



**Office of the Victorian
Information Commissioner**

Australian & New Zealand
Parliamentary Information
Technology Forum

1 October 2019

Information Rights, Legitimacy and Trust

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Victorian Information Commissioner

Overview

- Parliaments, societies and the rule of law
- Trust and legitimacy – the role of information rights and obligations
- Information rights in Victoria
 - **Freedom of Information**
 - **Privacy**
 - **Data Protection**
- What does this mean for Parliaments and those who support them?

The Office of the Victorian Information Commissioner

“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

We support Victorians by



Overseeing access
to government
information



Protecting
information privacy
rights



Advising on
lawful information
sharing



Promoting effective
information
security



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A high-angle, blurred photograph of a crowd of people walking on a paved surface. The image is split vertically: the left half is in grayscale, and the right half is overlaid with a magenta-to-purple gradient. The text 'Parliaments, Societies and the Rule of Law' is written in white on the right side.

Parliaments, Societies and the Rule of Law

Parliaments, Societies and the Rule of Law

- Parliaments generally derive their inherent legitimacy from constitutional sources
- Enjoying a high level of public trust assists Parliaments and those that support their work
- Public trust in institutions is declining
- How institutions manage information and respect citizens' information rights has a big impact on trust

Information Rights in Victoria

Primary information rights overseen by OVIC:

- Freedom of Information
- Privacy
- Data Protection/Information Security

Other areas provide support and guidance eg Chief Information Security Officer (**CISO**) and team in Department of Premier and Cabinet



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A high-angle, blurred photograph of a crowd of people walking on a light-colored tiled floor. The image is split vertically: the left half is in grayscale, and the right half is overlaid with a magenta-to-purple gradient. The text 'Freedom of Information' is centered on the right side in white.

Freedom of Information

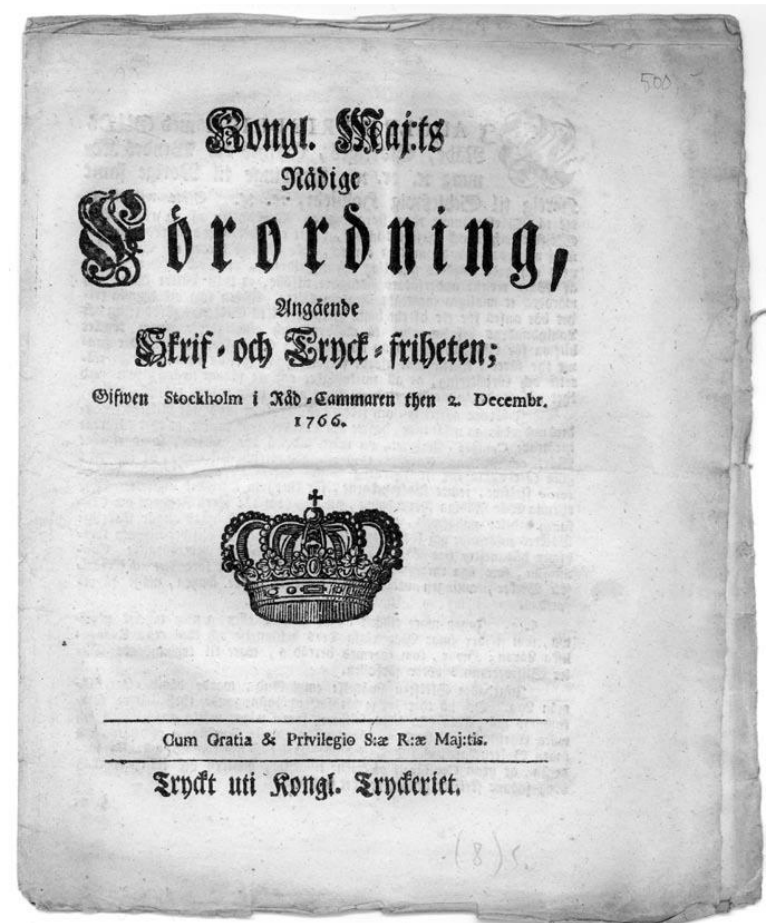
The origins of FOI

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



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 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;
- oversight mechanisms substantially strengthened by legislative reforms in 2007.

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

Challenges for FOI

Current challenges include:

- Technology
- Volume of FOI requests – continues to steadily increase
- Records management
- Outsourcing of government activities





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Information Privacy

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)*



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?

