

s22 ,Lucy

**From:** s22 , Kendall <Kendall.s22@dva.gov.au>  
**Sent:** Tuesday, 17 October 2023 9:41 AM  
**To:** s22 ,Isla  
**Cc:** GHALI,Sarah; s22 ,Lucy; HAMPTON,Elizabeth; Cameron, Leanne  
**Subject:** RE: Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]

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Hi Isla,

Could you also please invite Acting Deputy Secretary Glen Casson [Glen.Casson@dva.gov.au](mailto:Glen.Casson@dva.gov.au).

Andrew will be unable to attend but Glen will attend on his behalf.

Kind Regards

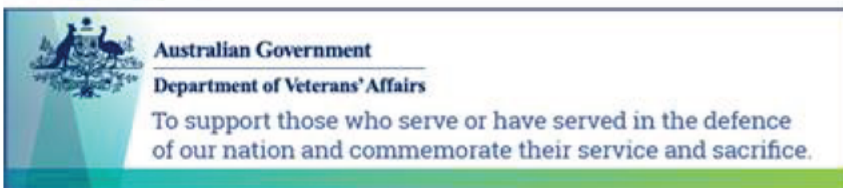
Kendall.s22

Executive Assistant to Glen Casson  
A/g Deputy Secretary Policy & Programs  
Department of Veterans' Affairs

s22

[Kendall.s22@dva.gov.au](mailto:Kendall.s22@dva.gov.au)

[www.dva.gov.au](http://www.dva.gov.au)



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**From:** s22 , Kendall

**Sent:** Monday, 16 October 2023 4:47 PM

**To:** s22 ,Isla' <Isla.s22@oaic.gov.au>

**Cc:** GHALI,Sarah <Sarah.Ghali@oaic.gov.au>; s22 ,Lucy <Lucy.s22@oaic.gov.au>; HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>

**Subject:** RE: Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]

Hi Isla

Thank you for your help.

If we could please lock in Thursday the 19<sup>th</sup> at 0930 for 1hr via teams.

Attendees below:

- Deputy Secretary Policy & Programs - Andrew Kefford, [Andrew.Kefford@dva.gov.au](mailto:Andrew.Kefford@dva.gov.au)
- FAS Program Delivery - Leanne Cameron, [Leanne.Cameron@dva.gov.au](mailto:Leanne.Cameron@dva.gov.au)
- AS Client Programs - Sarah Kennedy, [Sarah.Kennedy@dva.gov.au](mailto:Sarah.Kennedy@dva.gov.au)
- FAS Legal & Audit - Peta Langeveld, [Peta.Langeveld@dva.gov.au](mailto:Peta.Langeveld@dva.gov.au)

If you could please add me to the invite as well ☺

Kind Regards

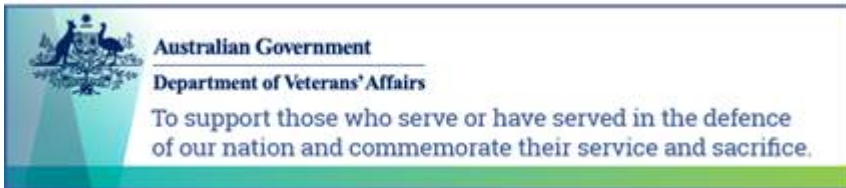
Kendall s22

Executive Assistant to Glen Casson  
A/g Deputy Secretary Policy & Programs  
Department of Veterans' Affairs

s22

[Kendall.s22@dva.gov.au](mailto:Kendall.s22@dva.gov.au)

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**From:** s22, Isla <[Isla.s22@oaic.gov.au](mailto:Isla.s22@oaic.gov.au)>

**Sent:** Monday, 16 October 2023 4:31 PM

**To:** s22 Kendall <[Kendall.s22@dva.gov.au](mailto:Kendall.s22@dva.gov.au)>

**Cc:** GHALI, Sarah <[Sarah.Ghali@oaic.gov.au](mailto:Sarah.Ghali@oaic.gov.au)>; s22, Lucy <[Lucy.s22@oaic.gov.au](mailto:Lucy.s22@oaic.gov.au)>; HAMPTON, Elizabeth <[Elizabeth.Hampton@oaic.gov.au](mailto:Elizabeth.Hampton@oaic.gov.au)>

**Subject:** RE: Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]

Good afternoon Kendall

Thank you for your time on the phone this morning. As discussed, it may be difficult to arrange a meeting on the week commencing 23 October due to Senate Estimates.

Would you like to proceed with a Teams meeting on Thursday 19 October? If so, could you please confirm who will be attending the meeting, and advise of the best contact for me to forward a calendar invitation to? If this is not suitable, please feel free to give me a call on my mobile below as there may be capacity for a meeting on Friday.

Kind regards



Isla s22 (she/her)  
 Senior Executive Assistant to the Australian Information Commissioner and Privacy Commissioner  
 Office of the Australian Information Commissioner  
 Sydney | GPO Box 5288 Sydney NSW 2001  
 s22 E isla.s22 @oaic.gov.au

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**From:** s22, Kendall <Kendall.s22@dva.gov.au>  
**Sent:** Monday, October 16, 2023 2:10 PM  
**To:** s22, Isla <Isla.s22@oaic.gov.au>  
**Cc:** GHALI, Sarah <Sarah.Ghali@oaic.gov.au>; s22, Lucy <Lucy.s22@oaic.gov.au>; HAMPTON, Elizabeth <Elizabeth.Hampton@oaic.gov.au>  
**Subject:** RE: Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]

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Thanks Isla,

Is there any possibility of a meeting on the 24<sup>th</sup> of October?

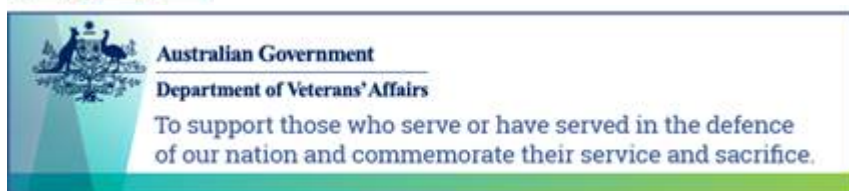
Our Deputy Secretary, Andrew Kefford is overseas, returning to work on the 23<sup>rd</sup>.

We can send a DVA representative on the 19<sup>th</sup> but it is Andrew’s preference to attend.

Thank you so much for all of your assistance.

Kind Regards

**Kendall s22**  
 Executive Assistant to Glen Casson  
 A/g Deputy Secretary Policy & Programs  
 Department of Veterans’ Affairs  
 s22  
[Kendall.s22@dva.gov.au](mailto:Kendall.s22@dva.gov.au)  
[www.dva.gov.au](http://www.dva.gov.au)





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**From:** s22, Isla <Isla.s22@oaic.gov.au>  
**Sent:** Monday, 16 October 2023 12:47 PM  
**To:** s22, Kendall <Kendall.s22@dva.gov.au>  
**Cc:** GHALI, Sarah <Sarah.Ghali@oaic.gov.au>; s22, Lucy <Lucy.s22@oaic.gov.au>; HAMPTON, Elizabeth <Elizabeth.Hampton@oaic.gov.au>  
**Subject:** RE: Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]

Good morning Kendall

Not a problem at all – can I propose this Thursday, 19 October, between 9.30am and 12pm? Could you please also advise who will be in attendance at the meeting?

Kind regards

 Isla s22 (she/her)  
Senior Executive Assistant to the Australian Information Commissioner and Privacy Commissioner  
Office of the Australian Information Commissioner  
Sydney | GPO Box 5288 Sydney NSW 2001  
E [isla.s22@oaic.gov.au](mailto:isla.s22@oaic.gov.au)

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**From:** s22 Kendall <Kendall.s22@dva.gov.au>  
**Sent:** Monday, October 16, 2023 11:54 AM  
**To:** s22, Isla <Isla.s22@oaic.gov.au>  
**Cc:** GHALI, Sarah <Sarah.Ghali@oaic.gov.au>; s22, Lucy <Lucy.s22@oaic.gov.au>; HAMPTON, Elizabeth <Elizabeth.Hampton@oaic.gov.au>  
**Subject:** RE: Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]

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Good Morning Isla,

I've just left a message with you.

Is there any chance of a meeting (virtual if required) prior to Wednesday the 25<sup>th</sup> ?

We have our Senate Estimates on Wednesday and will need to speak with the OAIC prior to the hearing.

Kind Regards

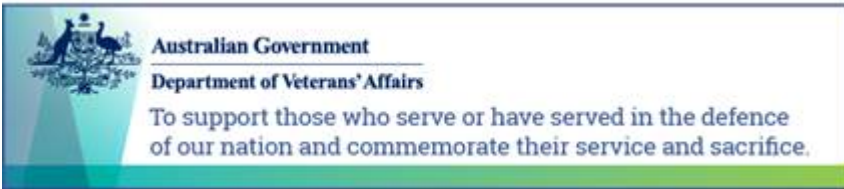
Kendall s22

Executive Assistant to Glen Casson  
A/g Deputy Secretary Policy & Programs  
Department of Veterans' Affairs

s22

[Kendall.s22@dva.gov.au](mailto:Kendall.s22@dva.gov.au)

[www.dva.gov.au](http://www.dva.gov.au)



---

**From:** s22, Isla <Isla.s22@oaic.gov.au>

**Sent:** Friday, 13 October 2023 1:08 PM

**To:** s22, Kendall <Kendall.s22@dva.gov.au>

**Cc:** GHALI,Sarah <Sarah.Ghali@oaic.gov.au>; s22, Lucy <Lucy.s22@oaic.gov.au>; HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>

**Subject:** RE: Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]

Good afternoon Kendall

Thank you for your patience on this – much appreciated. I confirm that the Commissioner will be available to attend a meeting in the coming weeks, however 23 October is not suitable.

The Commissioner can be available on Friday, 27 October at between 10am-4.30pm. The Commissioner will likely be accompanied by Deputy Commissioner Elizabeth Hampton and Assistant Commissioner Sarah Ghali, who I have copied into this email by way of update.

I appreciate that you will be managing other availabilities, so I hope that this is suitable. Please do not hesitate to call if I can be of further assistance – my mobile below is my best contact.

Kind regards



Isla s22 (she/her)

Senior Executive Assistant to the Australian Information Commissioner and Privacy Commissioner  
Office of the Australian Information Commissioner  
Sydney | GPO Box 5288 Sydney NSW 2001

s22 E isla.s22@oaic.gov.au

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**From:** s22 Kendall <Kendall.s22@dva.gov.au>  
**Sent:** Friday, October 13, 2023 9:50 AM  
**To:** OAIC - Executive Assistant <executiveassistant@oaic.gov.au>  
**Subject:** RE: Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]

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Thanks Isla, appreciate it.

Kind Regards

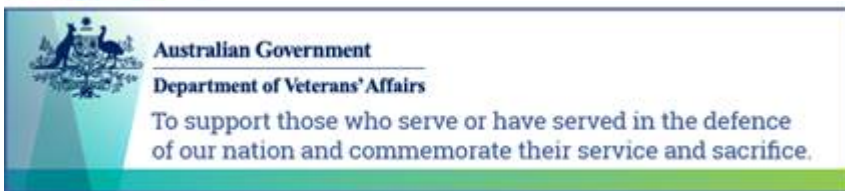
Kendall s22

Executive Assistant to Glen Casson  
A/g Deputy Secretary Policy & Programs  
Department of Veterans' Affairs

s22

Kendall.s22@dva.gov.au

[www.dva.gov.au](http://www.dva.gov.au)



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**From:** OAIC - Executive Assistant <executiveassistant@oaic.gov.au>  
**Sent:** Thursday, 12 October 2023 10:32 AM  
**To:** s22, Kendall <Kendall.s22@dva.gov.au>  
**Subject:** RE: Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]

Good morning Kendall

Thank you for your email – I confirm that this has been received.

I will provide you with a response by **COB tomorrow, Friday 13 October.**

Kind regards



Isla s22 (she/her)

Senior Executive Assistant to the Australian Information Commissioner and Privacy Commissioner  
Office of the Australian Information Commissioner  
Sydney | GPO Box 5288 Sydney NSW 2001

s22 E isla s22 @oaic.gov.au

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**From:** s22, Kendall <Kendall s22 @dva.gov.au>  
**Sent:** Thursday, October 12, 2023 10:19 AM  
**To:** OAIC - Executive Assistant <executiveassistant@oaic.gov.au>  
**Subject:** RE: Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]

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Good Morning,

May I please follow up on the below email please?

There are some time sensitives around this meeting.

We were looking at Monday the 23<sup>rd</sup> if that is suitable for the Information Commissioner.

Kind Regards

**Kendall s22**

Executive Assistant to Glen Casson  
A/g Deputy Secretary Policy & Programs  
Department of Veterans' Affairs

s22

[Kendall.s22 @dva.gov.au](mailto:Kendall.s22@dva.gov.au)

[www.dva.gov.au](http://www.dva.gov.au)



**From:** s22, Kendall  
**Sent:** Tuesday, 10 October 2023 11:16 AM  
**To:** 'executiveassistant@oaic.gov.au' <executiveassistant@oaic.gov.au>  
**Subject:** Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]

Good Morning,

If possible I would like to organise a meeting with Ms. Angelene Falk and our Deputy Secretary of Policy & Programs, Andrew Kefford.

Andrew would like to discuss Veterans' MATES privacy issues' with Angelene and other DVA representatives.

Please feel free to call me on s22 to discuss at your earliest convenience.

Kind Regards

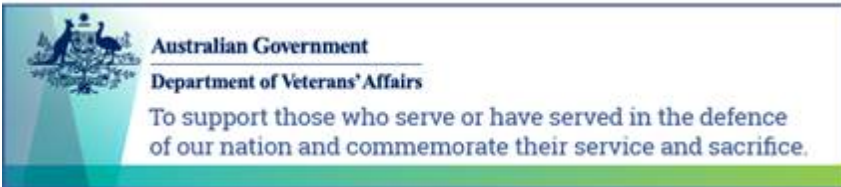
**Kendall** s22

Executive Assistant to Glen Casson  
A/g Deputy Secretary Policy & Programs  
Department of Veterans' Affairs

s22

[Kendall.s22@dva.gov.au](mailto:Kendall.s22@dva.gov.au)

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**Subject:** Notes for meeting with DVA  
**Start:** Tue 24/10/2023 11:30 AM  
**End:** Tue 24/10/2023 12:00 PM  
**Show Time As:** Tentative  
**Recurrence:** (none)  
**Meeting Status:** Not yet responded  
**Organizer:** HAMPTON,Elizabeth (Inactive)

s47E(d)

s22 ,Lucy

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**From:** OAIC - Media <media@oaic.gov.au>  
**Sent:** Thursday, 27 July 2023 9:52 AM  
**To:** FALK,Angelene  
**Cc:** SNOWDEN,Pennie; HAMPTON,Elizabeth (Inactive); s22 ,Cate  
**Subject:** RE: For Clearance - Media Inquiry - Veterans' MATES program - due 5pm today [SEC=OFFICIAL]

Thank you Commissioner

Kind regards  
Andrew

---

**From:** FALK,Angelene <Angelene.Falk@oaic.gov.au>  
**Sent:** Thursday, July 27, 2023 9:51 AM  
**To:** OAIC - Media <media@oaic.gov.au>  
**Cc:** SNOWDEN,Pennie <Pennie.Snowden@oaic.gov.au>; HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>; s22 ,Cate <Cate.s22@oaic.gov.au>  
**Subject:** RE: For Clearance - Media Inquiry - Veterans' MATES program - due 5pm today [SEC=OFFICIAL]

Andrew cleared as set out below thank you.

Angelene

The matter you refer to was long and complex involving intersecting legislative frameworks.

The determination by the Information Commissioner found that the respondent (the Secretary to the Department of Veterans' Affairs) had breached certain Australian Privacy Principles by failing to obtain the complainant's consent and using the complainant's personal information for secondary purposes.

As a general rule, health information is sensitive information under the Privacy Act and should be afforded a higher level of protection than other personal information.

The determination also declared that the respondent must not repeat or continue such conduct, and the Commissioner had to make a decision whether a further declaration was required to ensure that. As the Commissioner was satisfied that the respondent had actioned the complaint's revocation of consent, a further declaration was not considered necessary.

In this case, the complaint was made under s 36 of the Privacy Act and as such the decision-making power extended to making findings and declarations in relation to that complaint, [not broader matters.]

The OAIC has to make many decisions about how it pursues investigations and how it deploys its resources. We provide guidance on how regulated entities should act in accordance with the Australian Privacy Principles, and they should be in no doubt what is required.

---

**From:** OAIC - Media <[media@oaic.gov.au](mailto:media@oaic.gov.au)>  
**Sent:** Wednesday, July 26, 2023 1:06 PM  
**To:** FALK,Angelene <[Angelene.Falk@oaic.gov.au](mailto:Angelene.Falk@oaic.gov.au)>  
**Cc:** SNOWDEN,Pennie <[Pennie.Snowden@oaic.gov.au](mailto:Pennie.Snowden@oaic.gov.au)>; HAMPTON,Elizabeth <[Elizabeth.Hampton@oaic.gov.au](mailto:Elizabeth.Hampton@oaic.gov.au)>;

s22, Cate <Cate.s22@oaic.gov.au>

**Subject:** For Clearance - Media Inquiry - Veterans' MATES program - due 5pm today

Good afternoon again Commissioner

Subsequent to my earlier email about a media inquiry I provide the following draft, in response to the journalist s22. I have also attached some very useful commentary from Cate s22 about the determination. Further background about the inquiry is in the email trail.

Draft media response:

The matter you refer to was a long and complex investigation involving intersecting legislative frameworks.

The determination by the Information Commissioner found that the respondent (the Secretary to the Department of Veterans' Affairs) had breached the complainant's privacy and breached certain Australian Privacy Principles by failing to obtain the complainant's consent and using the complainant's personal information for secondary purposes.

As a general rule, health information is sensitive information under the Privacy Act and should be afforded a higher level of protection than other personal information.

The determination also declared that the respondent must not repeat or continue such conduct, and the Commission had to make a decision whether a further declaration was required to ensure that. Given the respondent's submission about the changes it had made to current practices, it was decided no further action was required.

As an agency funded by government, the OAIC has to make many decisions about how it pursues investigations and how it deploys its resources. We provide regulatory updated guidance on how regulated entities should act in accordance with the Australian Privacy Principles, and they should be in no doubt what is required.

In this case, the complaint was made under s 36 of the Privacy Act and as such the decision-making power extended to making findings and declarations in relation to that complaint, [not broader matters involving DVA's processes.]

Kind regards  
Andrew

---

**From:** OAIC - Media <media@oaic.gov.au>

**Sent:** Wednesday, July 26, 2023 11:25 AM

**To:** FALK, Angelene <Angelene.Falk@oaic.gov.au>

**Cc:** SNOWDEN, Pennie <Pennie.Snowden@oaic.gov.au>; HAMPTON, Elizabeth <Elizabeth.Hampton@oaic.gov.au>; OAIC - Media <media@oaic.gov.au>

**Subject:** FW: Media Inquiry - Veterans' MATES program - due 5pm today

Good morning Commissioner

We had a media query yesterday (below) by s22 of the Saturday Paper about a privacy determination we released in April regarding the provision of medical records under the DVA's MATES program.

s22 has written extensively about the Robodebt inquiry.

