

NSW Right to Information/ Privacy Practitioners Network

Minutes of meeting held 8 June 2016
Theatrette, Parliament House, Macquarie Street, Sydney

Item 1: Marianne opened the meeting, paid respect to the traditional owners of the land and welcomed everyone.

Apologies received from: Elizabeth Tydd – Information Commissioner, Megan Grainger (resigned as Chair of Network on 9 May 2016), Helen Juillerat, Miriam Dayhew, Greg Jackson, Cate Creswick, James Taylor, Sue Stewart and Lauren Schneider.

Marianne Thanked Lauren Schneider for her offer to assist with the website and for her tremendous support and assistance which has helped to get a number of things updated already. Members were invited to provide feedback on any updates required on the website and were also thanked for their support for the Chair.

Item 2: The Minutes of the previous meeting were circulated and also placed on the website for members to access. An update on the actions from the last meeting was given, as follows:

Action 1: Chair (Megan) to place minutes on website or provide details for the Deputy Chair to access and amend the website. **Actioned and closed**

Action 2: Chair to send email requesting all practitioners forward current tools and systems they use to estimate processing time, charges and refusal on grounds of it being an unreasonable diversion of resources. **Actioned and closed**

Action 3: Megan Carter (consultant) to present at the next network meeting on how she teaches and assists agencies to prove an unreasonable diversion of resources as well as the calculating of time to process and processing charges. **Actioned and closed**

Action 4: Chair to send email to all practitioners with details of the Consultative Committee – what it does, how often it meets, who is currently a member and what positions are available. Also request nominations. **Actioned and closed**

Action 5: All practitioners to forward any further comments in respect of 3rd party objectors directly to the IPC or to the Chair of the network. **Actioned and closed**

Item 3: Election of Chair of the network was conducted. The only nomination was for Marianne Moore. She was unanimously elected and accepted the role.

Nominations were called for Deputy Chair. No nominations were received.

Item 4: The following nominations for membership of Consultative Group were received:

Helen Juillerat – Cancer Institute
Peter Brandt – Fire and Rescue

Peter Spolc – Western Sydney University
Lilli Tzinberg – Service NSW
Sue Stewart – State Insurance Regulation Authority and Safework NSW
Tanya O’Dea – Transport NSW
Toni Spence – Wollondilly Council
Sonya Stewart – Shellharbour City Council

James Taylor – Gosford Council – withdrew his nomination (as plenty of representation for local councils).

Again it was pointed out that if someone wanted to take up the Deputy Chair of the Network position, they would attend the Consultative Group meeting as ex officio.

It was decided to accept and appoint all nominees, as there are always apologies and therefore, there would not be a total of eight people available to attend. Toni and Sonya (both representing Councils) could take turns at attending.

Action 1: Chair to include the result of the election, on the website. This is to include the name and email address of each member of the Consultative Group. The Group to be provided with the dates of meetings for 2016.

Item 5: Lilli Tzinberg reported on the meeting with the Information Commissioner that the Consultative Committee nominated members (Peter Brandt, Sonya Stewart, Lilli Tzinberg and Marianne Moore attended) on 11 May 2016.

Third party consultation – Cathy McInnes held a workshop at the last meeting of the Network and gathered feedback. There is a rich source of information from within the Network and they appreciate our participation. Guidance will include details of various agencies.

Next Steps – Cathy is analysing the legislation, other information (including that from other jurisdictions) and feedback. Consultation will occur with the Network – maybe before the next meeting in June.

GIPA Tool – An information session to be held at the June meeting to show the end to end review. Information collected from practitioners who attended their information sessions has been included in a fact sheet, which will be circulated for comments soon.

Statutory review of the GIPA Act – commenced in 2014 and the IPC has raised new issues.

Risk based regulatory approach – outline compliance, design products and conducting forums is the new way the IPC aim to do business and assist agencies. For example, the University about contracts, which may lead to a sector wide tool.

The IPC have worked on their backlog and it has been eradicated – timeliness to respond is now on average 2.5 months.

Other news from Commissioner – Elizabeth has been appointed as the Open Data Advocate. Open government Federal Action Plan – the IPC contributed to the plan. Enable a baseline of how citizens are applying their rights to information. Five measures put forward to count how this may be calculated.

Trends on IPC reviews – 280-300 reviews as well as 50-60 complaints each year. Provide recommendations, not issues. The IPC wants to provide guidance on issues. The Section 37 report identified third party consultation, CCTV concerns and deemed refusals as issues affecting most agencies. The IPC wants to increase communications and workshops to engage with the practitioners.

QON – NCAT accepting applications where it lacks jurisdiction, such as Informal applications and section 120 complaints. The registry will not dismiss an application, as a member needs to make the decision. Magistrate Hennessy, during a recent conversation with the IPC, stated that the way to triage an application is during the case conference or mediation.

IPC guidance on Offence Provisions under sections 116-120 are being drafted and consultation will take place prior to them being implemented.

The IPC is communicating via:

- Bulletins
- Case notes
- Tool coming up – engagement, quick poll, survey using Engagement HQ.

Informal release of information – complaints to the IPC are not always associated with advice that can be escalated to formal applications. How practitioners can serve applicants better, is the result from the IPC when looking into these complaints.