Personal information is defined in the PDP Act as:

*“Information or an opinion ... whether true or not, **about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion...**”*

Privacy and Data Protection Act – Part 3

- 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

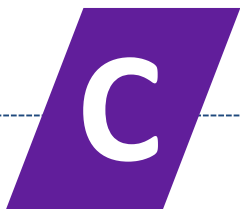


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Information Security

Understanding the value of information



Confidentiality



Right people



Integrity



Right information



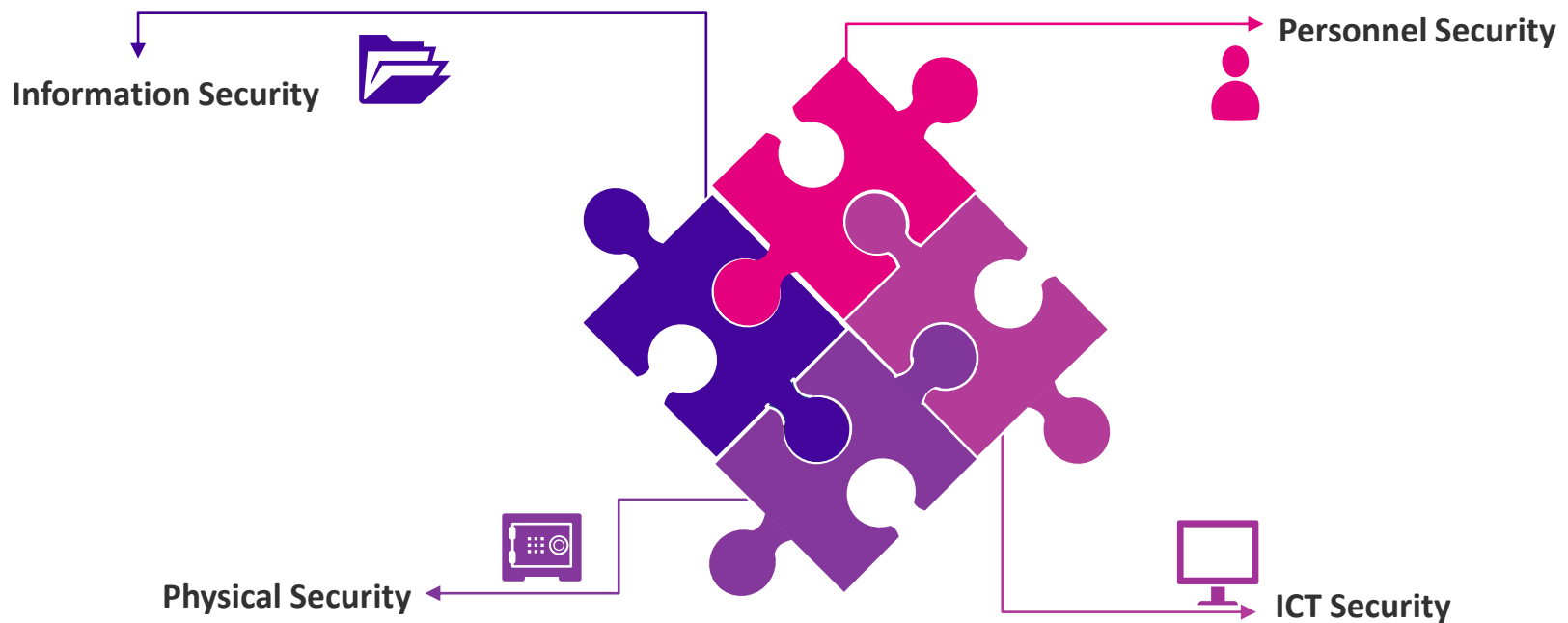
Availability



Right time

Security domains

There are four domains of protective data security



Privacy and Data Protection Act – Part 4

- Information Commissioner to develop the Victorian Protective Data Security Framework (**VPDSF**)
- Information Commissioner to issue Victorian Protective Data Security Standards (**VPDSS**)
- Agencies must comply with VPDSS
- Every two years, each agency head must attest to OVIC that the agency has undertaken a security risk profile assessment and developed Protective Data Security Plan (**PDSP**)