I have been in touch with members of the team that were involved in part with the determination s47F and reviewed the issues involved, and I understand this matter would be reasonably well known by you. Cate s22 has provided some very useful input and I will aim to get a draft response to you in the next hour or so.

Kind regards  
Andrew

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**From:** s22 [redacted] <s22@thesaturdaypaper.com.au>  
**Sent:** Tuesday, July 25, 2023 10:01 AM  
**To:** OAIC - Media <media@oaic.gov.au>  
**Subject:** Media Inquiry - Veterans' MATES program

**CAUTION:** This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi all,

I'm working on a news feature for this weekend's *The Saturday Paper* regarding the provision of identified medical records to the University of South Australia for research purposes under the Veterans' MATES program. It was the subject of this 26 April 2023 decision by the OAIC: <http://classic.austlii.edu.au/au/cases/cth/AICmr/2023/29.html>

There is a section in that decision which goes as follows: "The respondent submits that it has since taken the following steps [and] ... the complaint by the Complainant is not contemporaneous to current practices, having been made more than four years ago. The **Department now has robust processes in place for ensuring that participants in the MATES Program are aware that they can, at any time, revoke their consent to the use and disclosure of their personal information as part of the MATES Program.**"

This makes it sound like the Department had acted some time ago to resolve the issue of consent. But the department only put a privacy collection notice on its website in March, a matter of weeks before the OAIC decision, and previous versions of its website show no such consent form or privacy information about the program. **The original complaint, as you know, was made in 2017 almost six years earlier.** Is that the behaviour of an agency acting in good faith?

I understand that DVA was making submissions to the OAIC *for quite some time before* it uploaded that privacy collection notice on March 14 that it had since taken steps to allow veterans to opt out or withdraw consent. How is that statement compatible with the complete lack of evidence on its own website that such amends had been made before March?

Has the DVA been truthful with the OAIC?

What did the OAIC do to satisfy itself that the DVA really *had* taken such steps and was this process a thorough one?

Given the findings of the recent Robodebt Royal Commission, in which Commissioner Holmes noted oversight agencies like the OAIC and Commonwealth Ombudsman were being "easily deflected" by, to put it bluntly, clearly misleading spin from government departments, is the OAIC confident that the DVA dealings with the OAIC have been honest and productive? How, why?

Thanks, my deadline for this one is 5pm Wednesday (tomorrow).

s22

s47F

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s22

Senior Reporter

s22@thesaturdaypaper.com.au



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—  
Level 1, 221 Drummond St  
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(03) 9486 0288  
[schwartzmedia.com.au](http://schwartzmedia.com.au)

**From:** s22 ,Cate <Cate.s22@oaic.gov.au>  
**Sent:** Tuesday, 25 July 2023 3:31 PM  
**To:** OAIC - Media  
**Cc:** s22 Emily  
**Subject:** FW: Media Inquiry - Veterans' MATES program [SEC=OFFICIAL]

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi Andrew

Thanks for inviting comment on this media enquiry in relation to a determination.

### My involvement

I note that the determination was made on 26 April 2023, and that I have been in Major Investigations Branch since October 2022. As such, I did not have a role in finalising the determination, though I did have involvement in earlier parts of the case. It would be preferable to check with Erina s22 s47F

While I do not have knowledge about whether the Determinations team specifically investigated the particular part of the respondent's submission quoted in the determination, which the journalist queries, given my earlier involvement with the determination, I make the following comments.

### General comments

- The determination relates to a complaint made by an individual under s 36 of the Privacy Act.
- As such, the decision-making power extended to making findings and declarations in relation to that complaint, not broader matters involving DVA's processes.
- The quote extracted by the journalist omits relevant parts relied on by the Commissioner to make a finding in relation to a specific issue.
- The part of the quote the journalist extracts relates to broader issues that were peripheral to the critical issue the Commissioner was required to answer. Namely, whether to declare specified steps in relation to the this particular complainant.

### Comments on the journalist's extract

- The section quoted by the journalist is:

*"The respondent submits that it has since taken the following steps [and] ... **the complaint by the Complainant is not contemporaneous to current practices, having been made more than four years ago. The Department now has robust processes in place for ensuring that participants in the MATES Program are aware that they can, at any time, revoke their consent to the use and disclosure of their personal information as part of the MATES Program.**"*

The part I have bolded from the journalist's quote forms part of a quote by the respondent which has been extracted on the determination at paragraph [215] under the hearing 'Specified steps'.

- The journalist's quote omits parts of the determination that explain its context. The quote reads (I have bolded the parts showing the journalist's omissions):

***Under s 52(1)(b)(ia) I may declare that the respondent must take specified steps within a specified period to ensure that such conduct is not repeated or continued.***  
***Given that the complainant revoked any consent the respondent may have relied upon for the complainant's inclusion in the MATES programme, and included them in the MATES programme anyways, it appears reasonable to require the respondent to address this issue. If the respondent had a process of actioning express revocations of consent it could have removed the complainant from participating in the***

**MATES programme. Such a process might involve communicating to the complainant a particular manner in which they should communication their revocation of consent and related internal processes for updating systems to circulate the complainant's preference to staff administering the programme.**

**The respondent submits that it has since taken the following steps:**

**5.1 the Department has now fully processed the Complainant's revocation of consent, such that the Complainant's personal information is no longer being used or disclosed other than in accordance with the Complainant's consent, meaning that it will no longer be used or disclosed as part of the Veterans' Medicines Advice and Therapeutics Education Services (MATES) program (MATES Program);**

**5.2 the Department intends to provide a written apology to the Complainant for failing to properly process his revocation of consent; and**

**5.3 the complaint by the Complainant is not contemporaneous to current practices, having been made more than four years ago. The Department now has robust processes in place for ensuring that:**

**(a) participants in the MATES Program are aware that they can, at any time, revoke their consent to the use and disclosure of their personal information as part of the MATES Program; and**

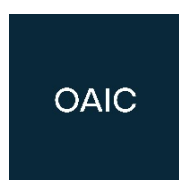
**(b) all revocations of consent are fully and promptly actioned, to avoid any use or disclosure of personal information by the Department or any other parties in connection with the MATES Program which is inconsistent with a revocation.[112]**

**Based on the respondent's submission, I am satisfied that the respondent has actioned the complainant's revocation of consent in respect of the MATES program. As such, I do not consider a declaration of this nature to be necessary.**

- As can be seen, the reason for including this quote in the determination was to show the basis on which the Commissioner arrived at a finding that she was satisfied that 'the respondent has actioned the complainant's revocation of consent in respect of the MATES program' and to explain why the Commissioner did not 'consider a declaration of this nature to be necessary.'
- That finding was only relevant to the extent that there was a question about whether the Commissioner should make a declaration that the respondent was to take specified steps *in relation to the complainant*.

Thanks and happy to discuss.

Regards



Cate s22  
Director Major Investigations  
Office of the Australian Information Commissioner  
Sydney | s22 E cate s22 @oaic.gov.au

*The OAIC acknowledges Traditional Custodians of Country across Australia and their continuing connection to land, waters and communities. We pay our respect to First Nations people, cultures and Elders past and present.*

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**From:** s22, Emily <Emily s22 @oaic.gov.au>  
**Sent:** Tuesday, July 25, 2023 12:42 PM  
**To:** OAIC - Media <media@oaic.gov.au>; s22, Cate <Cate s22 @oaic.gov.au>  
**Subject:** RE: Media Inquiry - Veterans' MATES program [SEC=OFFICIAL]

Thanks Andrew – it's CP18/02898.

---

**From:** OAIC - Media <media@oaic.gov.au>  
**Sent:** Tuesday, July 25, 2023 12:39 PM



To: s22, Emily <Emily.s22@oaic.gov.au>; s22, Cate <Cate.s22@oaic.gov.au>  
Cc: OAIC - Media <media@oaic.gov.au>  
Subject: RE: Media Inquiry - Veterans' MATES program [SEC=OFFICIAL]

Hi Emily

Thanks for getting back and understood that it was before you came onboard. Are you able to tell me what the file is so I can have a look through and see people who were involved over time?

I haven't been able to find anything on content manager.

Kind regards  
Andrew

---

From: s22, Emily <Emily.s22@oaic.gov.au>  
Sent: Tuesday, July 25, 2023 12:18 PM  
To: OAIC - Media <media@oaic.gov.au>; s22, Cate <Cate.s22@oaic.gov.au>  
Subject: RE: Media Inquiry - Veterans' MATES program [SEC=OFFICIAL]

Hi Andrew

I joined the OAIC a week or two before the determination was issued, so have no knowledge of the matter I'm afraid.

I believe Erina and Jasmina dealt with the matter at the tail end, s47F

I can review the file and try to figure out what transpired, but cannot personally speak to it.

Thanks

Emily

---

From: OAIC - Media <media@oaic.gov.au>  
Sent: Tuesday, July 25, 2023 10:54 AM  
To: s22, Emily <Emily.s22@oaic.gov.au>; s22, Cate <Cate.s22@oaic.gov.au>  
Cc: OAIC - Media <media@oaic.gov.au>  
Subject: FW: Media Inquiry - Veterans' MATES program

Good morning Emily and Cate

We have a media query about a privacy determination that was only published recently but has a lengthy history.

I'm checking who might be the person who might have the knowledge of how it transpired.

Kind regards  
Andrew

---

From: s22 <s22@thesaturdaypaper.com.au>  
Sent: Tuesday, July 25, 2023 10:01 AM  
To: OAIC - Media <media@oaic.gov.au>  
Subject: Media Inquiry - Veterans' MATES program

**CAUTION:** This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi all,

I'm working on a news feature for this weekend's *The Saturday Paper* regarding the provision of identified medical records to the University of South Australia for research purposes under the Veterans' MATES program. It was the subject of this 26 April 2023 decision by the OAIC: <http://classic.austlii.edu.au/au/cases/cth/AICmr/2023/29.html>

There is a section in that decision which goes as follows: "The respondent submits that it has since taken the following steps [and] ... the complaint by the Complainant is not contemporaneous to current practices, having been made more than four years ago. The Department now has robust processes in place for ensuring that participants in the MATES Program are aware that they can, at any time, revoke their consent to the use and disclosure of their personal information as part of the MATES Program."

This makes it sound like the Department had acted some time ago to resolve the issue of consent. But the department only put a privacy collection notice on its website in March, a matter of weeks before the OAIC decision, and previous versions of its website show no such consent form or privacy information about the program. The original complaint, as you know, was made in 2017 almost six years earlier. Is that the behaviour of an agency acting in good faith?

I understand that DVA was making submissions to the OAIC *for quite some time before* it uploaded that privacy collection notice on March 14 that it had since taken steps to allow veterans to opt out or withdraw consent. How is that statement compatible with the complete lack of evidence on its own website that such amends had been made before March?

Has the DVA been truthful with the OAIC?

What did the OAIC do to satisfy itself that the DVA really *had* taken such steps and was this process a thorough one?

Given the findings of the recent Robodebt Royal Commission, in which Commissioner Holmes noted oversight agencies like the OAIC and Commonwealth Ombudsman were being "easily deflected" by, to put it bluntly, clearly misleading spin from government departments, is the OAIC confident that the DVA dealings with the OAIC have been honest and productive? How, why?

Thanks, my deadline for this one is 5pm Wednesday (tomorrow).

s22

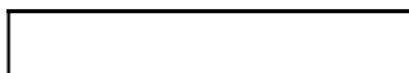
s47F

--

s22

Senior Reporter

s22 [@thesaturdaypaper.com.au](mailto:s22@thesaturdaypaper.com.au)



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Level 1, 221 Drummond St  
Carlton, Victoria, 3053  
(03) 9486 0288  
[schwartzmedia.com.au](http://schwartzmedia.com.au)



# ‘ADJ’ and The Secretary to the Department of Veterans’ Affairs (Privacy) [2023] AICmr 29 (26 April 2023)

Decision and reasons for decision of  
Australian Information Commissioner and Privacy Commissioner, Angelene Falk

Complainant	‘ADJ’
Respondent	The Secretary to the Department of Veterans’ Affairs
Decision date	26 April 2023
Case reference number	CP18/02898
Catchwords	Privacy — <i>Privacy Act 1988</i> (Cth) — Australian Privacy Principles — APP 3 — APP 5 — APP 6 — APP 11 — Whether sensitive information — Whether consent provided for the purpose of the MATES program — Whether complainant notified or made aware of matters in APP 5 — Whether information was used and disclosed for a secondary purpose — Whether exception applied — Whether reasonable steps taken to protect personal information — Username and password sent by post — Breach of APP 3 and APP 6 — Compensation of \$5,000 awarded for non-economic loss — Aggravated damages not warranted.

## Determination

1. This is a determination of a privacy complaint lodged under s 36 of the *Privacy Act 1988* (Cth) (**Privacy Act**) by the complainant on 3 October 2018 about the respondent, the Department of Veterans’ Affairs (**Department**). The Secretary to the Department is the principal executive (**respondent**).
2. I find that the respondent interfered with the complainant’s privacy by breaching Australian Privacy Principles (**APP**) 3 and 6.
3. The complaint is otherwise dismissed.

# Declarations

4. I declare, under s 52(1)(b) of the Privacy Act that:
  - 1) The respondent has interfered with the complainant's privacy by:
    - a. failing to obtain the complainant's consent in breach of APP 3
    - b. using the complainant's personal information for secondary purposes in breach of APP 6,and must not repeat or continue such conduct.
  - 2) **Within 7 days** of the date of the determination, the respondent is to provide a written apology to the complainant, specifically acknowledging that the respondent interfered with the complainant's privacy, breaching APP 3 and APP 6.
  - 3) **Within 30 days** of the date of the determination the respondent must pay the amount of \$5,000 to the complainant for non-economic loss.
  - 4) In respect of the remaining parts of the complaint, it would be inappropriate for any further action to be taken in the matter.

## Findings and Reasons

### Background

5. The complainant's grievance is about the Department's collection, disclosure, and protection of their personal information, including sensitive information. The complainant's grievance arises from the disclosure of the complainant's pharmaceutical prescription and supply information, under the Pharmaceutical Benefits Scheme (**PBS**), to the University of [name] (**University**), the complainant's General Practitioner (**GP**) and the complainant's pharmacist.
6. The complainant is a veteran of the Australian Defence Force. The Department provides support services and information for veterans. The Department funds the Veterans' Medicines Advice and Therapeutics Education Services program (**MATES program**),<sup>1</sup> which aims to improve the use of medicines and related health services in the veteran community.
7. The MATES program uses administrative claims data to identify the most common medication related problems and clients who may be at risk of developing such problems.
8. As a veteran, the complainant was entitled to a healthcare card issued by the Department which allowed them to access certain benefits, including discounts on medicine (claims). The complainant was issued with a 'Gold Card' for this purpose.
9. Between 3 August 2016 and 12 May 2017 medication was dispensed to the complainant by their community pharmacist (**Pharmacist**).<sup>2</sup> The Pharmacist dispensed the medication

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<sup>1</sup> C49 - Complainant's response to the preliminary view dated 6 March 2023, Annexure A.

<sup>2</sup> R3.1 - Attachment to R3: Respondent's submission in response to s 44 dated 25 June 2020 p 7.

using the PBS Online Claims Processing system.<sup>3</sup> During this time, the complainant used their healthcare card.<sup>4</sup>

10. The then Department of Human Services (**DHS**), in accordance with a service delivery arrangement with the Department, processed the relevant claim.<sup>5</sup>
11. After each dispensation of medication, the PBS transactional data was transmitted electronically from DHS to the Department.<sup>6</sup> The transactional data included<sup>7</sup>:
  - Brand of medication dispensed
  - Date of dispensation
  - Date of prescription
  - Entitlement ID (which relevantly includes the number from the Repatriation Health Card (Specific or All Conditions) that applies to the person for whom the prescription was written)
  - Family Name (Surname of the person for whom the prescription was written sourced from the Medicare or equivalent DVA card)
  - Given Name (Given name of the person for whom the prescription was written sourced from the Medicare or equivalent DVA card)
  - PBS Item Code
  - Number of repeats authorised on the prescription.<sup>8</sup>
12. On 3 August 2017 the respondent disclosed the complainant's personal information to the University,<sup>9</sup> who was the contracted entity engaged to assist the Department with the administration and delivery of the MATES program.<sup>10</sup>
13. On 1 September 2017 the Department sent a letter about the MATES program with the complainant's personal information to the GP.<sup>11</sup>
14. On 4 October 2017 the Department sent a letter about the MATES program to the complainant.
15. On an unknown date the Department sent a letter about the MATES program to the Pharmacist.
16. The complainant complained to the Department on 11 October 2017.

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<sup>3</sup> R3.1 - Attachment to R3: Respondent's submission in response to s 44 dated 25 June 2020 p 7.

<sup>4</sup> R3.1 - Attachment to R3: Respondent's submission in response to s 44 dated 25 June 2020 p 7.

<sup>5</sup> R3.1 - Attachment to R3: Respondent's submission in response to s 44 dated 25 June 2020 p 8.

<sup>6</sup> R1.1 - Attachment to R1: Respondent's submission in response to s 40 dated 28 February 2020 p 3.

<sup>7</sup> R3.1 - Attachment to R3: Respondent's submission in response to s 44 dated 25 June 2020 p 7, 10.

<sup>8</sup> R3.1 - Attachment to R3: Respondent's submission in response to s 44 dated 25 June 2020 p 10.

<sup>9</sup> R3.1 - Attachment to R3: Respondent's submission in response to s 44 dated 25 June 2020 p 12.

<sup>10</sup> R3.1 - Attachment to R3: Respondent's submission in response to s 44 dated 25 June 2020 p 12-13.

<sup>11</sup> R3.1 - Attachment to R3: Respondent's submission in response to s 44 dated 25 June 2020 p 7.

17. Being dissatisfied with the Department's response, the complainant made a privacy complaint under s 36 of the Privacy Act to the OAIC.<sup>12</sup>
18. A delegate of the Commissioner opened an investigation under s 40(1) of the Privacy Act on 20 January 2020.
19. The parties have had an opportunity to provide submissions and information in response to a 'preliminary view'.

## The Law

20. All references to provisions in this determination are to those contained in the Privacy Act except where indicated.
21. The APPs, which are set out in Schedule 1 to the Privacy Act, regulate the collection, use, disclosure and security of personal information held by Australian government agencies and certain private sector organisations (**APP entities**). An act or practice of an APP entity is an interference with the privacy of an individual if the act or practice breaches an APP (s 13(1)).
22. The relevant law is set out at **Attachment A**.

