

Tania Strathearn

From: Annan Boag
Sent: Tuesday, 9 January 2018 3:45 PM
To: MELISSA.PURDY@HOMEAFFAIRS.GOV.AU
Cc: JILLIAN.FLINDERS@HOMEAFFAIRS.GOV.AU; Tania Strathearn; Andrew Solomon
Subject: Web breach complaint CP15/01390 - notice to affected individuals, direction to Department [SEC=UNCLASSIFIED]
Attachments: Letter to M Purdy re web breach - 9 Jan 2018.pdf; Notice about representative complaint - English.docx

Security Classification: UNCLASSIFIED

Dear Melissa

I discussed this matter with your colleague Jillian Flinders earlier this afternoon. She suggested that I direct the attached letter to you in her absence. I attempted to call you before sending, but wasn't able to reach you.

Please contact me on the number below if you would like to discuss after you have read the letter. I have also attached a copy of the notice in word format for your reference.

We will send the original to you by post.

Kind regards

Annan Boag | Director | Dispute Resolution Branch
Office of the Australian Information Commissioner
GPO Box 5218 SYDNEY 2001 | www.oaic.gov.au
+61 2 8231 4266 | annan.boag@oaic.gov.au



Our reference: CP15/01390

Ms Melissa Purdy
Principal Legal Officer
Civil Litigation and Compensation Section
Department of Home Affairs
melissa.purdy@homeaffairs.gov.au

Dear Ms Purdy

Representative complaint CP15/01390

This letter and the attached notice (**Notice**) relate to the representative complaint made to the Commissioner on 30 August 2015 under ss 36 and 38 of the Privacy Act 1988 (Cth) (the **Act**).

The representative complaint concerns the publication of personal information of persons (**Group Members**) by the Department of Immigration and Border Protection (**Department**) (now the Department of Home Affairs) on its website on 10 February 2014 (**Data Breach**).

We note earlier correspondence between us in relation to the representative complaint, including the submissions received from the Department dated 22 December 2016.

Commissioner requires information from Group Members to make a determination

In order to make a determination about the Representative Complaint, including whether any of the persons whose personal information was published in the Data Breach are entitled to compensation for any potential loss or damage suffered, it is necessary for the Commissioner to take steps to obtain relevant information from such persons.

Notice to Group Members and process for gathering information

To this end, the Commissioner has prepared the **attached Notice**.

The Notice outlines the procedure pursuant to which the Commissioner will request and gather potentially relevant information as part of his investigation into the Representative Complaint under s 43 of the Act. The Notice has been prepared in English, and the OAIC will arrange for it to be translated into other languages spoken by Group Members. The translated versions of the Notice will be available on the OAIC website and will also be provided on request.

In order to bring the Notice to the attention of Group Members, the Commissioner is taking steps to:

1. publish the Notice in various forums, on and around 24 January 2018; and
2. contact legal representatives who have acted on behalf of some Group Members to request that they bring the Notice to the attention of those persons.

Request for assistance from the Department

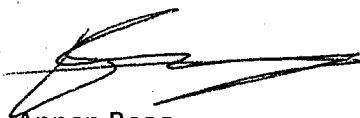
In addition to these steps, the Commissioner has issued a direction to the Department of Home Affairs, under s 38B(3) of the Privacy Act, to provide copies of the notice to any Group Member that the Department is reasonably able to contact. A copy of the Direction is attached.

Where the Department has, or is reasonably able to ascertain, the contact details for a Group Member (namely a postal address or email address), the Commissioner directs the Department to send a copy of the Notice to the Group Member at the relevant address. The Commissioner directs the Department to do this by **23 February 2018**.

The Commissioner also requests that the Department keep a record of the Group Members to whom it has sent a Notice, and supply that list to the Commissioner for his records.

If you have any queries about this letter, please contact me on 02 8231 4266 or at Annan.Boag@oaic.gov.au.

Yours sincerely



Annan Boag
Director, Dispute Resolution

9 January 2018



Australian Government

Office of the Australian Information Commissioner

Direction under s 38B(3) of the *Privacy Act 1988*

I refer to the representative complaint made on 30 August 2015 under ss 36 and 38 of the Privacy Act 1988 (Cth) (the Act).

The representative complaint concerns the publication of personal information of persons (**Group Members**) by the Department of Immigration and Border Protection (now the Department of Home Affairs) (**Department**) on its website on 10 February 2014 (**Data Breach**).

Section 38B(3) of the Act provides:

The Commissioner may at any stage direct that notice of any matter be given to a class member or class members.

Pursuant to s 38B(3) I, Timothy Pilgrim, Australian Information Commissioner and Australian Privacy Commissioner, direct the Department of Home Affairs to give the notice attached to this Direction to each of the Group Members that the Department is reasonably able to contact. I direct the Department to do so by 23 February 2018.

I request that the Department provide my office with a list of those Group Members to whom it has sent a notice by 2 March 2018.

