

2018

LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY

AUSTRALIAN GOVERNMENT  
OFFICE OF THE AUSTRALIAN INFORMATION COMMISSIONER  
MOU WITH THE AUSTRALIAN CAPITAL TERRITORY FOR THE PROVISION OF PRIVACY SERVICES  
2017-18 ANNUAL REPORT

Presented by  
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Attorney-General

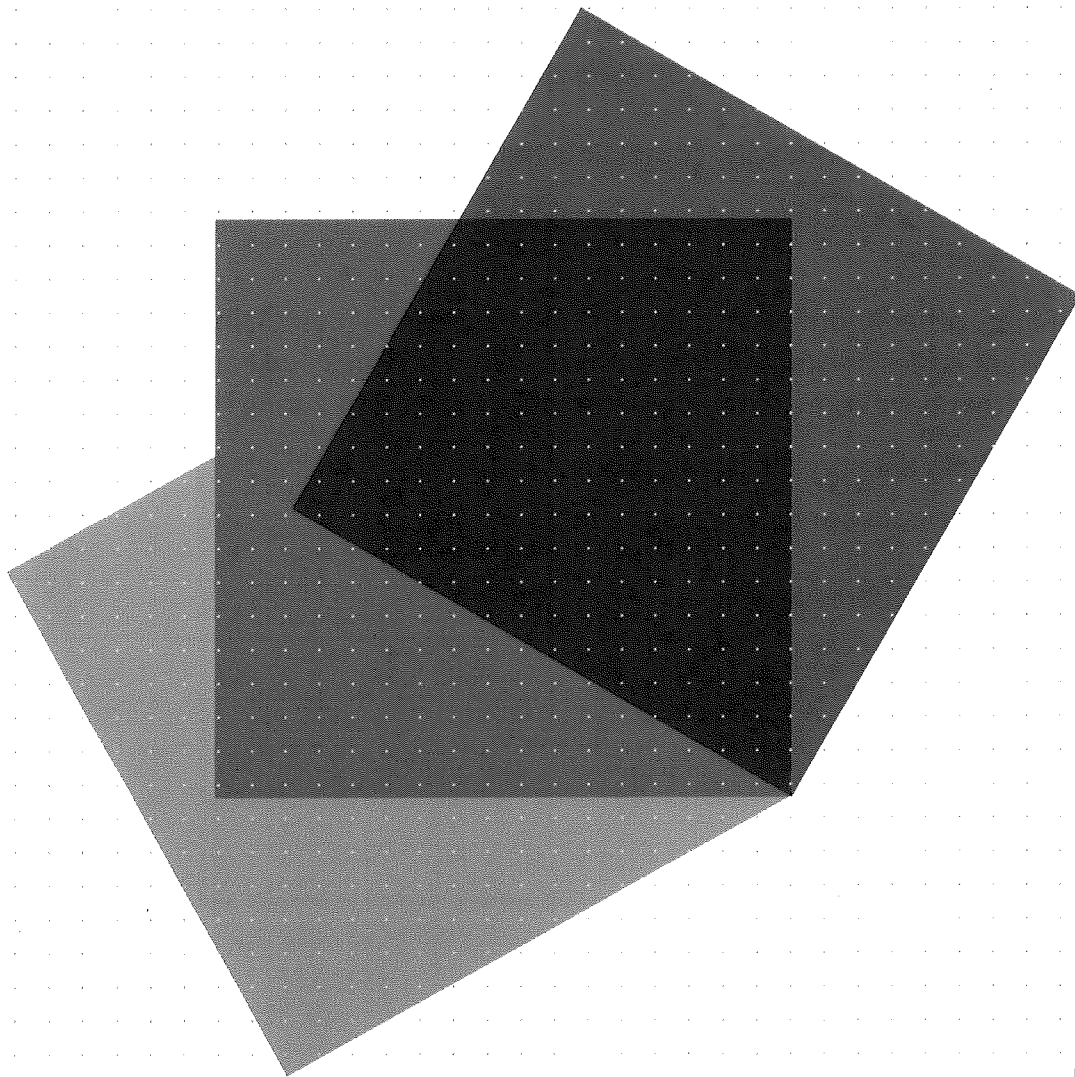


**Australian Government**  
**Office of the Australian  
Information Commissioner**

# MOU with the Australian Capital Territory for the provision of privacy services

2017–18 Annual Report

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**OAIC**

## Introduction

This report is made pursuant to the reporting requirements set out in section 7.3 of the 2017–18 Memorandum of Understanding (MOU) between the Australian Capital Territory (ACT) and the Office of the Australian Information Commissioner (OAIC), for the provision of privacy services related to the *Information Privacy Act 2014* (ACT) (Information Privacy Act).

This report is for the period 1 July 2017 to 30 June 2018.

From 1 September 2014, the Information Privacy Act superseded the *Privacy Act 1988* (Cth) (Privacy Act) in relation to the general privacy regulatory regime in relation to ACT public sector agencies. The Information Privacy Act contains the Territory Privacy Principles (TPPs) which ACT public sector agencies must comply with in relation to the collection and handling of personal information (other than personal health information).

The numbered headings below correspond to the reporting requirements set out in the MOU.

### 7.3 (1) Number of complaints, assessments, written and telephone enquiries

Number of	Total
(a) Complaints open as at 30 June 2017	9
(b) Complaints received in 2017–18	11
(c) Complaints closed in 2017–18	17
(d) Complaints open as at 30 June 2018	4
(e) Complaints that resulted in a report to the Minister under section 43 of the Information Privacy Act	0
(f) Complaints about which the Commissioner has given a notice under section 45 of the Information Privacy Act	0
(g) Assessments finalised	1
(h) Written and telephone enquiries about ACT public sector agencies, including a summary of issues raised (see below).	23

- An individual stated an ACT agency disclosed a number of individuals' contact information. The individual was advised to make their enquiry by email.
- An individual called in relation to an ACT agency disclosing personal information. They were advised on TPP 6 and the OAIC's complaints process.
