

Victorian Privacy Network meeting

Speaker: Sven Bluemmel

Date: Thursday, 22 October 2020

Time: 1:35 – 1:50pm

Welcome and OVIC update

Good afternoon everyone and welcome to the second meeting of the Victorian Privacy Network this year. My name is Sven Bluemmel and I am Victoria's Information Commissioner.

Before we start, I would like to acknowledge the Wurundjeri people of the Kulin Nations as the Traditional Custodians of the land from which I am speaking to you today. I would also like to pay my respects to their Elders, past, present, and emerging, and the Elders from other communities who may be here with us today.

Thank you all for making time to dial in to the meeting today – in 2020 style, this is the first virtual meeting of the Victorian Privacy Network. I hope those who haven't attended a Network meeting before get a lot out of it, and for those who are regulars, I hope you continue to find value in these meetings.

We have a very exciting agenda for our meeting today, including:

- a presentation from the Office of the Australian Information Commissioner, on contact tracing and third-party apps;
- a presentation on OVIC's examination into apps and web-based learning tools;
- an update on OVIC's privacy complaints process; and
- a presentation from the Cultural and Indigenous Research Centre Australia on the Aboriginal Privacy Project Insights Report.

At the risk of stating the obvious, a lot has changed in the world around us since we last met. I am very excited to update you all on what my office has been up to while working remotely during the past six months.

Update since the last Network meeting

I would now like to spend some time reflecting on the work that OVIC has done since the last meeting of the Network, in March 2020.

As you no doubt know, my office also regulates freedom of information (**FOI**) and information security, along with privacy. While FOI and information security are not the focus of today's meeting, I would like to highlight a few key projects that OVIC has worked on in these spaces

FOI update

International Day for Access to Information – 28 September 2020

Starting with FOI, as many of you will be aware, 28 September marked International Access to Information Day (**IAID**) (formerly known as, Right to Know Day).

Recognising the importance of access to government information for a healthy democracy, the United

Nations General Assembly proclaimed 28 September as the International Day for Universal Access to Information.

This year, OVIC celebrated IAID across a week of events, under the theme *Building trust through transparency*.

I was delighted to be joined by Victoria's Attorney-General, the Honourable Jill Hennessy MP, to officially open the celebrations on Monday 28 September.

OVIC also took part in a number of events across the week, and published resources for agency staff on responding to FOI requests, as well as guidance for the public on the operation of exemptions under FOI.

OVIC also published two animations for FOI officers and agency staff, which cover access to information and proactive and informal release.

These resources are available on our website and I encourage you all to take a look.

Investigation into the timeliness of FOI in Victoria

The second update from the FOI sphere I'd like share with you is our investigation into the timeliness of FOI in Victoria. This own motion investigation is the first of its kind to be launched under the Victorian *Freedom of Information Act 1982 (FOI Act)*.

My office commenced the investigation in September this year, following the publication of the *State of Freedom of Information in Victoria, from 2014 – 2019* report, in February 2020, which revealed insights into the timeliness of FOI decisions made by agencies.

In 2018-19, across the Victorian public sector, 18% of decisions on FOI requests were made outside the statutory timeframe. Our preliminary figures for 2019-20 indicate that this proportion is likely to rise, to almost one quarter of all FOI requests being completed outside the statutory timeframe.

This investigation will examine the FOI practices of selected agencies to identify causes for delay in releasing government information. OVIC is reviewing complaint information to determine which agencies will be subject to the investigation.

We have also invited members of the public and other FOI users to share their experiences with us.

OVIC expects that the investigation will be completed in mid-2021.

This investigation aligns with OVIC's regulatory priorities for 2020-2021, which I would now like to take some time updating you on.

OVIC's regulatory priorities

OVIC uses its regulatory powers to promote fair public access to information while ensuring its proper use and protection. This year, we have for the first time identified and published regulatory priorities to guide our regulatory action. We intend to do so every year.

For 2020-2021, OVIC's regulatory priorities are:

- compliance with the FOI Professional Standards;
- prompt FOI decision making and information release;
- identification and assessment of the security value of information;
- privacy and security in Victorian law enforcement;
- the protection of personal information in the higher education sector; and

- privacy and outsourcing.

These priorities may raise issues that are familiar to you, and indeed, may represent recurring ‘themes’ in your work in the privacy, FOI or information security space.

OVIC will prioritise matters consistent with these identified priorities throughout the year ahead.

OVIC’s regulatory approach is outlined in our *Regulatory Action Policy*. I encourage those who are interested to jump onto our website, where you’ll find both our *Regulatory Action Policy* and priorities.

I’d now like to provide you with an update on the work of our Information Security Unit at OVIC.

Information security

My colleagues in the Information Security Unit have been busy over the past few months, supporting VPS agencies across the state to submit their Protective Data Security Plans (**PDSPs**).

The team published a number of resources to assist agencies complete their PDSPs, including:

- an updated version of the Business Impact Level mobile app;
- updated 5 Step Action Plan supporting materials;
- a fact sheet for organisations who have not previously submitted a PDSP; and
- a tailored version of PDSPs for cemetery trusts, which received a lot of support and positive feedback.

As most of you will know, these plans are required to be submitted to OVIC every two years (or upon significant change), and are designed to:

- help agencies assess their information security maturity; and
- summarise progress towards implementation of the Victorian Protective Data Security Standards.

