities (DFC) was responsible for reporting to the Privacy Committee on the implementation of the Guidelines within 12 months of its approval. The exemption was also to be reviewed after 12 months with an extension to be negotiated.

On 6 May 2009, the Privacy Committee was advised that the Guidelines had yet to be implemented in agencies and that the first stage of the rollout was due to begin in July 2009. DFC also advised that the Office of the Guardian had ongoing responsibility for the implementation and maintenance of the Guidelines.

The Privacy Committee approved a revised exemption from IPP 10(b). The exemption is conditional on the Office of the Guardian reporting to the Privacy Committee on the progress of implementation after 12 months. The exemption is also to be reviewed by the Office of the Guardian and the Privacy Committee two years after its approval.

See [Appendix K](#) for the full text of the exemption

3.7.11 SA Water Concession Program

The Privacy Committee received a submission from SA Water for an exemption from IPP 10 to allow for the disclosure of personal information to the Department for Families and Communities (DFC). The exemption was to allow for the transfer of the administration of the Government's water and sewerage rates remission program from SA Water to DFC.

In approving the exemption, the Privacy Committee noted that it only applied to the disclosure of personal information required for, or relevant to, processing a current

remission application. It also recommended that SA Water amend the Memorandum of Administrative Agreement it had with DFC to reflect the conditions of the exemption.

See [Appendix L](#) for the full text of the exemption

Endnotes:

¹ *Community Attitudes towards privacy in Australia: surveys*, commissioned by the Office of the Privacy Commissioner, Australia in 2001, 2004, and 2007. Publications are available at www.privacy.gov.au.

² *Information Sharing Guidelines for Promoting the Safety and Wellbeing of Children, Young People and their Families* are available at <http://www.gcyp.sa.gov.au/cgi-bin/wf.pl>.

Appendices

A Information Privacy Principles

Cabinet Administrative Instruction 1/89, also known as the Information Privacy Principles (IPPs) Instruction, and premier and cabinet circular 12, AS AMENDED BY CABINET 18 May 2009

**Government of South Australia
Cabinet Administrative Instruction No.1 of 1989
(Re-issued 30 July 1992 and 18 May 2009)**

**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 18 May 2009.
(2) Subject to any contrary determination by Cabinet, this Instruction shall apply to "the public sector agencies" as that expression is defined in Section 3(1) of the *Public Sector Management Act 1995*.
(3) This Instruction shall not apply to an agency that appears in the attached schedule.

Interpretation

3. (1) In this Instruction-
"agency" means a public sector 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.
"contracted service provider" means a third party that enters into a contract with an agency to provide goods or services required by an agency for its operations.
"contract for service" means that contract between the contracted service provider and the agency.
"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 Commissioner for Public Employment 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.

- (2) A reference to any legislation, regulation or statutory instrument in this Instruction shall be deemed to include any amendment, repeal or substitution thereof.
- (3) A reference to a person, including a body corporate, in this Instruction shall be deemed to include that person's successors.

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) An 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 Agency and Contracted Service Provider

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.
 - (c) subject to clause 5(A), an act done or a practice engaged in by, or personal information disclosed to, a person employed by, or in the service of, a person or organisation providing services to an agency under a contract for services for the purpose of or in the course of performance of that contract shall be deemed to have been done or engaged in by, or disclosed to, the agency.
- 5(A) A contract for service, which will necessitate the disclosure of personal information to a contracted service provider, must include conditions to ensure that these Principles are complied with as if the Contracted Service Provider were part of the agency and must include provisions that enable audit and verification of compliance with these obligations.

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:
- (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**

South Australian Asset Management Corporation

Motor Accident Commission (formerly State Government Insurance Commission)

WorkCover Corporation of South Australia

B Proclamation of the Privacy Committee of South Australia

Version: 11.6.2009

South Australia

Privacy Committee of South Australia

1—Establishment and procedures of Privacy Committee of South Australia

- (1) My 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* as amended or substituted from time to time) 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 responsible for the administration of the *Health Care Act 2008* (as amended or substituted from time to time); and
 - (d) one will be appointed on the nomination of the Commissioner for Public Employment (and, for the purposes of this paragraph, the reference to the Commissioner will, if the title of the Commissioner is altered, be read as a reference to the Commissioner under his or her new title).
- (2aa) At least 2 members of the Committee must be women and at least 2 must be men.
- (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.
- (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 Minister; 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) Subject to the following, the Committee may determine its own procedures:

- (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;
- (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.