- An individual called regarding updating details on the individual's working with vulnerable people card. They were referred to the ACT Government, and advised they can complain to the OAIC if not satisfied with the response.
- A charity asked whether it needed to comply with the Information Privacy Act and TPPs if funded by the ACT Government. The charity was given general information and advised to seek legal advice.
- An individual stated an ACT agency had disclosed a number of individuals' personal information. They were provided with advice regarding TPP 11 and the OAIC's privacy complaints process.
- An individual asked about completing the OAIC's speech request form. They were provided information on how to request OAIC staff to speak at an event.

### Written enquiries

Four written enquiries were received during this reporting period. Below is a summary of the main issues raised:

- An individual emailed the OAIC regarding an ACT agency. The issue was not within the OAIC's jurisdiction and the individual was referred to the ACT Human Rights Commission.
- The OAIC received a misdirected copy of an email to another entity.
- An individual asked about surveillance laws in the ACT. The individual was given general information and referred to the ACT Government.
- An individual asked for links to the work the OAIC does under the Information Privacy Act. The individual was directed to the OAIC's annual report and to the ACT Government.

## 7.3 (2) For each complaint received in 2017–18, a summary of issues raised and outcomes.

Information about complaints that were received in the reporting period but have not yet been finalised is provided under heading 7.3 (4) below.

### Respondent: ACT Health (CP17/01923)

**Details:** The complaint was received on 5 September 2017 and closed on 19 October 2017. The complainant alleged that the respondent inaccurately recorded health information about them.

The information complained about was personal health information. Section 8(1)(b) of the Information Privacy Act excludes personal health information from the definition of personal information and the scope of the Information Privacy Act. Personal health information is instead covered by the *Health Records (Privacy and Access) Act 1997* (ACT) and regulated by the ACT Health Services Commissioner (within the ACT Human Rights Commission).

**Respondent: Transport Canberra and City Services Directorate (CP17/02578)**

**Details:** The complaint was received on 17 November 2017 and closed on 7 December 2017. The complainant alleged that the respondent improperly disclosed their email address to an email list.

