

# **Statement of Intent 2007/08**

**Office of the Privacy Commissioner  
Te Mana Matapono Matatapu**

*Presented to the House of Representatives*

*Pursuant to section 139 of the Crown Entities Act 2004*



# Contents

|   |    |
|---|----|
| FOREWORD  | 5  |
| PART 1  | 6  |
| 3 Year Outlook  | 6  |
| Introduction  | 6  |
| The operating environment                                     | 7  |
| Our challenge   | 8  |
| Legislation   | 9  |
| The functions of the Privacy Commissioner                     | 10 |
| Rationale for the Work  | 12 |
| Organisational capability                                     | 14 |
| People  | 14 |
| Equal Employment Opportunities and<br>Good Employer statement | 14 |
| Systems   | 15 |
| Knowledge sources   | 15 |
| Resources   | 15 |
| Relationships   | 15 |
| Organisational structure                                      | 16 |
| OUTCOMES FRAMEWORK  | 18 |
| i. Improved privacy awareness in the community                | 18 |

|  |    |
|--|----|
| ii. Improved privacy standards and practice in government and business   | 19 |
| iii. Individuals are helped to protect their personal information  | 20 |
| iv. International trade is facilitated by aligning New Zealand's privacy standards with international requirements | 22 |
| Risks  | 23 |
| Stakeholders   | 24 |
| <br>   |    |
| PART 2   | 26 |
| <br>   |    |
| Service performance  | 26 |
| Outputs  | 26 |
| <br>   |    |
| PART 3   | 32 |
| <br>   |    |
| Financial forecast statements  | 32 |
| Statements of forecast financial performance, position and cash flows for the year ending 30 June 2008             | 32 |
| Statement of forecast service performance  | 36 |
| Statement of accounting policies   | 37 |

# FOREWORD

Privacy has many dimensions - including social, economic, human rights and technological - which touch all of our lives. The protection of privacy and personal information has wide-ranging, complex and diverse challenges.

Good personal information handling benefits both business and government, as well as customers, clients and individuals, by maintaining trust and respect. Privacy is fragile. Once privacy has been lost, it often cannot be restored. As far as possible the work of the Office aims to prevent or limit breaches of privacy. Especially in the information technology and science arenas, a balance must be struck between exploiting advances in knowledge and capacity, and the protection of individual privacy and security.

The Privacy Act sets themes of openness, purpose and respect in collecting and handling personal information. Our efforts will be concentrated on furthering those themes, to enhance agency responsibility for, and public awareness of, privacy issues.

The purpose of this Statement of Intent is to set out the medium term intentions and undertakings of the Office of the Privacy Commissioner for the period 2007/08 and our direction to 2010/11, and thereby promote our public accountability. It describes the results that our office will work towards over the next three years, and how we plan to achieve these.

Much has been achieved over the past three years in disposing of a large backlog of complaints and establishing capacity to deal with privacy policy and technology issues. Our focus in the short to medium term future will be to develop a communications capacity to meet numerous media, agency and public demands for information on privacy and personal information issues.

This is our second Statement of Intent. It has been developed by consultation within the Office and draws on work with stakeholders.



*Marie Shroff*  
**Privacy Commissioner**

# PART 1

## 3 Year Outlook

### Introduction

The Privacy Act was passed unanimously by Parliament in 1993. Key issues at that time, reflected in the purpose of the Act, were to meet OECD Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data, to protect and promote our international trade; and to allow the government to match databases to detect fraud, while monitoring and providing reassurance to the public in general. Privacy issues have become even more complex since the passing of the Act.

The Act specifies the appointment and functions of the Privacy Commissioner. The Commissioner is appointed by the Governor-General. Marie Shroff was appointed Commissioner in 2003.

The Privacy Commissioner is independent of the Executive in carrying out her functions, and in investigating complaints, including those against ministers or their departments. Independence is also important when examining the privacy implications of proposed new laws and information-matching programmes and in dealing with the private sector.

The Office of the Privacy Commissioner is an independent Crown entity (Part 3 of Schedule 1, Crown Entities Act).

The Office has a total expenditure budget of \$3,463,167 with an operating grant of \$3,109,000 (excl GST); a staff of 29.48 FTEs; and two offices, in Wellington and Auckland. Additional funds are provided through funding by external agencies and the provision of services.

Written complaints received are approximately 600 per year; 0800 free-phone line and other enquiries are about 6,000 per year.

## The operating environment

The potential for intrusions into the privacy of individuals is rising rapidly, mainly because of developments and convergences in information and communications technology. These provide an increasing power to collect, use and store personal information from a widening range of sources. Both government and business have an interest in, and the means to acquire, manipulate and use personal information. There is a tension between what is currently technically possible and the rights of citizens and consumers to privacy.

The steady growth in the number of new information matching programmes is expected to continue during 2007/08. A number of new matches involving Births and Deaths Register information will begin. Increases in matching activity are also expected to occur through expansions to existing programmes.

In this environment of the increasing management of personal information by business and government, citizen trust can be eroded by poor information handling processes. Lack of care may lead to losses of privacy, ranging from accidental unauthorised disclosure to data theft and misuse. On the other hand, the protection of personal information will build trust, particularly if the information management processes are transparent. Our aim is to work constructively with government and business to build practical privacy protections, and to promote a culture of respect for individual privacy.

The internet and access to it has grown exponentially since the Privacy Act was passed in 1993. By September 2006, 33 % of the population were active internet subscribers, up 2.1% on the previous six months. This technology and communications revolution places new demands upon the Office in its monitoring, policy and education functions.

Science developments have also accelerated, and often affect privacy. Advances in genetics are an obvious example. Another is mobile telephony which can link many devices and databases.