## Material considered

23. In making this determination I have considered information and submissions provided by the parties. I have also considered:
  - *Australian Privacy Principles Guidelines*, issued by the Australian Information Commissioner (**APP Guidelines**)<sup>13</sup>
  - *OAIC's Guide to Privacy Regulatory Action*.<sup>14</sup>
24. The APP Guidelines are not legally binding. They provide a summary of the mandatory requirements of the APPs, guidance on how the APPs should be applied and the matters the Commissioner may take into account when exercising their functions and powers under the Privacy Act.

## Complainant's claims

25. In summary, the claimed acts and practices (**claims**) about which the complainant complains are:
  - **Claim 1** - The Department collected the complainant's sensitive information from DHS without their consent. This claim raises an alleged breach of APP 3.
  - **Claim 2** - The Department failed to notify them that it had collected their sensitive information from DHS. This claim raises an alleged breach of APP 5.
  - **Claim 3** - The Department disclosed their sensitive information to the University, the GP and the Pharmacist without their consent. The complainant claims that the Department used their sensitive information without their consent by sending them a letter about the MATES program. This claim raises an alleged breach of APP 6.

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<sup>12</sup> C1.1 - Attachment to C1: Privacy complaint dated 3 October 2018.

<sup>13</sup> July 2019 version - [Australian Privacy Principles guidelines - OAIC](#).

<sup>14</sup> June 2020 version - [Guide to privacy regulatory action - OAIC](#).

26. Although not set out in the complaint, the complainant appears to raise an additional alleged act in a document titled 'Privacy Complaint' with a subheading, 'Submission to the office of the Australian Information Commissioner – re: Opening of s 40(1) *Privacy Act 1988* (Cth) Investigation' (**additional claim**).<sup>15</sup> This was provided to the OAIC on 17 April 2020.<sup>16</sup> The additional claim is that the Department sent a plain text username and password via unsecured mail to the GP that would allow anyone who saw them to access the complainant's sensitive personal health information via a portal on veteranmates.net.au (**MATES portal**). This appears to raise an alleged breach of APP 11. The complainant submits that they complained about the additional claim as soon as they became aware of it.<sup>17</sup> As this claim arises from the same factual circumstances, I have included the additional claim in this determination.

- **Damages claim** - The complainant claims to have suffered non-economic loss as a result of the Department's alleged interference with their privacy.

27. In their response to the preliminary view, the complainant further claims that the disclosure of their personal information by the Department was not just limited to the PBS transactional data, and that the disclosure included:

details of all prescription medicines, medical and allied health services, and hospitalisations provided ... [and] includes data on gender, date of birth, date of death and family status.<sup>18</sup>

28. This claim is based on a journal article titled 'Analgesic use in Vietnam Veterans' with Musculoskeletal Pain' identified by the complainant as having used data sourced from 'DVA's administrative claims database'.<sup>19</sup> Based on this article alone, there is insufficient evidence to show that the disclosures in relation to the journal article were made in breach of the APPs, that the information disclosed was in fact 'personal information' (in that an individual would be reasonably identifiable), or that the complainant's personal information was included in these disclosures. In any event, these disclosures are beyond the scope of the complainant's complaint.

29. The complainant also claims that disclosures made by the Department were 'not restricted to one incidence [sic], but were a regular routine disclosure (at least [sic] monthly)'.<sup>20</sup> The complainant appears to base this claim on materials prepared by the MATES program which states:

client data are updated weekly, health claims data are updated monthly... Four times a year GPs receive information about the veterans they treat who may have the targeted medication or health related problem. The information includes: A list of the patient's relevant medicines and health services... Notes identifying the potential problems...<sup>21</sup>

30. The OAIC has specifically asked the respondent when the complainant's personal information was disclosed to the University in the context of this complaint, and the respondent has identified that the complainant's personal information was disclosed to

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<sup>15</sup> C17.1 - Attachment to C17: Submission and annexures p 2.

<sup>16</sup> C17.1 - Attachment to C17: Submission and annexures p 2.

<sup>17</sup> C39 – Email from the complainant to the OAIC dated 12 January 2023.

<sup>18</sup> C41 – Email from the complainant to the OAIC dated 12 February 2023.

<sup>19</sup> O22 - [Analgesic use in Vietnam Veterans' with Musculoskeletal Pain - JMVH](#), last accessed 13 April 2023.

<sup>20</sup> C44 – Email from the complainant to the OAIC dated 14 February 2023.

<sup>21</sup> C49 - Complainant's response to the preliminary view dated 6 March 2023, Annexure A.



the University on 3 August 2017 only.<sup>22</sup> The materials identified by the complainant pertain to information regarding the MATES program generally, and without further information, there is insufficient evidence for me to find that there were further disclosures of the complainant's personal information which are within the scope of this complaint.

## Respondent's response

31. The respondent denies that it breached the Privacy Act.

32. The respondent:

- denies breaching APP 3.3 or APP 3.5
- denies breaching APP 5.1 - the respondent contends that it took reasonable steps to notify the complainant of the collection of their sensitive information
- denies breaching APP 6.1 - the respondent contends that the use and disclosure of the complainant's sensitive information was for the same purpose (primary purpose) as the purpose of collection.

## Respondent as an APP entity

33. The Privacy Act regulates the acts and practices of 'APP entities'. An 'APP entity' is either an organisation or an agency (s 6).

34. The Department is an agency. Under s 36(6) if the agency is an unincorporated body, the principal executive of the agency shall be the respondent.

35. I am satisfied that the Department is an APP entity and the appropriate respondent is the Secretary to the Department.

## Legislative context

36. Given the complexities of this case and the intersecting legislative frameworks it is appropriate to set out the relevant legislative context; in particular the legislation and determinations relating to the complainant's entitlements.

37. On [REDACTED] the Military Rehabilitation and Compensation Commission (**MRC Commission**) issued a determination, in accordance with Chapter 4 of the *Military Rehabilitation and Compensation Act 2004* (Cth) (**MRCA**), that the complainant was entitled to [REDACTED]

[REDACTED].<sup>23</sup> The complainant claims that acceptance of liability under Chapter 2 of the MRCA is what 'enlivens treatment at Commonwealth expense of the injury/illness', and not Chapter 4.<sup>24</sup>

38. In any event, under Chapter 6 of the MRCA, the determination meant that the complainant was entitled to be provided with treatment under Part 3 of Chapter 6 'for any injury or disease' in accordance with subsection 281(1) of the MRCA.<sup>25</sup> The

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<sup>22</sup> R3.1 - Attachment to R3: Respondent's submission in response to s 44 dated 25 June 2020 p 12.

<sup>23</sup> R1.1 - Attachment to R1: Respondent's submission in response to s 40 dated 28 February 2020 p 3.

<sup>24</sup> C46 - Email from the complainant to the OAIC dated 14 February 2023.

<sup>25</sup> R3.1 - Attachment to R3: Respondent's submission in response to s 44 dated 25 June 2020 p 3.

complainant contends that they were entitled to treatment under s 280 or s 282 of the MRCA instead.

39. Regardless of which section the complainant was entitled to treatment under, s 13 of the MRCA defines treatment to mean:

**treatment** means treatment provided, or action taken, with a view to:

(a) restoring a person to physical or mental health or maintaining a person in physical or mental health; or

(b) alleviating a person's suffering; or

(c) ensuring a person's social well-being.

40. Pursuant to s 286 of the MRCA the MRC Commission made a determination titled MRCA Treatment Principles (**Treatment Principles**).<sup>26</sup>

41. Paragraph 2.1.1 of the Treatment Principles provides that, subject to the Treatment Principles, the MRC Commission will provide or arrange for treatment of entitled persons including those who have been issued a Gold Card.

42. Further, paragraph 4.3.1 of the Treatment Principles states that the MRC Commission will accept financial responsibility for treatment costs where a general practitioner provides or arranges for treatment of an entitled person who has been issued with a Gold Card (unless otherwise indicated).

43. Paragraph 6.2.1(b) provides that a person is eligible to receive pharmaceutical benefits under the MRCA Pharmaceutical Benefits Scheme (**MPBS**) if the person holds a Gold Card.

44. The MRCA Pharmaceutical Benefits Determination (**MPBS Determination**) is another relevant determination made by the MRC Commission for the purposes of paragraph 286(1)(c) of the MRCA.

45. Section 2 of the MPBS Determination enables community pharmacists to supply PBS medications to eligible persons – including individuals issued with a Gold Card.<sup>27</sup> Section 11 allows general practitioners to write prescriptions under the MPBS to eligible persons.

46. Pursuant to s 21(1) of the MPBS Determination, the MRC Commission will accept financial responsibility for each pharmaceutical benefit provided to an eligible person.

47. Following the determination by the MRC Commission the complainant was issued a Repatriation Health Card (i.e. a Gold Card).<sup>28</sup> As such, the complainant, as a holder of a Gold Card, was an eligible person for the purposes of the MPBS.

48. Section 382 of the MRCA provides that the staff required to assist the MRC Commission are to be persons engaged under the *Public Service Act 1999* (Cth) and made available for the purpose by the Secretary to the Department.

49. Section 5 of the MPBS Determination sets out when the Department acts as agent for the MRC Commission for the purposes of the MPBS.

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<sup>26</sup> R3.1 - Attachment to R3: Respondent's submission in response to s 44 dated 25 June 2020 p 4.

<sup>27</sup> Section 3 MRCA Pharmaceutical Benefits Determination.

<sup>28</sup> R1.1 - Attachment to R1: Respondent's submission in response to s 40 dated 28 February 2020 p 3.

# Personal information

50. 'Personal information' is defined in the Privacy Act to mean 'information or an opinion about an identified individual, or an individual who is reasonably identifiable, whether the information or opinion is true or not; and whether the information or opinion is recorded in a material form or not' (s 6).

51. This complaint involves the following personal information of the complainant:

- the name of the complainant
- name of a medication prescribed to the complainant under the MPBS
- the date on which it was last prescribed
- the prescribed instructions for administration and amount of the medication for the period July 2016 to June 2017.

**[prescription information]**<sup>29</sup>

52. 'Sensitive information' is defined to include health information about an individual (s 6).

53. 'Health information' is defined as:

## **6FA Meaning of health information**

The following information is health information:

(a) information or an opinion about:

(i) the health, including an illness, disability or injury, (at any time) of an individual; or

(ii) an individual's expressed wishes about the future provision of health services to the individual; or

(iii) a health service provided, or to be provided, to an individual;

that is also personal information;

(b) other personal information collected to provide, or in providing, a health service to an individual;

(c) other personal information collected in connection with the donation, or intended donation, by an individual of his or her body parts, organs or body substances;

(d) genetic information about an individual in a form that is, or could be, predictive of the health of the individual or a genetic relative of the individual.

54. Health information includes information about an individual's prescriptions and other pharmaceutical purchases.<sup>30</sup>

55. Therefore, as the complainant was identifiable, the complainant's prescription information is sensitive information for the purposes of the Privacy Act.

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<sup>29</sup> R3.1 - Attachment to R3: Respondent's submission in response to s 44 dated 25 June 2020 p 7.

<sup>30</sup> <https://www.oaic.gov.au/privacy/health-information/what-is-health-information/>.

# Breach

## Claim 1 – APP 3

56.Claim 1 is that the Department collected the complainant’s sensitive information, being the prescription information, from DHS without the complainant’s consent.

### APP 3

57.APP 3 prohibits an APP entity from collecting sensitive information about an individual unless:

- the individual consents to the collection of the information and, as relevant to agencies, the information is reasonably necessary for, or directly related to, one or more of the entity’s functions or activities, or
- one of the exceptions in APP 3.4 applies in relation to the information.

### Issues

58.It is not in dispute that the Department collected the prescription information from DHS.

59.The respondent has submitted that the complainant’s prescription information was collected by the Department from DHS after each of the following occasions when the relevant medication was dispensed to the complainant by their Pharmacist during the period July 2016 to June 2017:

- 3 August 2016
- 29 September 2016
- 28 November 2016
- 13 February 2017
- 7 March 2017
- 23 March 2017
- 27 April 2017
- 12 May 2017.<sup>31</sup>

#### **[collection dates]**

60.The respondent further submits that the prescription information was collected to allow the ‘Department to assess and manage claims for benefits made by [redacted] under the RPBS [Repatriation Pharmaceutical Benefits Scheme].’<sup>32</sup>

61.In determining whether there has been a breach of APP 3.1, the issues are:

- Whether the complainant consented to the collection of the information.
- If the complainant consented, whether the personal information was reasonably necessary for or directly related to one or more of the entity’s functions or activities.

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<sup>31</sup> R3.1 - Attachment to R3: Respondent’s submission in response to s 44 dated 25 June 2020 p 7.

<sup>32</sup> R1.1 - Attachment to R1: Respondent’s submission in response to s 40 dated 28 February 2020 p 3.

- If the complainant did not consent, or the personal information was not reasonably necessary for or directly related to a function or activity, whether a relevant exception in APP 3.4 applied.

## Consideration

### Did the complainant consent to the collection of the information?

#### Consent

62. The APP Guidelines refer to the following four elements of consent:

- the individual is adequately informed before giving consent
- consent is given voluntarily
- consent is current and specific
- the individual has capacity to understand and communicate consent.<sup>33</sup>

63. The APP Guidelines recognise that consent may be implied or express. Implied consent arises where consent may reasonably be inferred from the circumstances through the conduct of the individual or the APP entity. It should not generally be assumed that an individual has consented merely because they did not object to the handling of the particular information in a particular way.<sup>34</sup>

64. The question is whether the complainant gave informed, voluntary, current and specific consent; whether they had the capacity to give such consent; and if given, whether consent was express or implied.

65. The complainant acknowledges that they did consent to the collection of their prescription information by the Department:

I was reasonably aware that having PBS items supplied at the concessional rate due to my DVA Gold TPI Veteran's Card status, would result eventually in DVA receiving this information in order to reimburse the PBS system for the concessional supply, but could not be reasonably aware it would be used for other purposes unrelated to this activity.<sup>35</sup>

66. However, the complainant submits that they did not consent to the collection of their prescription information for the purposes of the MATES program. Specifically, the complainant contends:

The complainant accepts that there was consent from [them] to [their] General Practitioner, [their] Community Pharmacy, Medicare (Human Services) and even the Department of Veterans Affairs to indirectly collect the reasonably necessary personal information (including sensitive information) **to fund the supply of the prescription.**

...

**It does not follow however,** and would be caught by the complainant's revocation of consent notices, that such consent could lawfully be inferred and extended by the Department of Veterans Affairs to other things, such as the

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<sup>33</sup> APP Guidelines [B.35].

<sup>34</sup> APP Guidelines [B.36]-[B.39].

<sup>35</sup> C1.1 - Attachment to C1: Privacy complaint dated 3 October 2018 p 4.

Veterans' MATES prescriber "interventions", given consent must be both **current** and **specific**.<sup>36</sup>

67. The complainant advised that on 27 February 2016, 23 June 2017, 17 August 2017 and 26 October 2017 they sent 'standing revocation and reminders of standing revocation of any consent (implied, inferred or otherwise) to the Department'<sup>37</sup> for:

any collection, use or disclosure of all or all of [sic] [their] personal information, bar that "reasonably necessary" to administer compensation incapacity payments, to authorise billing and payment of medical, medical travel and household services expenses and the supply of rehabilitation equipment and that "otherwise required by law".<sup>38</sup>

68. The complainant further submits that they could not have consented to the collection on the basis that they were not 'adequately informed' of the collection – the respondent did not inform the complainant that a purpose of collection was for use in the MATES program.<sup>39</sup> The complainant relies on the case of *Clearview*, and contends that any consent provided was in relation to a 'significantly different context' (i.e. in relation to the administration and funding of their prescription only) and would therefore not be current and specific to the context in which that information is being collected (i.e. for the purpose of the MATES program).<sup>40</sup>

69. The respondent submits that the prescription information was collected by the Department to assist the '[MRC] Commission's obligation to pay claims'<sup>41</sup> under the MPBS.

70. On the available evidence, my view is that the prescription information was collected by the Department from DHS for the purposes of managing and assessing claims made by the complainant under the MPBS.

71. As noted at [65]-[66], the complainant has acknowledged that they consented to the collection of their personal and sensitive information to 'fund the supply of the prescription'<sup>42</sup> and that any revocation of consent did not include the collection of their personal and sensitive information 'to authorise billing and payment of medical, medical travel and household services expenses'.<sup>43</sup>

72. However, it is clear that the complainant did not consent to the collection of their personal information for the purpose of the MATES program. Furthermore, consent generally cannot be implied if individuals are not adequately informed about the implications of providing or withholding consent, which includes ensuring that an individual is properly and clearly informed about how their personal information will be handled, so they can decide whether to give consent.<sup>44</sup>

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<sup>36</sup> C17.1 - Attachment to C17: Submission and annexures dated 20 April 2020 p 14.

<sup>37</sup> C17.1 - Attachment to C17: Submission and annexures dated 20 April 2020 p 1.

<sup>38</sup> C17.1 - Attachment to C17: Submission and annexures dated 20 April 2020 p 1.

<sup>39</sup> C49: Complainant's response to the preliminary view dated 6 March 2023 p 17.

<sup>40</sup> Commissioner initiated investigation into Clearview AI, Inc. (Privacy) [2021] AICmr 54 [154]; C49: Complainant's response to the preliminary view dated 6 March 2023 p 10.

<sup>41</sup> R3.1 - Attachment to R3: Respondent's submission in response to s 44 dated 25 June 2020 p 11.

<sup>42</sup> C17.1 - Attachment to C17: Submission and annexures dated 20 April 2020 p 14.

<sup>43</sup> C17.1 - Attachment to C17: Submission and annexures dated 20 April 2020 p 1.

<sup>44</sup> Commissioner initiated investigation into Clearview AI, Inc. (Privacy) [2021] AICmr 54 [153].

73. Therefore, it is my view that while the complainant consented to the collection of the prescription information by the Department on the collection dates for the purpose of assessing and managing the complainant's MPBS claims, the complainant did not consent to the collection of information for the purposes of the MATES program.

**Was the collection of the personal information reasonably necessary for or directly related to one or more of the entity's functions or activities?**

74. For completeness, I will also consider whether the collection was reasonably necessary for or directly related to the Department's functions or activities. An APP entity must only collect personal information which is reasonably necessary for one or more of the entity's functions or activities. Agencies may, in addition, collect personal information that is directly related to one or more of the agency's functions or activities.<sup>45</sup>

75. The respondent submits that the collection of the prescription information was:

...

both reasonably necessary for, and directly related to, the function of administering the MRCA and determinations made under that Act.

76. The APP Guidelines provide that in order to be directly related to a function or activity, a **clear and direct connection** must exist between the personal information being collected and an agency function or activity.<sup>46</sup>

77. In order to ascertain the relevant function or activity, it is necessary to examine the legal instruments that confer or describe the agency's function.<sup>47</sup>

78. During the period between 3 August 2016 – 12 May 2017 two Administrative Arrangement Orders were in force.

79. The first *Administrative Arrangements Order - 30/9/2015* was enacted on 30 September 2015 and was repealed on 1 September 2016. The second *Administrative Arrangements Order - 1/9/2016* was enacted on 1 September 2016 and repealed on 18 April 2018.

