

Region vs. World: How do the privacy authorities in the APPA region compare with privacy authorities globally?

Extracting our region's data from the ICDPPC Census 2017 Results

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Contents

INTRODUCTION 2

PART A: AUTHORITY PROFILE..... 3

PART B: DATA PROTECTION LAW, JURISDICTION AND EXEMPTIONS 6

PART C: AUTHORITY’S FUNDING AND SIZE 9

PART D: AUTHORITY’S ENFORCEMENT POWERS, CASE HANDLING AND REPORTING 10

PART E: CROSS-BORDER DATA FLOWS, ENFORCEMENT AND COOPERATION 13

PART F: BREACH NOTIFICATION..... 16

Introduction

This report has been prepared by the APPA Comparative Privacy Statistics Working Group to provide a selective snapshot of the APPA member authorities and to compare the authorities in our region to the wider global community of data protection and privacy authorities.

The International Conference of Data Protection and Privacy Commissioners is the most broadly representative forum of privacy authorities in the world. This year, for the first time, it undertook a comprehensive census of its (then) 114 members and released the high level results in the report [*Counting on Commissioners*](#) published in September.

The ICDPPC Census was designed to contribute to the aims of the [*Resolution on developing new metrics of data protection regulation*](#) which was particularly focused upon developing internationally comparable metrics in relation to data protection and privacy.

The International Conference resolved to “support the efforts of other international partners to make progress in this area”. To give effect to this the ICDPPC Secretariat undertook to release the data gathered to other networks of privacy and data protection authorities.

Accordingly, this report has been prepared by extracting the census returns submitted by 12 APPA member authorities and comparing the results to the figures published in the International Conference’s September report.¹

Acknowledgments: The release of the Census data by the ICDPPC Secretariat. The new tables and figures included in this report have been prepared by Vanya Vida, Office of the Privacy Commissioner, New Zealand.

Blair Stewart

Convenor, APPA Comparative Privacy Statistics Working Group

¹ To keep the size of the task manageable this report covers only a selection of questions: roughly 30 of the approximately 50 questions in the census. If other members would like to research the subject in more depth, including the data on questions not covered in this report, they can freely request the census data from the ICDPPC Secretariat.

Part A: Authority profile

Geography: Region

APPA has 20 member authorities of which 15 are members of the International Conference of Data Protection and Privacy Commissioners: Australia (4), Canada (2), Colombia, Hong Kong, Philippines, Republic of Korea (2), Mexico, New Zealand, Peru and USA.

The census was open only to ICDPPC members only and thus did not include Japan PPC (in process of accreditation as a member) or Macau OPDP, Singapore PDPC or US FCC (each being ICDPPC observers). Queensland OIC is neither an ICDPPC member nor observer.

The census figures in this report generally cover the 12 APPA members that responded to the survey unless otherwise noted.

No of APPA members represented in the Census	12
No of APPA members also ICDPPC members	15

Decade of establishment

The APPA members that responded to the census were established in the following periods:

Decade of establishment

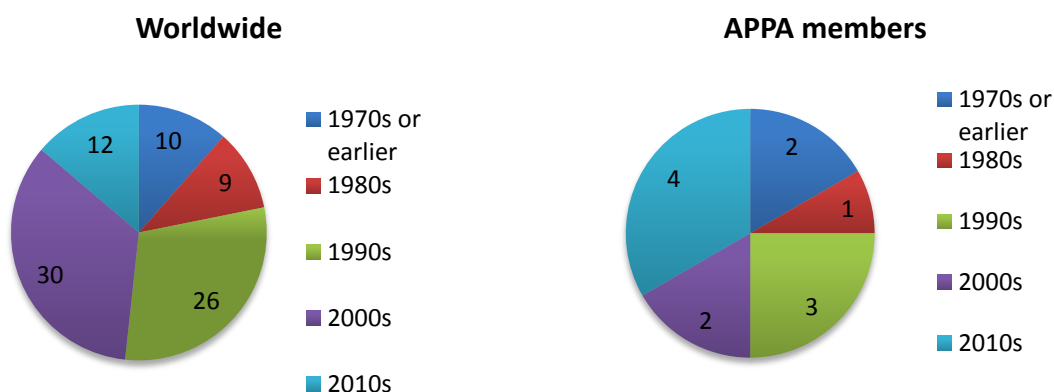


Figure 1²

Figure 2

For both APPA (Asia Pacific) and ICDPPC (the world) half of all authorities have been established since 2000. However, the APPA region has seen particular growth recently with 1/3 respondents having been established in the last 7 years.

² Data represents 87 authorities

Official online digital presence

Respondents were asked if they had an official online presence.









Worldwide ³				APPA members			
	No of authorities having:		No of authority accounts		No of authorities having:		No of authority accounts
Website	80	100%	86	Website	12	100%	12
	29	36%	33		9	75%	10
	25	31%	28		8	67%	10
	22	28%	22		7	58%	7
	10	13%	10		4	33%	4
Other	1	1%	1	Other	-	-	-

Table 1

Table 2

9 APPA members have a presence on at least one social media channel. APPA members have adopted digital and social media communications more comprehensively than authorities worldwide.

The region may be leading the way in use of social media. Separately from the ICDPPC Census, it is noteworthy that the Hong Kong PCPD was recently awarded the [ICDPPC Global Privacy and Data Protection Award 2017](#) for excellence in the use of online tools.

