

# **OPCAT Detainee and Staff Surveys Privacy Impact Assessment**

**PRELIMINARY**

May 2019

## Privacy Impact Assessment Report – Contents

Introduction:

Role of the OAIC and purpose of a Privacy Impact Assessment.

1. Threshold assessment .....	2
2. Plan the PIA .....	2
3. Describe the project.....	2
4. Identify and consult with stakeholders .....	3
5. Map information flows .....	3
6. Privacy impact analysis and compliance check .....	6
7. Privacy management - addressing risks .....	10
8. Recommendations .....	10
9. Sign off.....	10

# PRIVACY IMPACT ASSESSMENT

## Role of OAIC

Note: The Privacy Act gives the Information Commissioner (IC) a power to direct an agency to provide a PIA to the OAIC, if the Commissioner considers that a proposed activity or function of the agency might have a significant impact on the privacy of individuals (s33D Privacy Act). This includes when the agency proposes to engage in a new activity or function, or substantively change an existing activity or function e.g., a substantive change to the system that delivers an existing function or activity.

## What is a Privacy Impact Assessment (PIA)?

A Privacy Impact Assessment (PIA) is a systemic assessment of a project that may have privacy implications. The term project includes:

- policy proposal
- new or amended legislation
- new or amended program, system or database
- new methods or procedures for service delivery or information handling
- changes to how information is stored

that the PIA identifies the impact that the project might have on the privacy of individuals and sets out recommendations for managing, minimising or eliminating adverse impacts. It will go beyond assessing the project's risk of non-compliance with privacy legislation and identify controls to mitigate the risk.

This PIA will also consider the broader privacy implications and risks, including whether the planned uses of personal information in the project will be acceptable to the community.

This PIA should be prepared with reference to the Commonwealth Ombudsman's Privacy Impact Assessment Guidelines (attached to the [Privacy Policy](#)).

## Detainee and staff surveys in selected Commonwealth places of detention (CPOD)

The Detention Assurance Team will undertake an initial trial inspection of the Brisbane Immigration Transit Accommodation in June 2019. The inspection will align with the principles set out in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT). As part of this trial the inspection team is intending to test detainee and staff surveys. Following the trial OPCAT inspection, detainee and staff surveys will be conducted at subsequent OPCAT inspections of CPOD.

Conducting these surveys provides an opportunity for detainees to confidentially give feedback on their treatment and conditions of detention that would otherwise not be available to the inspection team. Staff will also be surveyed to gain an understanding of detainee treatment and conditions and their working conditions.

During an OPCAT inspection, all detainees in an immigration detention centre and subsequently in other CPOD such as the Defence Force Corrective Establishment (DFCE) will be provided with a paper based survey. Detention centre staff will be given the opportunity to complete an online survey using either Survey Manager or Survey Monkey.

# 1. Threshold Assessment

- a) Will any personal information be collected? If yes, record a brief description of the personal information that will be collected, used or disclosed (such as name, address, date of birth, health information etc.).

Information relating to gender, health, religious beliefs or affiliations, sexual orientation and detention location will be collected.

Personal information including: name, address, date of birth, IP address will not be collected.

# 2. Plan the PIA.

**General Description**

Name of Program: Detainee and staff surveys in selected Commonwealth places of detention	
Date: Existing and ongoing	
Name of Section/Branch: Detention Assurance Team	
PIA Drafter: Kym Lindeman	
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**Definition – Project:** For the purpose of this document, the term project is intended to cover the full range of activities and initiatives that may have privacy implications including:

- policy proposals,
- new or amended legislation, programs, activities, systems or databases,
- new methods or procedures for service delivery or information handling
- changes to how information is stored

### 3. Describe the Project

A PIA needs a broad ‘big picture’ description of the project. It should be kept fairly brief.

