OVIC

Office of the Victorian Information Commissioner

Graduate Recruit Induction
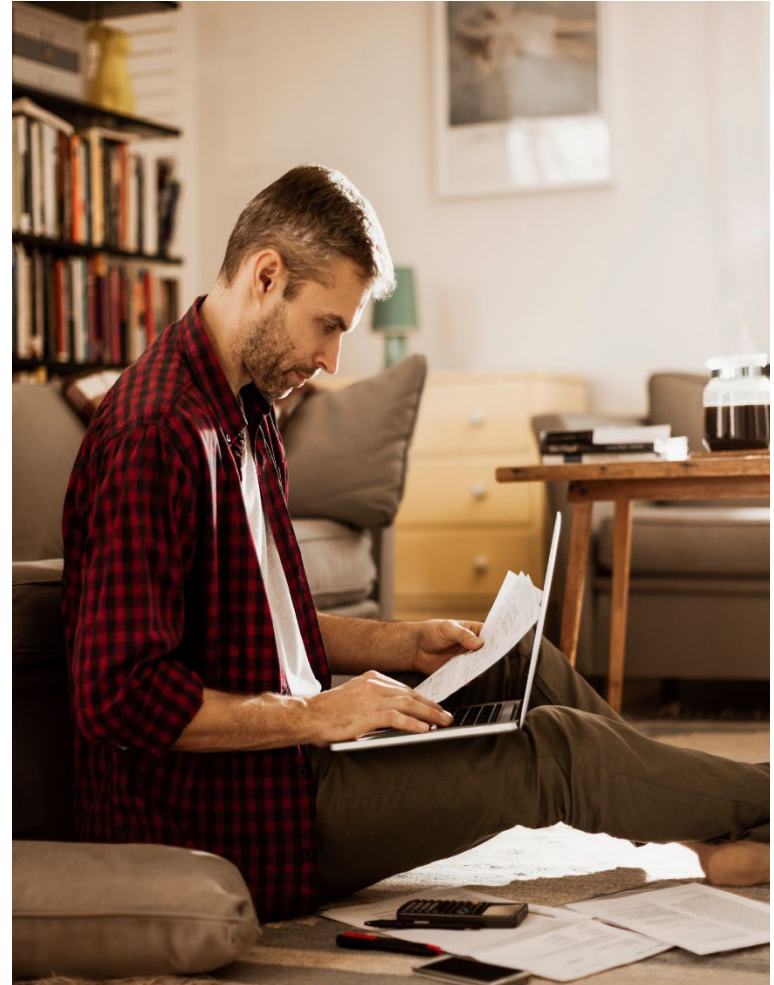
16 July 2019

OVIC
Freedom of Information, Information security and Privacy

Sven Bluemmel

Victorian Information Commissioner

Overview

- Who we are
- What we do
  - **Freedom of Information**
  - **Data Protection**
  - **Privacy**
- Information and data rights in the digital age

Who we are

Purpose for establishment

"The creation of this new office will provide more proactive and integrated FOI, privacy and data protection leadership in Victoria, particularly by driving the cultural shifts necessary to improve the way government manages and provides access to information."

Second reading speech of the
*Freedom of Information Amendment
(Office of the Victorian Information Commissioner) Act* 2017

OVIC
**Office of the Victorian
Information Commissioner**

Who we are

Information Commissioner
- Privacy and Data Protection Deputy Commissioner
  - Information Privacy
  - Information Security
- Public Access Deputy Commissioner
  - Freedom of Information
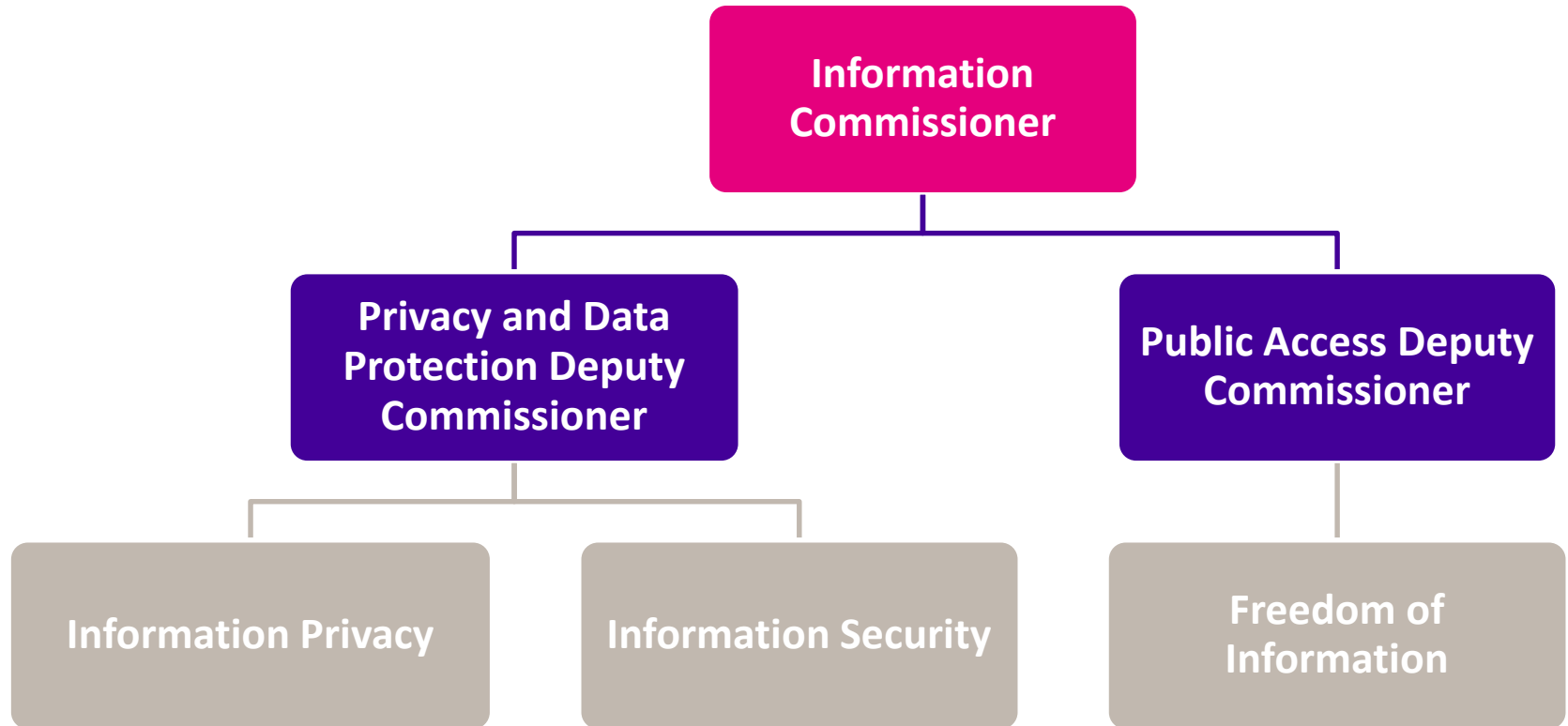
We support Victorians by

Overseeing access
to government
information

Protecting
information privacy
rights

Advising on
lawful information
sharing

Promoting effective
information
security

Why is this important?

- Information rights allow individuals to participate in society

- Information sharing helps government:

  - make informed decisions,

  - provide better services, and

  - develop better policies.

OVIC
Office of the Victorian
Information Commissioner

OVIC

Freedom of Information

Bruce Rego

Acting Principal Case Manager

**Graduate Recruit Induction**

16 July 2019

The origins of FOI

What is FOI?

- Freedom of Information – a mechanism by which anyone can request access to documents held by public authorities

Why is the concept of FOI important?