Privacy is a global issue. Globalisation, international trade – especially electronic commerce - and overseas ownership of firms operating in New Zealand all have privacy implications. The spread of global anti-terrorism measures imposed by governments also have the potential to create

threats to privacy. Data theft could arise from an attack upon the electronic infrastructure while material gathered from the surveillance of citizens by governments may not be subject to privacy protection.

Currently New Zealand is at an increasing competitive disadvantage in the growing world of cross-border trade in technology and services, a key component of the government's Growth and Innovation Strategy. Proposed changes to the Privacy Act would bring our law into line with European Union requirements, a necessary step to facilitate business opportunities.

There is increasing public concern about privacy issues. Privacy invasive technologies and the power of government and business to collect information on individuals are raising public awareness of the need for protection against misuse.

There are rising demands upon the Office of the Privacy Commissioner, and these are often unpredictable. We respond to new government data matching programmes (the growth in data matching has been described above). We monitor all legislation introduced into the House for privacy impacts, and are often involved in the early development of legislation which raises specific privacy issues (involving for example the handling of personal data or impacts on bodily privacy).

Our response to this environment includes emphasising education and self resolution. For instance, in the rapidly changing technology area we will concentrate our scarce resources on raising public awareness by providing better information for the public [about privacy invasive actions] and facilitating self resolution. In the handling of complaints our focus is on conciliation and resolution in seeking a positive outcome for both complainants and respondents.

## Our challenge

It is easy to take privacy for granted in a democracy that has been relatively free of the serious human rights abuses experienced elsewhere. The race to develop and take advantage of new science and technology is an exciting one, and we are lucky to be part of it. We should also recognise that there are great opportunities to protect and enhance human rights and, in particular, privacy protections as part of those developments. We can only hope to do

this by working cooperatively with science and technology developers, while at the same time raising public awareness, identifying threats to individual information and empowering people to protect their own privacy.

## Legislation

The Privacy Act 1993 is a modern piece of legislation, because it is principles-based, rather than attempting to regulate in detail. Openness, fairness and clarity of purpose are its themes. Much flexibility is allowed for counterbalancing interests, including the efficiency of business and government and competing social interests such as security.

The purposes of the Privacy Act are:

*“To promote and protect individual privacy in general accordance with the Recommendation of the Council of the Organisation for Economic Co-operation and Development Concerning Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data, and in particular,-*

- (a) *to establish certain principles with respect to –*
  - (i) *the collection, use, and disclosure, by public and private sector agencies, of information relating to individuals; and*
  - (ii) *access by each individual to information relating to that individual and held by public and private sector agencies; and*
- (b) *to provide for the appointment of a Privacy Commissioner to investigate complaints about interferences with individual privacy; and*
- (c) *to provide for matters incidental thereto.”*

Section 13 sets out many of the functions of the Privacy Commissioner. Other functions including complaints and information matching are set out elsewhere in the Privacy Act, as well as in the provisions of other legislation.

## The functions of the Privacy Commissioner

The Privacy Commissioner has wide ranging functions.

### *Competing interests*

The Privacy Act requires the Commissioner to have regard both to the information privacy principles and the protection of important human rights and social interests that compete with privacy. Competing social interests include the desirability of a free flow of information, and the right of government and business to achieve their objectives in an efficient way. The Commissioner must also take account of New Zealand's international obligations and consider any general international guidelines that are relevant to better protection of individual privacy.

### *Legislation and Policy*

One of the Commissioner's most significant roles is to comment on legislative, policy or administrative proposals that have some impact on the privacy of the individual or classes of individuals. Many such recommendations are adopted by government departments, cabinet committees or select committees when they are considering policy and legislative proposals. In every case the Commissioner must have due regard for interests that compete with privacy.

### *Complaints*

The Commissioner receives, investigates and seeks to settle complaints of interference with privacy.

### *Education and publicity*

The Commissioner promotes an understanding and acceptance of the information privacy principles. This is carried out through communications activities including an Enquiries Officer and 0800 helpline, the website and by workshops, seminars and responses to media enquiries.

### *Information Matching Programmes*

The Office monitors the growing number of government information matching programmes, which must be carried out according to the provisions of the Privacy Act.

### *Codes of Practice*

The Privacy Commissioner may issue codes of practice. These can modify the information privacy principles or they may prescribe how information privacy principles are to be applied or complied with, in a particular industry or context. Significant codes include the Health Information Privacy Code, the Telecommunications Information Privacy Code and the Credit Reporting Privacy Code

### *Other statutory functions of the Privacy Commissioner*

These include, for example:

- monitoring compliance with the public register privacy principles;
- undertaking research into, and to monitor developments in, data processing and computer technology to ensure that any adverse effects of such developments on the privacy of individuals are minimised, and to report to the responsible Minister the results of such research and monitoring;
- reporting to the Prime Minister on any matters that require Prime Ministerial attention, including the need for and desirability of taking legislative, administrative or other action to give protection or better protection to the privacy of the individual.

## Rationale for the Work

Privacy and personal information protection is a complex area whose scope extends across government, business, the economy and society at large. Privacy is a human right, but it must be managed in a balanced way with potentially competing interests such as efficiency in business and the free flow of information within society. It has become increasingly important, because the changing technological environment has opened new means and opportunities for government and business to manage personal information.

The protection of personal information by law is an essential part of a comprehensive legislative structure of consumer and citizen protection and sits alongside the Human Rights Act, the New Zealand Bill of Rights Act, the Official Information Act and the Ombudsmen Act.

Privacy law is necessary for New Zealand to meet international human rights standards and, thereby, the legislative requirements for data protection in other jurisdictions. Only through meeting these requirements can we pursue trade opportunities in e-commerce and become a trusted source.

The Privacy Act emphasises principles, and balances competing interests. It encourages education and self resolution of privacy problems for citizens, cooperation and the promotion of compliance rather than a punitive approach. It is the foundation for the advisory, monitoring, regulatory, educational and investigative functions of the Commissioner.