#### Detainee and staff surveys in selected Commonwealth places of detention (CPOD)

The Detention Assurance Team will undertake the initial trial Optional Protocol to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT) compliant inspection of the Brisbane Immigration Transit Accommodation in June 2019. As part of this trial the inspection team is planning to test detainee and staff surveys. Following the trial OPCAT inspection, detainee and staff surveys will be conducted at subsequent OPCAT inspections of CPOD.

Conducting these surveys provides an opportunity for detainees to confidentially give feedback on their treatment and conditions of detention that would otherwise not be available to the inspection team.

This study aims to compile quantitative and qualitative information collected through individual surveys to complement and inform the inspection of the detention centre. Staff in selected CPOD’s will also be surveyed to examine their working conditions. Participation in the survey is voluntary and responses are anonymous.

Detainee and staff survey responses will be anonymous. Names, addresses, date of birth will not be collected; however, questions relating to age, gender, health, religious beliefs or affiliations, country of birth and sexuality are included in the survey.

Surveys responses will be stored on Objective in a locked folder that is only accessible to selected staff members in the team.

The results from the survey may be published, however, prior to publication steps will be taken to ensure the information is de-identified and does not allow survey participants or any information they provide to be identified.

### 4. Identify and consult with stakeholders

Key stakeholders for the detainee and staff surveys are:

- Commonwealth Ombudsman—project owner
- Senior Assistant Ombudsman (Office senior executives)
- Legal Team
- Communications Team
- IT team
- Immigration Detention and DFCE detainees and staff— survey participants.

Given the nature of the project, the lack of personally identifiable information and the roles of the above participants no formal consultation with external stakeholders has been done.

Provide key privacy elements

**Authority by which personal information is collected**

Under *Section 8 (3) Ombudsman Act 1976* the Ombudsman may obtain information. Subject to this Act, the Ombudsman may, for the purposes of this Act, obtain information from such persons, and make such inquiries, as he or she thinks fit.

Under Australian law, the Commonwealth Ombudsman can collect personal information where it is reasonably necessary for, or directly related to, the agency's functions or activities (Australian Privacy Principle 3).

**Purpose for which information will be collected**

In order to compile quantitative and qualitative information to complement and inform a comprehensive inspection of the detention centre personal, non-identifiable, information will be collected through individual surveys.

Information relating to age, gender, health, religious beliefs or affiliations, sexual orientation, country of birth, and detention location will be collected. Personal information including: name, address, date of birth or phone number will **not** be recorded in the spreadsheet. Private and identifying data has been explicitly excluded from the survey responses.

**Informed consent**

Participation in the surveys is voluntary and responses are anonymous. Informed consent is obtained prior to the commencement of the survey (see the attached information sheet). Consent is generally considered to be implied by the survey being completed and returned, or submitted electronically, if participants are presented with sufficient information about the survey for them to make an informed decision about whether or not to participate

As the individual is adequately informed before giving consent, the individual gives consent voluntarily, consent is current and specific, and the individual has the capacity to understand and communicate their consent the criteria for 'express consent or implied consent' (s 6(1)) is met.

Inspection staff will also be on site to explain the survey to participants whose capacity to consent may be uncertain (i.e. age, mental health concerns, limited understanding of English). Additionally, the survey will be translated into the 10 most common non-English spoken languages in the detention centres.

The surveys, once in the possession of Ombudsman staff, will be a Commonwealth record. Care will be taken to ensure that these records are not destroyed, transferred to unauthorised persons, damaged or altered as per the Archives Act 1983. Additionally, we will abide by our obligation to ensure the security of the surveys to protect them from misuse, interference and loss, unauthorised access, modification or disclosure (APP 11).

## 5. Map Information Flows

Describe and map the project's personal information flows.

### VERIFICATION

Not required- the survey will be anonymous.

### COLLECTION

As detailed above, information will be collected to allow comparisons of survey responses between different demographic groups.

Personal information collected will include: age, gender, sexuality, religion and country of birth.

Work email addresses will be collected to allow the online survey to be distributed to detention centre staff; however, email addresses will be stored separately to survey responses and not linked to survey responses in the data collection spreadsheet.