- Cornerstone of democracy

- Promotes good government

- Greater transparency and scrutiny of government decision-making

OVIC

**Office of the Victorian
Information Commissioner**
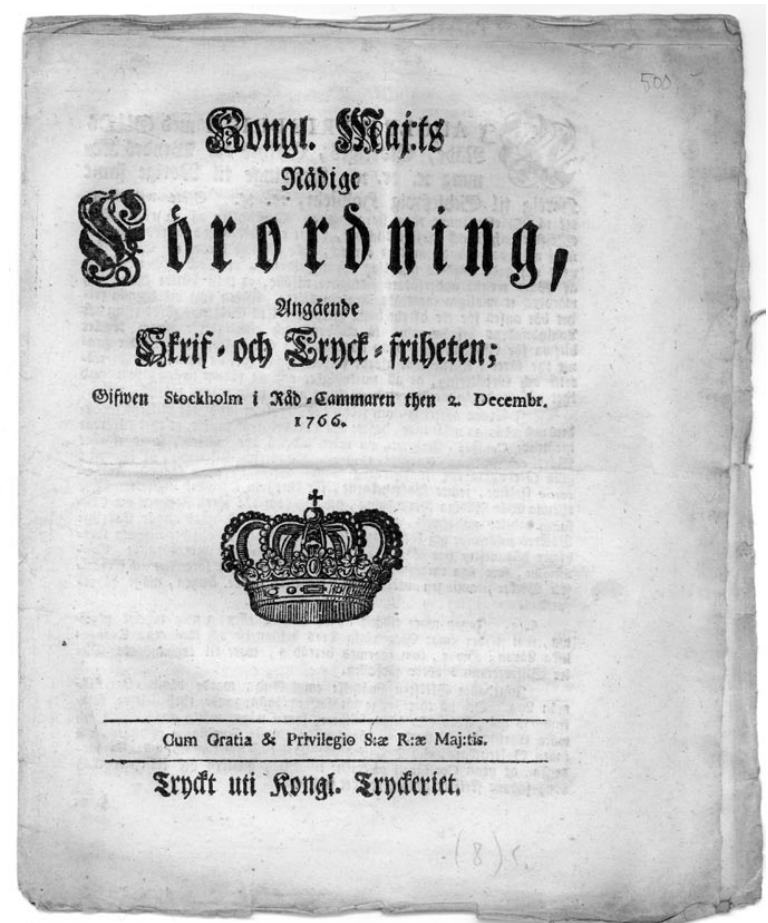
FOI today

Australia

Freedom of Information Act 1982 (Cth)

- Victoria followed six months later
- All states and territories now have FOI laws in operation

Rest of world

- Over 100 countries in the world now have FOI legislation

FOI in the media

FoI ruling could be landmark case

Friday, 30 March 2018 - Transport

by **Adrian Darbyshire** - Reporter

adrian.darbyshire@iomtoday.co.uk

A landmark ruling by the Information Commissioner could force governme departments to reveal how public mc spent.

The Department of Infrastructure refus disclose how much its transport servic division had spent buying new buses, insisting the details and costings were commercially sensitive.

STATE POLITICS

Victoria's Freedom of Information gaps exposed

Victoria Police rejects FOI requests for information about car crash involving Premier's wife

PREMIER Daniel Andrews has denied he interfered to stop the release of documents detailing an investigation into a ...s rejected.

2018 is make or break for FOI in Australia

Alison Sandy
7News / January 11th, 2017

[f SHARE] [tweet] [email] [•••]

Significant changes and landmark decisions from last year need to be realised so time, money and government resources aren't needlessly wasted, writes Alison Sandy.

Downer's role in the FBI's Russia hacking probe to remain secret

OVIC
Office of the Victorian Information Commissioner

FOI in Victoria

- ***Freedom of Information Act 1982*** **(Vic)**

  - first state in Australia;

  - general right to request access to documents held by agencies and Ministers;

  - introduced as part of a suite of administrative law reforms aimed at promoting government accountability and improved decision making.

Role of OVIC – Public Access Team

Victorian Information Commissioner

- Conduct reviews of FOI decisions

- Complaints about the administration of the FOI Act

- Independent umpire

- Educate and promote better decision making

- Report to Parliament on operation of FOI Act

OVIC
Office of the Victorian
Information Commissioner

Object of the FOI Act – section 3(1)

- To extend as far as possible the right of the community to access information in documents held by government agencies

- To ensure that rules and practices affecting members of the public are readily available

- The Act is to be interpreted (and also administered) to facilitate and promote prompt disclosure of information at the lowest reasonable cost

OVIC
Office of the Victorian
Information Commissioner

Freedom of Information | Privacy | Data Protection

Release outside the FOI Act

- Agencies can make arrangements with an applicant to provide information or documents without the requirement for a formal FOI request.

- Examples include information –

  - relating only to an applicant;

  - previously given by or sent to an applicant; or

  - that may have been previously released to another applicant.

The FOI Act: a deeper look

Processing a request

OVIC
Office of the Victorian Information Commissioner

Who is subject to the FOI Act?

- **Who's covered –**

  - government departments and statutory agencies

  - government schools, universities and TAFEs

  - public hospitals

 - local councils

  - Ministerial offices

What documents are not covered?

- **What's excluded**
  - Documents available for purchase
  - Documents available for inspection
  - Documents relating to the judicial function of Courts
  - OVIC documents relating to reviews, complaints and investigations
  - Other legislative instruments have specific provisions that prevent certain documents from being subject to FOI, including the IBAC Act, and Ombudsman Act
  - And more – this list is non-exhaustive!

OVIC
Office of the Victorian
Information Commissioner

What is a document

A document is defined in s.5 of the FOI Act and can be:

- Case notes

- Screen dumps

- Audio and video

- Post-it notes

- Emails
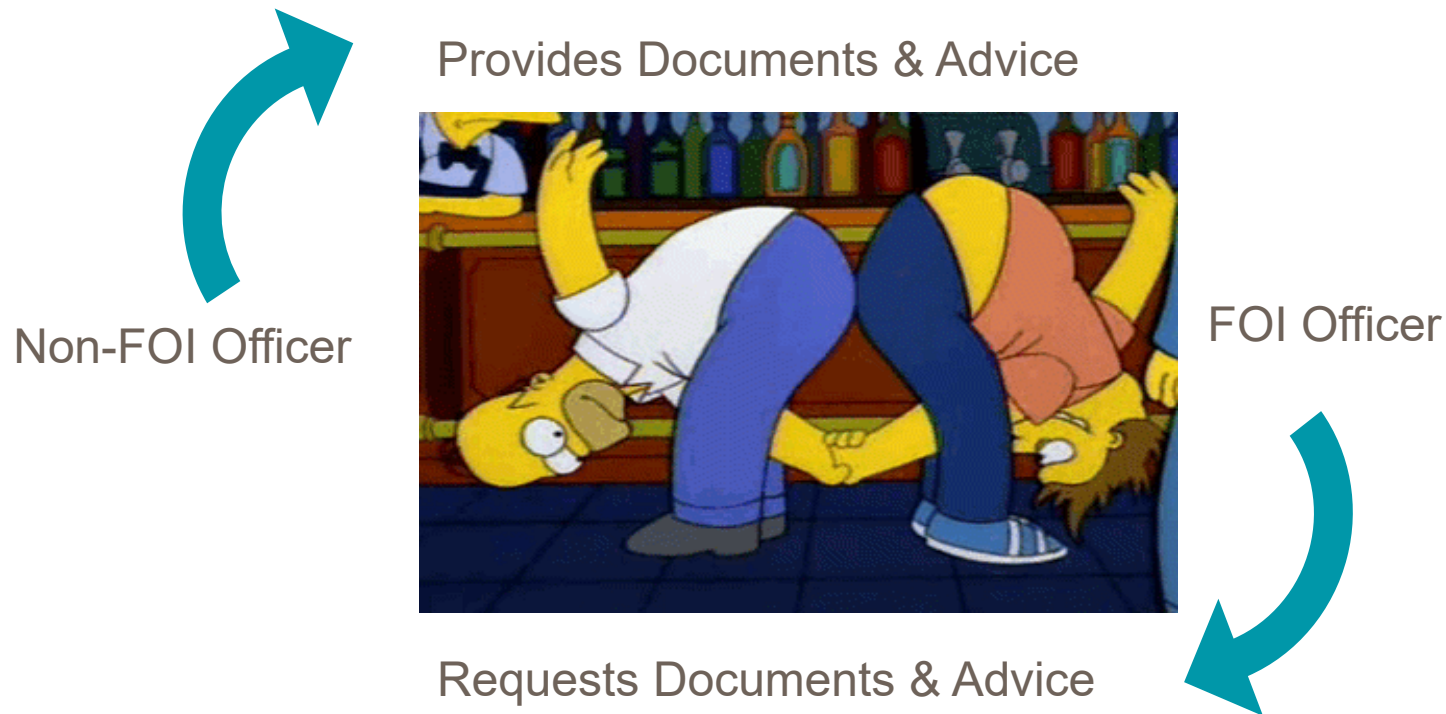
- Photos

- And more!
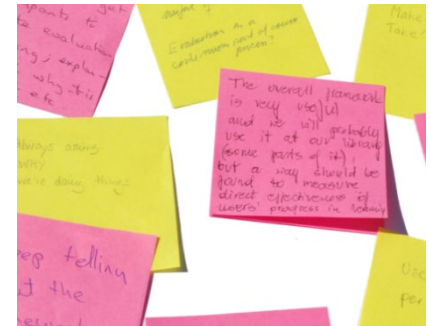
Applying for access

A request is only valid if:

1. It is in writing; and

2. It is accompanied by the application fee; and

3. It is clear –provides enough information that an officer of the Agency can identify what is being sought.

Agencies have an obligation to assist applicants make valid requests

What happens when an FOI request is received?

Provides Documents & Advice

Non-FOI Officer

FOI Officer

Requests Documents & Advice

OVIC
Office of the Victorian
Information Commissioner

Freedom of Information | Privacy | Data Protection

Third party consultations

- Some exemptions include third party consultation and notification requirements

- Under most exemptions, if it is practicable to do so, agencies must –

  - notify relevant third party that request received; and

  - seek third party's views on disclosure of document or information

- If consultation is required, the agency may extend the time by an extra 15 days

Assessment: Refusing requests and exemptions

Practical refusals

Agencies may refuse to process a request if:

- Processing would substantially and unreasonably divert resources

- All documents are obviously exempt on the face of the request in full

Exemptions

- Set out in sections 28 – 38A of the Act; some examples include:

    - Section 33 – Personal affairs information

    - Section 35 – Confidential information

    - Section 30 – Internal working documents

Record keeping

Reminders:

- Legislative requirements under the Public Records Act.

- Your documents are to be:

  - Accurate and complete;

  - Neat and tidy;

  - Objective vs subjective record keeping;

  - Storage of records; and

  - Appropriate destruction of documents.

Challenges for FOI

Current challenges include:

- Technology

- Volume of FOI requests – continues to steadily increase

- Records management

- Outsourcing of government activities

Summary

Take home message

- Agencies should always consider other ways of releasing information before referring the public to FOI.

- Ensure your own record keeping is up to date, objective and meets the standards set out by the Keeper of Public Records.

- Reach out to OVIC for assistance with any queries you have!

OVIC
Office of the Victorian
Information Commissioner

Questions?

OVIC

Information Security

OVIC

Office of the Victorian Information Commissioner

Graduate Recruit Induction

16 July 2019

Brett Duke
Senior Business Engagement Officer

James Dougan

Policy Officer

Today's agenda

1   OVIC and information security

2   Information security

3   Physical security

4   Personnel security

5   ICT security

6   Questions

1

OVIC and information security

OVIC
Office of the Victorian
Information Commissioner

Getting in touch

https://www.ovic.vic.gov.au/

security@ovic.vic.gov.au

1300 006 842

VPDSF - an overview

Pyramid levels from top to bottom:
- PDP Act 2014
- Principles
- Policy
- Standards
- Security guides
- Agency specific policies and procedures

Assurance (on all three sides of the pyramid)
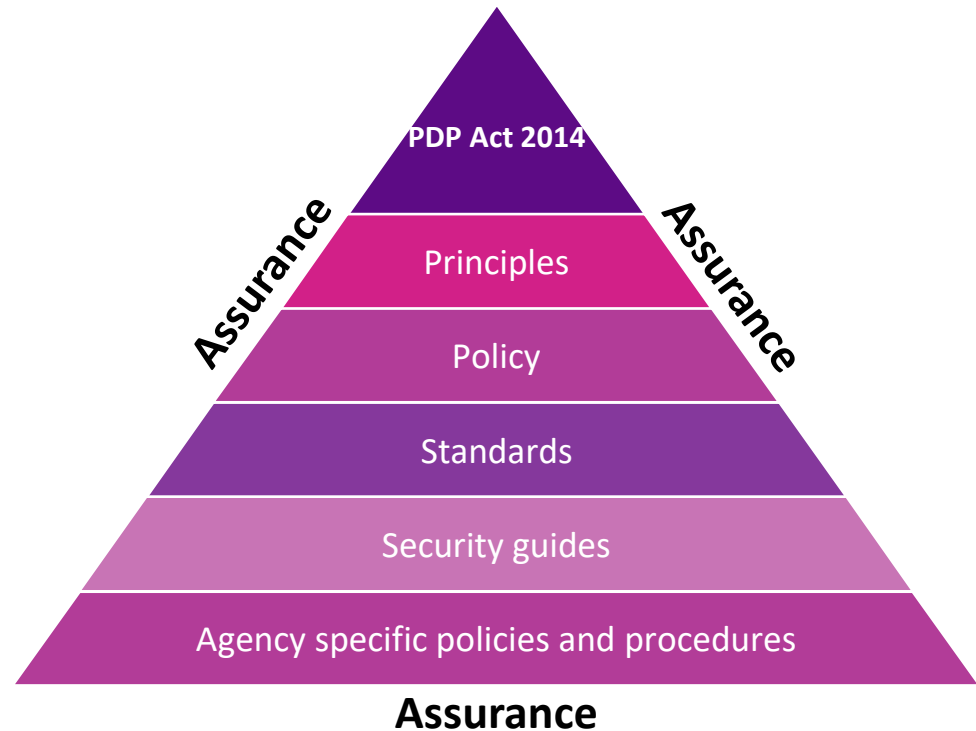
What does this mean for you?