2—Functions of the Committee

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;

(g) 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;

(h) such other functions as are determined by the Minister.

3—Prohibition against disclosure of information

(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—Exemptions

(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.

4A—Annual report

(1) The Committee must, on or before 30 September in each year, prepare and present to the Minister a report on its activities during the preceding financial year.

(2) The report must include details of any exemptions granted under clause 4 during the year to which the report relates.

(3) The Minister must, within 12 sitting days after receipt of a report under this section, cause copies of the report to be laid before each House of Parliament.

5—Interpretation

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.

C Exemption Granted – Rural Addressing Project

See also item 3.7.2.

Primary Industries and Resources

In accordance with Clause 4 of the Privacy Committee's Proclamation the following exemption from *Cabinet Administrative Instruction 1/89 "The Information Privacy Principles"* (the IPPs) is granted.

This exemption applies to the Land Services Group (LSG) within the Department for Transport, Energy and Infrastructure. It is an exemption from compliance with Information Privacy Principle 2, allowing the collection of personal information from the Primary Industries Information Management System (PIIMS) administered by Primary Industries and Resources SA (PIRSA), consisting of:

- name of both occupiers and owners of agricultural property
- spatial extent of the property (or property cadastre valuation numbers)
- postal address
- property address or location details.

The purpose of collection is to assist in the validation of newly generated rural property address data created by LSG and the validation of associated 'Roadside Mailbox' numbers that will be provided a new rural address. The validation of rural address data forms part of the Government's Rural Property Addressing Project. LSG must only use the information for this purpose.

All other Information Privacy Principles continue to apply.

Destruction or retention of personal information

As duplicates of the official records held by PIRSA, the records collected by LSG from PIRSA are to be destroyed following the end of the Rural Property Addressing Project, in accordance with Normal Administrative Practice as described in Government Disposal Schedule 15, issued under the *State Records Act 1997*.

Expiry

In order for this exemption to apply for the period of development of the Rural Property Addressing Project, the exemption will expire on 30 June 2012. An extension may be negotiated with the Privacy Committee if required.

(Original Signed)

Terry Ryan
Presiding Member
PRIVACY COMMITTEE OF SOUTH AUSTRALIA

15 September 2008

Department for Transport, Energy and Infrastructure

In accordance with Clause 4 of the Privacy Committee's Proclamation the following exemption from *Cabinet Administrative Instruction 1/89 "The Information Privacy Principles"* (the IPPs) is granted.

This exemption applies to Primary Industries and Resources SA (PIRSA). It is an exemption from compliance with Information Privacy Principle 10, allowing disclosure of personal information from the Primary Industries Information Management System (PIIMS) to the Land Services Group (LSG) within the Department for Transport, Energy and Infrastructure, consisting of:

- name of both occupiers and owners of agricultural property
- spatial extent of the property (or property cadastre valuation numbers)
- postal address
- property address or location details.

The purpose of disclosure is to assist in the validation of newly generated rural property address data created by LSG and the validation of associated 'Roadside Mailbox' numbers that will be provided a new rural address. The validation of rural address data forms part of the Government's Rural Property Addressing Project. LSG must only use the information for this purpose.

All other Information Privacy Principles continue to apply.

Destruction or retention of personal information

Data disclosed to LSG from PIRSA is to be destroyed or retained in accordance with an approved disposal authority under the *State Records Act 1997*.

As duplicates of the official records held by PIRSA, the records collected by LSG from PIRSA are to be destroyed following the end of the Rural Property Addressing Project, in accordance with Normal Administrative Practice as described in Government Disposal Schedule 15, issued under the *State Records Act 1997*.

Expiry

In order for this exemption to apply for the period of development of the Rural Property Addressing Project, the exemption will expire on 30 June 2012. An extension may be negotiated with the Privacy Committee if required.

