

## DEPARTMENT OF INFRASTRUCTURE

### COMPLAINTS HANDLING PROCEDURE

#### **Policy**

The Government of Victoria, its Agencies, Departments and its service providers are committed to maintaining the privacy of personal and health information. Accordingly, they will comply with the *Information Privacy Act 2000* (the IP Act) and the *Health Records Act 2001* (the HR Act).

#### **Purpose**

These procedures, adapted for Department of Infrastructure purposes, are intended to represent a whole-of-government approach to the resolution of complaints made to Victorian State Government Agencies under the IP Act and HR Act. The procedures are designed to reflect the Government and DOI's commitment to openness and accountability, evidenced in a willingness to deal with complaints fairly, flexibly and quickly.

#### **Application**

These procedures apply to DOI when a complaint is received relating to information privacy or privacy of health information.

These complaints procedures do not apply to requests for correction or access made under the IP Act. These can be dealt with at the point where the information is held or by the Department's Information Privacy Officer.

Information Privacy complaints should be included in a Privacy Complaints Register.

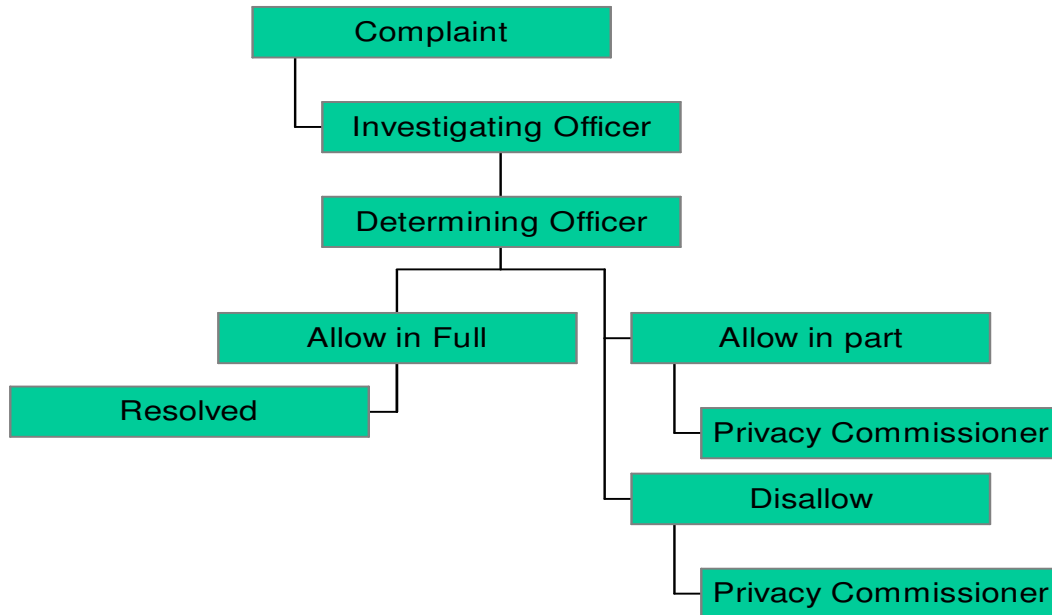
#### **Roles and responsibilities**

Information Privacy complaints should be made to the Department's Information Privacy Officer.

Where a person contemplating a complaint is concerned about approaching the Information Privacy Officer in their workplace, he or she can call the relevant officer and request a meeting in a location outside the Department.

In order to facilitate a fair, transparent and consistent process a two level complaint handling process will be followed.

## Complaint Process



### Role of the Information Privacy Officer

Information Privacy complaints should be made to the Department's Information Privacy Officer. The Information Privacy Officer may act as Investigating Officer for a complaint or appoint somebody else to undertake that role on a case by case basis.

The Information Privacy Officer will:

1. Be a contact point for general advice about the operation of the IPAct for any person wishing to make an Information Privacy Complaint;
2. Make arrangements for a complaint to be made privately and, if necessary, away from the workplace;
3. Receive any complaint made orally or in writing;
4. Commit to writing any complaint made orally;
5. If the complaint is on behalf of someone else, seek and obtain authorisation from that person in writing;

### Role of the Investigating Officer

The Investigating Officer will:

1. Impartially investigate and assess the complaint;
2. Contact the complainant:  
**To ascertain:**
  - What further information, including any documentation, the complainant wishes to add;
  - Further details of issues advanced in the complaint, especially the impact of the alleged breach of privacy;
  - The outcome the complainant seeks as a consequence of submitting the complaint (e.g. an apology).
3. **To outline**, in plain language, the process (e.g. "I have to get statements from X, Y and Z and then do a report to Mr/Ms A who then makes a decision").

4. **To provide** contact details (name of Investigating Officer, phone number, email address).
5. **To invite** the complainant to contact the Investigating Officer if the complainant wishes at any time to check on progress with the complaint.
6. Consider and develop options for resolution. This step may include talking again to the complainant to discuss possible ways the matter could be resolved.
7. Prepare a report about the complaint for consideration of the Determining Officer (the report should include the relevant written complaint, interview notes).
8. If it appears that a complaint is unlikely to be capable of resolution by the Department within 20 working days, advise the complainant of progress within 15 working days of the receipt of the complaint.