A position of privilege

Good information security
=
good information management

Manage risks across the information lifecycle

Minimising risks to your organisation and the information you work with

Understanding the value of information

C

Confidentiality

Right people

I

Integrity

Right information

A

Availability

Right time

Security domains

There are four domains of protective data security

Information Security

Personnel Security

Physical Security

ICT Security

2

Information security

OVIC

Office of the Victorian Information Commissioner
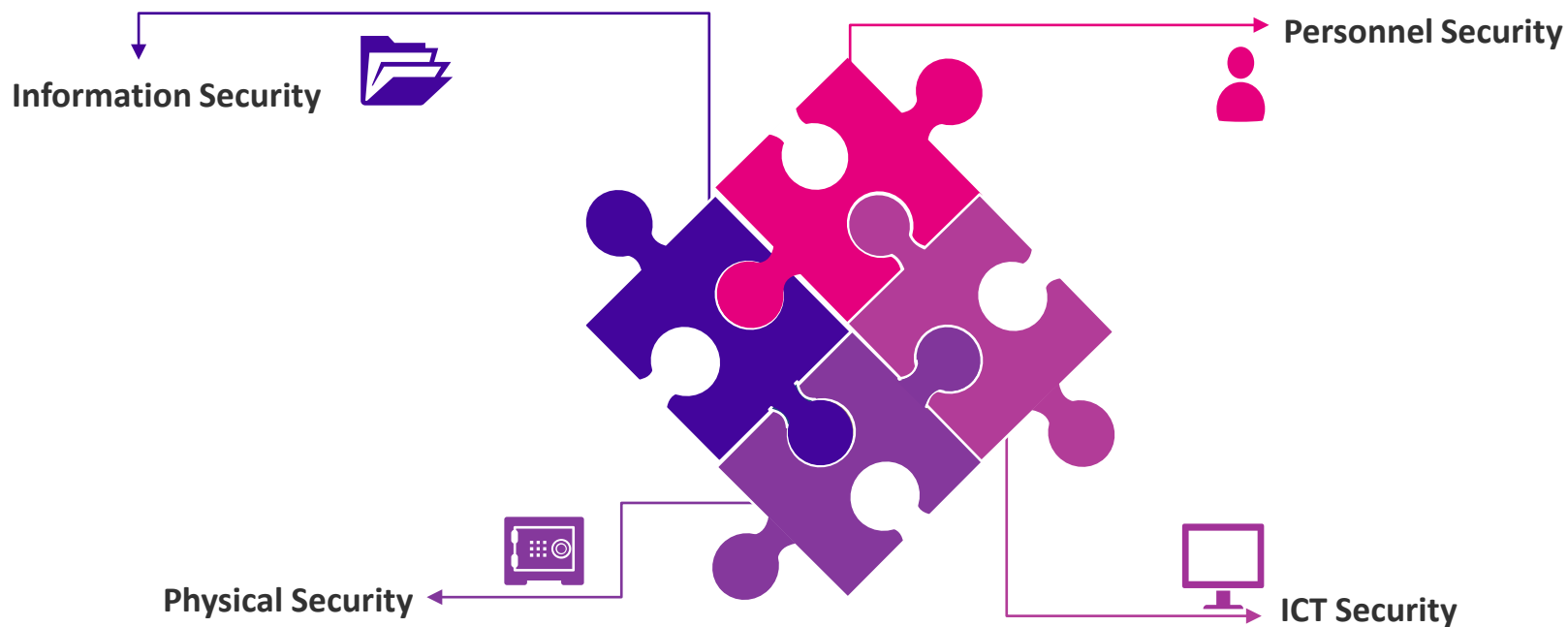
A continuous improvement lifecycle

Good information security doesn't *just* happen

We all play an integral role

No defense is impenetrable

Consider the value of the information you work with

Data breaches in the media

3
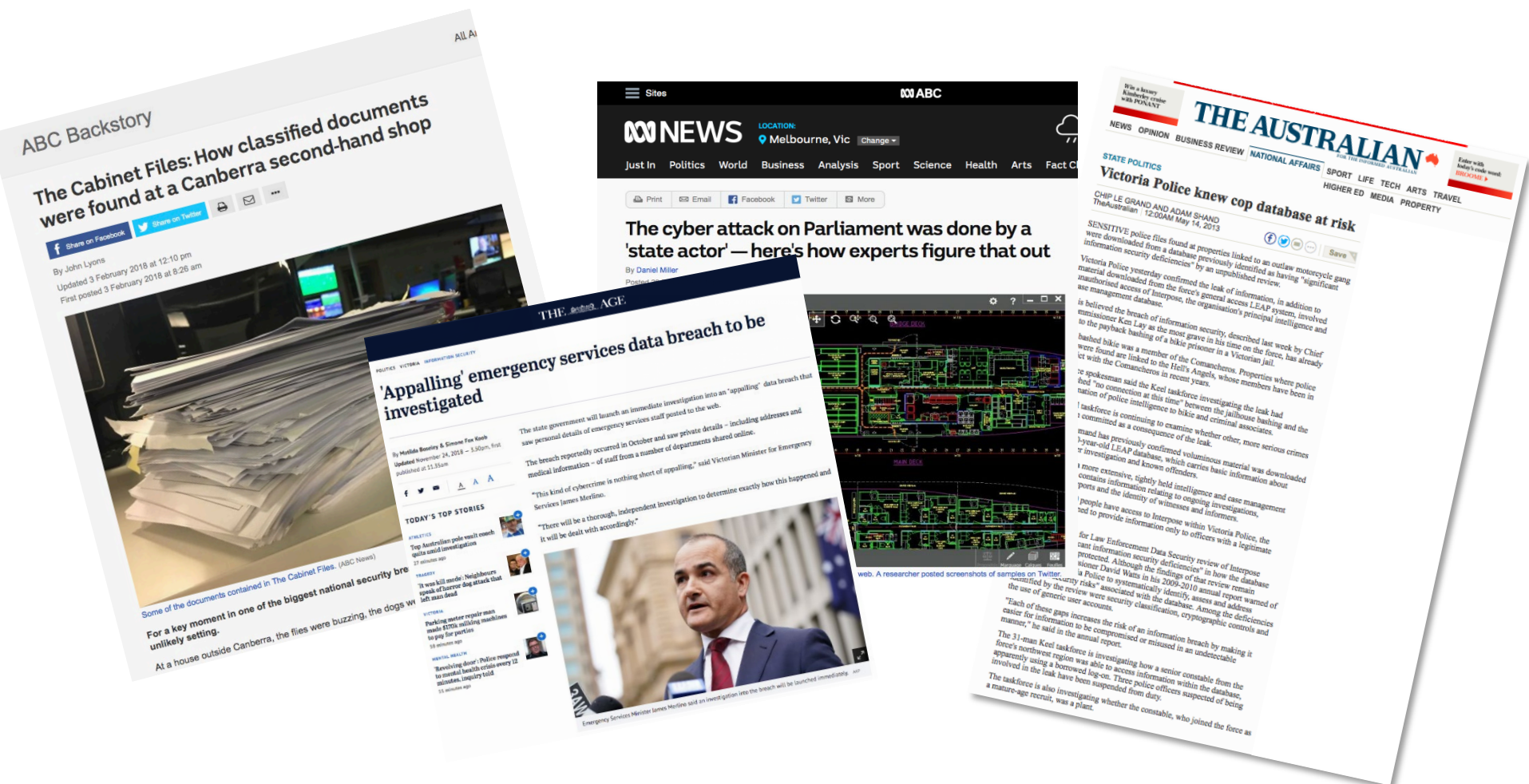
Physical security

Security by design

1. How many entrances are there to this building?

2. How many security personnel were in the lobby when you arrived?

3. How many turnstiles were available for you to swipe your pass and gain access to the lift well?

A secure physical environment

1

'Information' includes hardcopy, softcopy and verbal

2

Understanding where it is appropriate to view, use or discuss official information

3

Applying appropriate physical security measures to protect information when not actively using it

4

Personnel security

Office of the Victorian
Information Commissioner
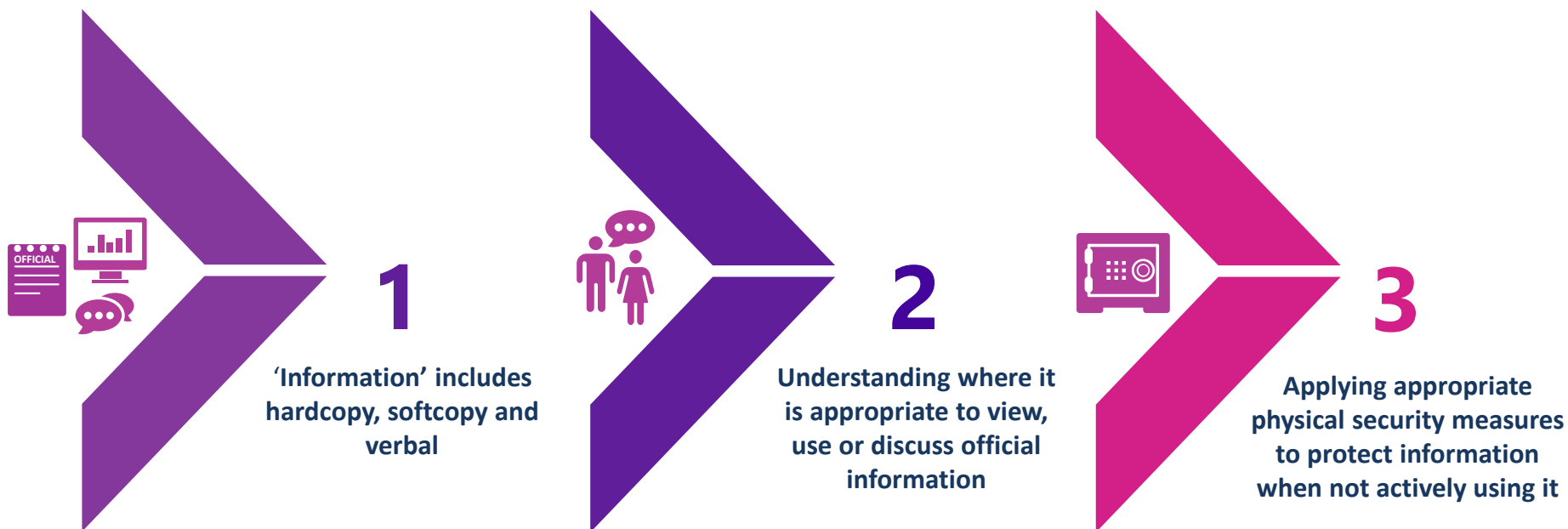
Our greatest strength