80. Part 18 of both the Administrative Arrangement Orders list 'Repatriation income support, compensation and health programmes for veterans, members of the Defence Force, certain mariners and their dependants' as a matter dealt with by the Department.

81. Further, both Administrative Arrangement Orders list the MRCA as legislation that is administered by the Minister for Veterans' Affairs. As such, it is evident that a function of the Department is to administer the MRCA.

82. It is therefore necessary to determine whether the collection of the prescription information was reasonably necessary for or directly related to administration of the MRCA.

83. As discussed at [45] under the MPBS Determination a community pharmacist can supply PBS items to eligible persons, including individuals issued with a Gold Card.

84. Under s 24 of the MPBS Determination, lodgement for MPBS claims by a community pharmacist are to be made in accordance with s 99AAA of the *National Health Act 1953*

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<sup>45</sup> APP Guidelines para [3.8].

<sup>46</sup> APP Guidelines para [3.16].

<sup>47</sup> APP Guidelines para [3.10].

(Cth) (**National Health Act**). Subsections 98AC(4) and 99AAA(8) of the National Health Act provide what is known as the claim rules.

85. Section 7 of the *National Health (Claims and under co-payment data) Rules 2012* (PB 19 of 2012) (**Claim Rules**) describes the information that is to be given to the Secretary by an approved supplier in relation to the supply of a pharmaceutical benefit.

Subsection 7(1)(d) notes that if the approval number is to be given utilising the electronic Claims Transmission System, the information required under Schedule 1 is to be given in relation to the supply of the pharmaceutical benefit.

86. Specifically, under Schedule 1 of the Claims Rules the following information is required to be provided by the supplier (in this case the Pharmacist) when supplying a pharmaceutical benefit:

- Brand
- Date of dispensing
- Date of prescribing
- Entitlement ID (including the number from the Repatriation Health Card (Specific or All Conditions) that applies to the person for whom the prescription was written)
- Family Name
- Given Name
- Number of repeats
- PBS Item Code.

87. Further, s 25 of the MPBS Determination requires that payment of an MPBS claim is subject to the compliance with the MPBS and 'in particular section 24' of the MPBS Determination, and subsequently the Claims Rules.

88. As such, in order for the MRC Commission to pay claims made under the MPBS, the personal information and prescription information of individuals must be provided by the relevant community pharmacist utilising the Claims Transmission System.

89. The respondent submitted that pursuant to a service delivery arrangement between DHS and the Department, DHS:

was responsible for providing services including assessing, processing and paying claims under the RPBS (which includes MPBS data) in accordance with the processing rules, and capturing, recording and providing accurate transactional data as part of the PBS processing practices that relate to MPBS and RPBS pharmaceutical transactions to assist the Department with ongoing financial reconciliation processes.<sup>48</sup>

90. The service delivery arrangement applied to the administration of the MPBS scheme at the time the prescription information was collected by the Department.<sup>49</sup>

91. In order for the MRC Commission to reconcile and make payments for MPBS claims it was therefore necessary to collect the prescription information from DHS. Staff of the Department, as an agent of the MRC Commission, collect the prescription information from DHS and process the reconciliation of the MPBS claim.

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<sup>48</sup> R3.1 - Attachment to R3: Respondent's submission in response to s 44 dated 25 June 2020 p 8.

<sup>49</sup> R3.1 - Attachment to R3: Respondent's submission in response to s 44 dated 25 June 2020 p 8.



92. Therefore, it is my view that the collection of the prescription information by the Department was reasonably necessary for the administration of the MRCA. However, as there was no consent from the complainant, I find that the respondent has breached APP 3.

## Finding

93. The respondent has breached APP 3 by collecting the complainant's prescription information from DHS on the collection dates as the complainant did not provide consent to the collection for the purpose of the MATES program.

## Claim 2 – APP 5

94. Claim 2 is that the Department failed to notify the complainant that it had collected their sensitive information from DHS.

## APP 5

95. APP 5.1 requires an APP entity that collects personal information about an individual to take such steps (if any) as are reasonable in the circumstances:

- to notify the individual of such matters referred to in APP 5.2 (**APP 5 matters**) as are reasonable in the circumstances, or
- to otherwise ensure that the individual is aware of any such matters.

96. The APP 5 matters are:

- The identity and contact details of the APP entity.
- If the APP entity collects personal information from someone other than the individual, the fact that the entity so collects, or has collected, the information and the circumstances of that collection.
- If the individual may not be aware that the APP entity has collected the personal information, the fact that the entity so collects, or has collected, the information and the circumstances of that collection.
- If the collection is required or authorised by or under an Australian law or a court/tribunal order, the fact that the collection is so required or authorised.
- The purposes for which the APP entity collects personal information.
- The main consequences (if any) for the individual if all or some of the personal information is not collected by the APP entity.
- Any other APP entity, body or person, or the types of any other APP entities, bodies or persons, to which the APP entity usually discloses personal information of the kind collected by the entity.
- That the APP privacy policy of the APP entity contains information about how the individual may access the personal information about the individual that is held by the entity and seek the correction of such information.
- That the APP privacy policy of the APP entity contains information about how the individual may complain about a breach of the APPs, or registered APP code, as relevant, and how the entity will deal with such a complaint.
- Whether the APP entity is likely to disclose the personal information to overseas recipients.

- If the APP entity is likely to disclose the personal information to overseas recipients, the countries in which such recipients are likely to be located, if it is practicable to specify those countries.

97. The timing of the obligation to notify in APP 5.1 is to notify:

- at the time that the APP entity collects the personal information
- before the time that the APP entity collects personal information, or
- if it is not practical to notify at or before the time of collection, as soon as practicable after collection.

## APP Guidelines

98. Reasonable steps that an entity should take will depend upon the circumstances, including:

- the sensitivity of the personal information
- the possible adverse consequences for the individual
- any special needs of the individual
- the practicability, including the time and cost of taking measures.<sup>50</sup>

99. APP 5.1 acknowledges that it may be reasonable for an APP entity to not take any steps to provide a notice or ensure awareness.

100. Examples of when this may be reasonable include:

- the individual is aware that personal information is being collected
- an entity collected personal information from an individual on a recurring basis in relation to the same matter
- notification may pose a serious threat to the life, health or safety of an individual or pose a threat to public health or safety
- notification may jeopardise the purpose of collection or the integrity of the personal information
- notification will be inconsistent with a legal obligation
- an entity collects personal information about a person who poses a risk of committing family violence
- the impracticability of notification, including the time and cost.<sup>51</sup>

## Issues

101. It is not in dispute that the Department collected the complainant's prescription information from DHS.

102. As discussed at [91] the Department, as an agent of the MRC Commission, collected the complainant's prescription information to reconcile and make payments for MPBS claims, and it was therefore necessary to collect the prescription information from DHS.

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<sup>50</sup> APP Guidelines [5.4].

<sup>51</sup> APP Guidelines [5.7].

103. The relevant issues in considering whether the respondent has breached APP 5 in the circumstances of this case are:

- Did the respondent take steps to notify the complainant of the following relevant APP 5 matters:
  - if the APP entity collects personal information from someone other than the individual, the fact that the entity so collects, or has collected, the information and the circumstances of that collection
  - the purposes for which the APP entity collects personal information.
- If the respondent did not take reasonable steps to notify the complainant of the relevant APP 5 matters, did it otherwise take steps to ensure that they were aware of those matters?
- What were the circumstances relevant to considering whether the steps taken were reasonable?
- Were those steps reasonable in the circumstances?

## Consideration

### **Did the respondent take reasonable steps to notify the complainant of the collection and purpose of collection of the complainant's personal information?**

104. The complainant contends that the Department failed to notify them that the Department was collecting their prescription information for the purpose of 'cost reduction programs'<sup>52</sup>, specifically the MATES program.

105. However, as discussed at [91] it is my view that the Department collected the complainant's prescription information to facilitate the complainant's MPBS claims.

106. The APP Guidelines provides that the purposes for which the APP entity collects personal information includes the primary purpose of collection. If the APP entity may use or disclose personal information other than the primary purpose, these could also be included.<sup>53</sup> The APP Guidelines do not mandate that each purpose of collection needs to be notified for the purpose of complying with APP 5, so long as the primary purpose has been notified. Therefore, I am satisfied that the respondent had notified, or ensured that the complainant was aware of the matters in APP 5.

107. As such, it is necessary to ascertain whether the Department took reasonable steps to notify the complainant of the collection and purpose of collection of the complainant's personal information, in relation to the processing of their MPBS claims.

108. The respondent submits that the Department 'provides information about privacy in its claim forms and on its website.'<sup>54</sup> Specifically, the Department's privacy policy,<sup>55</sup> the

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<sup>52</sup> C1.1 - Attachment to C1: Privacy complaint dated 3 October 2018 p 5.

<sup>53</sup> APP Guidelines [5.16].

<sup>54</sup> R1.1 - Attachment to R1: Respondent's submission in response to s 40 dated 28 February 2020 p 5.

<sup>55</sup> R1.1 - Attachment to R1: Respondent's submission in response to s 40 dated 28 February 2020 p 5.

‘Claim for Liability and/or Reassessment of Compensation’ form (**Claims Form**) and notices provided to the complainant when they were issued with a Gold Card.<sup>56</sup>

109. The respondent has submitted that the privacy policies found at <https://www.dva.gov.au/site-information/privacy> and <https://www.dva.gov.au/site-information/privacy/privacy-notice-financial-and-health-information> advise that the Department collects personal information to, amongst other things, facilitate and fund health care.<sup>57</sup>
110. However, the privacy policy provided was drafted in 2019 and the privacy notice for financial and health information is no longer accessible. Further, an entity’s obligations under APP 5 are different to its obligations under APP 1 to have a privacy policy in place. APP 5 has a temporal element (at, before or as soon as practicable after collection) and is about notifying an individual about a collection of that individual’s personal information. This can be contrasted with the requirement to have a privacy policy under APP 1, which may describe only the general information handling practices of the entity.<sup>58</sup>
111. It is necessary to determine whether the claims notice and/or the Gold Card notices notified the complainant of the collection and purpose of collection of the complainant’s personal information.
112. The respondent submits that the complainant was provided with a copy of a Claims Form each time the complainant made a claim for liability or reassessment of compensation. The respondent provides that the complainant last made a claim on [REDACTED].<sup>59</sup>
113. The respondent has provided a copy of the Claims Form.<sup>60</sup>
114. Relevantly the Claims Form includes a privacy notice that states:

The information provided on this form, and on any additional DVA forms you complete in relation to this claim, is required to assess your eligibility for benefits under one or more the following applicable Acts: *Veterans’ Entitlements Act 1986* (VEA), *Safety, Rehabilitation and Compensation Act (1988)* (SRCA) and MRCA. If the information you provide is used to assess your eligibility under one Act, it will not be used for the purposes of another Act unless authorised by law or you give a separate consent. Any information you provide on this form, or any other form relevant to this claim, may be disclosed to the following agencies and bodies for their lawful purposes:

the Department of Defence;

Centrelink;

the Australian Taxation Office;

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<sup>56</sup> R6.1 - Attachment to R6: Claim for Liability and/or Reassessment of Compensation dated 27 October 2011.

<sup>57</sup> R1.1 - Attachment to R1: Respondent’s submission in response to s 40 dated 28 February 2020 p 5.

<sup>58</sup> ‘YD’ and Secretary of the Department of Home Affairs (Privacy) [2021] AICmr 56 (18 October 2021); ‘WG’ and AustralianSuper Pty Ltd (Privacy) AICmr 64.

<sup>59</sup> R3.1 - Attachment to R3: Respondent’s submission in response to s 44 dated 25 June 2020 p 17.

<sup>60</sup> R6.1 - Attachment to R6: Claim for Liability and/or Reassessment of Compensation dated 27 October 2011.

the Child Support Agency;

Medicare Australia;

the legal representatives of the Department of Defence in relation to any common law (third party) damages action;

ComSuper (regarding any Commonwealth superannuation entitlements you may have);

Commonwealth, State and Territory workers' compensation authorities in relation to a similar injury or medical condition;

doctors, hospitals and other health care professionals who have provided you with treatment or who are requested to assist in the investigation of your claim; and

your current and/or previous employer(s).<sup>61</sup>

115. The Claims Form, as completed by the complainant on [REDACTED], is annotated by the complainant in relation to the 'Privacy Notice.' The complainant wrote:

I do not consent to this claim being considered under any Act except MRCA

116. The Department has also provided a template letter that is sent to eligible individuals when being sent a Gold Card. The Department has provided that 'it is more likely than not, however, that [the complainant] received that Gold Card on the 2014 template, which was developed in March 2014 (prior to the issue of [the complainant's] TPI embossed Gold Card in June 2014).'<sup>62</sup>

117. The March 2014 Gold Card template states:

**Sharing your information with others**

By using this card, you consent to DVA collecting information regarding the details of any treatment, treatment related services and financial information associated with the card's use and acknowledge that your personal information may be used by DVA, collected from or provided to other parties, including the following:

the Australian Government Department of Human Services to assign you an Individual Healthcare Identifier for the purpose of administering the eHealth record system; and

medical and health professionals, including health practitioners, hospitals, and health, rehabilitation and home care providers, for the purpose of providing treatment and services and to assess potentially hazardous dosages and/or medicine combinations.<sup>63</sup>

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<sup>61</sup> R6.1 - Attachment to R6: Claim for Liability and/or Reassessment of Compensation dated 27 October 2011.

<sup>62</sup> R3.1 - Attachment to R3: Respondent's submission in response to s 44 dated 25 June 2020 p 16.

<sup>63</sup> R3.1 - Attachment to R3: Respondent's submission in response to s 44 dated 25 June 2020 p 16; R5.3 - Attachment to R5: Template letter for TPI Gold Card undated.

118. In order to determine whether the Department took reasonable steps to notify the complainant of the collection of their personal information, I have considered the following circumstances, as relevant to the factors set out in the APP Guidelines:

- **Sensitivity of the personal information collected** - Personal information involving sensitive information should generally be afforded a higher level of protection than other personal information. I note that this personal information, being information about the complainant's prescription information, is sensitive information for the purposes of the Privacy Act. I consider this factor weighs in favour of requiring more rigorous steps when collecting the complainant's personal information.
- **Possible adverse consequences for an individual as a result of the collection** - The context of this collection of personal information was for the purposes of administration and settlement of MPBS claims. The collection of the prescription information was required to provide the complainant with subsidised healthcare. It is not apparent that the collection of the prescription information may have significant unfair adverse consequences for the complainant.
- **Any special needs of the individual** - More rigorous steps may be required if personal information is collected from an individual from a non-English speaking background who may not readily understand the APP 5 matters. From the available evidence this is not a relevant factor for this matter.
- **The practicability, including time and cost involved** - The complainant has not identified additional reasonable steps that the respondent should have taken to notify them of the collection of their prescription information for the purposes of the MPBS. The complainant has acknowledged that they consented to the collection of their prescription information to facilitate claims made under the MPBS:

To avoid doubt, there is no dispute that RPBS and PBS information collected from pharmacies, by DHS, for DVA Health Card holders (Gold & for certain items White/Orange cardholders) and subsequently provided by DHS to DVA, to enable DHS to receive reimbursement from DVA, is allowable under the Privacy Act.<sup>64</sup>

However, an entity is not excused from taking specific steps by reason only that it would be inconvenient, time-consuming or impose some cost to do so. Whether these factors make it unreasonable to take particular steps will depend on whether the burden is excessive in all the circumstances.

119. On the information before me, noting that the complainant was aware of and consented to the collection of their personal information for the purposes of the administration of the MPBS, I am not aware of any additional steps against which to consider the practicability criterion.

### **Did the respondent take reasonable steps to notify the complainant of the collection and purpose of collection?**

120. Having regard to the circumstances set out at [111]-[118], and placing particular weight on the fact that the complainant was aware of and consented to the collection of their personal information for the purposes of the administration of the MPBS, I am satisfied that in this instance the respondent took reasonable steps to notify the

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<sup>64</sup> C3 - Email from the complainant to the OAIC dated 9 March 2020.

complainant of the collection and purpose of collection by providing the complainant notice in both the Claims Form and Gold Card letter.

## Findings

121. The respondent has not breached APP 5 as it is my view that the Department took reasonable steps to notify them of the collection and the purpose of collection of the complainant's prescription information. Claim 2 does not reveal a breach of APP 5.

## Claim 3 – APP 6

122. Claim 3 is that the Department disclosed the complainant's sensitive information to the University, the complainant's GP and the complainant's pharmacist without their consent. This claim raises an alleged breach of APP 6.

## APP 6

123. APP 6 requires that where an entity holds personal information that was collected for a particular purpose, it must not use or disclose the information for a secondary purpose, subject to exceptions, including consent. This is known as the 'rule against disclosure for secondary purposes.'

124. Relevantly, an exception applies where the individual would reasonably expect the APP entity to disclose for the secondary purpose and, for non-sensitive personal information, the secondary purpose is related to the primary purpose. For personal information that is sensitive information under the Privacy Act, the secondary purpose must be directly related to the primary purpose for the exception to apply.

## Issues

125. Given the complainant's revocation of consent, I find that the respondent did not have the complainant's consent to use or disclose the personal information for the purposes of the MATES program. In determining whether the respondent has breached APP 6, therefore, the relevant issues are:

- What was the purpose of collection (**primary purpose**)?
- What personal information was disclosed?
- Was the disclosure for the primary purpose or another purpose (**secondary purpose**)?
- If it was for a secondary purpose, did an exception apply to the use or disclosure for the secondary purpose?

## Consideration

126. As discussed at [74]-[92] it is my view that that the collection of the prescription information by the Department was for the purpose of reconciling and making payments for MPBS claims made by the complainant (**primary purpose**) as the agent for the MRC Commission.

## What personal information was disclosed?

127. 'Disclosure' and 'use' are not defined in the Privacy Act. Under the APP Guidelines, an APP entity discloses personal information when it makes it accessible or visible to others

outside the entity and releases the subsequent handling of the personal information from its effective control.<sup>65</sup>

128. The complainant contends that the Department disclosed their personal information to the University, their GP and their pharmacist. The complainant also contends that the Department used their personal information when contacting them about the MATES program.<sup>66</sup>

129. I will consider each use and disclosure separately below.

#### Disclosure to the Pharmacist

130. The complainant contends that their prescription information was disclosed when the respondent contacted the Pharmacist about the MATES program.<sup>67</sup>

131. The respondent contends that the complainant's personal information was not disclosed to the Pharmacist.

132. In support of their submissions the respondent has provided a copy of the template letter that was sent to the Pharmacist.<sup>68</sup>

133. The respondent advises:

The letters were generated from a template using a 'mail merge' process, which involves automatically populating the name and address fields from a data file. The template itself contains no personal information. Each letter contained standard text, with the only difference being the addressee and address details of each pharmacist.

134. I accept the respondent's contentions and the template letter. Having reviewed the template letter, I am satisfied that the name and address fields would be populated with the Pharmacist's details, and that the complainant is not reasonably identifiable in the template letter. The complainant's personal information was not disclosed to the pharmacist.