To be an effective watchdog on privacy invasions and potential threats to privacy, the Office must be independent of government and other interests. The Commissioner must be able to advise and comment independently on developments, whether in government, Parliament or business.

Because of the dynamic nature of the privacy environment, the Office must monitor and anticipate developments. Provision of advice on privacy impacts, especially to government and its agencies, is a product of monitoring. Monitoring and advising upon technology developments must be a major priority, given the strong and widespread impact on privacy of these changes.

The monitoring of authorised government data matching programmes is a legislative function necessary to ensure good practice in the collection and disclosure of personal information by government agencies.

Complaints resolution is a legislative function to promote and protect individual privacy.

The Commissioner as regulator can issue codes of practice for the application of privacy principles within sectors or industries, or to modify the principles.

There are good reasons for the Commissioner to have a strong focus on education and communications. Giving good information about rights, responsibilities and managing risks enables people and agencies to resolve problems themselves, or to prevent problems from arising. Sound knowledge prevents distress to individuals and reduces compliance costs for agencies. There is a greater emphasis on communications and education in this Statement of Intent.

## Organisational capability

### People

The Office requires a mix of a high level of legal, investigative, technology, policy and communication skills. As a small office it is highly dependent on developing and retaining staff skills and knowledge. The loss of key staff would result in a significant knowledge deficit which would not be easily regained. Therefore a strategic priority is the enhancement of staff skills, knowledge and experience. The Office employs contract staff for specialist areas as required.

The objective is to create an experienced credible staff and Office.

### Equal Employment Opportunities and Good Employer statement

The Office has an EEO policy and is an equal opportunities employer in its recruitment and staff development practices. It is a member of the Equal Employment Opportunities Trust. It carries out Good Employer practices in its human resource management. For example, the Office has developed and documented human resource policies and regularly monitors staff morale as part of management reporting. Exit interviews are carried out as part of continuously improving employment policies.

The Office of the Privacy Commissioner is committed to establishing a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment.

We will review our workplace profile and report its representativeness through the production of the Good Employer Report. We will consult with staff on issues of concern and conduct and review existing policies, practices, documents and systems in all areas of business to ensure equal opportunities in recruitment, appointment, development, promotion and remuneration.

We will seek to incorporate the remaining Key Employment Elements in 2007/08 and report on them in the Annual Report.

## Systems

Implementation is well advanced of an electronic records and document management system to comply with the Public Records Act 2005. Funding for this project was provided through the capital injection received in 2006/07.

Computer hardware and software has been upgraded to meet current requirements but this remains ongoing and continues to be met through the application of funds allocated to depreciation.

## Knowledge sources

The new electronic records and document management system will enhance our capabilities to survey, monitor, and track processes and practices across all work areas within the Office.

## Resources

The appointment of a Communications Officer for a two year pilot programme will assist with the upgrading of our communications function and lessen the reliance on existing staff, allowing them to concentrate upon their areas of expertise.

The Office's limited policy resources means we have to be selective in providing legislative and other advice.

## Relationships

The Privacy Commissioner actively works across government, parliament, business and the media, including representing New Zealand in international forums. The Office participates in international privacy networks and assists in the development of their programmes.

The Office works with the State Services Commission on privacy issues and policies in the e-government initiative. A policy adviser position has been funded by the Ministry of Health to enable the Office to advise the Ministry on health privacy issues.

## Organisational structure

The Privacy Commissioner employs staff in both Auckland and Wellington.

The Assistant Commissioner (Policy) has responsibility for work on codes of practice, legislation, data matching, international and policy matters, and a team has been established to focus on privacy issues associated with technology.

The Assistant Commissioner (Legal) acts as legal counsel for complaints work and has responsibility for communications, education and enquiries functions.

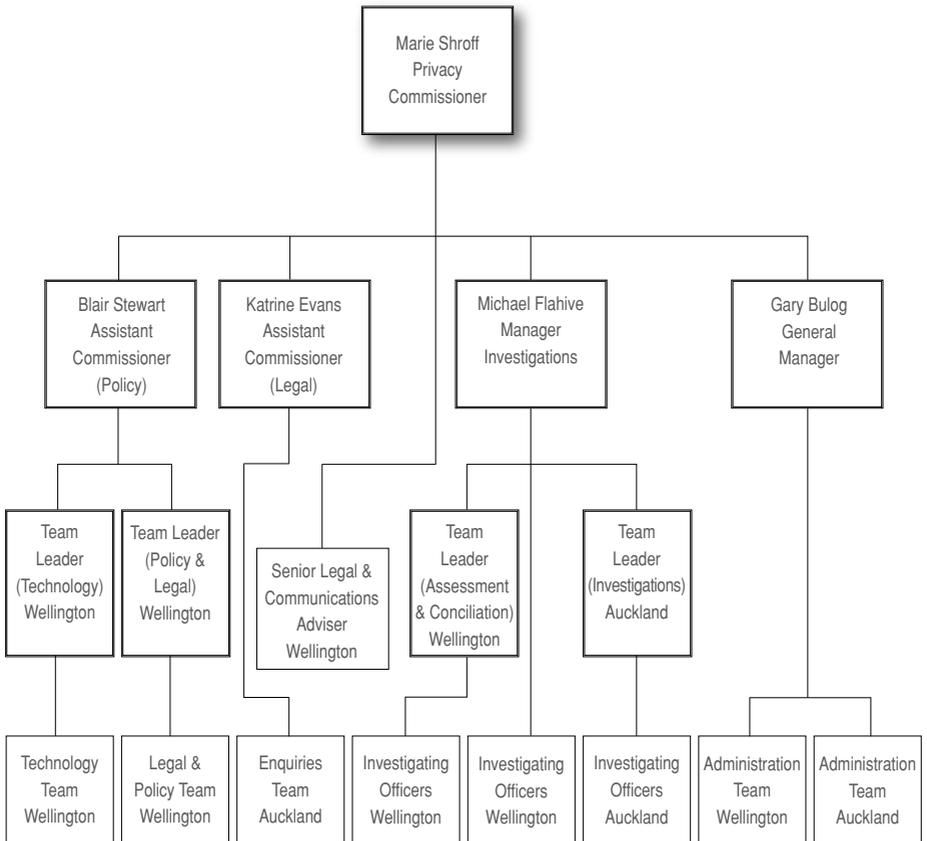
The Manager Investigations has responsibility for complaints and investigations functions, and manages teams of Investigating Officers in both offices.

