



27 March 2012

Please Quote: PC02081

Dr Roger Clarke
Chair, Australian Privacy Foundation
By e-mail: chair@privacy.org.au

Dear Dr Clarke,

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Re: Info Sheet – ‘Biometrics and Privacy’

I refer to your correspondence of 9 March 2012 to this office.

I wish to thank you, the Australian Privacy Foundation, and the Chairs of the relevant Councils for Civil Liberties for your interest in our office’s guidance titled ‘Information Sheet 02.12 – Biometrics and Privacy.’

I have considered the amendments proposed by the letter; however, I will not be issuing a revised Information Sheet at this point in time.

This office routinely reviews guidance documents that have been published with a view to ensure the currency of them, subject to resource restraints on our capacity to do this. I will be sure to bear in mind the amendments you have proposed in any further revision of Information Sheet 02.12 – Biometrics and Privacy.

I wish to briefly address some specific points in your correspondence. Firstly, in relation to the question of use of the term ‘suggestions’, I note your concern. However, the *Information Privacy Act* does not allow me to issue binding guidelines which would enable me to force organisations to conduct a Privacy Impact Assessment (PIA).¹ I also note that conducting a PIA is only one of four suggestions made in the guidance, and that the text under the PIA section does in any event ‘strongly advise[s]’ organisations to undertake that process. I will, however, bear the suggested amendment in mind in any future revision.

Secondly, in relation to ‘consultation with Representative and Advocacy Organisations’, it will not always be entirely appropriate for an organisation proposing to use biometrics to contact or consult an advocacy group or even this office. This may be for a variety of reasons – for example, a biometric proposal may be of a small scale and on the lower scale of intrusiveness. In any event, I will bear advocacy groups in mind as a ‘stakeholder group’ in any future revision.

Finally, I note Dr Clarke’s excellent annotations to the document. This office took a deliberate decision to try and keep the guidance document as straightforward and clear as possible. However, and in light of feedback from organisations and others who may use the document about the type of guidance they may require, I will certainly note Dr Clarke’s comprehensive suggestions in any future revision of the document.

¹ Except for a situation where the Commissioner has issued a Compliance Notice under Part 6 of the Act.

I wish to again thank all Chairs for their ongoing interest in the guidance and this office's work and in the emerging area of biometric technology.

Yours sincerely,

A handwritten signature in black ink that reads "Anthony J. Bendall". The signature is written in a cursive style with a prominent initial 'A' and a final flourish.

DR ANTHONY BENDALL
Acting Privacy Commissioner

CC:

Cameron Murphy, Chair NSW Council for Civil Liberties

Spencer Zifcak, Chair Liberty Victoria

Michael Cope, Chair Queensland Council for Civil Liberties

Dr Kristine Klugman, Chair Civil Liberties Australia