

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S DEPARTMENT

Group 3

Question No. 76

Senator Ludwig asked the following question at the hearing on 24 February 2014:

- 1) I refer to the statement issued by the privacy Commissioner on 19 February 2014 concerning the data breach by the Immigration department. How did the Privacy Commissioner become aware of the data breach?
 - i. When did the Immigration Department contact the privacy Commissioner, or when did the Privacy Commissioner contact the Immigration department?
 - ii. In what form did that communication take place?
 - iii. Provide that assurance
 - iv. Provide any correspondence on that matter
- 2) What assurances if any were given about the security of the data after the breach had occurred, namely, what gave the Privacy Commissioner confidence to say that they had been "assured that the information is no longer publically available"?
 - i. Did the Privacy Commissioner install any interim or temporary protections or recommendations for remedy for the security of the data?
- 3) What is the Privacy Commissioner's understand of how the data came to be stored in such a way that allowed it to be accessed via the department's website?
- 4) When as the decision taken to launch an investigation into the data breach?
- 5) What is the expected time of the inquiry?
- 6) Will the inquiry be made public when completed?
- 7) Will there be an interim report?
 - i. When will this be completed?
 - ii. Who will it be provided to?
 - iii. Will this be publically released?
- 8) What briefings has the Commissioner provided to Government, the Immigration Minister, the Attorney or the Immigration department concerning this inquiry or this breach?
 - i. When did they occur?
 - ii. What further briefs or steps are intended to occur with these agencies or ministers?
- 9) What is the expected cost of the inquiry?
 - i. What resources will be dedicated to the inquiry, including staff?
 - ii. How will the costs be met for this inquiry?
 - iii. Is there a budget for ad hoc inquiries of this nature?

The answer to the honourable senator's question is as follows:

Question 1

- i) On 19 February 2014 the Office of the Australian Information Commissioner (OAIC) became aware of the data breach through media reports by The Guardian Australia. Prior to publication The Guardian had sought to make contact with the OAIC. The Department of Immigration and Border Protection (DIBP) has advised they also sought to make contact with the OAIC prior to publication.
- ii) Shortly after publication, OAIC and DIBP staff made telephone contact. By early afternoon OAIC and DIBP staff had engaged by teleconference. Following the teleconference, the Privacy Commissioner also spoke with Ms Elizabeth Cosson, Deputy Secretary, DIBP.

On 21 February the Australian Information Commissioner wrote to Mr Martin Bowles, Secretary, DIBP, advising that an 'own motion' investigation had been opened into the data breach. As this investigation is ongoing a copy of the correspondence has not been provided.

Question 2

The Privacy Commissioner issued a media statement on 19 February 2014 after receiving information from DIBP in teleconferences that the data breach was contained. DIBP informed the OAIC that it had taken steps to ensure that the information was no longer available from the DIBP website.

- i) On 19 February 2014 OAIC staff provided information about managing data breaches and referred DIBP to the OAIC's guide to data breach notification. The guide includes information about containing and responding to data breaches and can be found here: <http://www.oaic.gov.au/privacy/privacy-resources/privacy-guides/data-breach-notification-a-guide-to-handling-personal-information-security-breaches>

Question 3

How the information came to be accessed via the DIBP's website is a matter under consideration as part of the OAIC's on-going investigation.

Question 4

On 19 February 2014 a decision was made to open an investigation.

Question 5

The OAIC generally seeks to complete own motion investigations within 8 months of commencement. The timeframe for completing investigations can be impacted by complexity, the timing of investigations undertaken by respondents and other priorities of the OAIC.

Question 6

The OAIC has published a number of Commissioner own motion investigations. The OAIC would expect to publish a report following completion of this investigation.

Question 7

The OAIC does not generally issue interim reports as part of its own motion investigation processes, and therefore, at this stage, is not intending to do so in this matter. As part of its investigation process the OAIC provides respondents with a preliminary view on its findings. Respondents are provided with an opportunity to respond to that before the Commissioner comes to a final decision.

Question 8

- i) The OAIC has not been asked to provide a briefing to Government, the Minister for Immigration, or the Attorney-General regarding the data breach.

The OAIC has however been in regular contact with DIBP regarding the data breach.

Question 9

- i) The investigation is being undertaken by the OAIC's Regulation and Strategy Branch. Staff working on the investigation include 1xAPS6, 1xEL1, 1xEL2, with the direct involvement and supervision of the Assistant Commissioner, Privacy Commissioner and the Australian Information Commissioner.
- ii) Staff working on the investigation are salaried. The conduct of own motion investigations fall within the usual duties of those staff.
- iii) The OAIC does not have a specific budget for the conduct of own motion investigations. The conduct of such investigations falls within the usual duties of the OAIC's Regulation and Strategy branch. Commissioner initiated investigations (as they are now known from 12 March under the Privacy Act) are carried out by 1.5 x APS 6, 75% of an EL 1 and 50% of an EL 2 under supervision from SES Band 1, the Privacy Commissioner and Australian Information Commissioner.