(Original Signed)

Terry Ryan
Presiding Member
PRIVACY COMMITTEE OF SOUTH AUSTRALIA

15 September 2008

D Exemption Granted – Collection of Family, Social and Medical History

Department for Families and Communities

In accordance with Clause 4 of the Privacy Committee's Proclamation the following exemption from Cabinet Administrative Instruction 1/89 "The Information Privacy Principles" is granted.

This applies to the Department for Families and Communities and incorporated hospitals and health centres (inclusively, the Department), exempting them from complying with Information Privacy Principle (IPP) 2. This exemption allows the collection of health information from a health consumer, or from a person responsible* for the health consumer, about a third party without the consent of the third party in circumstances where:

- the collection of the third party's information into a consumer's social, family or medical history is necessary for the Department 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 that consumer; and
- the third party's information is only collected from a person responsible for the health consumer if the health consumer is physically or legally incapable of providing the information themselves.

IPP 2 will continue to apply outside of the conditions of this exemption. Health service providers that collect third party information into social, family or medical histories will still need to comply with the protections afforded under IPPs 7, 8, 9 and 10 regarding use and disclosure of the information for the purpose for which it was collected.

The conditions of this exemption are similar to the Public Interest Determinations (PIDs) 10 and 10A granted by the Federal Privacy Commissioner under the operation of the Privacy Act 1988 (Cth) (effective 11 December 2007).

The PIDs have been issued for a period of 4 years. This exemption will expire at the same time as the expiry of PIDs 10 and 10A -10 December 2011, or earlier by review.

(Original Signed)

Terry Ryan
Presiding Member
PRIVACY COMMITTEE OF SOUTH AUSTRALIA

28 August 2008

Department of Health

In accordance with Clause 4 of the Privacy Committee's Proclamation the following exemption from Cabinet Administrative Instruction 1/89 "The Information Privacy Principles" is granted.

This applies to the Department of Health and incorporated hospitals and health centres (inclusively, the Department), exempting them from complying with Information Privacy Principle (IPP) 2. This exemption allows the collection of health information from a health consumer, or from a person responsible for the health consumer, about a third party without the consent of the third party in circumstances where:

- the collection of the third party's information into a consumer's social, family or medical history is necessary for the Department 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 that consumer; and
- the third party's information is only collected from a person responsible for the health consumer if the health consumer is physically or legally incapable of providing the information themselves.

IPP 2 will continue to apply outside of the conditions of this exemption. Health service providers that collect third party information into social, family or medical histories will still need to comply with the protections afforded under IPPs 7, 8, 9 and 10 regarding use and disclosure of the information for the purpose for which it was collected.

The conditions of this exemption are similar to the Public Interest Determinations (PIDs) 10 and 10A granted by the Federal Privacy Commissioner under the operation of the Privacy Act 1988 (Cth) (effective 11 December 2007).

The PIDs have been issued for a period of 4 years. This exemption will expire at the same time as the expiry of PIDs 10 and 10A -10 December 2011, or earlier by review.

(Original Signed)

Terry Ryan
Presiding Member
PRIVACY COMMITTEE OF SOUTH AUSTRALIA
28 August 2008

E Exemption Granted – Bass Ticketing - SA Motorsport Board

See also item 3.7.4

Adelaide Festival Centre Trust

In accordance with Clause 4 of the Privacy Committee's Proclamation the following exemption from Cabinet Administrative Instruction 1/89 "The Information Privacy Principles"(the IPPs) is granted.

This exemption applies to the Adelaide Festival Centre Trust (AFCT). It is an exemption from compliance with Principle 10, allowing BASS, a Business Unit within AFCT, to disclose the personal information of customers to the South Australian Motor Sport Board (the Board).

The personal information is limited to the title, name, address, phone number(s), transaction history, and email address of patrons of the 2008 Clipsal 500 V8 Supercar Event including price cap sales information for the 2009 Event.

The purpose of disclosure is for the Board to ensure ongoing ticketing services to patrons that have already purchased tickets to the 2009 Clipsal V8 Supercar Event through BASS.

All other Principles continue to apply.