In addition, a Senior Legal and Communications Adviser reports directly to the Commissioner.

The General Manager is employed on a part-time contract basis to provide administrative and managerial leadership for both offices.

Administrative support staff are employed in each office. Other contract staff are involved in management services, legal enquiries, writing, accounting and publication work.

## Office of the Privacy Commissioner



# OUTCOMES FRAMEWORK

We shall work towards the following two high level outcomes:

1. A New Zealand which protects and enhances individual privacy and thereby supports individual freedom and identity.
2. Citizens and consumers trust government and business to handle their personal information well.

The Office proposes to continue in 2007/08 the implementation of the four intermediate outcomes commenced in 2006/07 which support the high level outcomes. They are as follows:

## **i. Improved privacy awareness in the community**

### *Description and issues*

There is considerable work to be done in further developing citizen awareness, so that there is greater balance between the agencies with huge power to gather and manipulate information, and the individuals whose information makes up these databases. Media interest in privacy issues is high, but more balanced public debate is required. The Office also needs to develop its understanding of the extent of privacy awareness across all groups in the community.

### *Key impacts sought*

Wider access to, and greater use of, privacy information and resources.

Awareness of the benefits of good information handling is increased among individuals.

### *Activities*

Key initiatives planned are to:

- Enhance external communications;

- Continue to publish additional resources, particularly web based publications and case notes including some focusing on technology, privacy and business needs;
- Target key privacy concerns and interest groups;
- Promote balanced debate on privacy issues.

### *Monitoring*

Impacts will be monitored by analysing enquiries and complaints, feedback received from the public, conducting surveys to determine public awareness, and measuring web use.

## **ii. Improved privacy standards and practice in government and business**

### *Description and issues*

Opinion surveys in Australia and New Zealand suggest that the public is increasingly concerned about the collection and misuse of personal information, and the invasion of individual privacy by technology. These concerns run alongside longstanding unease about privacy intrusions in areas such as employment, financial and health information. The Office is a watchdog agency which can provide reassurance to the public and assistance to government and business to carry out their functions efficiently, but with respect for people's personal privacy.

### *Key impacts sought*

Awareness of the benefits of good information handling is increased in business and government.

Legislation, policy and practices reflect privacy principles.

The Privacy Act is updated.

Technology policies are developed.

Data matching programmes are assessed and monitored.

## *Activities*

Key initiatives planned are:

- To monitor and advise on legislation, policy initiatives and potential privacy invasive developments;
- Participate in e-government and health information policy development;
- Participate in the Law Commission Review of Privacy;
- The privacy officer capability is enhanced within organisations;
- The means to effectively monitor increased data matching is developed;
- To increase privacy compliance information resources for government and business;
- To participate in international privacy forums to identify global privacy threats and best practice in privacy regulation.

## *Monitoring*

The quality of advice to government agencies can be tested through informal feedback mechanisms. Opinion surveys will provide a measure of the public's perception of information handling by business and government. Complaints statistics are monitored to assess the quality of information management, particularly by the key agencies and the public sector as a whole.

Support for the Privacy Officer network will be measured by responses and evaluation to training and other resources.

### **iii. Individuals are helped to protect their personal information**

#### *Description and issues*

The Privacy Act encourages education and self-resolution of problems for individuals, and mediation and positive outcomes in an informal, non-punitive environment. Nevertheless, individuals also need access to a low cost way to challenge how their information is being used and to obtain any necessary redress.

### *Key impacts sought*

People and groups are empowered to take ownership of and self-resolve privacy issues.

Complaints and enquiries are handled in a fair and timely manner.

### *Activities*

The key initiatives planned are:

- Manage complaints investigations so that no complaint is older than 13 months;
- The website helps individuals and agencies to avoid problems in the handling of personal information and to resolve complaints where they arise;
- The website provides an easily navigable source of plain English information on privacy issues for individuals;
- Enquiries resources are developed further to provide help to callers on privacy matters and self resolution techniques.

### *Monitoring*

- Monthly performance statistics will track complaints resolution – including time to complete.
- Annual surveys of complainant and respondent satisfaction will be undertaken.
- The quality of the complaints service will be regularly and independently audited.
- Website use will be monitored and content regularly updated.
- The enquiries function will be reported on and audited.

#### **iv. International trade is facilitated by aligning New Zealand's privacy standards with international requirements**

##### *Description*

Currently we are at an increasing competitive disadvantage in the growing world of e-commerce and cross-border trade in technology and services, such as offshore processing of data. New Zealand needs to meet the personal data protection standards of our trading partners.

##### *Key impacts sought*

New Zealand privacy legislation and practice accords with international requirements.

##### *Activities*

The key initiatives planned are:

- The Privacy Act is amended to comply and harmonise with, EU requirements for transborder transfers of personal data;
- International privacy activities, codes and standards are regularly monitored for their impact upon New Zealand's trade and investment opportunities;
- Information relating to New Zealand's privacy standards is made known to overseas regulators;
- To promote cooperation with overseas privacy regulators to facilitate the exchange of information across jurisdictions.

