

18 September 2026

Attorney-General's Department  
Australian Government

**By email:** [PrivacyReform@ag.gov.au](mailto:PrivacyReform@ag.gov.au)

Dear Sir/Madam,

### **Consultation: Privacy reforms (Tranche 2)**

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The Office of the Information Commissioner (**OIC**) welcomes the opportunity to make a submission in relation to the Exposure Draft of the *Privacy Amendment (Personal Data Protection) Bill 2026* (Cth) (**Bill**) and accompanying consultation paper, which propose reforms to the *Privacy Act 1988* (Cth) (**Privacy Act**).

OIC is an independent statutory body that reports to the Queensland Parliament. The Information Commissioner is an Officer of Parliament and is charged with functions under the *Right to Information Act 2009* (Qld) (**RTI Act**) and the *Information Privacy Act 2009* (Qld) (**IP Act**).

The IP Act provides safeguards for the handling of personal information in the Queensland public sector environment. It sets out the Queensland Privacy Principles (**QPPs**) which were adapted from the Australian Privacy Principles (**APPs**) in the Privacy Act. Due to the alignment between the APPs and QPPs, guidance and decisions that relate to the Privacy Act can often serve as useful precedent.

Under the IP Act, agencies must behave in a reasonable manner. What is reasonable depends on the circumstances and may change over time with changing technology and community expectations. The proposed changes to the Privacy Act illustrate changing expectations in the community and therefore form the basis of what would be considered a reasonable practice.

OIC broadly supports many of the proposed changes. OIC's comments relate to consent, collection notices, data breaches, right to erasure, controller/processor model and additional powers for the Office of the Australian Information Commissioner (**OAIC**).

### **Consent**

OIC supports strengthening the consent requirements to be voluntary, informed, current, specific and unambiguous (new section 6AAB of Bill).

## **Collection notices**

OIC supports the simplification of APP 5 and the new requirement that collection notices must be in clear and plain language, readily understandable by the individual, up-to-date and concise (APP 5.3).

## **Data breaches**

### Distinguishing data breaches

The Bill creates a new definition of 'data breach' (new section 26WBA of Bill) and amends the current definition of 'eligible data breach'.

Distinguishing between a data breach and eligible data breach aligns with the IP Act. The IP Act provides that an agency must prepare and publish a policy about how it will respond to a data breach, including a suspected eligible data breach (section 73). OIC submits that consideration could be given to including a similar provision in the Privacy Act to prepare agencies for effectively responding to data breach incidents and provide transparency in terms of how an agency will respond to a data breach.

### 72 hour requirement

Under the new section 26WK of the Bill, APP entities will be required to notify OAIC by way of a statement within 72 hours of becoming aware that there are reasonable grounds to believe an eligible data breach has occurred.

OIC acknowledges the importance of entities notifying the regulator about an eligible data breach in a timely manner. However, a 72 hour timeframe may pose a challenge for entities where details concerning the impact of a data breach incident may be unclear or unknown in the first few days following an incident. This could result in OAIC receiving notifications with incomplete information in circumstances where an entity is seeking to meet its notification obligation, but has insufficient information to hand to be sufficiently informed about a data breach. The implication for OAIC is that it could unnecessarily occupy staff resources to follow up entities for more detailed information and monitor responses from entities.

## **Right to erasure**

OIC supports the new APP 14 which introduces a right for individuals to request large digital platforms to destroy personal information when it is no longer required.

This right is consistent with the right to erasure under the General Data Protection Regulation (**GDPR**) which empowers individuals within the GDPR jurisdiction to ask for the deletion of their personal data without undue delay. While there is an implied right in consent-based frameworks (as consent can be withdrawn) the proposed changes will reduce the role of consent and make clear the right to erasure.

The proposed changes limit the application of this right to large digital platforms, and OIC submits future consideration could be given to its broader application.

### **Controller/processor model**

The Bill introduces a controller/processor model that allocates primary responsibility for privacy compliance to the controller. While the concepts of 'controller' and 'processor' are designed to provide clarity about overall responsibility, in practice the compliance and regulatory efficiencies may not materialise.

Such a distinction could lead to overapplication, or at least over-claiming, of the processor exemption. Regulatory activities may therefore spend additional time and effort debating the application of the exemption instead of resolving an active source of harm to individuals.

Further, processors are often controllers in at least some of their business activities. They will need to develop compliance programs with more, not less, complexity to differentiate between business processes and databases. Investigations into noncompliance will likewise become complex, lengthening the time to resolve a potential privacy harm.

If processors hold and use personal information, OIC submits there should be responsibility upon them to protect individuals from harm.

### **Additional OAIC powers**

The consultation paper describes a range of new measures (not yet included in the Bill) designed to enhance OAIC's regulatory powers and efficiency. The new complaint-handling obligations requiring individuals to engage first with APP entities before approaching the OAIC aligns with the process in the Queensland IP Act (Chapter 5). OIC notes efficiencies which will be achieved through clearer powers to group, deal with and determine multiple similar complaints at the same time.

Thank you for the opportunity to make a submission. We trust our comments will assist the Department in its consultation on Privacy Act reforms. Should you require further information, please contact us at [policy@oic.qld.gov.au](mailto:policy@oic.qld.gov.au) or on 07 3234 7373.

Yours sincerely

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a horizontal line.

Joanne Kummrow  
**Information Commissioner**