Destruction or retention of personal information

Destruction or retention of the personal information must be undertaken in accordance with a disposal authority under the State Records Act 1997.

Expiry

This is a one off exemption for the transfer of the ticketing information to the Board, however a further exemption relating to this matter may be negotiated with the Privacy Committee if required.

(Original Signed)

Terry Ryan
Presiding Member
PRIVACY COMMITTEE OF SOUTH AUSTRALIA

29 September 2008

South Australian Motorsport Board

In accordance with Clause 4 of the Privacy Committee's Proclamation the following exemption from Cabinet Administrative Instruction 1/89 "The Information Privacy Principles" (the IPPs) is granted.

This exemption applies to the South Australian Motor Sport Board (the Board). It is an exemption from compliance with Principle 10, allowing the Board to disclose personal information to its contracted ticketing service provider (Ticketek). The personal information is limited to the title, name, address, phone number(s), transaction history,

and email address of patrons of the 2008 Clipsal 500 V8 Supercar Event including price cap sales information.

The purpose of disclosure is for the Board to ensure ongoing ticketing services to patrons that have already purchased tickets to the 2009 Clipsal 500 V8 Supercar Event through BASS.

All other Principles continue to apply.

Conditions

This exemption is conditional on the Board ensuring the ongoing protection of personal information disclosed to its contracted ticketing service provider in line with the Information Privacy Principles.

Destruction or retention of personal information

Destruction or retention of the personal information must be undertaken in accordance with a disposal authority under the State Records Act 1997.

Expiry

This is a one off exemption for the transfer of the ticketing information to the contracted service provider, however a further exemption relating to this matter may be negotiated with the Privacy Committee if required.

(Original Signed)

Terry Ryan
Presiding Member
PRIVACY COMMITTEE OF SOUTH AUSTRALIA
28 September 2008

F Exemption Granted – BASS Patron Ticketing Information

Clause 4 of the Proclamation establishing the Privacy Committee provides that the Committee may exempt any person or body from one or more of the Information Privacy Principles (IPPs) on such conditions as the Committee sees fit. The following exemption from IPPs is granted.

This exemption applies to the Adelaide Festival Centre Trust (AFCT). It is an exemption from compliance with Principle 10, allowing BASS, a business unit within AFCT, to disclose personal information to the Flagship Arts Companies. The Flagship Arts Companies are:

- Adelaide Symphony Orchestra
- Adelaide Festival Centre Presents
- Australian Ballet
- Brink Productions
- State Opera of South Australia
- State Theatre Company
- Windmill Performing Arts.

The personal information to be disclosed is limited to the title, name, address, phone number(s), ticketing transaction history (specific to company receiving data) and email address of patrons of the Flagship Arts Companies.

The purpose of disclosure is to allow the Flagship Arts Companies to directly contact patrons who have purchased tickets to their performances.

All other Principles continue to apply.

Conditions

This exemption is conditional on BASS only disclosing patron information to a Flagship Arts Company that was collected in relation to a performance of that particular company. The exemption is also conditional on the Flagships Arts Companies providing patrons the option to opt-out of any further correspondence each time they contact patrons.

Prior to disclosing personal information under this exemption, BASS are to ensure that the Flagship Arts Companies receiving the information are subject to the Commonwealth Privacy Act 1988 or have an established privacy policy that will contribute to the ongoing protection of the information provided by BASS.

Destruction or retention of personal information

Destruction or retention of the personal information must be undertaken in accordance with a disposal authority under the State Records Act 1997.

Expiry

This is an exemption for the transfer of the ticketing information to the Flagship Arts Companies for the period up to the 31 August 2009.

(Original Signed)

Terry Ryan
Presiding Member
PRIVACY COMMITTEE OF SOUTH AUSTRALIA

11 December 2008

G Exemption Granted – DTEI Way2Go Program

Clause 4 of the Proclamation establishing the Privacy Committee of South Australia provides that the Committee may exempt any person or body from one or more of the Information Privacy Principles (IPPs) on such conditions as the Committee sees fit. The following exemption from the IPPs is granted.