#### Disclosure to the GP

135. The complainant contends that their prescription information was disclosed to their GP by way of contacting the GP about the MATES program.<sup>69</sup>

136. The complainant has provided a redacted copy of the letter released under the *Freedom of Information Act 1982 (Cth)*.<sup>70</sup> The respondent does not dispute that this was the copy of the letter that was sent to the complainant's GP.

137. The letter contains the complainant's name and prescription information.

138. Having regard to the letter that was sent to the complainant's GP I find that the complainant's personal information was disclosed to the GP.

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<sup>65</sup> APP Guidelines [B.64]-[B.66].

<sup>66</sup> C1.1 - Attachment to C1: Privacy complaint dated 3 October 2018 p 4; C17.1 - Attachment to C17: Submission and annexures dated 20 April 2020 p 4.

<sup>67</sup> C1.1 - Attachment to C1: Privacy complaint dated 3 October 2018 p 4.

<sup>68</sup> R2.1 - Attachment to R2: Pharmacist template letter.

<sup>69</sup> C1.1 - Attachment to C1: Privacy complaint dated 3 October 2018 p 4.

<sup>70</sup> C1.1 - Attachment to C1: Privacy complaint dated 3 October 2018 p 11-12.



## Disclosure of personal information by sending the information to the University

139. An APP entity ‘uses’ information where it handles or undertakes an activity with the information, within the entity’s effective control.<sup>71</sup>
140. In limited circumstances, providing personal information to a contractor for services on behalf of the APP entity may be a ‘use’ rather than a ‘disclosure’. This occurs where the entity does not release the subsequent handling of personal information from its effective control. An example is the provision of personal information to a cloud service provider for the limited purpose of storing and ensuring the entity can access the personal information.<sup>72</sup>
141. The respondent has not contended that its provision of personal information to the administrator was a use rather than a disclosure, and there is nothing on material before me to indicate that it was. For the purposes of this determination, I am satisfied that the provision of personal information to the administrator was a disclosure rather than a use.
142. The complainant contends that their personal information was disclosed by the Department when it provided the University with the complainant’s personal information.<sup>73</sup>
143. Neither the complainant nor the respondent have described the personal information disclosed to the University. The complainant became aware of the disclosure upon receiving a letter from the Department dated 4 October 2017 about the MATES program, a copy of which the complainant has provided.<sup>74</sup> The footer of the letter contains the logo of the University. The content includes reference to the fact that the complainant is receiving the letter because they ‘currently obtain medicines from [their] pharmacist through the [the RPBS]’ and sets out a particular information topic in relation to a particular symptom. The respondent has acknowledged that the Department disclosed the complainant’s personal information to the University and submitted:
- In the context of this complaint, [complainant’s] personal information was disclosed to the University on 3 August 2017.<sup>75</sup>
144. Given the content of the letter, the fact that it includes the University’s logo, and the respondent’s admission that it has disclosed the complainant’s personal information to the University, I am satisfied that the personal information disclosed was the prescription information.

## Use of the complainant’s personal information

145. I infer, given the disclosures above, that the respondent used the complainant’s sensitive information for the purposes of administering the MATES program.

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<sup>71</sup> APP Guidelines [6.8].

<sup>72</sup> APP Guidelines at [B.144].

<sup>73</sup> C1.1 - Attachment to C1: Privacy complaint dated 3 October 2018 p 4.

<sup>74</sup> C1.1 - Attachment to C1: Privacy complaint dated 3 October 2018 p 9.

<sup>75</sup> R3.1 - Attachment to R3: Respondent’s submission in response to s 44 dated 25 June 2020 p 12.

## Was the disclosure for the primary purpose or another purpose (secondary purpose)?

146. A 'secondary purpose' is any purpose other than the primary purpose for which the APP entity collected the personal information.<sup>76</sup>

147. The respondent contends that it disclosed the complainant's prescription information for what it considers to be the primary purpose.

148. The respondent considers that the primary purpose for collection was the 'provision to [the complainant] of treatment to which [they were] entitled under Part 3 of Chapter 6 of the MRCA, including under the MPBS.'<sup>77</sup>

149. The respondent provides that under the MRCA, treatment is defined as:

13 Definition of *treatment*

(1) In this Act:

**treatment** means treatment provided, or action taken, with a view to:

(a) restoring a person to physical or mental health or maintaining a person in physical or mental health; or

(b) alleviating a person's suffering; or

(c) ensuring a person's social well-being.

(2) For the purposes of subsection (1), **treatment** includes:

(a) providing accommodation in a hospital or other institution, or providing medical procedures, nursing care, social or domestic assistance or transport; and

(b) supplying, renewing, maintaining and repairing artificial replacements, medical aids and other aids and appliances; and

(c) providing diagnostic and counselling services;

for the purposes of, or in connection with, any treatment.

150. The respondent submits that the MATES program is a treatment that is 'provided on behalf of the MRC Commission to persons entitled to treatment under the MRCA, including [the complainant].'<sup>78</sup>

151. Therefore, the respondent contends that as the primary purpose of collection was the provision of treatment to the complainant by disclosing the prescription information for the purposes of the MATES program, the Department disclosed the prescription information for the same purpose as the primary purpose of collection.

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<sup>76</sup> APP Guidelines 6.14.

<sup>77</sup> R3.1 - Attachment to R3: Respondent's submission in response to s 44 dated 25 June 2020 p 14.

<sup>78</sup> R3.1 - Attachment to R3: Respondent's submission in response to s 44 dated 25 June 2020.

152. It is my view that the primary purpose of collection should be construed narrowly rather than expansively. As such, as outlined above at [74]-[92], I consider the primary purpose to be the facilitation and administration of the complainant's MPBS claims.

153. The disclosure of the complainant's prescription information to the University and their GP was not for the purpose of facilitating and administering the complainant's MPBS claims. The disclosure to the University was for the purposes of the complainant's participation in the MATES program and used by the University for the purposes of:

- conducting analysis of the Department's data sets, including prescription claims
- identifying suitable issues or areas of concern for research or analysis using the respondent's data and their knowledge of emerging health trends or issues
- utilising their analytical capabilities to deliver targeted patient specific information on the identified issue or areas of concern to the veteran, the veteran's primary prescriber and other targeted health professionals
- communicate with the complainant about the MATES program.<sup>79</sup>

154. It is my view that the purpose of disclosure to the GP was for providing the GP with information about the MATES program and material which 'is based on emerging healthcare trends and is forwarded to medical providers with the intention of improving the health and wellbeing of the Department's clients.'<sup>80</sup>

155. I consider that the disclosure to the University and the GP was for the secondary purpose of the complainant's participation in the MATES program (**secondary purpose**).

156. As such, I have considered whether any exception applies to the rule against use for secondary purposes.

### Did an exception apply?

157. The respondent contends that in the alternative, the use and disclosure of the complainant's personal information was directly related to the primary purpose and the complainant had a reasonable expectation that it would be used for this directly related purpose.

### Directly related purpose

158. A directly related secondary purpose is one that is closely associated with the primary purpose, even if it is not strictly necessary to achieve the primary purpose.<sup>81</sup>

159. Specifically, the respondent submits:

The Department notes the close association between the prescription of medicines in the course of [the complainant's] treatment by [their]s general practitioner, and the provision of advice to that general practitioner about the quality use of those medicines in that treatment.<sup>82</sup>

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<sup>79</sup> R3.1 - Attachment to R3: Respondent's submission in response to s 44 dated 25 June 2020.

<sup>80</sup> R1.1 - Attachment to R1: Respondent's submission in response to s 40 dated 28 February 2020 p 6.

<sup>81</sup> APP Guidelines [6.26].

<sup>82</sup> R3.1 - Attachment to R3: Respondent's submission in response to s 44 dated 25 June 2020 p 16.

160. As it was the case that the primary purpose of collection was for the payment by the MRC Commission of MPBS claims by entitled individuals, it is my view that the use and disclosure by the respondent to the complainant, the University and the GP were not directly related to the primary purpose.
161. The respondent has provided information about the MATES program. The MATES program is a ‘consumer health literacy and prescriber education program’ that is targeted at veterans.<sup>83</sup>
162. The respondent provides that the MATES program is ‘designed to improve quality use of medicines and reduce adverse medication events within the veteran community.’<sup>84</sup>
163. I consider that this secondary purpose is not directly related to the primary purpose of collection. On the available evidence it is my view that an educative health program for veterans is not directly related to the payment by the MRC Commission of MPBS claims by entitled individuals.
164. As I have found that the secondary purpose is not directly related to the primary purpose it is not necessary to consider whether the complainant had a reasonable expectation that their prescription information would be used for this secondary purpose.
165. I therefore consider that the respondent has not complied with APP 6.1, and that APP 6.2(a) did not apply to the respondent’s use and disclosure of the complainant’s personal information.

## Findings

166. The respondent has breached APP 6 by using and disclosing the complainant’s prescription information to the University and the GP. Claim 3 reveals a breach of APP 6.

## Additional claim – APP 11

167. As set out above, it appears that on 17 April 2020 the complainant raised an additional claim that did not form part of the privacy complaint.<sup>85</sup> The additional claim is set out on a timeline of events on a document titled ‘Privacy Complaint’ with a subheading, ‘Submission to the office of the Australian Information Commissioner – re: Opening of s 40(1) *Privacy Act 1988* (Cth) Investigation’.<sup>86</sup> It is also referred to as one of three ‘elements’ raised by the privacy complaint. Namely, that:

The sending of a plain text username and password via unsecured mail to the complainant’s general practitioner that would allow anyone who saw them to access the complainant’s sensitive personal health information via a portal on veteranmates.net.au causing a genuine fear that highly sensitive personal health information the complainant had not been adequately secured.<sup>87</sup>

168. The complainant refers to this ‘element’ as ‘quite serious and points to the sensitivity of the personal information and the potential consequences of it being intercepted.’<sup>88</sup>

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<sup>83</sup> R3.1 - Attachment to R3: Respondent’s submission in response to s 44 dated 25 June 2020 p 9.

<sup>84</sup> R3.1 - Attachment to R3: Respondent’s submission in response to s 44 dated 25 June 2020 p 9.

<sup>85</sup> C17.1 - Attachment to C17: Submission and annexures p 4.

<sup>86</sup> C17.1 - Attachment to C17: Submission and annexures p 2.

<sup>87</sup> C17.1 - Attachment to C17: Submission and annexures p 4.

<sup>88</sup> C17.1 - Attachment to C17: Submission and annexures p 4.

169. The additional claim is that the Department sent a plain text username and password via ‘unsecured’ postal mail to the complainant’s GP that would allow anyone who saw them to access the complainant’s sensitive personal health information via the MATES portal. The additional claim raises an alleged breach of APP 11.

170. I make the following comments in respect of this information.

171. The evidence that the complainant has provided is a letter dated 1 September 2017 from the Department to a ‘Dr’ whose name is redacted. The opening paragraphs refer to the MATES program, as well as the fact that the letter lists patients who have been dispensed a particular medication and suggests that the recipient consider ‘making an appointment’ with the patients ‘to help them identify’ certain information as ‘part of their rehabilitation plan’. The letter then goes on to state:

For easy and secure viewing of the individual patient data and easy electronic submission of your response form, please go to [website] and register:

Your username: [redacted]

Your password: [redacted]

Note: for security reasons the above password will expire if not used within 10 weeks.<sup>89</sup>

172. The complainant does not appear to contend that the recipient of the letter was anyone other than the intended recipient (or a member of their staff). Nor does the complainant contend that the password and username was in fact accessed by an unauthorised person.

173. It appears this letter was sent by post. As the Commissioner found in ‘VN’ and ‘VM’ (*Privacy*) [2020] AICmr 46 (**VN and VM**), APP 11 only applies to personal information that the respondent holds. An APP entity ‘holds’ information if it has possession or control of a record that contains the personal information.<sup>90</sup> As held in the case of VN and VM, once the letter, being a record that contains the personal information, was posted in the mail, the respondent no longer has control or possession of the letter.

174. In respect of the personal information that the respondent held on the MATES portal, and any contention that the dispatch of login and password by post placed that personal information at risk, there is no reason to suspect that the respondent has breached APP 11 merely by sending the password and login to the intended recipient by post.

175. There is no reason to suspect that postal carriage lacks security in this context. The complainant claims that:

mail loss is the number one complaint to the Postal Industry Ombudsman and mail interception and theft is routinely reported on by the media. Entities which are known to receive sensitive information are frequently targeted.<sup>91</sup>

176. Beyond this however, there is no evidence or information before me which shows that postal letters of this kind were at a reasonable risk of interception during carriage. The complainant claims that the respondent is a well resourced entity and could have taken steps such as ‘using two factor authentication or splitting login credentials’.<sup>92</sup>

177. The respondent submits that it has taken reasonable steps, and states that:

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<sup>89</sup> C1.1 – Attachment 1b: Letter dated 1 September 2017 from the respondent to a third party.

<sup>90</sup> APP Guidelines [B.82].

<sup>91</sup> C49 - Complainant’s response to the preliminary view dated 6 March 2023 p 12.

<sup>92</sup> C49 - Complainant’s response to the preliminary view dated 6 March 2023 p 12.

In April 2020, the MATES program transitioned to an e-delivery system where patient information is delivered electronically to the clinical desktop (e-delivery system).

Prior to the e-delivery system, doctors were mailed (by post) MATES program information the about their patients (postal method).

For the postal method, there was the option for doctors to receive patient information via the MATES website on a secured login portal (MATES portal). For doctors who were already registered on the MATES portal, they would be sent a letter containing only the patient's MATES information and information about how to view the same information on the MATES portal.

For doctors who were not already registered on the MATES portal, they were sent a similar letter which included a password, and otherwise indicated that the doctor's prescriber ID number should be used as a username. Doctor prescriber ID numbers were never included in the letters from the Department.<sup>93</sup>

[underline added]

178. I find that this method of not stating the username on the letter reasonably lessened the risk of interception during transmission by postal carriage, and was a reasonable step taken by the respondent under APP 11.
179. The fact that the intended recipient may have had staff capable of accessing the information after it was received does not change my view. An APP entity that properly addresses correspondence to a GP at their practice is not obliged to safeguard against any unintended access by the GP's staff. The recipient GP practice must however take reasonable steps to protect the information that it then holds. I note again that there is no evidence that any unintended staff, or anyone else, in fact accessed the information in the letter.
180. In circumstances where the respondent has correctly addressed the correspondence to the intended recipient, has properly effected its carriage by post, and the correspondence has in fact been received, I can see no reason to suspect that the respondent has failed to take reasonable steps with respect to personal information that it holds.
181. The additional claim is dismissed under s 52(1)(a), on the grounds that the additional claim does not provide a sufficient basis to suspect that the respondent has failed to comply with its APP 11 obligations, such that it would be inappropriate for any further action to be taken in the matter.

## Remedies

182. As I have found the complainant's claim to be substantiated, I have a discretion under s 52(1) to make one or more declarations.

## Compensation

183. The complainant claims that, due to the alleged privacy breach, they have suffered non-economic loss.

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<sup>93</sup> R8 – Respondent's submissions in response to the complainant's submissions dated 29 March 2023 [8].

184. Under s 52(1)(b)(iii) I may make a declaration that the complainant is entitled to a specified amount by way of compensation for any loss or damage suffered by reason of the act or practice the subject of the complaint.

185. In making a declaration for an award of compensation, I have had regard to the principles relevant to the assessment of damages summarised by the Administrative Appeals Tribunal in *EQ and Office of the Australian Information Commissioner (Freedom of Information)*<sup>94</sup> and *Rummery and Federal Privacy Commissioner*.<sup>95</sup>

186. I have also had regard to amounts awarded in other privacy determinations.

### Non-economic loss

187. The complainant seeks an award of \$20,000 for non-economic loss.<sup>96</sup>

188. The complainant has provided a letter from a clinical psychologist (**the psychologist**) dated 18 March 2020.<sup>97</sup>

189. The psychologist has ‘observed and evaluated’ the complainant over an 8 year period ‘both preceding and following [their] awareness of the disclosure of [their] sensitive medical information by the Department of Veterans Affairs that is the subject of CP 18/02898.’

190. The psychologist states:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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<sup>94</sup> [2016] AATA 785 [53].

<sup>95</sup> [2004] AATA 1221 [32].

<sup>96</sup> C49 - Complainant’s response to the preliminary view dated 6 March 2023 p 19.

<sup>97</sup> C8.1 - Attachment to C8: Report from complainant’s psychologist dated 18 March 2020.

[REDACTED]

[REDACTED]

[REDACTED]

191. The psychologist has described their understanding of the complainant’s feelings as ‘deep felt and profound’ and their view is that the nature of these hurt feelings relate to the complainant’s ‘personal identity, self worth and personal autonomy’. The psychologist refers to these feelings in the context of ‘this matter’ and makes reference to the file number for this privacy complaint. The psychologist has also stated that ‘it’ (that is, this privacy complaint) has resulted in the complainant experiencing ‘sustained and elevated levels of anxiety, depression and social withdrawal’. Based on this statement, I accept that the complainant experienced psychological injury arising from the privacy complaint.

192. The psychologist has claimed that they excluded from their consideration ‘psychological injuries’ that were ‘not directly related to CP 18/02898’. Notwithstanding this distinction, the psychologist attributes the described effects as arising out of the ‘this matter’. I therefore conclude, based on this evidence, that the privacy breach, has in part caused the psychological damage. Namely, it has contributed in part to ‘sustained and elevated levels of anxiety, depression and social withdrawal’, the particulars of which involves damage to the complainant’s ‘sense of personal identity, self-worth and personal autonomy’.

193. The complainant has provided further letters from their general practitioner dated 17 February 2023, and from the psychologist dated 20 February 2023 in support of their claim.<sup>98</sup> Both letters appear to confirm the findings made in the psychologist’s letter dated 18 March 2020, and do not ‘introduce new symptoms or sequelae over and above that identified’ the psychologist’s letter dated 18 March 2020.<sup>99</sup>

194. Based on the information currently available, I consider the complainant’s non-economic loss to be comparable to the following cases:

- *CP and Department of Defence* [2014] AICmr 88 (2 September 2014) (**CP & Department of Defence**) – The complainant in this case was awarded \$5,000 for extremely severe levels

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<sup>98</sup> C49 - Complainant’s response to the preliminary view dated 6 March 2023, Annexures D & E.

<sup>99</sup> R8 – Respondent’s submissions in response to the complainant’s submissions dated 29 March 2023 [12].



of anxiety, depression and stress, caused in part by an unauthorised disclosure of a psychologist's report to the complainant's treating doctors. In this case, the former Privacy Commissioner took into account the fact that the disclosure was to the complainant's treating doctor, who had obligations to protect it and there was no evidence of wider dissemination.