Proactive release – most impressive week as proactive Councils provided details of both informal and proactive release. A Fact sheet is being drafted on how to promote this. Where the information is placed on the Disclosure Log, consider proactive release as well.

Item 5: Sonya Stewart reported on the meeting with the Privacy Commissioner that the Consultative Committee nominated members (Sonya Stewart, Lilli Tzinberg and Marianne Moore attended) on 11 May 2016.

Privacy Awareness Week during the month of May – Justice Kirby's address is available on the website and will soon also be in video format, as the written speech is slightly different to his actual words and mannerism when he delivered it.

Section 19.2 of PPIPA – views from practitioners on their guidance is requested. How helpful is this for agencies? Cover sheet and checklist. The PC will mention this at the June Meeting and we would like a presentation at the meeting in August.

Statutory Guidelines under section 27B of the PPIPA – will be going out for consultation also and the same with identifiability document.

Department of Finance, Services and Industry are providing funding for the PC to provide assistance and documentation on de-identification and re-identification of information proactively released. – Concerns from agencies about requests from the Data Analytics Centre (DAC) that personal information is excluded. DAC Act does not override PPIPA.

NCAT – mediation resolves the issues in many instances. The PC will contact the agency at times when this occurs, to prevent an increase in workload (preparing submissions). Sean and Liz met with Hennessy to discuss communications and update the commissioner. Website is not user friendly. Need to file in paper, as electronic has not been recognised.

Issues raised around the table from practitioners:

- Cloud based information management and sharing with other agencies, including PSC reporting for workforce Planning, GovConnect and other HR Providers
- Personal information being accessed and used across agencies (within a cluster) for a purpose other than what the information was collected for
- Amalgamations of Councils has been an interest of the Commissioner, as it causes some angst about how privacy will be handled
- NBN Practice has been released which may assist Councils and some agencies

News from Commissioner - 30 minutes in August – workshop on privacy guidelines, backlog created by move is all gone. Mix of internal reviews and complaints about privacy has increased by 100% - confirmed by NCAT.

Contact details of Privacy Commissioner to be put on network website.

Action 2: Consultative Committee to ask IC what tools are likely to be provided to assist agencies with the contract provisions of the GIPA Act.

Action 3: Consultative Committee to ask IC if agencies can be provided with the scope of the review application, so that responses can be better directed.

Action 4: Chair to provide link to the GIPA Act Review submissions webpage, when distributing the minutes.

Action 5: Chair to ask Department of Justice to speak at the August meeting about the GIPA Act review.

Item 6: Megan Carter – Director of Information Consultants Pty Ltd, provided an interactive session on estimating processing time, charges and requesting an advance deposit. Megan also showed various tools to assist us in assessing when an application is likely to be refused on grounds of an unreasonable diversion of resources.

The tools and presentation by Megan Carter will be placed on the website together with the minutes of the meeting.

Megan Carter has some training in July 2016 – see website for details.

Item 7: Please note the Google Group set up by Megan Grainger is no longer being maintained or used. Please refer to the website instead:

<https://sites.google.com/site/nswfoiprivacypractitioners/>

The list of names on the Google Doc Group was only 93, there is now a consolidated list of over 400 people. Please let anyone know that may be interested in the network to go to the website and send their email address to Marianne Moore.

Marianne.moore@environment.nsw.gov.au

Everyone was asked to check the email address currently on the list (displayed on the table in the foyer) for accuracy, or if not receiving emails about the agenda and minutes to add their email address to the list.

A reminder was provided to all to respond to the emails sent recently:

- a) Email from Sue Stewart – organisational structures
- b) IPC – feedback on various things

Future agenda items for August will include:

- a 30 minute workshop by Anna Johnston from Salinger Privacy on big data, data analytics and research topics
- Privacy Commissioner's presentation on their new guidelines
- Hopefully an update on the review of the GIPA Act

After morning tea, the meeting reconvened.

Item 8: Peter and David from the Information Commissioner's Office gave a presentation on the GIPA Tool, what has been changed, how they are listening to practitioners and what is likely to come in the future.

A question from the floor, asked where the data was held and how secure it was? The response was that data is encrypted and held/stored in two places, currently Japan and the US.

Item 9: Dr Elizabeth Coombs, Privacy Commissioner, provided an update. The Chair will ask for a copy of the presentation to be provided with the minutes on the website.

Item 10: An update on privacy cases was provided by Anna Johnston, Salinger Privacy. Also advised the network that IAPPANZ is planning on having two ½ day workshops as part of their seminar in November. A number of topics have been considered and members of the network indicated their interest in each of these.

Here are the case citations:

ALZ v Lismore City Council [2016] NSWCATAD 20

BMV v Department of Family and Community Services [2016] NSWCATAD 24

CFA v Department of Family and Community Services

BVU v Commissioner of Police, NSW Police Force [2016] NSWCATAD 75

Item 11: An update on GIPA cases was provided by Sarah Johnson from the Crown Solicitors Office. Chair to ask for a copy of the paper and citations for inclusion with the minutes of the meeting.

There were no further questions from the floor and meeting closed at 12:35.
Next meeting to be held on 31 August 2016.