Since the submission of PDSPs across the VPS, our Information Security Unit has commenced work to develop a PDSP Insights Report, for dissemination and publication later this year.

The report will include insights on information security trends across the VPS. The Information Security Unit will arrange follow up sessions with organisations to run through their analysis and observations.

A separate report on the progress of the Information Security Incident Notification Scheme will also be published in the coming month or so, summarising themes, trends and issues identified in notifications to OVIC from October 2019 until June 2020.

AusCERT 2020

Our Information Security Unit has recently presented at a number of conferences, including the AusCERT 2020 National Cyber Security Conference, held virtually from 15 – 18 September this year.

The Unit presented on OVIC’s role as Australia’s first information security regulator, the Victorian Protective Data Security Framework and Standards, security behaviours across the VPS and more.

FAIRCON2020

The Information Security Unit also presented at FAIRCON2020 – an international conference on Information Risk Management, held virtually on October 6 – 7 this year.

This year's conference theme was *Factoring Risk in Decision Making*. The sessions showcased Global 2000 companies, as well as U.S Federal Government agencies, highlighting their work in business-aligned communication and cost-effective decision-making.

The Unit discussed the upcoming release of a Practitioner Guide that provides direction on the new emerging field of risk-based control analytics.

2020 States and Territories Security Representatives Group

Finally, the Information Security Unit recently hosted a virtual meeting of the 2020 States and Territories Security Representatives Group.

The Group provides a forum for senior protective security personnel from each state and territory to develop relationships with their colleagues, while facilitating dialogue on protective security issues.

This meeting included representatives from all states and territories, as well as the Commonwealth and New Zealand governments.

Now, I'd like to update you on our work in the privacy space over the past few months.

Privacy update

The privacy landscape looks a little different than it did at the beginning of 2020, with the state of Victoria working from home for the better part of the year so far.

I'm sure that some of you in the virtual audience will also be acutely aware that most school-aged children have been learning from home during much of this time.

While this experience of collectively working and learning from home has presented interesting privacy challenges, I do want to acknowledge the social and emotional challenges this may have presented for you in the audience.

My office has been making use of collaboration tools to stay connected during this time, and this is something I encourage you all to do regularly. With appropriate privacy and information security measures – technology can be a wonderful thing!

Collaboration tools and privacy guidance

My office recently published guidance on collaboration tools and privacy, which focuses on videoconferencing and instant messaging tools, to assist VPS organisations to consider their privacy obligations when implementing and using collaboration tools to facilitate remote working.

Our guidance on collaboration tools also integrates feedback from privacy colleagues at the Department of Education and Training, considering the prevalence of such tools to facilitate online learning today – particularly in 2020.

Privacy and COVID-19 and general privacy guidance

To assist organisations understand their general privacy obligations while working from home, my office has published a number of resources, including:

- a tip-sheet for VPS agencies on how to respect privacy and protect personal information while working remotely; and
- revised guidance covering workplace privacy – providing general information for VPS employers about their obligations to protect the privacy of their employees.

Other recent guidance that OVIC has published, jointly with our colleagues at the Office of the Health Complaints Commissioner includes:

- general guidance on privacy and COVID-19, intended to help VPS organisations and health providers that handle health information understand their privacy obligations while working to address COVID-19; and
- guidance on a new information sharing scheme under the *Health Services Act 1988*, that commenced in August 2020, allowing health service entities to share information for quality and safety purposes, in specific circumstances.

Privacy officer guidance

In addition, OVIC has started work on resources designed to assist privacy officers. We will be developing guidance that explains our office's expectations about the typical responsibilities of privacy officers, and supporting resources to assist them in carrying out their duties.

To understand what guidance is currently needed by privacy officers, OVIC's Privacy Guidance team has this month commenced targeted consultation with agencies across the VPS. We are contacting a sample of privacy officers through our existing networks, but if you are a privacy officer and would like to be involved, please contact the team at privacy@ovic.vic.gov.au.

Stakeholder engagement

OVIC has continued to offer virtual education and stakeholder engagement activities – as many of you may know, we offer free training on both the PDP Act and the FOI Act for the VPS.

OVIC has a number of online training modules that are aimed at individuals who are either new to privacy and/or FOI, or individuals who need a refresher. We have also moved our in-person training offerings online due to the pandemic, which are being delivered via webinar.

We also host monthly Information Access Series seminars, hosted by our Public Access team. This month we hosted a session on vicarious trauma, for those of you who are also FOI practitioners.

To register for a training session or to access the online learning modules, please visit our website – ovic.vic.gov.au.

OVIC turns 3!

I have one final OVIC-wide update before we launch into today's session. The 1st of September this year marked OVIC's third birthday! This has naturally given us at OVIC a reason to stop and reflect for a moment.

With the backdrop of the global pandemic we are all facing this year, I am reminded of the importance of the work we all do across privacy, FOI and information security.

Firstly, by making sure information held by government is used in responsible and proportionate ways, and appropriately secured. And secondly, by ensuring access to government information, to provide transparency and accountability for government decision-making to the public.

We have an important role to play in ensuring that the information rights of citizens are not swept to the wayside even in a public health crisis, like we are facing today.

We at OVIC have certainly enjoyed working with all of you throughout the past three years (and more, for some) and are looking forward to continuing to work together into the future.