A continuous improvement lifecycle



Good information security doesn't *just* happen



We all play an integral role

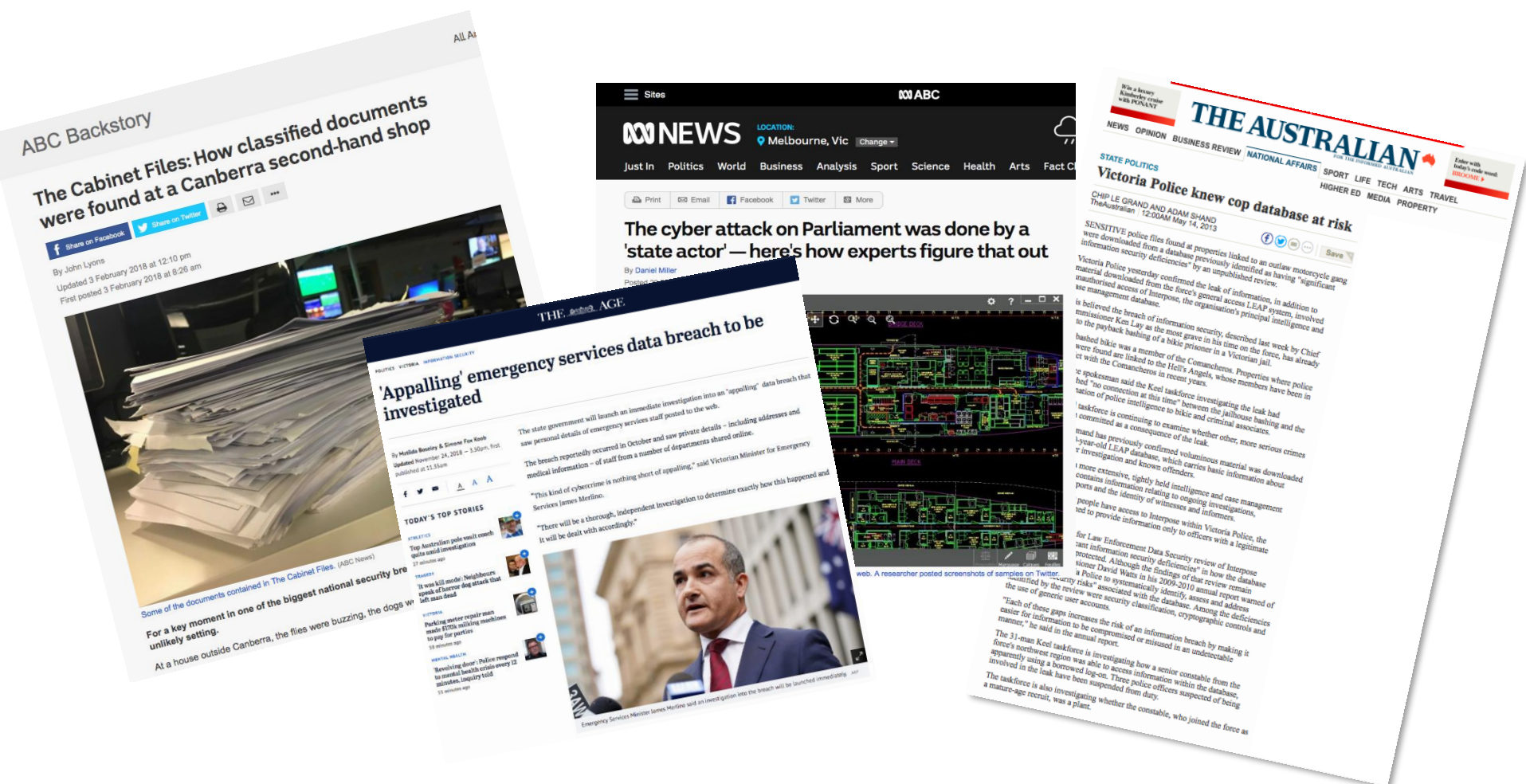


No defense is impenetrable



Consider the value of the information you work with

Data breaches in the media



More connected than ever before



A mobile workforce

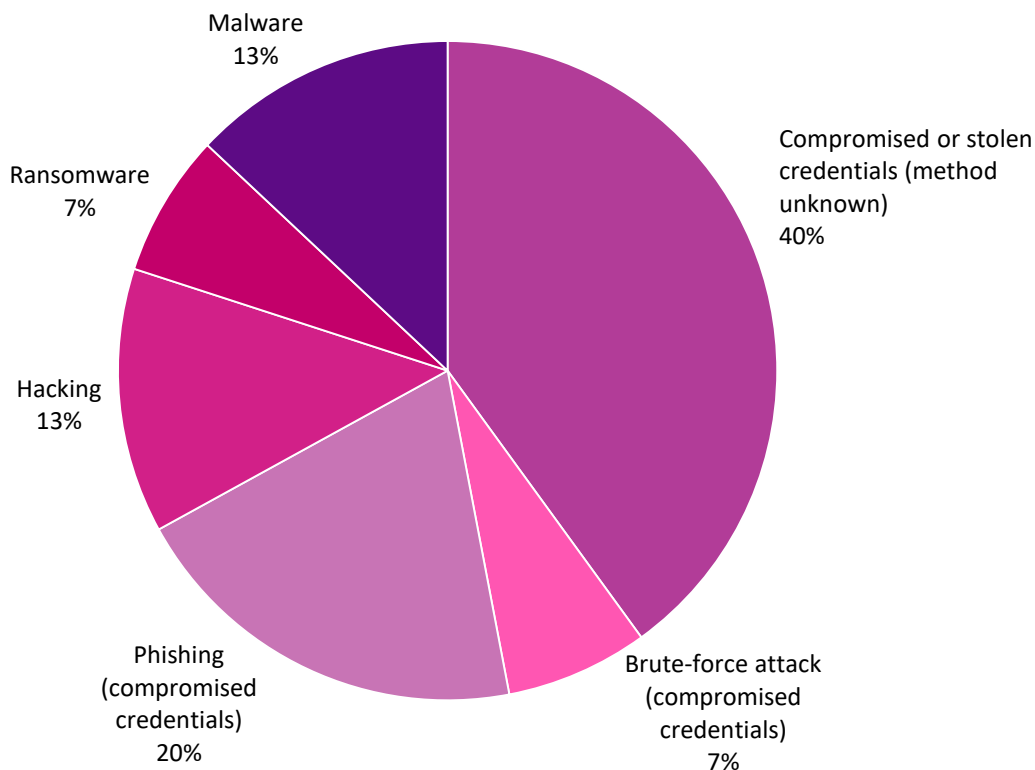


Cyber hygiene



We are high value targets

OAIC NOTIFIABLE DATA BREACHES QUARTERLY STATISTICS REPORT MAY 2019





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**What does this mean
for Parliaments?**

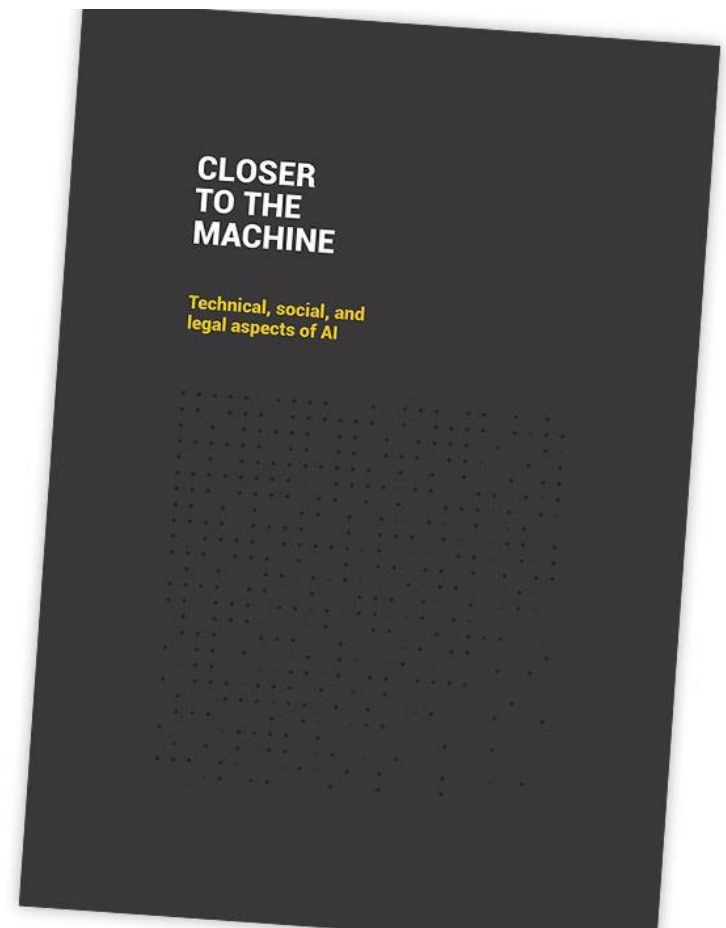
Some recent and current developments

- Tremendous amounts of personal information being collected, stored, used and disclosed
- Data analytics
- Artificial Intelligence
- Micro-targeting : eg Cambridge Analytica
- Potential to undermine elections and informed debate, resulting in an undermining of legitimacy
- Identifiability of Parliamentarians and staff from de-identified datasets: Report into myki data disclosure

Technical, social and legal aspects of AI

Free e-book published by OVIC in August 2019

Available at www.ovic.vic.gov.au



What does this mean for Parliaments?

- How institutions manage information and respect citizens' information rights has a big impact on trust
- Parliaments are inherently different to the Executive branch and have their own accountability mechanisms
- Even so, many of the challenges faced by Parliaments are also confronted by other organisations and institutions
- Think about resilience of people, systems, processes
- While the problem can seem insurmountable, it is useful to focus on the issue of respect and trust for information rights to help chart a course

Thank You

ONLINE

www.ovic.vic.gov.au

- Our Blog
- Free Online Learning
- Guidance on the IPPs
- Guidance on Managing Data Breaches



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