### **Determining Officer**

DOI will appoint a Determining Officer, one who holds a senior position within the Department, whose role is to consider the report prepared by the Investigating Officer and to determine the Department's response to the complaint.

Where either officer has had personal involvement in the matters with which the substance of the complaint is directly concerned, another officer must be appointed. This will avoid conflicts of interest and any appearance of a conflict of interest.

The Determining Officer will:

Consider the written complaint, the Investigating Officer's report and other relevant papers submitted. If necessary, the Determining Officer may seek technical advice or legal advice from (or through) the Department's privacy or legal section.

After considering any documents and any technical or legal advice received, independently decide on behalf of the Department, solely on the basis of relevant reasons, whether to:

1. Allow the complaint; or
2. Allow the complaint in part; or
3. Decline to allow the complaint; or
4. Submit the matter for determination at a more senior level in the Department; or
5. Refer the matter back to the Investigating Officer for further investigation, including possibly other options that might be usefully explored with the complainant.
6. If the complaint is allowed in full or in part, determine the formula for a resolution.
7. Advise the complainant in writing of the outcome. The reasons for the decision must be outlined. The letter should also advise the complainant of the right to appeal to the Privacy Commissioner if the complainant remains dissatisfied.

### **Form of Information Privacy Complaint**

Information Privacy Complaints can be made orally or in writing.

#### **1. Oral Complaints**

Oral complaints (e.g. complaints over the telephone) can be received by the Information Privacy Officer when the complaints are judged, by the complainant and the Privacy Officer, as capable of resolution within five working days. A file note will be made of the complaint

and the outcome for record keeping purposes. The Privacy Officer may decide to confirm the outcome in writing.

## **2. Complex Complaints**

If the Privacy Officer or the appointed Investigating Officer believes that a complaint is complex or requires investigation, and that consideration of the complaint is likely to exceed five working days, then the complainant will be invited to submit a complaint in writing. Complainants should be made aware of the availability of the 'Complaint Form' to assist them in making this written complaint. A sample complaint form is attached to these procedures. It is not necessary for complainants to use this form but strongly recommended.

The Privacy Officer or the Investigating Officer will assist complainants, if requested or if it appears that the complainant requires assistance in the drafting of the complaint.

### **Time Limit**

DOI will endeavour to make a decision on all written complaints **no later than 20 working days** after the day the complaint was received. Discussion can take place with the complainant for an extension of time if circumstances suggest this is appropriate (e.g. in the temporary absence of people in DOI relevant to the complaint).

### **Complaints Register and Collating and Publishing Statistics**

The Information Privacy Officer will establish a secured register to record the information required to be published in the annual report, and to generally keep account of the status of Information Privacy Complaints.

The register will contain the following information:

- The number and types of complaints made to the agency during the year;
- The number and types of complaints allowed in full or in part or disallowed and the action taken on completion of the investigation; and
- Any recommendations made by the Privacy Commissioner that relate to the Agency about a complaint.

### **Advice and Assistance**

Further advice and assistance is available from the Department of Infrastructure Information Privacy Officer on telephone 9655 8803.

**DEPARTMENT OF INFRASTRUCTURE  
INFORMATION PRIVACY COMPLAINT FORM**

- This form is to assist you in making a complaint about the handling of personal information under the *Information Privacy Act 2000* by the Department of Infrastructure.
- The *Information Privacy Act 2000* states that the person complaining must first complain to the organisation involved (in this case, the Department of Infrastructure) before a complaint can be made to the Victorian Privacy Commissioner.

Complaints may be made against the following:

- An agency or organisation handling your information;
- A contracted service provider of an Agency;

For the protection of everyone's privacy we can accept only complaints made by the person involved – or an authorised representative. Therefore, if you want to complain on behalf of another person please provide a proof of your authority to do so.

To assist our staff, it is important that all the required information is legible. If more space is needed, please attach additional pages. Use of this form, however, is optional.

**Collection Notice**

We will use the information you provide on this form only to investigate and conciliate your privacy complaint against the Department of Infrastructure. We will only disclose the information you give us to those areas within the Department that may have information relevant to your complaint. In the event of a challenge to a decision made by this Department, we may need to disclose this information to the Victorian Privacy Commissioner, a review body or a court.

**About You**

Name: Mr/Mrs/Miss/Ms.....  
Address:..... Post code:.....  
Telephone numbers: Home:.....Business:.....  
Mobile..... Fax.....  
Email address:.....

**Please advise our office as soon as possible if any of your contact details change**

**Fill out this box if you are complaining on behalf of someone else**

Name of that person.....  
What is your relationship to that person? .....  
.....  
Please provide proof of your authorisation – i.e. a written authorisation by the individual wishing to make the complaint. Please submit it with this form.

**What / who are you complaining about?**

Please provide all the information that you think is relevant to your complaint.

I am complaining about the handling of my personal information by:

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What involvement have you had with this area of the Department ?

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