This exemption applies to the Department of Education and Children's Services (DECS). It is an exemption from compliance with IPP 10, allowing DECS to disclose personal enrolment information to the Department for Transport, Energy and Infrastructure (DTEI) to the Way2Go Program.

The personal information to be disclosed is limited to: school name, enrolment, street name and number, for each student from participating schools. The information disclosed will not include the names of students.

The purpose of disclosure is to allow DTEI to use the enrolment information and Geospatial Information Systems (GIS) to create maps of student travel routes to support the development of travel plans for South Australian primary schools and the improvement of road safety engineering and infrastructure around primary schools.

All other Principles continue to apply.

Conditions

The exemption is restricted to information related to public primary school enrolments in South Australia.

Destruction or retention of personal information

Data disclosed to DTEI from DECS is to be destroyed or retained in accordance with an approved disposal authority under the State Records Act 1997. As duplicates of the official records held by DECS, the records collected by DTEI from DECS are to be destroyed following the creation of the associated GIS maps, in accordance with Normal Administrative Practice as described in Government Disposal Schedule 15, issued under the State Records Act 1997.

Expiry

DECS and the Privacy Committee will review this exemption one (1) year after its approval. An extension may be negotiated with the Privacy Committee if required.

(Original Signed)

Terry Ryan
Presiding Member
PRIVACY COMMITTEE OF SOUTH AUSTRALIA

21 January 2009

H Exemption Granted – SATC Travel Reservation Program

Clause 4 of the Proclamation establishing the Privacy Committee of South Australia provides that the Committee may exempt any person or body from one or more of the Information Privacy Principles (IPPs) on such conditions as the Committee sees fit. The following exemption from the IPPs is granted.

This exemption applies to the South Australian Tourism Commission (SATC). It is an exemption from compliance with Principle 10, allowing SATC to disclose personal information to its contracted service provider for the purposes of hosting the SA TC Travel Reservations System.

The personal information to be disclosed includes:

Customer data:

Name, phone number(s), email address, address, date of birth, airline and numbers of hotel membership programs, electronic links to their bookings and associated information including the names, date of birth, membership programs of other passengers traveling with the booking customer.

Booking details include the tourism suppliers booked, the duration travel/booking, the cost of the booking, the amounts paid and amounts owing.

Trade contacts:

Name, phone number(s), email address, address, position, company, electronic links to their bookings and associated information.

Supplier contacts:

Name, phone numbers(s), email address, address, position, company, electronic links to their bookings, payment method (Cheque or EFT), bank account details for EFT payments.

The purpose of disclosure is to allow the contracted service provider to host the Travel Reservations System on behalf of SA TC.

All other Principles continue to apply.

Conditions

This exemption is conditional on SA TC ensuring that the contract it holds with its service provider applies the model privacy clauses approved by the Privacy Committee.

Destruction or retention of personal information

Destruction or retention of the personal information must be undertaken in accordance with a disposal authority under the State Records Act 1997.

Expiry

This exemption will be reviewed by SATC and the Privacy Committee three (3) years following its approval unless required earlier. An extension may be negotiated with the Privacy Committee if required.

(Original Signed)

Terry Ryan
Presiding Member
PRIVACY COMMITTEE OF SOUTH AUSTRALIA

23 December 2008

I Exemption Granted – SA Data Linkage Project

Exemption 1 – Hospital Inpatients and Emergency Department Datasets

Clause 4 of the Proclamation establishing the Privacy Committee of South Australia provides that the Committee may exempt any person or body from one or more of the Information Privacy Principles (IPPs) on such conditions as the Committee sees fit. The following exemption from the IPPs is granted.

This exemption applies to the Department of Health (DH). It is an exemption from compliance with Principle 8, allowing DH to use personal information for a purpose that was not the purpose of the collection of that information.

The personal information to be used is from DH's public hospital inpatients morbidity dataset and the emergency department dataset and is limited to:

- Personal Information
 - ▶ Personal Identifier
 - ▶ Names -all names including nicknames, aliases and aka
 - ▶ Date of birth
 - ▶ Sex
 - ▶ Title
 - ▶ Aboriginality, Torres Strait Islander Indicator
 - ▶ Country of birth
 - ▶ Full address
- Event information
 - ▶ Dates of admission and discharge

The information is to be used for the creation of master linkage keys as part of the establishment of the SA NT Data Linkage System by the DH Data Linkage Unit.