- *JO and Comcare* [2016] AICmr 64 (21 September 2016) (**JO & Comcare**) – The former Privacy Commissioner awarded the complainant \$3,000 for anxiety and distress caused by the disclosure of the complainant's personal and health information to a government Department and insurer, in circumstances where the respondent made an early apology, the type of information was limited and disclosure was to an APP agency and a contracted service provider to an agency, both of which had obligations under the Privacy Act in relation to how they handle personal information.
- *'D' and Wentworthville Leagues Club* [2011] AICmr 9 (9 December 2011) (**D & WLC**) – The former Privacy Commissioner awarded the complainant \$7,500 for serious anxiety, panic attacks and physical symptoms as well as humiliation, caused in part by the privacy breach. The privacy breach in that case involved disclosure of the complainant's gambling habits, which resulted in the complainant's ex-partner revealing that personal information to their friends, family, previous neighbours, parents of children's friends and work colleagues.

195. The complainant has also referred to the following cases in their response to the preliminary view:

- *'WZ' and CEO of Services Australia (Privacy)* [2021] AICmr 12, where the complainant experienced fear, psychological distress and anxiety, was awarded \$10,000 for non-economic loss, which is consistent with category 3 of the 'WP' determination harms table.
- *'XA' and CEO of Services Australia (Privacy)* [2021] AICmr 13, where the complainant experienced transitory frustration, annoyance and some distress, but did not experience any clinically diagnosed mental health issues was awarded \$1,000 for non-economic loss, which is consistent with category 1 of the 'WP' determination harms table.
- *'XH' and 'XI' (Privacy)* [2021] AICmr 23, where the complainant experienced transitory frustration, hurt feelings and distress, but did not experience any clinically diagnosed mental health issues was awarded \$2,500 for non-economic loss, which is consistent with category 1 of the 'WP' determination harms table.
- *'XU' and Amazon Australia Services Inc (Privacy)* [2021] AICmr 42, where the complainant experienced hurt feelings and sought counselling, but did not experience any clinically diagnosed mental health issues was awarded [sic] \$3,000 for non-economic loss, which is consistent with category 1. Further, in her determination, the Commissioner noted that the complainant had referred to the WP categories and indicated that the comparable category would be category 1 at [125] of that determination, despite repeating the caveat she gave in 'WP'.<sup>100</sup>

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<sup>100</sup> C40 – Email from the complainant to the OAIC dated 8 February 2023.

196. The complainant also referred to the case of *PB v WorkCover Queensland* [2020] QCA 278 (PB),<sup>101</sup> where the respondent obtained a copy of the applicant's complete medical record without proper authorisation from the complainant. The respondent represented to the complainant that the information obtained has not been used and will be destroyed, however this did not occur, and references were made by Q-Comp (the Workers' Compensation Regulator) to this information in its decision to confirm the rejection of the complainant's WorkCover claim. The applicant was awarded \$15,000 in compensation for the privacy breaches.
197. As in CP & Department of Defence, the disclosure of the complainant's prescription information to the complainant's treating doctor and pharmacist was to recipients tasked with providing medical services to the complainant, that is, APP entities with their own obligations under the Privacy Act.
198. As for the personal information given to the University, similar to JO & Comcare, the recipient of the information was an APP entity and a contracted service provider to an agency, with its own Privacy Act obligations. There is no evidence of wider dissemination beyond the University and the medical professionals. While this does not alleviate the fact of the privacy breach, it does distinguish the case from those like D & WLC, in which significant and damaging disclosures followed the privacy breach, and *'WZ' and CEO of Services Australia (Privacy)* [2021] AICmr 12, where the disclosure was to an individual (a former partner of the complainant with an Apprehended Violence Order made against them) who subsequently posted the information on social media. This matter is also distinguished from cases such as PB, where the disclosed information was subsequently referred in an adverse decision made in relation to the complainant's claim, and where compensation was awarded pursuant to the *Information Privacy Act 2009* (Qld) rather than the Privacy Act.
199. I consider an amount of \$5,000 to be suitable based on the level of harm evidenced and the circumstances I have set out.

### Aggravated damages

200. The power to award damages in s 52 of the Privacy Act includes the power to award aggravated damages in addition to general damages.
201. Aggravated damages may be awarded in various circumstances, including where:
- the respondent has behaved 'high-handedly, maliciously, insultingly or oppressively' and<sup>102</sup>
  - the 'manner in which a defendant conducts his or her case may exacerbate the hurt and injury suffered by the plaintiff.'<sup>103</sup>
202. In their response to the preliminary view, the complainant made a claim for aggravated damages in the amount of \$7,000 on the basis that:<sup>104</sup>
- The respondent did not provide the complainant with an apology and contested the privacy breach, 'causing foreseeable distress and hurt to the complainant for another 5 additional years was unreasonable and unjustified high handed conduct'.<sup>105</sup>

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<sup>101</sup> C40 – Email from the complainant to the OAIC dated 8 February 2023.

<sup>102</sup> *Hall v A & A Sheiban Pty Ltd* [1989] FCA 72 [75].

<sup>103</sup> *'D' v Wentworthville Leagues Club* [2001] AICmr 9.

<sup>104</sup> C49 - Complainant's response to the preliminary view dated 6 March 2023 p 19.

<sup>105</sup> C41 - Email from the complainant to the OAIC dated 12 February 2023.

- The respondent did not require the complainant's consent to collect their personal information despite it being clear that the use of the personal information in the MATES program was not directly connected to collection, and ignored the complainant's revocation notices. Such conduct reflects an 'intentional strategy to mislead, deceive and drag out resolution of matter' and was 'unjustified, improper and lacking in bona fides'.<sup>106</sup>
- The complainant referred to the case of '*QF' & Others and Spotless Group Limited (Privacy)* [2019] AICmr 20 (**QF**) to support their claim for aggravated damages.<sup>107</sup> In the case of QF, the respondent, as the complainants' employer, provided lists of its employees' names to the Australian Workers' Union (**AWU**) as part of an arrangement whereby payments were made to the AWU in exchange for AWU's agreement to not seek better terms and conditions for the employees.<sup>108</sup>

203. The respondent submits that:

The Department acknowledges that the apology has not been sent to the Complainant at this time. However, as a proposed non-monetary outcome of the Preliminary View, the Department will action this upon finalisation of the Commissioner's decision, consistent with the orders proposed in the Preliminary View...

At all relevant times, the Department has acted honestly and fairly, and in good faith in its dealings with both the Complainant and the OAIC throughout the course of the Complaint in accordance with its model litigant obligations.

The Department accepts that a failure to communicate the Complainant's withdrawal of consent has resulted in a privacy interference, however the Department has made genuine efforts to address the concerns raised by the Complainant and has taken reasonable steps to ensure the Complainant's sensitive personal information is protected.<sup>109</sup>

204. I am not persuaded that an award of aggravated damages is warranted in this case for the following reasons:

- A failure to provide an apology, on its own, does not amount to conduct that is high-handed, malicious, insulting or oppressive. In any event, the respondent has indicated that this will be provided once this determination is issued.
- An APP entity is entitled, based on its own review of the circumstances, to deny that it has breached the Privacy Act, even if it is ultimately found that it has failed to comply with its privacy obligations. A breach of the APPs on its own, such as a failure to obtain the complainant's consent, does not automatically mean that this conduct is high-handed, malicious, insulting or oppressive. While the respondent's failure to properly process the complainant's revocation requests may raise an inference of improper conduct, it could equally be explained by the respondent's oversight or neglect. Without further information, I am not satisfied that the respondent has behaved in a way that is high-handed, malicious, insulting or oppressive.
- This case can be distinguished from the factual circumstances in the case of QF. The personal information in this case was used and disclosed as part of a public health initiative, unlike the

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<sup>106</sup> C49 - Complainant's response to the preliminary view dated 6 March 2023 p 16.

<sup>107</sup> C49 - Complainant's response to the preliminary view dated 6 March 2023 p 16.

<sup>108</sup> '*QF' & Others and Spotless Group Limited (Privacy)* [2019] AICmr 20.

<sup>109</sup> R8 – Respondent's submissions in response to the complainant's submissions dated 29 March 2023.

disclosures in QF, which were made in the context of an unlawful arrangement between the respondent and the AWU – in those circumstances, it is clear that the respondent’s conduct was improper and lacking in bona fides, and reflects an indifference to its privacy obligations.

205. As such, I am not satisfied that the complainant should be awarded aggravated damages.

## Acknowledgement of interference

206. Under s 52(1)(b)(i) I may declare that the respondent has engaged in conduct constituting an interference with the privacy of an individual and must not repeat or continue such conduct.

207. I am satisfied that it is appropriate to make such a declaration as it will provide the complainant with an acknowledgement of the breach and assurance that it will not occur again.

## Act of redress

208. Under s 52(1)(b)(ii) I may declare that the respondent must perform any reasonable act or course of conduct to redress any loss or damage suffered by the complainant.

209. The complainant has sought a written apology from the respondent acknowledging the breach of privacy.<sup>110</sup>

210. The Department has stated that it intends to provide the complainant with an apology for ‘failing to properly process [their] revocation of consent’.<sup>111</sup>

211. I have found that the complainant has suffered some damage and I consider that this damage would be redressed by an apology. I consider it appropriate for the apology to come from an appropriately senior officer of the Department.

212. As such, I consider it appropriate to make a declaration requiring the respondent to provide a written apology to the complainant within 7 days of the deemed receipt of the determination, in which the respondent acknowledges the privacy breach.

## Specified steps

213. Under s 52(1)(b)(ia) I may declare that the respondent must take specified steps within a specified period to ensure that such conduct is not repeated or continued.

214. Given that the complainant revoked any consent the respondent may have relied upon for the complainant’s inclusion in the MATES programme, and included them in the MATES programme anyways, it appears reasonable to require the respondent to address this issue. If the respondent had a process of actioning express revocations of consent it could have removed the complainant from participating in the MATES programme. Such a process might involve communicating to the complainant a particular manner in which they should communicate their revocation of consent and related internal processes for updating systems to circulate the complainant’s preference to staff administering the programme.

215. The respondent submits that it has since taken the following steps:

5.1 the Department has now fully processed the Complainant’s revocation of consent, such that the Complainant’s personal information is no longer being

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<sup>110</sup> C1.1 - Attachment to C1: Privacy complaint dated 3 October 2018 p 2.

<sup>111</sup> R7 – Respondent’s submissions in response to the preliminary view dated 21 December 2022 p 1.

used or disclosed other than in accordance with the Complainant's consent, meaning that it will no longer be used or disclosed as part of the Veterans' Medicines Advice and Therapeutics Education Services (MATES) program (MATES Program);

5.2 the Department intends to provide a written apology to the Complainant for failing to properly process his revocation of consent; and

5.3 the complaint by the Complainant is not contemporaneous to current practices, having been made more than four years ago. The Department now has robust processes in place for ensuring that:

(a) participants in the MATES Program are aware that they can, at any time, revoke their consent to the use and disclosure of their personal information as part of the MATES Program; and

(b) all revocations of consent are fully and promptly actioned, to avoid any use or disclosure of personal information by the Department or any other parties in connection with the MATES Program which is inconsistent with a revocation.<sup>112</sup>

216. Based on the respondent's submission, I am satisfied that the respondent has actioned the complainant's revocation of consent in respect of the MATES program. As such, I do not consider a declaration of this nature to be necessary.

## Findings

217. The respondent has interfered with the complainant's privacy by breaching APP 3 and APP 6.

## Declarations

218. I declare that:

- 1) The respondent has interfered with the complainant's privacy by:
  - a. failing to obtain the complainant's consent in breach of APP 3
  - b. using the complainant's personal information for secondary purposes in breach of APP 6,and must not repeat or continue such conduct.
- 2) **Within 7 days** of the date of the determination, the respondent is to provide a written apology to the complainant, specifically acknowledging that the respondent interfered with the complainant's privacy, breaching APP 3 and APP 6.
- 3) **Within 30 days** of the date of the determination the respondent must pay the amount of \$5,000 to the complainant for non-economic loss.

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<sup>112</sup> R7 – Respondent's submissions in response to the preliminary view dated 21 December 2022 p 1-2.

- 4) In respect of the remaining parts of the complaint, it would be inappropriate for any further action to be taken in the matter.

**Angelene Falk**

Australian Information Commissioner and Privacy Commissioner

26 April 2023

**Review rights**

A party may apply under s 96 of the *Privacy Act 1988* (Cth) to have a decision under s 52(1) or (1A) to make a determination reviewed by the Administrative Appeals Tribunal (AAT). The AAT provides independent merits review of administrative decisions and has power to set aside, vary, or affirm a privacy determination. An application to the AAT must be made within 28 days after the day on which the person is given the privacy determination (s 29(2) of the *Administrative Appeals Tribunal Act 1975* (Cth)). An application fee may be payable when lodging an application for review to the AAT. Further information is available on the AAT's website ([www.aat.gov.au](http://www.aat.gov.au)) or by telephoning 1300 366 700.

A party may also apply under [s 5](#) of the *Administrative Decisions (Judicial Review) Act 1977* (Cth) to have the determination reviewed by the Federal Circuit and Family Court of Australia or the Federal Court of Australia. The Court may refer the matter back to the OAIC for further consideration if it finds the Information Commissioner's decision was wrong in law or the Information Commissioner's powers were not exercised properly. An application to the Court must be lodged within 28 days of the date of the determination. An application fee may be payable when lodging an application to the Court. Further information is available at <https://www.fcfoa.gov.au/gfl> and [www.federalcourt.gov.au/](http://www.federalcourt.gov.au/).

# Attachment A

## Relevant Law – *Privacy Act 1988 (Cth)*

### Determination powers

#### 52 Determination of the Commissioner

(1) After investigating a complaint, the Commissioner may:

(a) make a determination dismissing the complaint; or

(b) find the complaint substantiated and make a determination that includes one or more of the following:

(i) a declaration:

(A) where the principal executive of an agency is the respondent—that the agency has engaged in conduct constituting an interference with the privacy of an individual and must not repeat or continue such conduct; or

(B) in any other case—that the respondent has engaged in conduct constituting an interference with the privacy of an individual and must not repeat or continue such conduct;

(ia) a declaration that the respondent must take specified steps within a specified period to ensure that such conduct is not repeated or continued;

(ii) a declaration that the respondent must perform any reasonable act or course of conduct to redress any loss or damage suffered by the complainant;

(iii) a declaration that the complainant is entitled to a specified amount by way of compensation for any loss or damage suffered by reason of the act or practice the subject of the complaint;

(iv) a declaration that it would be inappropriate for any further action to be taken in the matter.

### APP entity

#### 6 Interpretation

In this Act, unless the contrary intention appears:

...

APP entity means an agency or organisation.

### Interference with privacy

#### 13 Interferences with privacy

##### APP entities

(1) An act or practice of an APP entity is an interference with the privacy of an individual if:

(a) the act or practice breaches an Australian Privacy Principle in relation to personal information about the individual; or

(b) the act or practice breaches a registered APP code that binds the entity in relation to personal information about the individual.

...

## APP compliance

15 APP entities must comply with Australian Privacy Principles

An APP entity must not do an act, or engage in a practice, that breaches an Australian Privacy Principle.

## Personal information

6 Interpretation

In this Act, unless the contrary intention appears:

...personal information means information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- (a) whether the information or opinion is true or not; and
- (b) whether the information or opinion is recorded in a material form or not.

## APP 3

### 3 Australian Privacy Principle 3—collection of solicited personal information

#### Personal information other than sensitive information

3.1 If an APP entity is an agency, the entity must not collect personal information (other than sensitive information) unless the information is reasonably necessary for, or directly related to, one or more of the entity's functions or activities.

3.2 If an APP entity is an organisation, the entity must not collect personal information (other than sensitive information) unless the information is reasonably necessary for one or more of the entity's functions or activities.

#### Sensitive information

3.3 An APP entity must not collect sensitive information about an individual unless:

- (a) the individual consents to the collection of the information and:
  - (i) if the entity is an agency—the information is reasonably necessary for, or directly related to, one or more of the entity's functions or activities; or
  - (ii) if the entity is an organisation—the information is reasonably necessary for one or more of the entity's functions or activities; or
- (b) subclause 3.4 applies in relation to the information.

3.4 This subclause applies in relation to sensitive information about an individual if:

- (a) the collection of the information is required or authorised by or under an Australian law or a court/tribunal order; or
- (b) a permitted general situation exists in relation to the collection of the information by the APP entity; or
- (c) the APP entity is an organisation and a permitted health situation exists in relation to the collection of the information by the entity; or
- (d) the APP entity is an enforcement body and the entity reasonably believes that:
  - (i) if the entity is the Immigration Department—the collection of the information is reasonably necessary for, or directly related to, one or more enforcement related activities conducted by, or on behalf of, the entity; or
  - (ii) otherwise—the collection of the information is reasonably necessary for, or directly related to, one or more of the entity's functions or activities; or
- (e) the APP entity is a non-profit organisation and both of the following apply:



- (i) the information relates to the activities of the organisation;
  - (ii) the information relates solely to the members of the organisation, or to individuals who have regular contact with the organisation in connection with its activities.
- Note: For permitted general situation, see section 16A. For permitted health situation, see section 16B.

#### **Means of collection**

3.5 An APP entity must collect personal information only by lawful and fair means.

3.6 An APP entity must collect personal information about an individual only from the individual unless:

- (a) if the entity is an agency:
  - (i) the individual consents to the collection of the information from someone other than the individual; or
  - (ii) the entity is required or authorised by or under an Australian law, or a court/tribunal order, to collect the information from someone other than the individual; or
- (b) it is unreasonable or impracticable to do so.

#### **Solicited personal information**

3.7 This principle applies to the collection of personal information that is solicited by an APP entity.

## APP 5

### **5 Australian Privacy Principle 5—notification of the collection of personal information**

5.1 At or before the time or, if that is not practicable, as soon as practicable after, an APP entity collects personal information about an individual, the entity must take such steps (if any) as are reasonable in the circumstances:

- (a) to notify the individual of such matters referred to in subclause 5.2 as are reasonable in the circumstances; or
- (b) to otherwise ensure that the individual is aware of any such matters.

5.2 The matters for the purposes of subclause 5.1 are as follows:

- (a) the identity and contact details of the APP entity;
- (b) if:
  - (i) the APP entity collects the personal information from someone other than the individual; or
  - (ii) the individual may not be aware that the APP entity has collected the personal information;  
the fact that the entity so collects, or has collected, the information and the circumstances of that collection;
- (c) if the collection of the personal information is required or authorised by or under an Australian law or a court/tribunal order—the fact that the collection is so required or authorised (including the name of the Australian law, or details of the court/tribunal order, that requires or authorises the collection);
- (d) the purposes for which the APP entity collects the personal information;
- (e) the main consequences (if any) for the individual if all or some of the personal information is not collected by the APP entity;
- (f) any other APP entity, body or person, or the types of any other APP entities, bodies or persons, to which the APP entity usually discloses personal information of the kind collected by the entity;
- (g) that the APP privacy policy of the APP entity contains information about how the individual may access the personal information about the individual that is held by the entity and seek the correction of such information;
- (h) that the APP privacy policy of the APP entity contains information about how the individual may complain about a breach of the Australian Privacy Principles, or a registered APP code (if any) that binds the entity, and how the entity will deal with such a complaint;
- (i) whether the APP entity is likely to disclose the personal information to overseas recipients;

(j) if the APP entity is likely to disclose the personal information to overseas recipients—the countries in which such recipients are likely to be located if it is practicable to specify those countries in the notification or to otherwise make the individual aware of them.

