



5 June 2016

Mr Roger Clarke
Australian Privacy Foundation

Dear Mr Clarke

Thank you for your correspondence concerning Labor's policy on privacy issues.

Privacy Commissioner

The Abbott-Turnbull Government, in their 2014 Budget ripped over \$10 million in funding out of privacy and freedom of information services, and announced plans to abolish the Office of the Information Commissioner (OAIC). The Government was unable to pass the legislation to effect the abolition of the OAIC.

The OAIC provides public access to Commonwealth Government information, protects the privacy of personal information and manages the public's right of access to documents under the Freedom of Information Act. Labor established the OAIC when in government. Since its establishment in 2010, the role of the Privacy Commissioner has been amalgamated into that office.

The Abbott-Turnbull Government continues to create uncertainty within the OAIC. In July 2015, Timothy Pilgrim was appointed acting Australian Information Commissioner for a period of three months. That three-month term has now been extended a further three times, with Mr Pilgrim reappointed to the position again from 19 April 2016 to 19 July 2016.

In a last minute backflip in the 2016-17 Budget, the Attorney-General finally caved into the pressure Labor had applied and announced that the Liberals would not be going ahead with the new arrangements for privacy and FOI regulation including the abolition of the OAIC.

Labor understands the importance of the OAIC and the work it does. In the six months up to 31 December 2015, the OAIC received more than 1000 privacy complaints. Labor will continue to support this important office.

Tort of Privacy

An individual's right to privacy is a fundamental political, civil and human right. It must be protected. Government should provide a strong regulatory framework to protect people's right to privacy and ensure the security of their personal information, whether held in the public sector or the private sector.

Labor in government introduced the Privacy Act in 1988 and later substantially updated it to, among other things, adopt a risk-based approach to protecting personal information in their possession from misuse, interference or loss, as well as unauthorised access, modification or disclosure.

Labor is committed to maintaining these objectives in government to ensure that all personal data including health, financial and employment details are equally protected.

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When in government, Labor asked the Australian Law Reform Commission to inquire and report on the issue of prevention of and remedies for serious invasions of privacy in the digital era. That report was completed and handed to Attorney-General George Brandis after the 2013 election. The report made recommendations about how a tort of privacy could be enacted.

In July 2014, a Parliamentary Inquiry, which included Labor Members, inquired into the regulation of air safety and privacy surrounding the use of drones. The report, *Eyes in the Sky*, made recommendations including that the Australian Government consider introducing legislation which provides protection against privacy-invasive technologies, including remotely piloted aircraft, with particular emphasis on protecting against intrusions on a person's seclusion on private affairs.

Labor will continue to review the regulatory framework to ensure it is effective in protecting the privacy of all Australians.

Privacy Principles

Labor, when in government, introduced the Australian Privacy Principles which apply to both private and public sectors. Labor extended privacy protections to unsolicited information and introduced stronger and clearer rules around data quality and data protection.

Privacy Impact

The right to privacy is a fundamental human right enshrined in Article 17 of the International Covenant on Civil and Political Rights. Labor has a strong record in ensuring that the human rights of Australians are protected. Labor introduced Australia's Human Rights Framework. Through the National Action Plan on Human Rights each new Bill introduced into Parliament is accompanied by a statement of compatibility with our international human rights obligations. Under the framework, a Parliamentary Joint Committee on Human Rights was created to provide greater scrutiny of legislation for compliance with our international human rights obligations.

Public Consultation Process

Labor recognises that it is the responsibility of government to ensure that important changes to the law are subjected to public scrutiny, public discussion and public consultation.

Counter-Terrorism Legislation

Labor has given constructive bipartisan support for the changes to our national security legislation in recent years.

Some of the Acts passed simply updated and adjusted the architecture of our national security organisations in a broad way so that our agencies are better able to meet the demands on them well into the future.

Other legislation, however, was a direct result of current threats to Australian security, which have arisen out of the present circumstances in Syria and Iraq.

Labor worked hard to improve the laws prior to them passing through Parliament. Some pieces of legislation required substantial amendments which Labor fought to have incorporated into the Bill.

Some of the protections Labor ensured were included in the legislation include review of the law by the Independent National Security Monitor and appropriate oversight and accountability mechanisms within the law.

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Data Retention

Labor is well aware that while the data retention scheme is a reform that will undoubtedly be useful to our police and security agencies, the scheme will have significant implications for the rights and the privacy of all Australians. That is why Labor's support for the scheme was on the proviso that it is counterbalanced by appropriately strengthened safeguards and oversight mechanisms.

Labor will always work to keep Australians safe and, at the same time, to uphold the rights and freedoms enjoyed by all Australians. Getting this balance right can be a challenging task, but with the addition of the numerous amendments to the Data Retention Act that Labor fought for we believe that the legislation strikes the right balance.

My Health Record

Labor understands that a properly integrated eHealth record is vital to realise efficiencies in the system. That is why Labor delivered on the reform when in government.

A properly integrated eHealth system would improve health care delivery in Australia while making the system sustainable and better for patients.

Sadly, the Turnbull Government has failed to implement the system effectively, causing chaos and dysfunction.

Labor will continue to build the eHealth record system while ensuring appropriate privacy and security protocols protect consumers' rights.

Regulation of data collection

An individual's right to privacy is a fundamental political, civil and human right and must be protected.

A Shorten Labor Government would ensure that there is a strong regulatory framework to protect people's right to privacy and ensure the security of their personal information, whether held in the public sector or the private sector.

To read more about what Labor stands for, visit www.alp.org.au

Yours sincerely,

ALP Information Services Unit



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