All other Principles continue to apply

Conditions

The information is only to be used for the creation of master linkage keys in the establishment of the master linkage file as part of the SA NT Data Linkage System. The exemption is provided on the condition that the personal information is only to be accessed by officers of DH within the Data Linkage Unit.

DH remains responsible for the secure transfer and storage of personal information in line with the Information Privacy Principles.

Destruction or retention of personal information

Destruction or retention of the personal information must be undertaken in accordance with a disposal authority under the State Records Act 1997.

Expiry

This exemption will be reviewed by DH and the Privacy Committee three (3) years following its approval unless required earlier. An extension may be negotiated with the Privacy Committee if required.

(Original Signed)

Terry Ryan
Presiding Member
PRIVACY COMMITTEE OF SOUTH AUSTRALIA

20 January 2009

Exemption 2 - SA Cancer Registry

Clause 4 of the Proclamation establishing the Privacy Committee of South Australia provides that the Committee may exempt any person or body from one or more of the Information Privacy Principles (IPPs) on such conditions as the Committee sees fit. The following exemption from the IPPs is granted.

This exemption applies to the Department of Health (DH). It is an exemption from compliance with Principle 8, allowing DH to use personal information for a purpose that was not the purpose of the collection of that information.

The personal information to be used is from DH's South Australian Cancer Registry Dataset and is limited to:

- Personal Identifier
- Names – all names including nicknames, aliases and aka
- Date of birth
- Date of death
- Sex
- Title
- Aboriginality, Torres Strait Islander Indicator
- Country of birth
- Full address including geocodes if available
- Any of the above information provided for other family members and included in these records.

The information is to be used for the creation of master linkage keys as part of the establishment of the South Australian Northern Territory Data Linkage System (Data Linkage System) by the DH Data Linkage Unit.

All other Principles continue to apply.

Conditions

The information is only to be used for the creation of master linkage keys in the establishment of the master linkage file as part of the Data Linkage System. The exemption is provided on the condition that the personal information is only to be accessed by officers of DH within the Data Linkage Unit.

DH remains responsible for the secure transfer and storage of personal information in line with the Information Privacy Principles.

Destruction or retention of personal information

Destruction or retention of the personal information must be undertaken in accordance with a disposal authority under the *State Records Act 1997*.

Expiry

This exemption will be reviewed by DH and the Privacy Committee three (3) years following its approval unless required earlier. An extension may be negotiated with the Privacy Committee if required.

(Original Signed)

Terry Ryan
Presiding Member
PRIVACY COMMITTEE OF SOUTH AUSTRALIA

16 June 2009

J Exemption Granted – SATC Gift Voucher System

Clause 4 of the Proclamation establishing the Privacy Committee of South Australia provides that the Committee may exempt any person or body from one or more of the Information Privacy Principles (IPPs) on such conditions as the Committee sees fit. The following exemption is granted.

This exemption applies to the South Australian Tourism Commission (SATC). It is an exemption from compliance with Principle 10, allowing SATC to disclose personal information to its contracted service provider, Retail Decisions Pty Ltd, for the purposes of hosting the SATC Gift Voucher System.

The personal information to be disclosed includes:

- Customer data:
 - ▶ Name, phone number(s), email address and postal address.

The purpose of disclosure is to allow the contracted service provider, Retail Decisions Pty Ltd, to host the Gift Voucher System on behalf of SATC.

All other Principles continue to apply.

Conditions

This exemption is conditional on SATC ensuring that the contract it holds with its service provider applies the model privacy clauses approved by the Privacy Committee.

Destruction or retention of personal information

Destruction or retention of the personal information must be undertaken in accordance with a disposal authority under the *State Records Act 1997*.

Expiry

This exemption will be reviewed by SATC and the Privacy Committee three (3) years following its approval unless required earlier. An extension may be negotiated with the Privacy Committee if required.