The following will not be collected: names, date of birth, address, phone number and IP addresses.

Detainee survey responses will be collected in hard copy and staff survey responses will be collected through an online survey platform used by the Office (Survey Manager) or in hard copy if staff are unable to complete the survey online.

### USE

The survey is voluntary and there are no consequences for participants who refuse to participate.

There is no intention for information obtained in the surveys to be data linked, matched or cross referenced to other information held in different databases. As identifiable information is not collected data linkage or matching is impossible.

### DISCLOSURE

No other party will be given access to participant responses. Responses will only be reported at a high level to ensure participants are not identifiable.

### INFORMATION QUALITY

The quality of the data used to undertake analysis and draw conclusions is dependent on the coding and data entry of survey responses. If the information entered into the spreadsheet is inaccurate the quality of the data will be affected.

There will be validation routines to ensure data is reviewed, within accepted ranges and anomalies/inconsistencies are investigated.

Information is inputted directly from the paper based survey. Responses from participants who complete the survey via the online platform will be downloaded via an Excel extract from the online survey platform. Once data is downloaded it will be reviewed and cleaned prior to analysis.

### SECURITY

Data collected will be stored on Objective in a locked folder. Paper based responses will be stored in a locked cabinet in the Office.

### RETENTION AND DESTRUCTION

The information collected through the surveys is already de-identified. Material will be retained and destroyed in accordance with the *Archives Act 1983*.

### ACCESS AND CORRECTION

As information that is collected is provided on an anonymous basis and de-identified a participant will not be able to correct their information.

## 6. Privacy Impact Analysis and Compliance Check

### PRIVACY IMPACT ANALYSIS

The privacy impact analysis should attempt to determine whether the project has acceptable privacy outcomes, or unacceptable privacy impacts.

The survey responses will not have any direct or indirect impact on the privacy of detainee or staff participants. Should an unauthorised user obtain access to the database of survey responses, the information is de-identified and it would be extremely difficult to link it back to a specific individual.



**ENSURING COMPLIANCE**

You will need to consider whether your project complies with each of the Australian Privacy Principles (APPs).

#	Description of the privacy principle <i>(These can be deleted from your final report if they're not relevant to your project)</i>	Summary of personal information involved, use and process to manage	Assessment of compliance	Link to risk assessment (if required)
1	<b>Principle 1 – Open and transparent management of personal information</b>  The agency must have a clearly expressed and up to date APP privacy policy about the management of personal information by the agency.	No identifying information such as name, address, phone or email is retained on the excel spreadsheet.	Complies	
2	<b>Principle 2 – Anonymity and pseudonymity</b>  Individuals must have the option of not identifying themselves, or of using a pseudonym, note exceptions to this rule apply.	See above	Complies	
3	<b>Principle 3 – Collection of solicited personal information</b>  Limits apply to only collect information where the information is reasonably necessary for or directly related to one or more of the agency's functions or activities.	Information only collected to examine conditions and treatment of detainees and staff in detention centres.  This information will inform inspection activities.	Complies	
4	<b>Principle 4 – Dealing with unsolicited personal information</b>  Determine whether or not the agency could have collected the information under APP 3. If not, where it is lawful and reasonable to do so destroy or de-identify the information.	All information collected is essential to performing the tasks identified.	Complies	