##### *Monitoring*

Amendments to the Privacy Act will be in effect and reports to the Minister will contain monitoring information on international developments.

## Risks

The four major risks to which the Office is exposed and the responses to these are:

| RISK TYPE  | RESPONSE   |
|--|--|
| <p>Credibility: The risk that the Office loses influence with government, business and the media. The Office loses relevance.</p>                                    | <p>Ensuring statutory obligations are met as well as information and advisory responsibilities</p> <p>Ensuring that the Office of the Privacy Commissioner's position and advice on issues is evidence based – through the use of reliable information and robust research</p> <p>Ensuring that the Office remains abreast of international privacy developments</p> |
| <p>Demand and expectations: The risk that the Office cannot meet the level of complaints, enquiries and demand for information arising from increased awareness.</p> | <p>Self resolution measures and tools are in place</p> <p>Current priority systems are maintained and developed further if necessary</p> <p>Ensure that information is disseminated to reach a wide audience</p>   |
| <p>International standards: The risk that New Zealand fails to meet international privacy requirements.</p>  | <p>Continuing participation in international privacy networks</p> <p>Promoting legislation to reflect these standards</p>  |
| <p>Staff skills: The risk that key skill capabilities are not available for the Commissioner's work. Staff knowledge is lost.</p>                                    | <p>Planning recruitment and retention to ensure that the required skills are developed and maintained</p> <p>Ensuring staff are supported with professional development and performance management systems</p> <p>Ensuring opportunities exist for gaining wider experience and career development</p>   |

## Stakeholders

The extensive range of privacy issues means that the Office has many stakeholders. The main groups of stakeholders and their interests are described below.

| <i>Stakeholder interest</i>       |  | <i>Activities</i>   |
|-----------------------------------|--|---|
| The public                        | The public are concerned about privacy issues, such as those arising from technological change, data collection and matching, covert filming, identity fraud and direct marketing  | Communication to the public through website initiatives, enhanced enquiries resources to facilitate self resolution of problems and improve the understanding of privacy issues   |
| The media                         | The media have a strong interest in privacy invasive technologies, the power of government and business to collect information on individuals, and the question of access to that information  | Enhance information resources to provide a balanced understanding of privacy issues   |
| Government agencies and Ministers | Government agencies hold large amounts of information about individuals and attract the most privacy complaints  | The work of the Office encompasses all agencies, but has key relationships with agencies dealing with privacy policy making activities  |
| Parliament                        | Parliament has an interest in receiving input into proposed legislation incorporating appropriate provision for the protection of individual privacy   | Select Committees may seek and be provided with the advice of the Commissioner on bills introduced to Parliament  |
| Business and industry             | Business and industry hold information about employees and customers and are the subject of complaints. They seek information on compliance and information which assists them to meet best practice in the standard of information handling | The Office works with sector groups, for example in the development of codes of practice with individual businesses concerning their privacy practices, and supports privacy officers in the private sector. Education and information resources are directed to business |

| <i>Stakeholder interest</i>                  |  | <i>Activities</i>  |
|--|--|--|
| Local government                             | Compliance with the provisions of the Privacy Act 1993 when dealing with personal information collected as part of their functions   | The Office works with local government to raise awareness of the benefits of good information handling   |
| The international privacy community          | The international privacy community is a forum for the exchange of knowledge on changing technologies and input into international responses to the protection of personal information and regulation of privacy | The Office is an active member of the Asia Pacific Privacy Authorities (APPA) Forum which enables the Commissioner to cooperate with other privacy commissioners at regional level. She is a member of the International Privacy Commissioners Forum, and assists in the work of the APEC Data Privacy Subgroup and other international groups |
| Community and interest groups                | Community and interest groups make requests for education or assistance in areas affecting their activities  | Enhance information resources to provide a balanced understanding of privacy issues  |
| Academics, privacy practitioners and lawyers | A high level of interest from practitioners dealing with practical privacy issues, and with new developments in privacy law  | The Office newsletter "Private Word", our website, case notes and technical reports communicate on privacy issues with stakeholder groups<br><br>This supplements an active working relationship on a day to day basis   |

## PART 2

# Service performance

## Outputs

### 1. Privacy Policy

Provide advice on the privacy impact of proposed legislation and other significant proposals.

Monitor and advise on international developments, new technologies and other issues affecting privacy.

Assess proposals for information matching, monitor and report on authorised information matching programmes and review statutory authorities for information matching.

#### *Quantity*

- Issue and keep current codes of practice.
- Review of the Privacy Act:
  - Assist Ministry of Justice in pursuing a finding from the European Union that New Zealand law offers an “adequate” standard of data protection;
  - Support Ministry of Justice work on the review of the Act and proposed legislative change process.
- Contribute to the Law Commission major review.
- Provide practical advice to departments on privacy issues and fair information practices arising in proposed legislation and in administrative proposals.
- Provide specialised assistance to government departments or ministries in accordance with agreed memoranda of understanding.

- Provide assistance to improve whole of government compliance with information matching controls.

### *Quality*

- All proposals for codes of practice will be the subject of discussion with stakeholders and a public submission process which includes a clear statement of purpose.
- All issued codes are referred to the Regulations Review Committee of the House of Representatives.
- Assistance provided to government agencies which presents a clear, concise and logical argument, with assumptions made explicit and supported by facts.
- Respond to feedback obtained from recipients of advice.

### *Timeliness*

- Codes of practice meet the agreed timelines for release and implementation.
- Give advice within a time span that will enable it to be useful to the recipient or within agreed timeframes.

## **2. Communications**

Promote awareness and understanding of, and compliance with, the Privacy Act.

Promote privacy as a human right and develop an awareness of privacy issues.