A handwritten signature in black ink that reads "Timothy Pilgrim".

Timothy Pilgrim
Australian Information Commissioner
Australian Privacy Commissioner

9 January 2018



Australian Government
Office of the Australian Information Commissioner

TO ALL PERSONS IN IMMIGRATION DETENTION ON 31 JANUARY 2014

Background

1. On 10 February 2014, the Department of Immigration and Border Protection (**Department**) published a detention report on its website in error. The report contained the personal information of persons who, as at 31 January 2014, were in immigration detention facilities or in the community under residence determination, or alternative places of detention (**Data Breach**).
2. The personal information was removed from the Department's website on 19 February 2014 and from The Internet Archive on 27 February 2014.
3. On 30 August 2015, a representative complaint was made to the Commissioner on behalf of all persons whose information was published by the Department in error (**Representative Complaint**).

What is a representative complaint?

4. A representative complaint is a complaint made by an individual under the *Privacy Act 1988* (Cth) on behalf of other individuals who have similar complaints about an act or practice that may be an interference with their privacy. The Commissioner may make a declaration that class members are entitled to compensation for any loss or damage suffered by reason of the act or practice the subject of the complaint.

Why is this notice important?

5. In order to make a determination about the Representative Complaint, including whether any of the persons whose personal information was published in the Data Breach are entitled to compensation for any loss or damage suffered, the Commissioner needs information from you.
6. If you were affected by the Data Breach and do not provide information of the kind described below, the Commissioner may conclude that he is not satisfied you have suffered any loss or damage as a result of the Data Breach and you may not receive compensation for the Data Breach.

What do I need to do?

7. If you did not suffer any loss or damage as a result of the Data Breach, you will not be entitled to compensation and you can ignore this Notice.

8. If you believe you suffered loss or damage as a result of the Data Breach, and want the opportunity to potentially recover compensation for that loss or damage, you need to provide the Commissioner with information about **your loss or damage**:
- (a) You should provide all the information you consider to be relevant to the loss or damage you suffered.
 - (b) The information may be in the form of a statutory declaration or signed statement in **your own words**. Statutory declarations or signed statements in a standard form will be given little weight.
 - (c) The information may include evidence from the time of the Data Breach or when you first found out about the Data Breach, such as medical reports, that contain details about how you felt or reacted to the Data Breach and any treatment you received. Medical reports prepared after the date of this Notice will be given little weight.
 - (d) Letters written on your behalf, which are not in your own words, will be given little weight.
 - (e) The Commissioner may not consider information that is provided after the deadline below.
9. You must upload this information on the Response Form at oaic.gov.au/repcomplaint. You can also provide the information by sending it to repcomplaint@oaic.gov.au or to GPO Box 5218, Sydney NSW 2001. You must provide sufficient information (including your full name and date of birth, and any relevant Department of Immigration identification number) to allow the OAIC and the Department to identify you.
10. You must send any information by: **4.00 pm on 19 April 2018.**

Opting-out of the Representative Complaint

11. If you do not consent to the Representative Complaint being made on your behalf and do not want to be part of it, you can opt out of the Representative Complaint at any time by visiting the OAIC website at oaic.gov.au/repcomplaint and filling out the Response Form.
12. Opting out may affect your ability to obtain compensation in respect of the Data Breach. Please read the information on the Response Form carefully.

Questions and assistance

13. If you need assistance to understand or respond to this Notice, please contact OAIC on 1300 363 992 or email repcomplaint@oaic.gov.au.



Australian Government

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Tania Strathearn

From: Melissa PURDY <MELISSA.PURDY@HOMEAFFAIRS.GOV.AU>
Sent: Tuesday, 9 January 2018 4:29 PM
To: Annan Boag
Cc: Jillian FLINDERS; Tania Strathearn; Andrew Solomon; Margaret LEACH; Kendall GALLOWAY
Subject: RE: Web breach complaint CP15/01390 - notice to affected individuals, direction to Department [SEC=UNCLASSIFIED]

UNCLASSIFIED

Good afternoon Annan,

Apologies for missing your call. I confirm receipt of the email below and the attached documents. We will consider the correspondence and I will be in contact to discuss the details shortly.

Kind regards,

Melissa Purdy
 Director/Principal Legal Officer
 Civil Litigation & Compensation Section
 Litigation Branch
 Legal Division
 Department of Home Affairs
 Telephone: (02) 6264 4189
 Email: melissa.purdy@homeaffairs.gov.au

UNCLASSIFIED

From: Annan Boag [mailto:annan.boag@oaic.gov.au]
Sent: Tuesday, 9 January 2018 3:45 PM
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Cc: Jillian FLINDERS <JILLIAN.FLINDERS@HOMEAFFAIRS.GOV.AU>; Tania Strathearn <tania.strathearn@oaic.gov.au>; Andrew Solomon <andrew.solomon@oaic.gov.au>
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