Personnel security and the VPDSF

- A positive security culture with clear personal accountability

- Assuming a shared responsibility towards information security

Our greatest strength can also be our greatest weakness

- Our people are our greatest strength, but can be the weakest link.

Social engineering

- Red teaming

- VAGO – Security of Government Buildings report (penetration testing)

5

ICT security

More connected than ever before

A mobile workforce

Cyber hygiene

We are high value targets

OAIC NOTIFIABLE DATA BREACHES QUARTERLY STATISTICS REPORT MAY 2019

Malware
13%

Ransomware
7%

Hacking
13%

Compromised or stolen credentials (method unknown)
40%

Phishing (compromised credentials)
20%

Brute-force attack (compromised credentials)
7%

OVIC
Office of the Victorian
Information Commissioner

Freedom of Information | Privacy | Data Protection
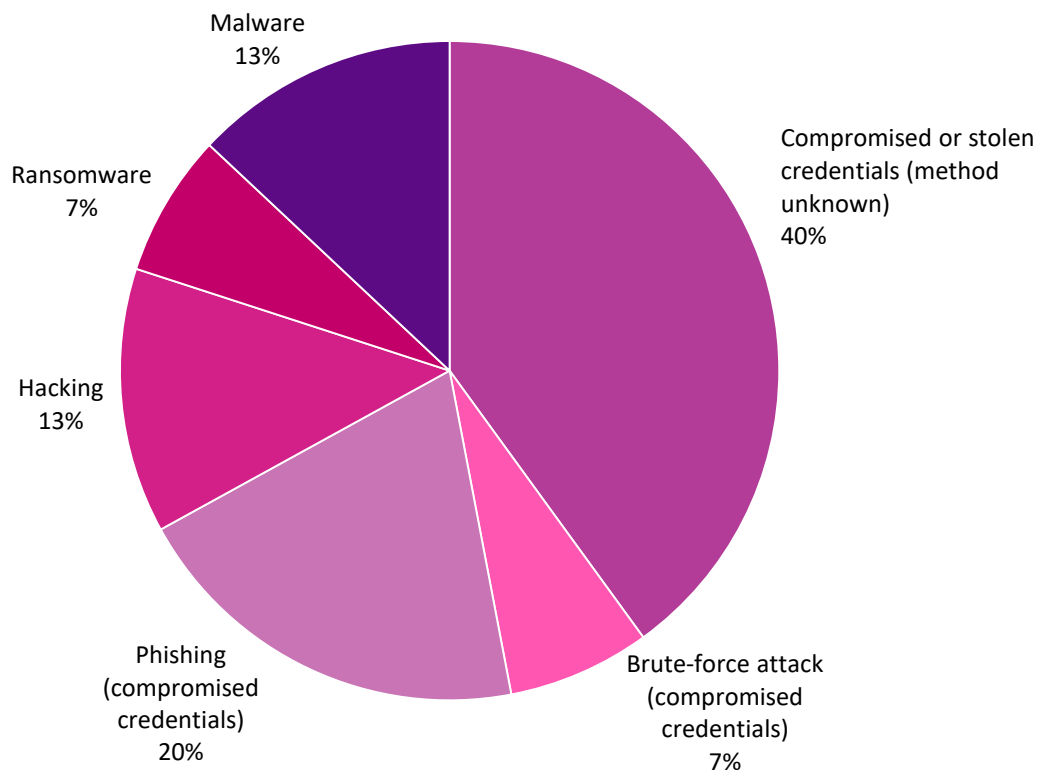
INFORMATION SECURITY IS EVERYONE'S RESPONSIBILITY

OVIC

Information Privacy

Caitlin Galpin
Senior Privacy Guidance Officer

Graduate Recruit Induction

16 July 2019

Privacy Law in Victoria

- *Privacy and Data Protection Act 2014* (Vic)

- *Health Records Act 2001* (Vic)

- *Privacy Act 1988* (Cth)

- *Charter of Human Rights and Responsibilities Act 2006* (Vic)

OVIC
Office of the Victorian
Information Commissioner

Freedom of Information | Privacy | Data Protection

What is Privacy?

The 'I know it when I see it' Privacy Quiz

How to play:

1. Listen to the scenario
2. Raise your hand if it sounds like a privacy violation
3. Keep your hand down if it sounds fine

One rule: No legal analysis – gut reaction only

What is privacy?

There is no single understanding or definition of what privacy is.

- Personal space

- Right to be left alone

- Secrecy

- Intimacy

- Control over personal information

What is Personal Information?

What is personal information?

Personal information is defined in the PDP Act as:

"***Information or an opinion*** *(including information or an opinion forming part of a database), that is recorded in any form and whether true or not,* **about an individual whose identity is apparent, or can reasonably be ascertained**, *from the information or opinion, but does not include information of a kind to which the Health Records Act 2001 applies.*"