The complaint was closed under s 41(1A) of the Privacy Act, on the basis that the complaint was withdrawn by the complainant.

**Respondent: Transport Canberra and City Services Directorate (CP17/02569)**

**Details:** The complaint was received on 17 November 2017 and closed on 2 March 2018. The complainant alleged that the respondent improperly disclosed their email address to an email list.

In this instance, the complainant was not reasonably identifiable from the email address and it could not be said to be the complainant's personal information. In addition, the respondent took a number of steps following the incident, such as recalling the email shortly after it was sent and apologising for the human error resulting in the disclosure.

The complaint was closed under sections 39(a) and 39(g)(i) of the Information Privacy Act, on the basis that there had not been an interference with the complainant's privacy in this instance and that the matter had been adequately dealt with.

**Respondent: Transport Canberra and City Services Directorate (CP17/02572)**

**Details:** The complaint was received on 18 November 2017 and closed on 7 December 2017. The complainant alleged that the respondent improperly disclosed their email address to an email list.

The complaint was closed under s 41(1A) of the Privacy Act, on the basis that the complaint was withdrawn by the complainant.

## **7.3 (3) For each finalised assessment, a summary of the outcome**

### **Assessments finalised in the reporting period**

#### **Access Canberra**

The assessment examined whether Access Canberra is:

- Managing personal information in an open and transparent manner as required by TPP 1.
- Notifying individuals of the collection of personal information in accordance with its TPP 5 obligations.

The scope of the assessment focused on how Access Canberra maintains and handles personal information related to transactions that involve vehicle registrations and applications for working with vulnerable people.

**Respondent: ACT Corrective Services (CP18/01284)**

**Details:** The complaint was received on 1 May 2018. The complainant alleges that the respondent disclosed their personal information to a third party, and also seeks access to the personal information disclosed to the third party.

This complaint is currently active.

**Respondent: University of Canberra (CP18/01726)**

**Details:** The complaint was received on 20 June 2018. The complainant alleges that the respondent failed to provide access to the complainant's personal information in response to the complainant's request for access.

This complaint is currently active.

## **7.3 (5) Details of formal reports and recommendations made to ACT public sector agencies**

No formal reports or recommendations other than in relation to the above assessment was provided during the period.

## **7.3 (6) Any other information about the management of complaints or significant issues, including an analysis of systemic issues and common themes that have come to the Commissioner's attention during the year**

### **Voluntary data breach notifications**

An agreed service includes that where ACT public sector agencies notify the OAIC of a data breach, the OAIC will register the notification and provide further advice to the agency.

The OAIC receives data breach notifications from ACT public sector agencies on a voluntary basis.<sup>1</sup> In response to a voluntary data breach notification by an ACT public sector agency, the OAIC seeks to confirm that the data breach has been contained, and that the ACT public sector agency has taken reasonable steps to prevent reoccurrence of the data breach. The OAIC further assists agencies by providing links to our guidance on personal information security and data breach response preparation.

The OAIC received ten data breach notifications from ACT public sector agencies in 2017-18. In all instances, the agency reported that the data breach was caused by human error.

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<sup>1</sup> From 22 February 2018, data breaches involving tax file number information may be notifiable by ACT public sector agencies under the mandatory Notifiable Data Breaches scheme found in Part IIIC of the Privacy Act 1988 (Cth). No such notifications were made in the period.

## Acronyms and abbreviations

ACT	Australian Capital Territory
Cth	Commonwealth
FOI	Freedom of Information
Information Privacy Act	<i>Information Privacy Act 2014</i> (ACT)
MOU	Memorandum of Understanding
NDB	Notifiable Data Breaches (under the Cth scheme)
OAIC	Office of the Australian Information Commissioner
Privacy Act	<i>Privacy Act 1988</i> (Cth)
TPPs	Territory Privacy Principles <sup>3</sup>

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<sup>3</sup> Schedule 1 of the Information Privacy Act