### *Quantity*

- Participate in the first Asia Pacific Privacy Awareness Week.
- Provide training assistance to promote better privacy practice in the development of policy and legislation at the whole of government level.
- Contribute to Law Commission/OPC seminars on privacy issues.

- Contribute to the work of international privacy organisations and forums.
- Initiate and support, where appropriate, a network of privacy officers to develop and improve their effectiveness.
- Undertake a programme of education workshops to promote awareness, understanding of, and compliance with the Privacy Act.
- Provide a free enquiries service including 0800 helpline and website access to information supporting self resolution of complaints.
- Produce and distribute the Privacy Commissioner newsletter, *Private Word*.
- Produce and distribute the case notes of selected complaints handled through the Office.
- Maintain an effective website to assist stakeholders to promote better privacy practice.
- Community of practice for information matching project through shared (virtual) workspace and meetings.

| Activities  | Estimation | Range         |
|---|------------|---------------|
| Education workshops                                 | 60         | 50 - 70       |
| Presentations at conferences / seminars             | 10         | 4 - 15        |
| Projected number of Enquiries received and answered | 6,000      | 5,000 – 7,000 |
| Case notes produced                                 | 20         | 10 – 30       |
| Information matching workshops                      | 2          | 2 – 4         |
| Technology and Policy Forums                        | 6          | 5 - 7         |

*Quality*

- Meet internal professional standards.
- Act on feedback obtained from recipients of advice.
- Contributions to international organisations and forums are accepted.
- Evaluations show that the expectations of 90% of attendees at workshops were met or exceeded for quality of presentation and materials.
- Publications and information are legally accurate.
- Case notes conform with the regional standards adopted by the Asia Pacific Privacy Authorities (APPA).
- Meetings held with, or presentations made to, at least 10 significant privacy interest groups.
- Reliable and relevant information is placed on the website.
- Enquiries are answered by appropriately trained professional staff.

*Timeliness*

- Workshop timetables published on the website.
- Current information is placed on the website within a month of being made available.
- Response times to enquiries meet internal standards.

**3. Compliance**

Handle complaints of interference with privacy.

Enhance cooperation internationally across similar privacy regulators.

Undertake Commissioner initiated investigations (as required).

Monitor active information matching programmes.

*Quantity*

|   | Estimation | Range     |
|---|------------|-----------|
| Number of complaints received   | 600        | 500 - 800 |
| Number of current complaints processed to completion or settled or discontinued | 650        | 500 – 800 |
| Projected number of active information matching programmes monitored            | 45         | 45 – 50   |

- Implement the self-audit methodology with selected matches in consultation with agencies to assist in checking compliance with information matching requirements.

*Quality*

- Complainants' and respondents' satisfaction with the complaints handling process rated as "satisfactory" or better in 80% of responses to a survey of complaints received and closed in the preceding period.
- When a Human Rights Review Tribunal case is concluded the Assistant Commissioner (Legal) will review the outcome against the work of the Office and report the findings to the Privacy Commissioner.
- External review is conducted of a sample of complaints investigations for their standard of the legal analysis, correctness of the legal conclusions, soundness of investigative procedure and timeliness.
- The Director Human Rights Proceedings is satisfied as to the manner in which cases are referred and the general suitability for referral.

- Reports on authorised information matching programmes to be published will be submitted to relevant departments for comment before publication.

### *Timeliness*

- 50% of complaints are completed, settled or discontinued within 6 months of receipt and 90% of complaints are completed, settled or discontinued within 12 months of receipt.
- Complaints referred to the Director Human Rights Proceedings meet the timeframes of the Director.
- A report on all authorised information matching programmes will be provided annually.
- The self-audit methodology for information matching programmes will be implemented across selected matches for inclusion in the Annual Report of the year ending 30<sup>th</sup> June 2008.

# PART 3

## Financial forecast statements

Statements of forecast financial performance, position and cash flows for the year ending 30 June 2008

**OFFICE OF THE PRIVACY COMMISSIONER  
STATEMENT OF FINANCIAL PERFORMANCE  
BUDGET FOR YEAR ENDED 30 JUNE 2008**

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| 2006/2007<br>Budget<br>\$ |  | 2007/2008<br>Budget<br>\$ |
|---------------------------|--|---------------------------|
| <b>INCOME</b>             |  |                           |
| 3,091,000                 | Operating Grant                                | 3,109,000                 |
| 33,200                    | Education                                      | 36,000                    |
| 24,000                    | Interest Received                              | 52,000                    |
| 262,716                   | Other Income <sup>1</sup>                      | 255,556                   |
| <b>3,410,916</b>          | <b>TOTAL INCOME</b>                            | <b>3,452,556</b>          |
| <b>EXPENDITURE</b>        |  |                           |
| 2,307,177                 | Personnel                                      | 2,437,567                 |
| 13,500                    | Audit Fees                                     | 15,000                    |
| 86,700                    | Depreciation                                   | 156,000                   |
| 432,000                   | Rental   | 360,000                   |
| 472,780                   | Operating Costs                                | 445,300                   |
| 95,400                    | Marketing/Newsletter                           | 49,300                    |
| <b>3,407,557</b>          | <b>TOTAL EXPENDITURE</b>                       | <b>3,463,167</b>          |
| <b>(3,359)</b>            | <b>EXCESS EXPENSES OVER INCOME<sup>2</sup></b> | <b>10,611</b>             |

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<sup>1</sup> Other Income included a one off capital contribution of \$225,000 in 2006/2007

<sup>2</sup> Deficit of \$10,611 to be met by reserves carried forward from 2006/07