But what does that mean?
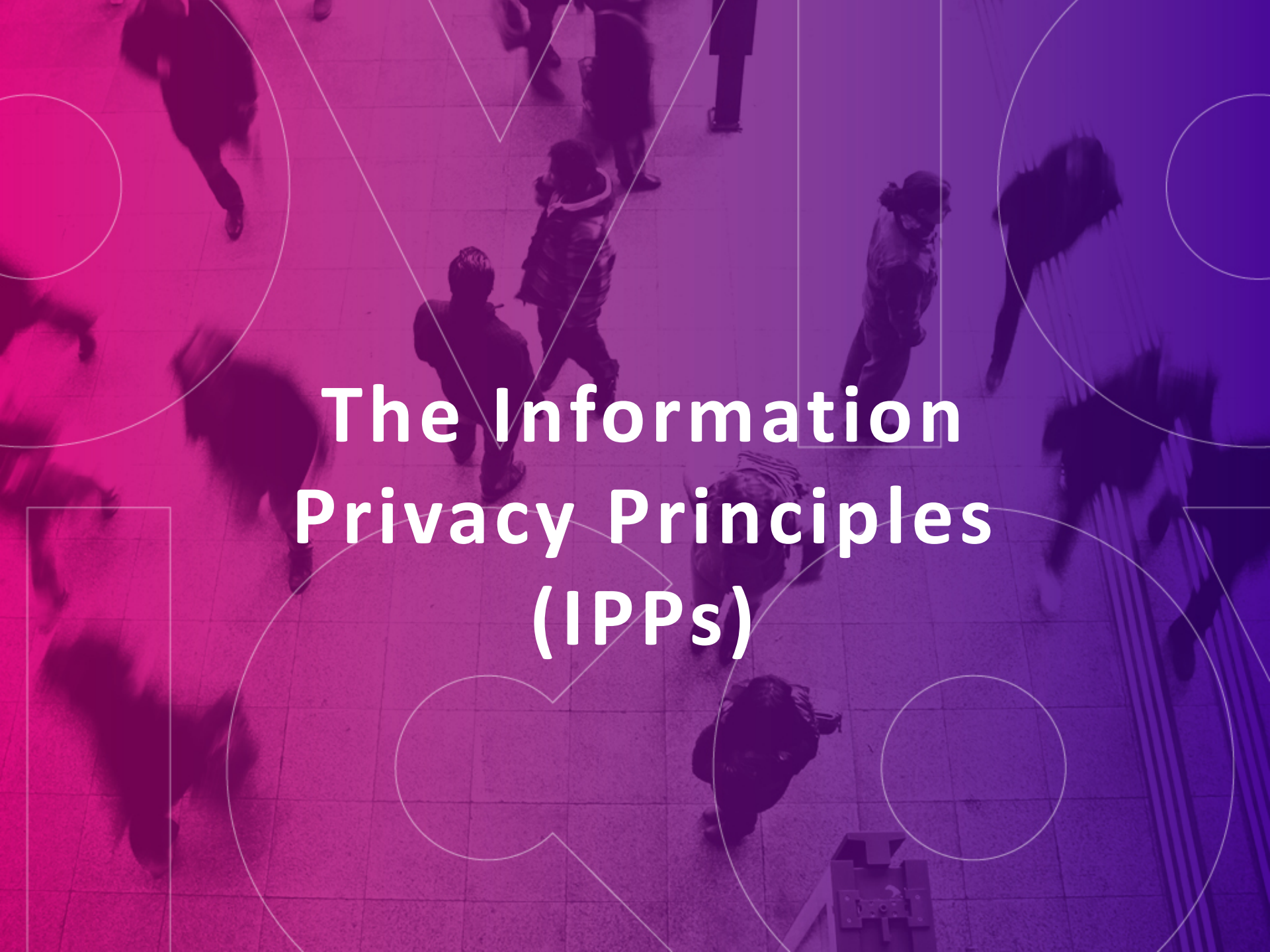
It's personal information if someone's identity can be reasonably ascertained from the information.

OVIC
**Office of the Victorian
Information Commissioner**

Information Privacy and the PDP Act

Part 3 – Information Privacy

- Provides for the responsible collection and handling of personal information in the Victorian public sector

- Applies to all Victorian public sector organisations, including:

  - Government departments

  - Local councils

  - Universities and TAFEs

  - Contracted service providers

The Information Privacy Principles (IPPs)

The Information Privacy Principles

The IPPs set the minimum standards for the collection and handling of personal information in the VPS.

1. **Collection**
2. **Use & Disclosure**
3. **Data Quality**
4. **Data Security**
5. **Openness**
6. **Access & Correction**
7. **Unique Identifiers**
8. **Anonymity**
9. **Transborder Data Flows**
10. **Sensitive Information**

The IPPs through the Information Life Cycle
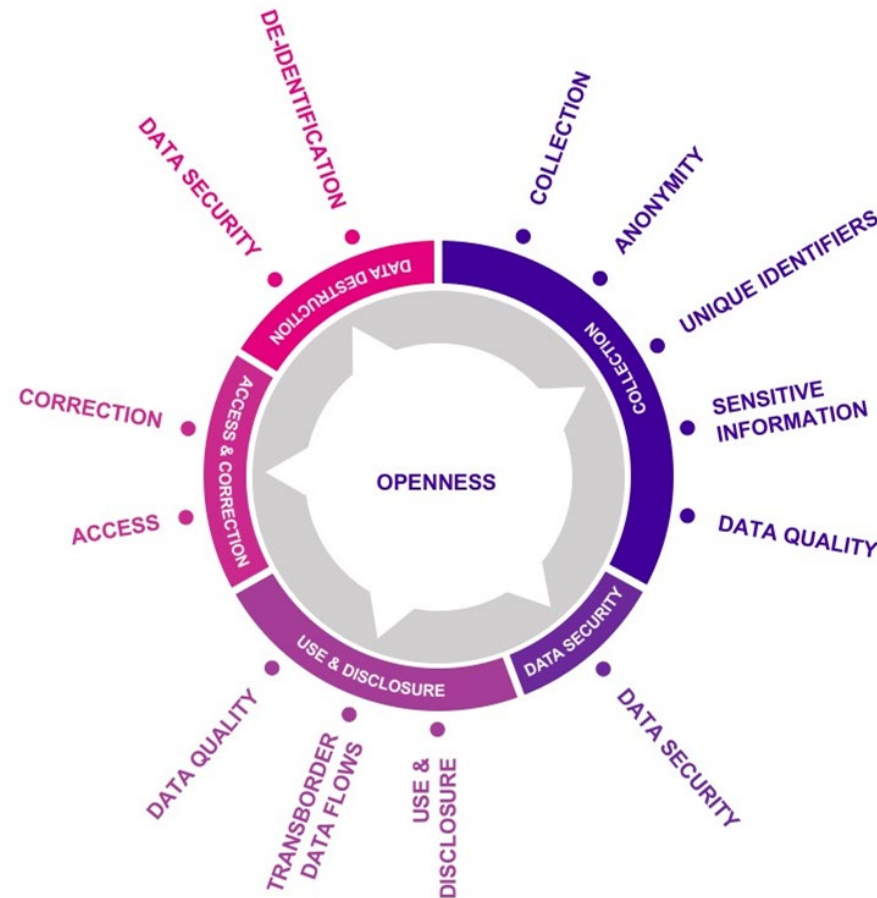
Life Cycle Stage - Collection
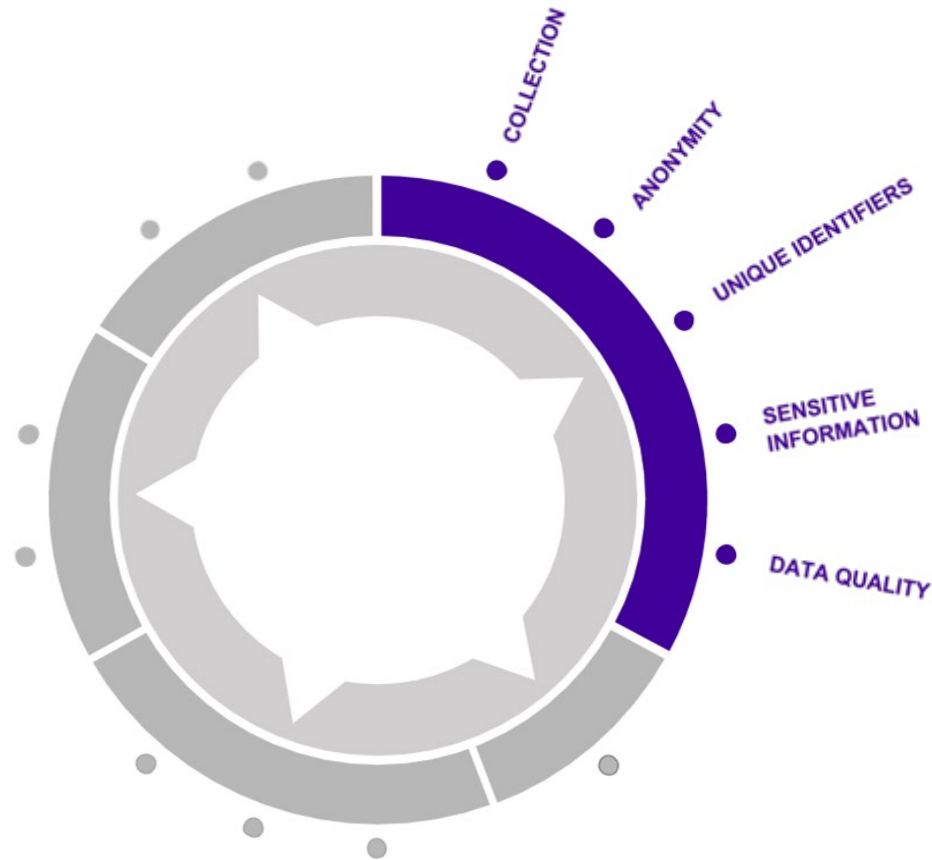
IPP 1 - COLLECTION

