

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
OFFICE OF THE PRIVACY COMMISSIONER

Question No. 149

Senator Ludwig asked the following question at the hearing on 13 February 2007:

- a) Does the Commissioner have any concerns regarding ‘function creep’ under the proposed Access Card and accompanying legislation?
 - i. If so – could the Commissioner provide further details of what those concerns are and what amendments would be required to overcome them?
 - ii. If not – could the Commissioner what safeguards are in place that satisfactorily deal with this issue?
- b) Had the Department of Human Services consulted the Office of the Privacy Commissioner with regard to the proposed Access Card and accompanying legislation?
 - i. If so - could the Commissioner provide details of the consultations that took place? (e.g. copies of any correspondence, details of any meetings with minutes if available)
- c) Did the Commissioner make any recommendations to the Department of Human Services regarding the Access Card, either part of any consultations or voluntarily?
 - i. If so – could the Commissioner provide those recommendations along with a description of why they were made and the details of any response to each recommendation to come from the Department of Human Services.
 - ii. If not – why not?

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

- a) In its submission to the Minister for Human Services’ Consumer and Privacy Taskforce in August 2006, the Office discussed the issue of function creep at paragraphs 82-88 and suggested measures, at paragraphs 239-249, by which function creep could be minimised through managing the introduction of any future uses of the Access Card. Further, at paragraphs 74-79 of its submission to the Senate Finance and Public Administration Committee Inquiry into the Human Services (Enhanced Service Delivery) Bill 2007, the Office again discusses the issues associated with function creep. These submissions can be found on the Office’s website.
- b) The Office was consulted by the Department of Human Services in the lead up to the Government’s decision to proceed with the Access Card in April 2006. Correspondence between the Office and the Department of Human Services in this context is Cabinet-in-Confidence. Since April 2006 the Office has been consulted on an ongoing basis by the Department of Human Services and the Minister for Human Services’ Consumer and Privacy Taskforce. The Office has also been represented on a variety of working groups that have been involved in the design and implementation of the proposal. The Office suggests that the Department of Human Services would be best placed to advise whether any minutes from these meetings are able to be provided to the Committee.

- c) The Office of the Privacy Commissioner has made 3 public submissions in relation to the proposed Access Card. The first was made in August 2006 to the first discussion paper of the Minister for Human Services' Consumer and Privacy Taskforce. The second was made in January 2007 in response to the exposure draft of the Human Services (Enhanced Service Delivery) Bill 2007 and the third was made in February 2007 to the Senate Standing Committee on Finance and Public Administration's inquiry into the Human Services (Enhanced Service Delivery) Bill 2007. All three of these submissions are available on the Office's website.

The Office of the Privacy Commissioner's advice to the Department, the working groups and to the Taskforce has been consistent with these public submissions.