(Original Signed)

Terry Ryan
Presiding Member
PRIVACY COMMITTEE OF SOUTH AUSTRALIA

26 February 2009

K Exemption Granted – Information Sharing Guidelines

In accordance with Clause 4 of the Proclamation dated 17 May 2001 under which the Privacy Committee was established, the Privacy Committee grants the following exemption from compliance with Information Privacy Principle (IPP) 10(b), issued under Cabinet Administrative Instruction 1/89 "The Information Privacy Principles".

This exemption applies to agencies that are required to observe the Information Sharing Guidelines for people who promote the safety and wellbeing of children, young people and their families (the Guidelines).

IPP 10(b) provides that an agency should not disclose personal information about some other person to a third person unless 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 some other person (our emphasis).

This exemption authorises the disclosure of personal information without the consent of the record subject where the person disclosing the personal information does not have or has no reasonable grounds to believe that a threat to the life or health of a person who is under 18 years of age is imminent, insofar as the word "imminent" is generally understood to mean "immediate".

The effect of the variation is to remove the words "and imminent" from IPP 10(b).

In all other respects the requirements of the IPPs continue to apply and must be observed. In particular, the person making the disclosure must believe on reasonable grounds that the threat is "serious", as required by IPP 10(b), according to the ordinary meaning of that word and in the context of the any particular special needs or vulnerabilities of the juvenile record subject.

To avoid doubt, this exemption does not apply to personal information that is required or permitted to be disclosed by law; or for which the law prohibits disclosure

Compliance

The Chief Executives of agencies required to observe the Guidelines must ensure compliance with this exemption.

Further Conditions

This exemption is also conditional on Chief Executives ensuring the proper implementation of the Guidelines within agencies, particularly:

- the recording of decisions where personal information was disclosed without consent;
- the introduction of staff / volunteer induction on the application of the Guidelines;
- the adoption of appropriate protocols for gaining consent from clients for disclosing personal information.

The Office of the Guardian is responsible for reporting to the Privacy Committee on the implementation of the Guidelines within twelve (12) months of the approval of this exemption.

Expiry

This exemption will be reviewed by the Office of the Guardian and the Privacy Committee two (2) years after its approval. An extension may be negotiated with the Privacy Committee if required.

(Original Signed)

Terry Ryan
Presiding Member
PRIVACY COMMITTEE OF SOUTH AUSTRALIA

L Exemption Granted – SA Water Concession Scheme

In accordance with Clause 4 of the Privacy Committee's Proclamation the following exemption from *Cabinet Administrative Instruction 1/89 "The Information Privacy Principles"* (the IPPs) is granted.

This exemption applies to SA Water. It is an exemption from compliance with Principle 10, allowing disclosure of personal information to the Department of Families and Communities (DFC). Specifically it allows SA Water to provide DFC officers with access to its Customer Service Information System (CSIS). This includes full access to the account information of SA Water's customers.

The purpose of disclosure is to allow DFC to efficiently administer a concession function in relation to water remissions for low or fixed income holders.

DFC require access to details of:

- SA Water customers currently receiving a concession;
- customers who have previously received a concession; and
- water supply and water usage charges applying to properties, occupied by those receiving or applying for a concession.

The details are required for processing and managing applications for concession, resolving customer enquiries and for audit and compliance purposes.

This exemption only applies to the disclosure of personal information required for, or relevant to, processing a current remission application.

All other Principles continue to apply.

Destruction or retention of personal information

Destruction or retention of the personal information must be undertaken in accordance with a disposal authority under the *State Records Act 1997*.

Expiry

This exemption will be reviewed by SA Water and the Privacy Committee three (3) years following its approval. An extension may be negotiated with the Privacy Committee if required.

(Original Signed)

Terry Ryan
Presiding Member
PRIVACY COMMITTEE OF SOUTH AUSTRALIA

7 October 2008

M Reporting – Fines Payment Unit Data Matching

- The Fines Payment Unit (FPU) has not received any complaints regarding the data-matching system.
- Approximately 22,000 client details have been forwarded to SAPOL from July 2006 to April 2009 where 300 have returned as matches.
- 52 of the 300 matched clients contacted the FPU within 60 days of the letters being processed.