**OFFICE OF THE PRIVACY COMMISSIONER  
STATEMENT OF FINANCIAL POSITION  
BUDGET FOR YEAR ENDED 30 JUNE 2008**

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| <b>Forecast 2007</b> |                                  | <b>Budget 2008</b> |
|----------------------|----------------------------------|--------------------|
|                      | <b>CURRENT ASSETS</b>            |                    |
| 450                  | Cash on Hand                     | 450                |
| 54,640               | National Bank – Cheque           | 86,164             |
| 850,000              | National Bank - Deposit          | 800,000            |
| 7,231                | Debtors                          | 7,231              |
| 8,812                | Inventory                        | 8,812              |
| -                    | GST Receivable                   | -                  |
| 7,960                | Prepayments                      | 7,960              |
| <b>929,093</b>       |                                  | <b>910,617</b>     |
| <b>407,291</b>       | <b>Fixed Assets</b>              | <b>331,291</b>     |
| <b>1,336,384</b>     |                                  | <b>1,241,908</b>   |
|                      | <b>CURRENT LIABILITIES</b>       |                    |
| 49,663               | Sundry Creditors                 | 50,000             |
| 128,892              | GST Payable                      | 144,743            |
| 143,696              | Accruals                         | 44,000             |
| 58,356               | Employee Entitlements            | 58,000             |
| <b>380,607</b>       | <b>Total Current Liabilities</b> | <b>296,743</b>     |
| <b>955,777</b>       | <b>NET ASSETS</b>                | <b>945,165</b>     |
| 955,777              | Accumulated Funds                | 945,165            |
| <b>955,777</b>       | <b>PUBLIC EQUITY</b>             | <b>945,165</b>     |

**OFFICE OF THE PRIVACY COMMISSIONER  
STATEMENT OF CASH FLOWS  
BUDGET FOR YEAR ENDED 30 JUNE 2008**

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**BUDGET 2008**

\$

**CASH FLOWS FROM OPERATING ACTIVITIES****Cash was provided from:**

|                 |                  |
|-----------------|------------------|
| Operating Grant | 3,109,000        |
| Other Income    | 191,556          |
| Interest        | 52,000           |
|                 | <u>3,352,556</u> |

**Cash was applied to:**

|                       |                  |
|-----------------------|------------------|
| Payments to Suppliers | 868,959          |
| Payments to Employees | 2,437,923        |
| Payments of GST       | (15,851)         |
|                       | <u>3,291,031</u> |

**Net Cash Flows applied to Operating Activities**61,525**Cash Flows from Investing Activities**

## Cash was provided from:

|                      |          |
|----------------------|----------|
| Sale of Fixed Assets | -        |
|                      | <u>-</u> |

## Cash was applied to:

|                          |        |
|--------------------------|--------|
| Purchase of Fixed Assets | 80,000 |
|--------------------------|--------|

**Net Cash Flows applied to Investing Activities**80,000**Net increase (decrease) in cash held****(18,475)****Cash brought forward**905,090**Closing cash carried forward**886,615**Cash made up of:**

|                         |                |
|-------------------------|----------------|
| Cash on Hand            | 450            |
| National Bank           | 86,165         |
| National Bank – Deposit | 800,000        |
|                         | <u>886,615</u> |

**RECONCILIATION OF CASH FLOWS FROM OPERATING ACTIVITIES**

|                                |          |
|--------------------------------|----------|
| Excess Expenditure over Income | (10,611) |
|--------------------------------|----------|

**Non-Cash Item**

|              |         |
|--------------|---------|
| Depreciation | 156,000 |
|--------------|---------|

|                                |   |
|--------------------------------|---|
| Profit on sale of Fixed Assets | - |
|--------------------------------|---|

**Movements in Working Capital**

|                                  |     |
|----------------------------------|-----|
| Increase (Decrease) in Creditors | 337 |
|----------------------------------|-----|

|                                 |          |
|---------------------------------|----------|
| Increase (Decrease) in Accruals | (99,696) |
|---------------------------------|----------|

|                            |        |
|----------------------------|--------|
| (Increase) Decrease in GST | 15,851 |
|----------------------------|--------|

|   |       |
|---|-------|
| Increase (Decrease) in Employee Provision | (356) |
|---|-------|

|                                  |   |
|----------------------------------|---|
| Increase (Decrease) in Inventory | - |
|----------------------------------|---|

|                                    |   |
|------------------------------------|---|
| (Increase) Decrease in Prepayments | - |
|------------------------------------|---|

|                                |   |
|--------------------------------|---|
| (Increase) Decrease in Debtors | - |
|--------------------------------|---|

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|               |
|---------------|
| <b>61,525</b> |
|---------------|

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## Statement of Forecast Service Performance

The Privacy Commissioner has committed to provide three output classes in 2007/08 that meet the requirements of the Minister of Justice in terms of their description, quantity, timeliness and costs.

### Output Operating Statements: 2007/08

|  | Revenue<br>Crowns<br>\$000 | Revenue<br>Other<br>\$000 | REVENUE<br>Capital<br>Contribution<br>\$000 | EXPENSES<br>Total<br>Expenses<br>\$000 | SURPLUS<br>Surplus /<br>(Deficit)<br>\$000 |
|--|----------------------------|---------------------------|---|--|--|
| <b>Departmental Output Class Description</b>         |                            |                           |   |  |  |
| • Privacy Policy                                     | 1,005                      | 204                       | 0   | 1,237                                  | (28)                                       |
| • Communications                                     | 687                        | 89                        | 0   | 852                                    | (76)                                       |
| • Compliance   | 1,417                      | 50                        | 0   | 1,374                                  | 93   |
| <hr/>  |                            |                           |   |  |  |
| <b>TOTAL<br/>DEPARTMENTAL<br/>OUTPUT<br/>CLASSES</b> | <b>3,109</b>               | <b>343</b>                | <b>0</b>                                    | <b>3,463</b>                           | <b>(11)</b>                                |

In addition to the Output Operating Statements \$125,000 per annum for two years will be applied from reserves for the Communications Pilot Project.