IPP 1   Collection

- **Must not collect unless it is necessary to fulfil their functions (IPP1.1)**

- **Must only be collected by lawful and fair means (IPP 1.2)**

- **Must take reasonable steps to provide a notice of collection (IPP 1.3)**

- **Should collect personal information about an individual from that individual (IPP 1.4)**

- **If collected indirectly from another source, reasonable steps should be taken to notify the individual of the collection (IPP 1.5)**

IPP 3 – DATA QUALITY

Life Cycle Stage - Data Security

IPP 4 - DATA SECURITY

Centrelink bungle sees private documents accidentally shared with Melbourne stranger

The number of job seekers exposed by the PageUp hack now runs into the hundreds of thousands

'Appalling' data protection: Hospital staff tapes password to the wall

Tasmanian voters' details, including addresses and emails, stolen in Typeform data breach

Life Cycle Stage – Use & Disclosure
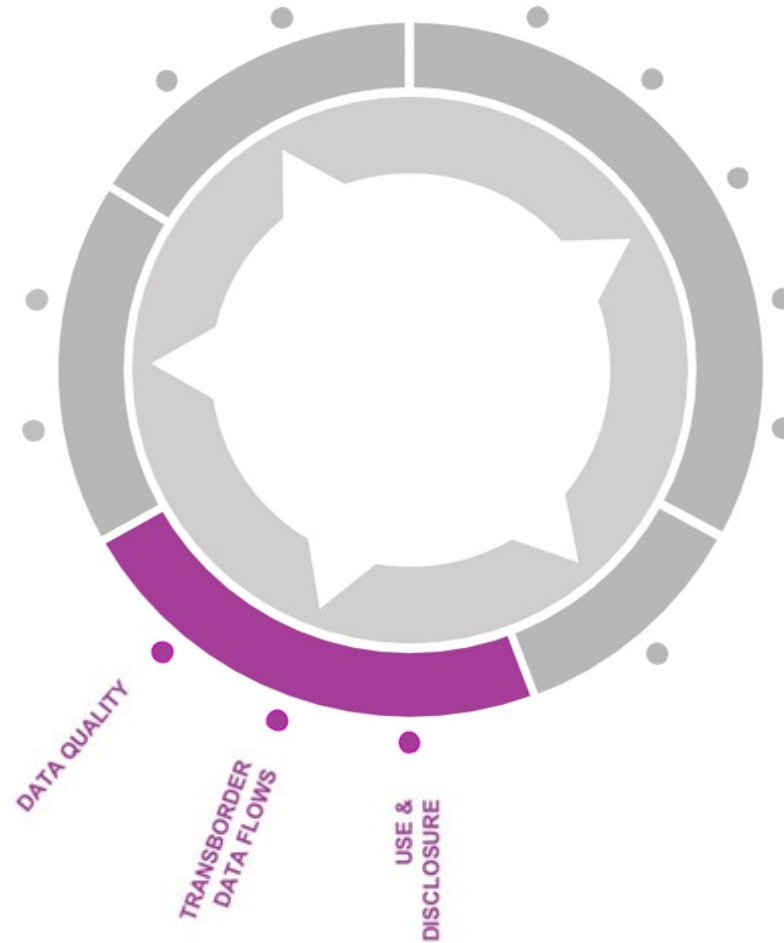
IPP 2 – USE & DISCLOSURE

Centrelink bungle sees private documents accidentally shared with Melbourne stranger

The number of job seekers exposed by the PageUp hack now runs into the hundreds of thousands

'Appalling' data protection: Hospital staff tapes password to the wall

Tasmanian voters' details, including addresses and emails, stolen in Typeform data breach
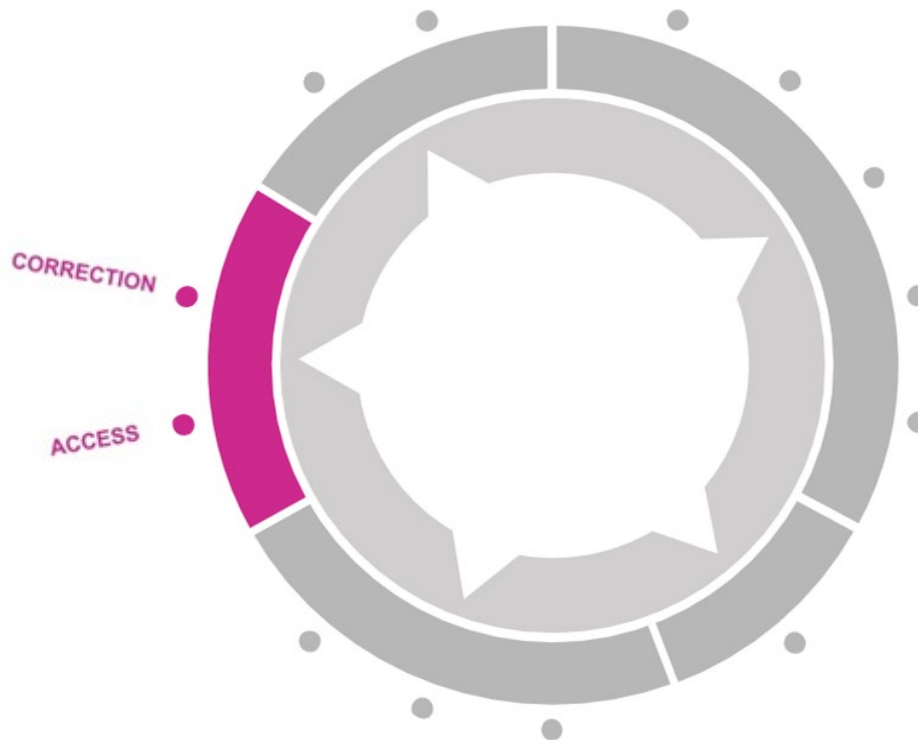
IPP 3 – DATA QUALITY