## APP 6

### 6 Australian Privacy Principle 6—use or disclosure of personal information

#### Use or disclosure

6.1 If an APP entity holds personal information about an individual that was collected for a particular purpose (the primary purpose), the entity must not use or disclose the information for another purpose (the secondary purpose) unless:

- (a) the individual has consented to the use or disclosure of the information; or
- (b) subclause 6.2 or 6.3 applies in relation to the use or disclosure of the information.

Note: Australian Privacy Principle 8 sets out requirements for the disclosure of personal information to a person who is not in Australia or an external Territory.

6.2 This subclause applies in relation to the use or disclosure of personal information about an individual if:

- (a) the individual would reasonably expect the APP entity to use or disclose the information for the secondary purpose and the secondary purpose is:
  - (i) if the information is sensitive information—directly related to the primary purpose; or
  - (ii) if the information is not sensitive information—related to the primary purpose; or
- (b) the use or disclosure of the information is required or authorised by or under an Australian law or a court/tribunal order; or
- (c) a permitted general situation exists in relation to the use or disclosure of the information by the APP entity; or
- (d) the APP entity is an organisation and a permitted health situation exists in relation to the use or disclosure of the information by the entity; or
- (e) the APP entity reasonably believes that the use or disclosure of the information is reasonably necessary for one or more enforcement related activities conducted by, or on behalf of, an enforcement body.

Note: For permitted general situation, see section 16A. For permitted health situation, see section 16B.

...

## APP 11

### 11 Australian Privacy Principle 11—security of personal information

11.1 If an APP entity holds personal information, the entity must take such steps as are reasonable in the circumstances to protect the information:

- (a) from misuse, interference and loss; and
- (b) from unauthorised access, modification or disclosure.

11.2 If:

- (a) an APP entity holds personal information about an individual; and
- (b) the entity no longer needs the information for any purpose for which the information may be used or disclosed by the entity under this Schedule; and
- (c) the information is not contained in a Commonwealth record; and
- (d) the entity is not required by or under an Australian law, or a court/tribunal order, to retain the information;

the entity must take such steps as are reasonable in the circumstances to destroy the information or to ensure that the information is de-identified.

## Relevant law – Compensation principles

Where the Commissioner makes a declaration that a complainant is entitled to an amount of compensation, she is guided by the following principles on awarding compensation:

where a complaint is substantiated and loss or damage is suffered, the legislation contemplates some form of redress in the ordinary course

awards should be restrained but not minimal

in measuring compensation, the principles of damages applied in tort law will assist, although the ultimate guide is the words of the statute

compensation should be assessed having regard to the complainant's reaction and not to the perceived reaction of the majority of the community or of a reasonable person in similar circumstances.<sup>113</sup>

The Commissioner can also award aggravated damages as well as general damages where she is of the view it is warranted. In particular, the Commissioner can award aggravated damages in certain circumstances, including where:

the respondent behaved 'high-handedly, maliciously, insultingly or oppressively in committing the act' complained about<sup>114</sup>

the 'manner in which a defendant conducts his or her case may exacerbate the hurt and injury suffered by the plaintiff so as to warrant the award of additional compensation in the form of aggravated damages.'<sup>115</sup>

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<sup>113</sup> *Hall v A & A Sheiban Pty Ltd* (1989) 20 FCR 217 as referred to in *Rummery and Federal Privacy Commissioner* [2004] AATA 1221 at [32]-[35].

<sup>114</sup> *Hall v A & A Sheiban Pty Ltd* [1989] FCA 72 at [75].

<sup>115</sup> *Elliott v Nanda & Commonwealth* [2001] FCA 418 at [180].

**Subject:** Veterans' MATES privacy issues [SEC=OFFICIAL]  
**Location:** Microsoft Teams

**Start:** Tue 24/10/2023 11:30 AM  
**End:** Tue 24/10/2023 12:30 PM  
**Show Time As:** Tentative

**Recurrence:** (none)

**Meeting Status:** Not yet responded

**Organizer:** Kefford, Andrew

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Good Morning,

Thank you for accepting this invitation to discuss Veterans' MATES privacy issues.

Please see Teams link below:

[Click here to join the meeting](#)

Meeting ID: 432 574 912 276

Passcode: WcrdPR

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Video Conference ID: 131 557 770 6

[Alternate VTC instructions](#)

**Or call in (audio only)**

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Phone Conference ID: 228 879 675#

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If there are any issues, please let me know.

Kind Regards

**Kendall** s22

Executive Assistant to Glen Casson


A/g Deputy Secretary Policy & Programs

Department of Veterans' Affairs

s22

[Kendall.s22@dva.gov.au](mailto:Kendall.s22@dva.gov.au)

[www.dva.gov.au](http://www.dva.gov.au)



Australian Government  
Department of Veterans' Affairs  
To support those who serve or have served in the defence  
of our nation and commemorate their service and sacrifice.



**From:** HAMPTON,Elizabeth (Inactive) <Elizabeth.Hampton@oaic.gov.au>  
**Sent:** Tuesday, 24 October 2023 12:17 PM  
**To:** FALK,Angelene; GHALI,Sarah  
**Subject:** Notes

Notes meeting with DVA re MATES 24/10/23:

s47E(d)

Since publication, over 1000 approaches from veterans either under FOI or info access. Handful of further requests to opt out of participation in the scheme. Conducted a review by Proximity re processing of opt out requests – share report with us – s47E(d)

s47E(d)

communicating with requesters – published a sense of where they’re up to on website and socials.

- Requests: ‘what is this about’ as well as ‘what of my PI has been shared’? Answer: if vets have not received a personal letter re MATEs, your information hasn’t been disclosed.

s47E(d)

s47E(d)

48 FOI requests – s47E(d)

801 admin access requests

Most received shortly after publication – almost nothing coming in now.

s47E(d)

Peta Langeveld – Department has paused the program while actioning opt outs s47E(d)

Andrew – good program that saves lives and promoting general GP awareness of the issues – successful over time. Almost the entirety of the program is done with de-identified data. Only in circs where a matter of concern is raised that the identified data is used. s47E(d)

s47E(d)

Leanne – also conducted independent review of the opt out requests – s47E(d) – received prior to decision. Audited all of them s47E(d), but found they had all been actioned fully and appropriately. s47E(d)

Andrew – will provide an update once concrete proposal re how to manage this going forward, and text of ‘restart’ correspondence. Keen to move quickly – weeks not months away.

s47E(d)

s11C(1)(a)

- Libby requested corro be directed to her, rather than Commissioner, given Commissioner is ultimate decision maker for all matters involving the C.

Senator Lambie has made public comments in relation to potential class actions arising from this program. Department expecting a line of questioning on this at Estimates.

**ACTION:**

- Libby will advise Toni and Rocelle of likely deemed matters flowing through.

OAIC

**Elizabeth Hampton**

Deputy Commissioner

Office of the Australian Information Commissioner

s47F

E [Elizabeth.Hampton@oaic.gov.au](mailto:Elizabeth.Hampton@oaic.gov.au)

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**From:** AGO,Rocelle <Rocelle.Ago@oaic.gov.au>  
**Sent:** Tuesday, 24 October 2023 12:52 PM  
**To:** HAMPTON,Elizabeth (Inactive); PIRANI,Toni  
**Cc:** FALK,Angelene; GHALI,Sarah  
**Subject:** RE: [SEC=OFFICIAL]  
**Attachments:** 'ADJ' and The Secretary to the Department of Veterans' Affairs (Privacy) [2023] AICmr 29 (26 April 2023)\_Redacted.pdf

Dear Libby

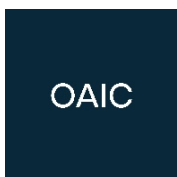
Thanks very much for the update. I received similar information from my meeting with DVA last week, which I had briefly mentioned at a meeting with Commissioners last Friday.

In my meeting with DVA, I referred to some strategies they could consider around proactive publication and updating their information access page to make requests targeted and specific where appropriate. I also understand that they may be looking at proactively publishing their workload statistics. I had undertaken to provide them further information (similar to information provided to other agencies that received an influx of requests during the onset of the pandemic) as well as relevant contacts across the Commonwealth who may be able to share their strategies.

I have another meeting with DVA in the next couple of weeks and I'm hoping to get a further update on their caseload at that time. In the interim, we'll continue to monitor the caseload across IC reviews of deemed access refusal applications as well as extension of time applications.

As an aside, we're also going to reach out to DR to see if there are any other upcoming determinations involving government agencies that may experience similar issues across their FOI workload.

Kind regards



**Rocelle Ago** (she/her)  
Assistant Commissioner, Freedom of information  
Office of the Australian Information Commissioner  
P +612 9942 4205 s47F @oaic.gov.au E [rocelle.ago@oaic.gov.au](mailto:rocelle.ago@oaic.gov.au)

---

Executive officer to Freedom of Information Commissioner and Assistant Commissioner, Freedom of Information:  
Romina s22 P s22 E [romina.s22@oaic.gov.au](mailto:romina.s22@oaic.gov.au)

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**From:** HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>  
**Sent:** Tuesday, October 24, 2023 12:32 PM  
**To:** PIRANI,Toni <Toni.Pirani@oaic.gov.au>; AGO,Rocelle <Rocelle.Ago@oaic.gov.au>  
**Cc:** FALK,Angelene <Angelene.Falk@oaic.gov.au>; GHALI,Sarah <Sarah.Ghali@oaic.gov.au>  
**Subject:** [SEC=OFFICIAL]



Colleagues

Angelene, Sarah and I have just met with DVA in relation to the MATES program.

The meeting included a discussion of DVA's activities following the attached privacy determination.

Of relevance to our FOI work was DVA's advice that, since the publication of the decision, they have experienced an increase in access and FOI requests relating to the MATES program. In particular, they have received 48 FOI requests, s47E(d) [REDACTED], and 801 administrative access requests.

They have advised that they are in contact with the individuals seeking access and are working to process these requests, s47E(d) [REDACTED]

DVA also noted that most of the access and FOI requests were made shortly after the privacy determination was published and they now receive very few, if any, access and FOI requests that reference the determination.

Please give me a call if you'd like some more details, but I wanted to bring this to your attention in case you were starting to see this shift in the caseload.

Cheers

Libby

 **Elizabeth Hampton**  
Deputy Commissioner  
Office of the Australian Information Commissioner  
M s47F [REDACTED] E [Elizabeth.Hampton@oaic.gov.au](mailto:Elizabeth.Hampton@oaic.gov.au)

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## OAIC - FOI

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**From:** s22, Kendall <Kendall.s22@dva.gov.au>  
**Sent:** Wednesday, 18 October 2023 11:24 AM  
**To:** s22, Isla  
**Cc:** s22, Lucy  
**Subject:** RE: Veterans' MATES privacy issues [SEC=OFFICIAL]

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Thank you Isla,

I've cancelled the invite from the Acting Deputy Secretary's calendar for tomorrow and have resent the invite from Deputy Secretary, Andrew Kefford's calendar for the 24<sup>th</sup> at 1130.

Thanks for all your help!

Kind Regards

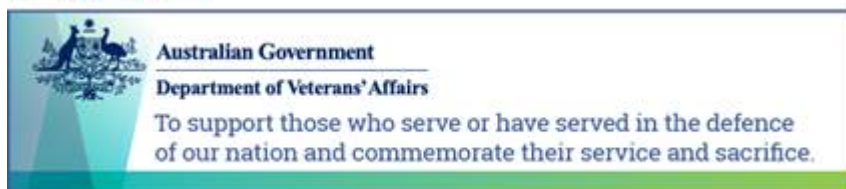
Kendall s22

Executive Assistant to Glen Casson  
A/g Deputy Secretary Policy & Programs  
Department of Veterans' Affairs

s22

[Kendall.s22@dva.gov.au](mailto:Kendall.s22@dva.gov.au)

[www.dva.gov.au](http://www.dva.gov.au)



---

**From:** s22, Isla <Isla.s22@oaic.gov.au>  
**Sent:** Wednesday, 18 October 2023 10:56 AM  
**To:** s22, Kendall <Kendall.s22@dva.gov.au>  
**Cc:** s22, Lucy <Lucy.s22@oaic.gov.au>  
**Subject:** RE: Veterans' MATES privacy issues [SEC=OFFICIAL]  
**Importance:** High

Good morning Kendall

Unfortunately an urgent engagement has come up and Thursday is no longer suitable.

As we have some greater clarity on our Senate Estimates appearance, the Commissioner has confirmed that we can proceed with a meeting by Zoom on Tuesday 24 October between 11.30am-2pm. Could you please advise if this is suitable? If so, grateful if you could shift the meeting.

Kind regards



Isla s22 (she/her)  
Senior Executive Assistant to the Australian Information Commissioner and Privacy Commissioner  
Office of the Australian Information Commissioner  
Sydney | GPO Box 5288 Sydney NSW 2001  
E [isla.s22@oaic.gov.au](mailto:isla.s22@oaic.gov.au)

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-----Original Appointment-----

**From:** Casson, Glen <[Glen.Casson@dva.gov.au](mailto:Glen.Casson@dva.gov.au)>

**Sent:** Tuesday, October 17, 2023 11:32 AM

**To:** Casson, Glen; FALK,Angelene; HAMPTON,Elizabeth; GHALI,Sarah; Cameron, Leanne; Langeveld, Peta; Kennedy, Sarah

**Subject:** Veterans' MATES privacy issues [SEC=OFFICIAL]

**When:** Thursday, 19 October 2023 9:30 AM-10:30 AM (UTC+10:00) Canberra, Melbourne, Sydney.

**Where:** Microsoft Teams

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Thank you for accepting this invitation to discuss Veterans' MATES privacy issues.

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If there are any issues, please let me know.

Kind Regards

**Kendall** s22

Executive Assistant to Glen Casson  
A/g Deputy Secretary Policy & Programs  
Department of Veterans' Affairs

s22

[Kendall.s22@dva.gov.au](mailto:Kendall.s22@dva.gov.au)

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**From:** s22 [redacted], Lucy  
**To:** s22 [redacted], Isla; s22 [redacted], Kendall  
**Subject:** RE: Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]  
**Date:** Tuesday, 17 October 2023 11:25:07 AM  
**Attachments:** [image001.jpg](#)  
[image002.jpg](#)  
[image003.jpg](#)  
[image004.png](#)  
[image005.png](#)  
[image006.png](#)  
[image007.png](#)  
[image008.jpg](#)  
[image009.jpg](#)  
[image011.png](#)  
[image012.jpg](#)  
[image013.jpg](#)

Thank you very much Isla  
Kind regards,



**Lucy** s22 [redacted] (she/her)  
Executive Assistant to the Deputy Commissioner  
Office of the Australian Information Commissioner  
**P** s22 [redacted] **E** [lucy.s22@oaic.gov.au](mailto:lucy.s22@oaic.gov.au)

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**From:** s22 [redacted], Isla <Isla.s22@oaic.gov.au>  
**Sent:** Tuesday, October 17, 2023 11:05 AM  
**To:** s22 [redacted], Kendall <Kendall.s22@dva.gov.au>  
**Cc:** s22 [redacted], Lucy <Lucy.s22@oaic.gov.au>  
**Subject:** RE: Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]  
Thanks Kendall! Please reach out if I can assist with anything else – I have also copied in Lucy s22 [redacted] just for your reference, who is the Deputy Commissioner's EA.  
Kind regards



**Isla** s22 [redacted] (she/her)  
Senior Executive Assistant to the Australian Information Commissioner and Privacy Commissioner  
Office of the Australian Information Commissioner  
Sydney | GPO Box 5288 Sydney NSW 2001  
**P** s22 [redacted] **M** s22 [redacted] **E** [isla.s22@oaic.gov.au](mailto:isla.s22@oaic.gov.au)

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**From:** s22 [redacted], Kendall <Kendal.s22@dva.gov.au>  
**Sent:** Tuesday, October 17, 2023 10:42 AM  
**To:** s22 [redacted], Isla <Isla.s22@oaic.gov.au>  
**Cc:** s22 [redacted], Lucy <Lucy.s22@oaic.gov.au>  
**Subject:** RE: Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]

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Happy to!  
Invite will come through today.  
Kind Regards  
**Kendall** s22 [redacted]  
Executive Assistant to Glen Casson  
A/g Deputy Secretary Policy & Programs  
Department of Veterans' Affairs  
s22 [redacted]  
[Kendall.s22@dva.gov.au](mailto:Kendall.s22@dva.gov.au)  
[www.dva.gov.au](http://www.dva.gov.au)





**From:** s22, Isla <Isla.s22@oaic.gov.au>  
**Sent:** Tuesday, 17 October 2023 10:27 AM  
**To:** s22, Kendall <Kendall.s22@dva.gov.au>  
**Cc:** s22, Lucy <Lucy.s22@oaic.gov.au>  
**Subject:** RE: Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]

Good morning Kendall

Noting your emails, would you prefer to send through an invitation instead in this instance? I am happy for you to do so on this occasion, as that may assist you to manage the additional attendances and any additional information you wish to provide to the Commissioner ahead of the meeting. Could you kindly invite the following attendees:

Commissioner Falk - [Angelene.falk@oaic.gov.au](mailto:Angelene.falk@oaic.gov.au)  
Deputy Commissioner Hampton - [Elizabeth.hampton@oaic.gov.au](mailto:Elizabeth.hampton@oaic.gov.au)  
Assistant Commissioner - [Sarah.ghali@oaic.gov.au](mailto:Sarah.ghali@oaic.gov.au)

Kind regards



**Isla s22** (she/her)  
Senior Executive Assistant to the Australian Information Commissioner and Privacy Commissioner  
Office of the Australian Information Commissioner  
Sydney | GPO Box 5288 Sydney NSW 2001  
**P s22** **M s22** **E Isla s22** @oaic.gov.au

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**From:** s22, Kendall <Kendall.s22@dva.gov.au>  
**Sent:** Tuesday, October 17, 2023 9:41 AM  
**To:** s22, Isla <Isla.s22@oaic.gov.au>  
**Cc:** GHALI, Sarah <Sarah.Ghali@oaic.gov.au>; s22, Lucy <Lucy.s22@oaic.gov.au>; HAMPTON, Elizabeth <Elizabeth.Hampton@oaic.gov.au>; Cameron, Leanne <Leanne.Cameron@dva.gov.au>  
**Subject:** RE: Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]

**CAUTION:** This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi Isla,

Could you also please invite Acting Deputy Secretary Glen Casson [Glen.Casson@dva.gov.au](mailto:Glen.Casson@dva.gov.au).

Andrew will be unable to attend but Glen will attend on his behalf.