## Statement of accounting policies

### Reporting entity

These are the financial statements of the Privacy Commissioner, a Crown entity in terms of the Public Finance Act 1989.

These financial statements have been prepared in accordance with the Public Finance Act 1989.

In addition, the Privacy Commissioner has reported the funding administered on behalf of the Crown as notes to the financial statements.

### Measurement base

The financial statements have been prepared on an historical cost basis.

### Accounting policies

The following particular accounting policies which materially affect the measurement of financial performance and financial position have been applied:

### Budget figures

The budget figures are those approved by the Privacy Commissioner at the beginning of the financial year.

The budget figures have been prepared in accordance with generally accepted accounting practice and are consistent with the accounting policies adopted by the Privacy Commissioner for the preparation of the financial statements.

## Revenue

The Privacy Commissioner derives revenue through the provision of outputs to the Crown, for services to third parties and income from its investments. Such revenue is recognised when earned and is reported in the financial period to which it relates.

## Goods and Services Tax (GST)

All items in the financial statements are exclusive of GST, with the exception of accounts receivable and accounts payable which are stated with GST included. Where GST is irrecoverable as an input tax, then it is recognised as part of the related asset or expense.

## Taxation

The Privacy Commissioner is a public authority in terms of the Income Tax Act 1994 and consequently is exempt from income tax.

## Accounts receivable

Accounts receivable are stated at their expected realisable value after providing for doubtful and uncollectible debts.

## Property Plant and Equipment

All fixed assets, or groups of assets forming part of a network which are material in aggregate are capitalised and recorded at cost. Any write-down of an item to its recoverable amount is recognised in the statement of financial performance.

## Depreciation

Depreciation is provided on a straight line basis on all fixed assets, at a rate which will write off the cost (or valuation) of the assets to their estimated residual value over their useful lives.

The useful lives and associated depreciation rates of major classes of assets have been estimated as follows:

|                        |         |
|------------------------|---------|
| Furniture and fittings | 5 years |
| Computer equipment     | 4 years |
| Office equipment       | 5 years |

## Employee Entitlements

Provision is made in respect of the Privacy Commissioner's liability for annual, long service and retirement leave. Annual leave and other entitlements that are expected to be settled within 12 months of reporting date, are measured at nominal values on an actual entitlement basis at current rates of pay.

Entitlements that are payable beyond 12 months, such as long service leave and retirement leave, have been calculated on an actuarial basis based on the present value of expected future entitlements.

## Related Parties

The Privacy Commissioner is a wholly owned entity of the Crown. The Government significantly influences the role of the Privacy Commissioner as well as being its major source of revenue.

The Privacy Commissioner has entered into a number of transactions with government departments, Crown agencies and state-owned enterprises on an arm's length basis. Where those parties are acting in the course of their normal dealings with the Privacy Commissioner, related party disclosures have not been made for transactions of this nature.

There were no other related party transactions.

## Leases

### Operating leases

Leases where the lessor effectively retains substantially all the risks and benefits of ownership of the leased items are classified as operating leases. Operating lease expenses are recognised on a systematic basis over the period of the lease.

### Financial instruments

The Privacy Commissioner is party to financial instruments as part of its normal operations. These financial instruments include bank accounts, short-term deposits, debtors, and creditors. All financial instruments are recognised in the statement of financial position and all revenues and expenses in relation to financial instruments are recognised in the statement of financial performance.

### Statement of cash flows

**Cash** means cash balances on hand, held in bank accounts, demand deposits and other highly liquid investments in which the Privacy Commissioner invests as part of its day-to-day cash management.

**Operating activities** include all activities other than investing and financing activities. The cash inflows include all receipts from the sale of goods and services and other sources of revenue that support the Privacy Commissioner's operating activities. Cash outflows include payments made to employees, suppliers and for taxes.

**Investing activities** are those activities relating to the acquisition and disposal of current and non-current securities and any other non-current assets.

### Accumulated reserves

The Privacy Commissioner is able to accumulate reserves from previous years which provide capability to meet capital expenses and unbudgeted

one-off expenses. Accumulated reserves are an estimate only of projected reserves to be carried over from the 2006/07 financial year and are subject to change following the audit of the year end accounts.

Accumulated reserves in 2007/08 will be used for:

|   | <b>\$000</b> |
|---|--------------|
| Appointment of Communications Adviser as part of Communications Pilot Project (2 year project)  | 250          |
| Completion of works commenced in 2006/07 for relocation of Auckland office and changes to accommodation in Wellington to make better use of available space | 350          |
| Providing for unexpected impacts through the year   | 100          |
| Production of new education materials   | 40           |
| Contingency for litigation  | 40           |
| (Provision for costs of legal actions outside of budgeted activities)   |              |
| Privacy Awareness Week  | 20           |

### Transition to New Zealand International Financial Reporting Standards

In December 2002 the New Zealand Accounting Standards Review Board announced that International Financial Reporting Standards (IFRS) will apply to all New Zealand entities for periods commencing on or after 1 January 2007. Entities have an option for early adoption of the new standards for periods beginning on or after 1 January 2005.

The Privacy Commissioner intends to adopt NZ IFRS and report for the first time under NZ IFRS for the year ended 30 June 2008. Comparative information to 30 June 2007 presented in the Financial Statements will be restated to meet the requirements of the new standards and the financial impact of adoption (which may be material) will be disclosed. As the Privacy Commissioner is in the early stages of assessing the impact that adoption of NZ IFRS will have, it is not in a position to reliably estimate its effect in these financial statements.

## Changes in accounting policies

There have been no changes in accounting policies, including cost-allocation accounting policies. All policies have been applied on bases consistent with those used in the previous period.