PRIVACY IMPACT ASSESSMENT

#	Description of the privacy principle <i>(These can be deleted from your final report if they're not relevant to your project)</i>	Summary of personal information involved, use and process to manage	Assessment of compliance	Link to risk assessment (if required)
5	<p><b>Principle 5 – Notification of the collection of personal information</b></p> <p>Inform the person what information you are collecting, the purpose or use of the information and how they may access or complain about the use of the information. Also inform them if the agency is likely to disclose the information to overseas recipients.</p>	<p>Explanations on the site as to why information is required, how it is managed and that it is not disclosed to other parties.</p> <p>Information sheet is also attached to the front of the survey to ensure participants are fully informed and provide informed consent.</p>	Complies	
6	<p><b>Principle 6 – Use or disclosure of personal information</b></p> <p>Use it for the purpose you collected it for, unless one of the exceptions applies.</p>	Information is only used for the specified tasks and analysis specified in the information sheet.	Complies	
7	<p><b>Principle 7 – Direct marketing</b></p> <p>Information not to be disclosed for the purpose of direct marketing unless exceptions apply, e.g., consent.</p>	N/A	Complies	
	<p><b>Principle 8 – Cross-border disclosure of personal information.</b></p> <p>Requirement to ensure overseas recipient does not breach APPs note exceptions apply e.g., information is subject to a law similar to APP's.</p>	N/A	Complies	
9	<p><b>Principle 9 – Adoption, use or disclosure of government related identifiers.</b></p> <p>Only assign unique identifiers where permitted. Agency should not disclose identifiers unless permitted.</p>	N/A	Complies	

PRIVACY IMPACT ASSESSMENT

#	Description of the privacy principle <i>(These can be deleted from your final report if they're not relevant to your project)</i>	Summary of personal information involved, use and process to manage	Assessment of compliance	Link to risk assessment (if required)
10	<b>Principle 10 – Quality of personal information.</b>  Ensure information is accurate, up to date, complete and relevant prior to using it.	Participants enter in their own response.	Complies	
11	<b>Principle 11 – Security of personal information.</b>  Take care of the information and protect it against loss, modification, or unauthorised disclosure and other misuse. When no longer required either destroy or de-identify it.	All data is stored in a secure database.  Where a participant elects to save the results of a survey and return back later, no username/password will be required as a unique key, known only to the user, will be used to retrieve the data. Email addresses will not be retained.	Complies	
12	<b>Principle 12 – Access to personal information</b>  People have a right to see their personal information noting exceptions apply, eg., FOI exemptions.	N/A	Complies	
13	<b>Principle 13 – Correction of personal information</b>  Agency must take steps to correct personal information held, ensure information is up to date, accurate, complete and not misleading.	N/A	Complies	
14	Other privacy interests	N/A	Complies	

## 7. Privacy Management – Addressing Risks

A risk is something that could lead to the unauthorised collection, use, disclosure or access to personal information.

Use the table below to list each of the privacy risks identified and the mitigation strategies/tools that will be implemented to mitigate these. Add extra rows as required. Please specify the likelihood of the risk arising, the degree of impact it would have on individual’s privacy if it occurred and an assessment (low/medium/high) of the residual risk. It may be helpful to categorise these risks into areas such as: governance, people, process, technology.

Risk Mitigation Table					
	Identified Risk	Mitigation Strategy	Likelihood	Impact	Risk Rating
1	Database intruders downloads personal data	Data is de-identified  Objective folder where data is stored is locked and only accessible to select staff.	Low	Minor— no impact on any individual. However possible reputational impact for Ombudsman's Office.	Low
2	Detainees include personal information in their survey responses such as their name or phone number	Clearly stipulate in the information sheet that participants do not include personal information in their survey response.  Provide contact details and additional information on avenues staff and detainees can pursue to lodge complaints or report incidents of misconduct.  Remove identifying information from surveys if provided.	Low	Minor- identifying information will be immediately removed from the survey to ensure responses cannot be attributed to certain individuals.	Low

## 8. Recommendations

Summarise the recommendations to minimise the impact on privacy based on your risk assessment.

Ref	Recommendation	Agreed Y/N
R- 01	Continue with the implementation of the surveys as designed, given the survey methodology has excluded the collection of personal identifying data from the project.	
R- 02	Report to the privacy delegate if the privacy status/ risk profile of the project should change.	

### Signatures

  
 Autumn O'Keeffe, Senior Assistant Ombudsman – Assurance

  
 Signature

29/5/19

Date

  
 Rodney Lee Walsh, Privacy Delegate

\_\_\_\_\_  
 Signature

31/5/19

Date