Kind Regards

**Kendall s22**

Executive Assistant to Glen Casson  
A/g Deputy Secretary Policy & Programs  
Department of Veterans' Affairs

s22

[Kendall.s22@dva.gov.au](mailto:Kendall.s22@dva.gov.au)

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**From:** s22, Kendall  
**Sent:** Monday, 16 October 2023 4:47 PM  
**To:** s22, Isla' <Isla.s22@oaic.gov.au>  
**Cc:** GHALI, Sarah <Sarah.Ghali@oaic.gov.au>; s22, Lucy <Lucy.s22@oaic.gov.au>; HAMPTON, Elizabeth <Elizabeth.Hampton@oaic.gov.au>  
**Subject:** RE: Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]

Hi Isla  
 Thank you for your help.  
 If we could please lock in Thursday the 19<sup>th</sup> at 0930 for 1hr via teams.

- Attendees below:
- Deputy Secretary Policy & Programs - Andrew Kefford, [Andrew.Kefford@dva.gov.au](mailto:Andrew.Kefford@dva.gov.au)
  - FAS Program Delivery - Leanne Cameron, [Leanne.Cameron@dva.gov.au](mailto:Leanne.Cameron@dva.gov.au)
  - AS Client Programs - Sarah Kennedy, [Sarah.Kennedy@dva.gov.au](mailto:Sarah.Kennedy@dva.gov.au)
  - FAS Legal & Audit - Peta Langeveld, [Peta.Langeveld@dva.gov.au](mailto:Peta.Langeveld@dva.gov.au)

If you could please add me to the invite as well 😊  
 Kind Regards

**Kendall** s22  
 Executive Assistant to Glen Casson  
 A/g Deputy Secretary Policy & Programs  
 Department of Veterans' Affairs  
 s22  
[Kendall.s22@dva.gov.au](mailto:Kendall.s22@dva.gov.au)  
[www.dva.gov.au](http://www.dva.gov.au)



**From:** s22, Isla <Isla.s22@oaic.gov.au>  
**Sent:** Monday, 16 October 2023 4:31 PM  
**To:** s22, Kendall <Kendall.s22@dva.gov.au>  
**Cc:** GHALI, Sarah <Sarah.Ghali@oaic.gov.au>; s22, Lucy <Lucy.s22@oaic.gov.au>; HAMPTON, Elizabeth <Elizabeth.Hampton@oaic.gov.au>  
**Subject:** RE: Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]

Good afternoon Kendall  
 Thank you for your time on the phone this morning. As discussed, it may be difficult to arrange a meeting on the week commencing 23 October due to Senate Estimates.  
 Would you like to proceed with a Teams meeting on Thursday 19 October? If so, could you please confirm who will be attending the meeting, and advise of the best contact for me to forward a calendar invitation to? If this is not suitable, please feel free to give me a call on my mobile below as there may be capacity for a meeting on Friday.  
 Kind regards

 Isla s22 (she/her)  
 Senior Executive Assistant to the Australian Information Commissioner and Privacy Commissioner  
 Office of the Australian Information Commissioner  
 Sydney | GPO Box 5288 Sydney NSW 2001  
 P s22 M s22 E isla.s22@oaic.gov.au

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**From:** s22, Kendall <Kendall.s22@dva.gov.au>

**Sent:** Monday, October 16, 2023 2:10 PM

**To:** s22, Isla <Isla.s22@oaic.gov.au>

**Cc:** GHALI, Sarah <Sarah.Ghali@oaic.gov.au>; s22, Lucy <Lucy.s22@oaic.gov.au>; HAMPTON, Elizabeth <Elizabeth.Hampton@oaic.gov.au>

**Subject:** RE: Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]

**CAUTION:** This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Thanks Isla,

Is there any possibility of a meeting on the 24<sup>th</sup> of October?

Our Deputy Secretary, Andrew Kefford is overseas, returning to work on the 23<sup>rd</sup>.

We can send a DVA representative on the 19<sup>th</sup> but it is Andrew's preference to attend.

Thank you so much for all of your assistance.

Kind Regards

**Kendall** s22

Executive Assistant to Glen Casson

A/g Deputy Secretary Policy & Programs

Department of Veterans' Affairs

s22

[Kendall.s22@dva.gov.au](mailto:Kendall.s22@dva.gov.au)

[www.dva.gov.au](http://www.dva.gov.au)



**From:** s22, Isla <Isla.s22@oaic.gov.au>

**Sent:** Monday, 16 October 2023 12:47 PM

**To:** s22, Kendall <Kendall.s22@dva.gov.au>

**Cc:** GHALI, Sarah <Sarah.Ghali@oaic.gov.au>; s22, Lucy <Lucy.s22@oaic.gov.au>; HAMPTON, Elizabeth <Elizabeth.Hampton@oaic.gov.au>

**Subject:** RE: Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]

Good morning Kendall

Not a problem at all – can I propose this Thursday, 19 October, between 9.30am and 12pm? Could you please also advise who will be in attendance at the meeting?

Kind regards



**Isla** (she/her)

Senior Executive Assistant to the Australian Information Commissioner and Privacy Commissioner  
Office of the Australian Information Commissioner

Sydney | GPO Box 5288 Sydney NSW 2001

**P** s22 **M** s22 **E** isla.s22@oaic.gov.au

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**From:** s22, Kendall <Kendall.s22@dva.gov.au>

**Sent:** Monday, October 16, 2023 11:54 AM

**To:** s22, Isla <Isla.s22@oaic.gov.au>

**Cc:** GHALI, Sarah <Sarah.Ghali@oaic.gov.au>; s22, Lucy <Lucy.s22@oaic.gov.au>; HAMPTON, Elizabeth <Elizabeth.Hampton@oaic.gov.au>

**Subject:** RE: Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]



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Good Morning Isla,

I've just left a message with you.

Is there any chance of a meeting (virtual if required) prior to Wednesday the 25<sup>th</sup> ?

We have our Senate Estimates on Wednesday and will need to speak with the OAIC prior to the hearing.

Kind Regards

**Kendall s22**

Executive Assistant to Glen Casson

A/g Deputy Secretary Policy & Programs

Department of Veterans' Affairs

**s22**

[Kenda@s22@dva.gov.au](mailto:Kenda@s22@dva.gov.au)

[www.dva.gov.au](http://www.dva.gov.au)



---

**From:** **s22**, Isla <[Isla@s22@oaic.gov.au](mailto:Isla@s22@oaic.gov.au)>

**Sent:** Friday, 13 October 2023 1:08 PM

**To:** **s22**, Kendall <[Kendall@s22@dva.gov.au](mailto:Kendall@s22@dva.gov.au)>

**Cc:** GHALI, Sarah <[Sarah.Ghali@oaic.gov.au](mailto:Sarah.Ghali@oaic.gov.au)>; **s22**, Lucy <[Lucy@s22@oaic.gov.au](mailto:Lucy@s22@oaic.gov.au)>; HAMPTON, Elizabeth <[Elizabeth.Hampton@oaic.gov.au](mailto:Elizabeth.Hampton@oaic.gov.au)>

**Subject:** RE: Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]

Good afternoon Kendall

Thank you for your patience on this – much appreciated. I confirm that the Commissioner will be available to attend a meeting in the coming weeks, however 23 October is not suitable.

The Commissioner can be available on Friday, 27 October at between 10am-4.30pm. The Commissioner will likely be accompanied by Deputy Commissioner Elizabeth Hampton and Assistant Commissioner Sarah Ghali, who I have copied into this email by way of update.

I appreciate that you will be managing other availabilities, so I hope that this is suitable. Please do not hesitate to call if I can be of further assistance – my mobile below is my best contact.

Kind regards



**Isla s22** (she/her)

Senior Executive Assistant to the Australian Information Commissioner and Privacy Commissioner

Office of the Australian Information Commissioner

Sydney | GPO Box 5288 Sydney NSW 2001

**P s22** **M s22** **E isla s22** [@oaic.gov.au](mailto:isla@s22@oaic.gov.au)

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**From:** **s22**, Kendall <[Kendall@s22@dva.gov.au](mailto:Kendall@s22@dva.gov.au)>

**Sent:** Friday, October 13, 2023 9:50 AM

**To:** OAIC - Executive Assistant <[executiveassistant@oaic.gov.au](mailto:executiveassistant@oaic.gov.au)>

**Subject:** RE: Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]

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Thanks Isla, appreciate it.

Kind Regards

**Kendall s22**

Executive Assistant to Glen Casson  
A/g Deputy Secretary Policy & Programs  
Department of Veterans' Affairs

**s22**

[Kendall.s22@dva.gov.au](mailto:Kendall.s22@dva.gov.au)

[www.dva.gov.au](http://www.dva.gov.au)



---

**From:** OAIC - Executive Assistant <[executiveassistant@oaic.gov.au](mailto:executiveassistant@oaic.gov.au)>

**Sent:** Thursday, 12 October 2023 10:32 AM

**To:** **s22**, Kendall <[Kendall.s22@dva.gov.au](mailto:Kendall.s22@dva.gov.au)>

**Subject:** RE: Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]

Good morning Kendall

Thank you for your email – I confirm that this has been received.

I will provide you with a response by **COB tomorrow, Friday 13 October**.

Kind regards



**Isla s22** (she/her)

Senior Executive Assistant to the Australian Information Commissioner and Privacy Commissioner  
Office of the Australian Information Commissioner  
Sydney | GPO Box 5288 Sydney NSW 2001

**P s22** **M s22** **E isla s22** [@oaic.gov.au](mailto:isla.s22@oaic.gov.au)

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**From:** **s22**, Kendall <[Kendall.s22@dva.gov.au](mailto:Kendall.s22@dva.gov.au)>

**Sent:** Thursday, October 12, 2023 10:19 AM

**To:** OAIC - Executive Assistant <[executiveassistant@oaic.gov.au](mailto:executiveassistant@oaic.gov.au)>

**Subject:** RE: Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]

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Good Morning,

May I please follow up on the below email please?

There are some time sensitives around this meeting.

We were looking at Monday the 23<sup>rd</sup> if that is suitable for the Information Commissioner.

Kind Regards

**Kendall s22**

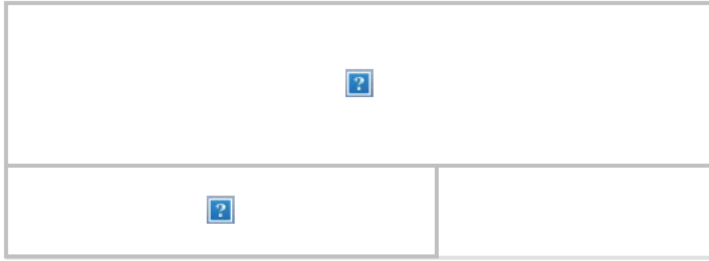
Executive Assistant to Glen Casson  
A/g Deputy Secretary Policy & Programs  
Department of Veterans' Affairs

**s22**

[Kendall.s22@dva.gov.au](mailto:Kendall.s22@dva.gov.au)

[www.dva.gov.au](http://www.dva.gov.au)





**From:** s22 Kendall

**Sent:** Tuesday, 10 October 2023 11:16 AM

**To:** 'executiveassistant@oaic.gov.au' <[executiveassistant@oaic.gov.au](mailto:executiveassistant@oaic.gov.au)>

**Subject:** Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]

Good Morning,

If possible I would like to organise a meeting with Ms. Angelene Falk and our Deputy Secretary of Policy & Programs, Andrew Kefford.

Andrew would like to discuss Veterans' MATES privacy issues' with Angelene and other DVA representatives.

Please feel free to call me on s22 to discuss at your earliest convenience.

Kind Regards

**Kendall** s22

Executive Assistant to Glen Casson

A/g Deputy Secretary Policy & Programs

Department of Veterans' Affairs

s22

[Kendall.s22@dva.gov.au](mailto:Kendall.s22@dva.gov.au)

[www.dva.gov.au](http://www.dva.gov.au)



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**From:** [OAIC - Executive Assistant](#)  
**To:** [FALK, Angelene](#)  
**Subject:** FW: Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]  
**Date:** Wednesday, 11 October 2023 4:03:52 PM  
**Attachments:** [image001.jpg](#)  
[image002.jpg](#)  
[image004.png](#)  
[image005.png](#)  
[image006.png](#)  
[image007.png](#)  
[image008.jpg](#)  
[image009.jpg](#)  
[image010.png](#)  
[image011.jpg](#)

Hi Angelene

Would you like to attend this meeting? Sarah and Libby have advised they are happy to attend and back brief you if you prefer.

Thank you



Isla s22 (she/her)

Senior Executive Assistant to the Australian Information Commissioner and Privacy Commissioner  
Office of the Australian Information Commissioner  
Sydney | GPO Box 5288 Sydney NSW 2001

P s22 M s22 E [isla.s22@oaic.gov.au](mailto:isla.s22@oaic.gov.au)

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**From:** s22, Kendall <[Kendall.s22@dva.gov.au](mailto:Kendall.s22@dva.gov.au)>

**Sent:** Tuesday, October 10, 2023 11:16 AM

**To:** OAIC - Executive Assistant <[executiveassistant@oaic.gov.au](mailto:executiveassistant@oaic.gov.au)>

**Subject:** Meeting Request with Ms. Angelene Falk Australian Information Commissioner [SEC=OFFICIAL]

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Good Morning,

If possible I would like to organise a meeting with Ms. Angelene Falk and our Deputy Secretary of Policy & Programs, Andrew Kefford.

Andrew would like to discuss Veterans' MATES privacy issues' with Angelene and other DVA representatives.

Please feel free to call me on s22 to discuss at your earliest convenience.

Kind Regards

**Kendall s22**

Executive Assistant to Glen Casson  
A/g Deputy Secretary Policy & Programs  
Department of Veterans' Affairs

s22

[Kendall.s22@dva.gov.au](mailto:Kendall.s22@dva.gov.au)

[www.dva.gov.au](http://www.dva.gov.au)



**Subject:** Notes for meeting with DVA  
**Location:** Microsoft Teams Meeting

**Start:** Tue 24/10/2023 11:30 AM  
**End:** Tue 24/10/2023 12:00 PM  
**Show Time As:** Tentative

**Recurrence:** (none)

**Meeting Status:** Not yet responded

**Organizer:** HAMPTON,Elizabeth (Inactive)

**s47E(d)**

Notes:

3 things:

- Particular complainant
- Update re addressing the public reaction to the decision
- Flag volume of corro from veterans – likely overflow to us – information requests and complaints around timing.

Since publication, over 1000 approaches from veterans either under FOI or info access. Handful of further requests to opt out of participation in the scheme. Conducted a review by Proximity re processing of opt out requests – share report with us – **s47E(d)**

**s47E(d)**

communicating with requesters – published a sense of where they're up to on website and socials.

- Requests: 'what is this about' as well as 'what of my PI has been shared'? Answer: if vets have not received a personal letter re MATEs, your information hasn't been disclosed.

**s47E(d)**

48 FOI requests – **s47E(d)**

801 admin access requests

Most received shortly after publication – almost nothing coming in now.

**s47E(d)**

Peta Langeveld – Department has paused the program while actioning opt outs – **s47E(d)**

Andrew – good program that saves lives and promoting general GP awareness of the issues – successful over time. Almost the entirety of the program is done with de-identified data. Only in circs where a matter of concern is raised that the identified data is used. **47E(d)**

**s47E(d)**

Leanne – also conducted independent review of the opt out requests – **s47E(d)** – received prior to decision. Audited all of them **s47E(d)** but found they had all been actioned fully and appropriately. **s47E(d)**

Andrew – will provide an update once concrete proposal re how to manage this going forward, and text of ‘restart’ correspondence. Keen to move quickly – weeks not months away.

**s47E(d)**

**s11C(1)(a)**

Senator Lambie has made public comments in relation to potential class actions arising from this program. Department expecting a line of questioning on this at Estimates.

---

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Passcode: bkbyJ6

---

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Phone conference ID: 937 711 406#

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Tenant key: 839060488@t.plcm.vc

Video ID: 131 340 961 9

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**Subject:** Notes for meeting with DVA

**Start:** Tue 24/10/2023 11:30 AM

**End:** Tue 24/10/2023 12:00 PM

**Show Time As:** Tentative

**Recurrence:** (none)

**Meeting Status:** Not yet responded

**Organizer:** HAMPTON,Elizabeth

**Required Attendees:** FALK,Angelene

**Subject:** Notes for meeting with DVA

**Start:** Tue 24/10/2023 11:30 AM  
**End:** Tue 24/10/2023 12:00 PM  
**Show Time As:** Tentative

**Recurrence:** (none)

**Meeting Status:** Not yet responded

**Organizer:** HAMPTON,Elizabeth  
**Required Attendees:** FALK,Angelene; GHALI,Sarah

**Subject:** Notes for meeting with DVA  
**Location:** Microsoft Teams Meeting

**Start:** Tue 24/10/2023 11:30 AM  
**End:** Tue 24/10/2023 12:00 PM  
**Show Time As:** Tentative

**Recurrence:** (none)

**Meeting Status:** Not yet responded

**Organizer:** HAMPTON,Elizabeth (Inactive)

**s47E(d)**

---

## Microsoft Teams [Need help?](#)

### [Join the meeting now](#)

Meeting ID: 435 843 540 897

Passcode: fHQ9Tf

---

### Dial in by phone

[+61 2 7208 4918,,502873931#](#) Australia, Sydney

[Find a local number](#)

Phone conference ID: 502 873 931#

### Join on a video conferencing device

Tenant key: 839060488@t.plcm.vc

Video ID: 137 004 869 9

[More info](#)

For organizers: [Meeting options](#) | [Reset dial-in PIN](#)

---

**From:** [HAMPTON,Elizabeth](#)  
**To:** [FALK,Angelene](#); [GHALI,Sarah](#)  
**Subject:** Notes  
**Date:** Tuesday, 24 October 2023 12:16:00 PM  
**Attachments:** [image001.jpg](#)  
[image002.jpg](#)  
[image003.jpg](#)

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**From:** [HAMPTON,Elizabeth](#)  
**To:** [PIRANI,Toni](#); [AGO,Rocelle](#)  
**Cc:** [FALK,Angelene](#); [GHALI,Sarah](#)  
**Date:** Tuesday, 24 October 2023 12:31:00 PM  
**Attachments:** ["ADJ" and The Secretary to the Department of Veterans" Affairs \(Privacy\) \[2023\] AICmr 29 \(26 April 2023\) Redacted.pdf](#)  
[image001.jpg](#)  
[image002.jpg](#)  
[image004.jpg](#)

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**From:** [AGO,Rocelle](#)  
**To:** [HAMPTON,Elizabeth](#); [PIRANI,Toni](#)  
**Cc:** [FALK,Angelene](#); [GHALI,Sarah](#)  
**Subject:** RE: [SEC=OFFICIAL]  
**Date:** Tuesday, 24 October 2023 12:52:12 PM  
**Attachments:** ["ADJ" and The Secretary to the Department of Veterans" Affairs \(Privacy\) \[2023\] AICmr 29 \(26 April 2023\) Redacted.pdf](#)  
[image001.jpg](#)  
[image002.jpg](#)  
[image003.jpg](#)

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**From:** [HAMPTON,Elizabeth](#)  
**To:** [FALK,Angelene](#); [GHALI,Sarah](#)  
**Date:** Tuesday, 24 October 2023 11:30:50 AM

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