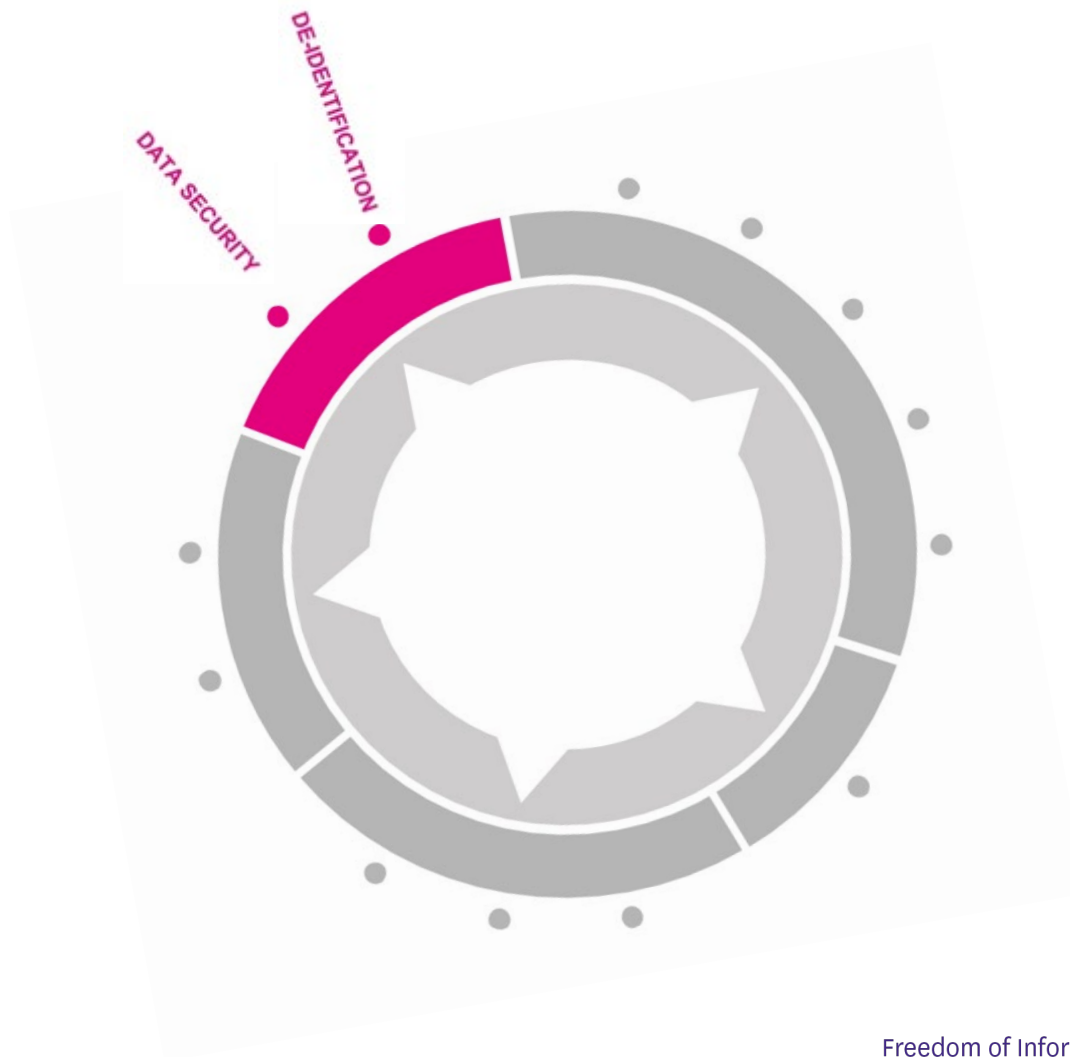# Life Cycle Stage – Access & Correction

IPP 6 - ACCESS AND CORRECTION

Privacy Commissioner rules Corrections breached privacy in refusing to release CCTV footage
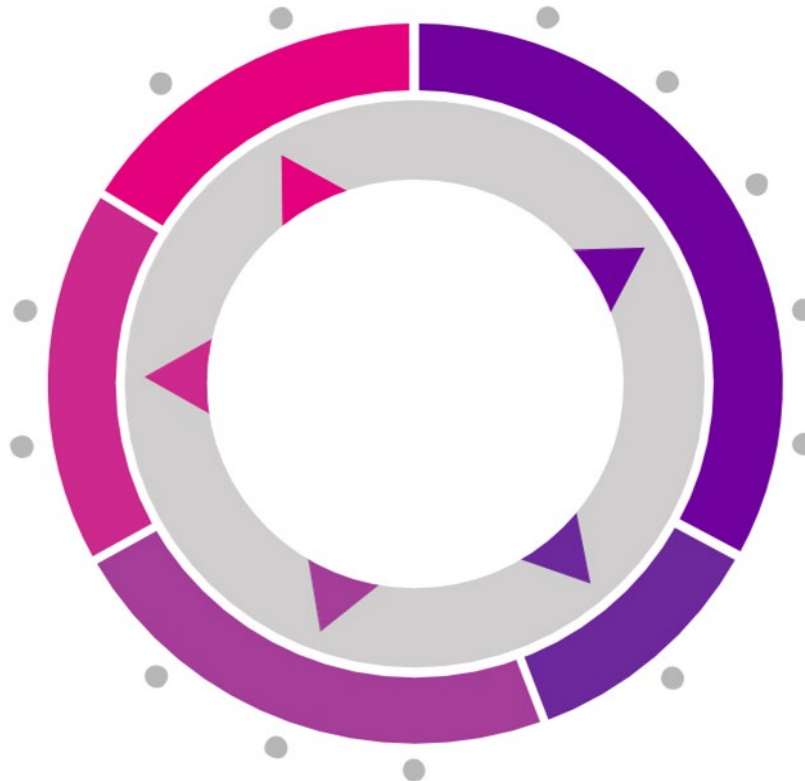
City violated privacy rules in handling 87 FOI requests

Telstra breached privacy law by refusing to give customer his metadata

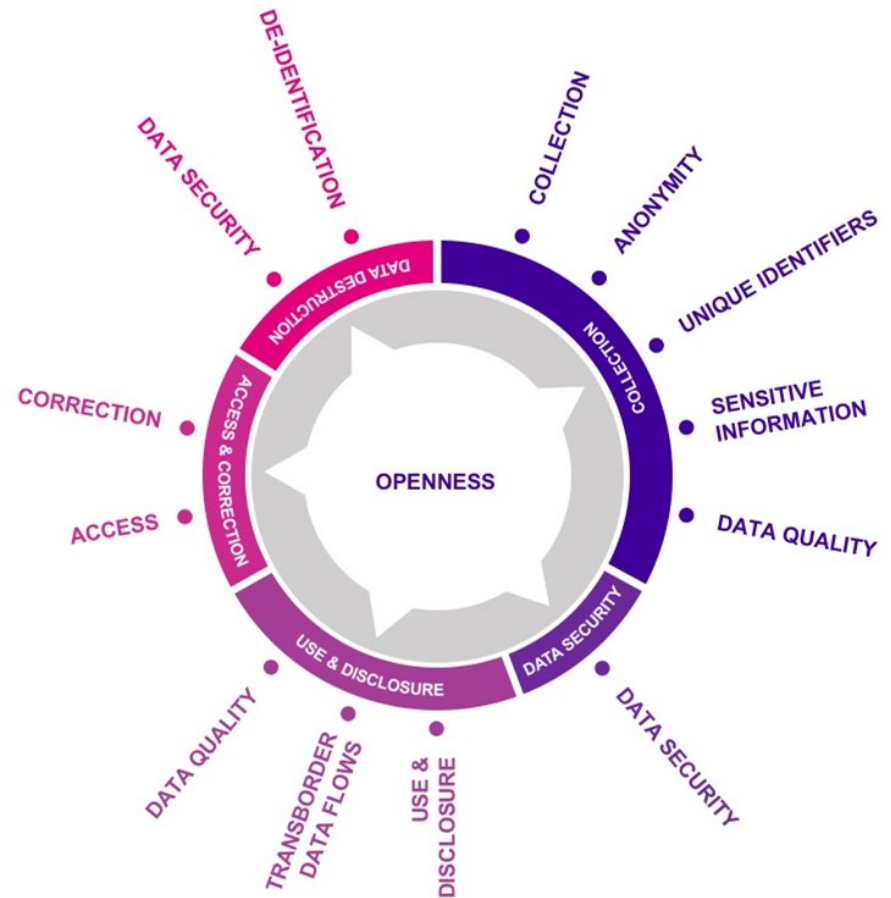# Life Cycle Stage - Data Destruction

Life Cycle Stage – Openness

Summary

All VPS organisations are bound by the IPPs when handling personal information.

As a VPS employee, this means YOU are bound by the IPPs – regardless of your role or what organisation you are in.

Privacy in Practice

Privacy as a VPS Employee

- Do you know who your Privacy Officer is?

- Do you know what do to if you send an email to the wrong recipient?

- Do you know where to start if you need to evaluate the privacy risks associated with a new project?

How can YOU be a privacy champion?

- Find your organisation's privacy policy

- Find out how privacy complaints are received & responded to

- Find out if your organisation has a breach response plan

- Consider the technology your organisation uses

- Complete the free OVIC Online Learning modules

- Talk to your manager about privacy issues/ideas you have

- Tell a colleague something you learnt today

Freedom of Information | Privacy | Data Protection

Want to Learn More?

ONLINE
www.ovic.vic.gov.au
- Our Blog
- Free Online Learning
- Guidance on the IPPs
- Guidance on Managing Data Breaches

TWITTER
@OVIC_AU

CONTACT US
enquiries@ovic.vic.gov.au
1300 006 842