



# 2012/13 financial review of the Privacy Commissioner

Report of the Justice and Electoral  
Committee

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# Privacy Commissioner

## Recommendation

The Justice and Electoral Committee has conducted the financial review of the 2012/13 performance and current operations of the Privacy Commissioner and recommends that the House take note of its report.

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## Introduction

The Privacy Commissioner is an independent Crown entity established under the Privacy Act 1993. The commissioner has wide-ranging functions regarding the protection of personal information. John Edwards took over the Privacy Commissioner role on 17 February 2014, and he is supported in carrying out his functions by an office established for this purpose.

### Financial and service performance management

In 2012/13 the total revenue of the commissioner was \$3.643 million and total expenditure was \$3.508 million, resulting in a net operating surplus of \$136,000 (compared with a surplus of \$128,000 in 2011/12).

The Office of the Auditor-General rated the Office of the Privacy Commissioner's service performance information and associated systems and controls as needing improvement. The Auditor-General considered that the office's systems for recording satisfaction survey data do not provide enough detail for auditing purposes, but he expected this issue to be resolved next year by planned changes to the office's processes.

### Privacy environment and resources

We note the statement in the Office of the Privacy Commissioner's 2013 annual report that the office's capacity to respond to rising external demand, from data breaches, government and business requests, media enquiries, and new information sharing agreements was under pressure. We asked whether the office has sufficient resources to meet demand in the future. The commissioner said he will carry out the work required with the resources provided, even more ably if additional resources are provided, and he is seeking to use the office's resources more effectively. We will follow with interest the commissioner's progress.

### Privacy and human error

We recognise that human error can have wide-ranging effects on individuals' privacy, and asked how this risk can be managed. The commissioner said that systems need to be carefully designed to minimise human error; risk assessments regarding security, privacy, and technology assessments can reduce the potential consequences of human error.

We were interested to hear that the typical behaviour of recipients of mistakenly released personal information has changed over the last few years, a matter which has not been widely discussed in public. The commissioner said he is disturbed that people find something in their inbox that is not intended for them, and believe they are entitled to publicise the material or use it to their advantage against the organisation concerned;

whereas no right-thinking person would think they had a right to keep a wallet they had found. The commissioner recognises that some people are stressed and frustrated by their dealings with public agencies, and he suggests that organisations could benefit from examining the way they deal with people who believe they have been treated unfairly.

The commissioner expressed the view that progress has been made in the handling of information, and privacy and security matters are now more to the fore. He recognised that there is a trade-off between safeguards in systems and efficiency; a balance needs to be struck between businesses functioning well and protecting people's privacy.

The commissioner is concerned to make sure that the lessons are learned from privacy breaches and errors are not repeated, and that the public feel they can engage safely with public agencies in an online environment without fear that their personal information may be compromised.

### **Contractors**

We noted that the Office of the Privacy Commissioner contracted forensic computer analysts in July 2012 for just under \$10,000 to investigate the ACC data breach case, and asked the commissioner whether he was comfortable with this expense. The commissioner recognised that computer forensic analysis is very expensive, whether provided in-house or outsourced. He observed that no one agency can be the repository of all expertise. We heard that the office has staff with technology expertise but also maintains strong relationships with agencies including the Government Chief Information Officer, and NetSafe.

### **Priorities**

We asked the new Privacy Commissioner what his priorities are. The commissioner told us his vision for the office is to “make privacy easy” for businesses, government, consumers and citizens. The commissioner is also keen to build capacity in the provision of privacy services, and he wants easy remedies to be available for people who have had their privacy breached.

We asked what the commissioner would like to be able to report in 12 months' time, and heard that he would like to see the public recognise that the Office of the Privacy Commissioner is looking out for their personal information, and is contributing to an environment in which it is safe for them to deal with government and businesses online or offline.

## **Appendix**

### **Approach to this financial review**

We met on 20 February and 26 March 2014 to consider the financial review of the Privacy Commissioner. We heard evidence from the Privacy Commissioner and received advice from the Office of the Auditor-General.

### **Committee members**

Scott Simpson (Chairperson)  
Paul Foster-Bell  
Joanne Hayes  
Raymond Huo  
Alfred Ngaro  
Denis O'Rourke  
Hon Maryan Street  
Holly Walker  
Hon Kate Wilkinson

### **Evidence and advice received**

Office of the Auditor-General, Briefing on the Privacy Commissioner, dated 20 February 2014.

Organisation briefing paper, prepared by committee staff, dated 10 February 2014.

Privacy Commissioner, responses to committee questions, dated 25 February and 14 March 2014.