Annual reports

Convenient links to the annual reports of 10 APPA members were obtained through the census.

Australia (Federal)	https://www.oaic.gov.au/about-us/corporate-information/annual-reports/all/ and https://www.oaic.gov.au/performance
Northern Territory, Australia	https://infocomm.nt.gov.au/resources/publications
Victoria, Australia	https://www.cdp.vic.gov.au/menu-resources/resources-reports
Canada (Federal)	https://www.priv.gc.ca/en/opc-actions-and-decisions/reports-to-parliament/201516/ar_201516/
British Columbia, Canada	https://www.oipc.bc.ca/report/annual-reports/
Colombia	http://www.sic.gov.co/gestion
Hong Kong	https://www.pcpd.org.hk/english/resources_centre/publications/annual_report/annualreport.html
Mexico	http://inicio.inai.org.mx/SitePages/Informes-2011.aspx
New Zealand	https://privacy.org.nz/assets/Uploads/Privacy-Commissioner-Annual-Report-2016.pdf
USA (FTC)	https://www.ftc.gov/reports/privacy-data-security-update-2016

Table 3

³ Data includes 80 authorities

Appointment of head of authority

Authorities were asked the process for appointing the heads of their authority.

Appointment of head of authority

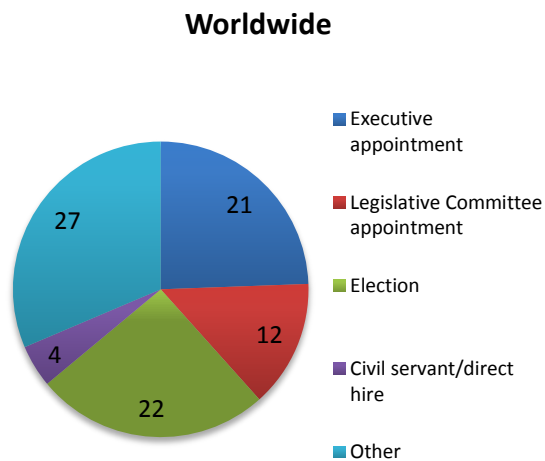


Figure 3⁴

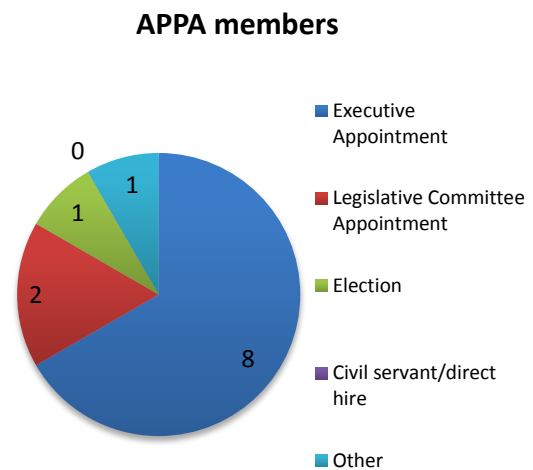


Figure 4

The profile of the appointment process for the heads of authorities in the APPA region looks quite different to that of other regions with the vast majority appointed by an executive appointment.

⁴ Data represents 87 authorities

Part B: Data Protection law, jurisdiction and exemptions

Sectoral coverage

Authorities were asked about the breadth of their jurisdiction and, as with the global responses, most authorities in the APPA region supervise both public and private sectors. The one respondent worldwide with solely private sector coverage is based in the APPA region and thus skewed the proportions with that category but overall the picture is similar regionally and globally.

Sectoral coverage

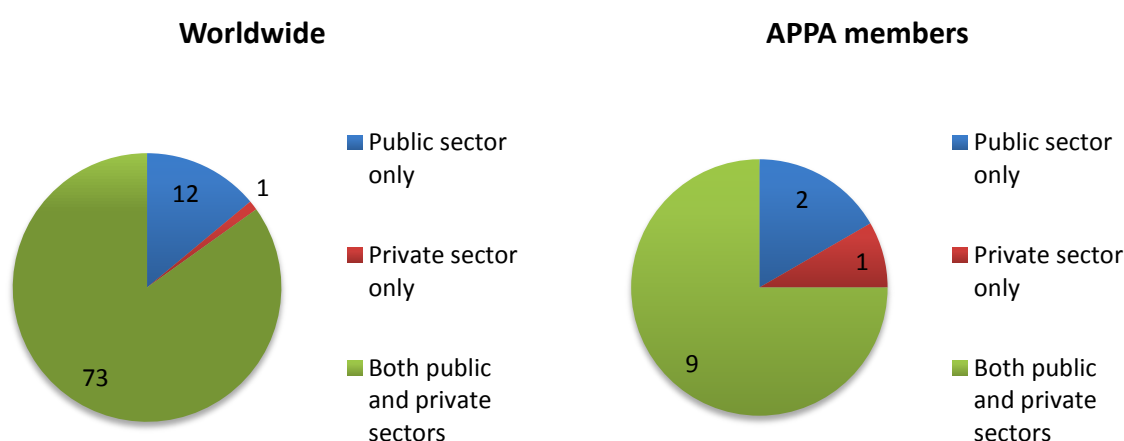


Figure 5⁵

Figure 6

Constitutional references

In the APPA region a lower proportion (58%) of national constitutions includes a reference to data protection or privacy compared to the global figure (84%).

Constitutional references

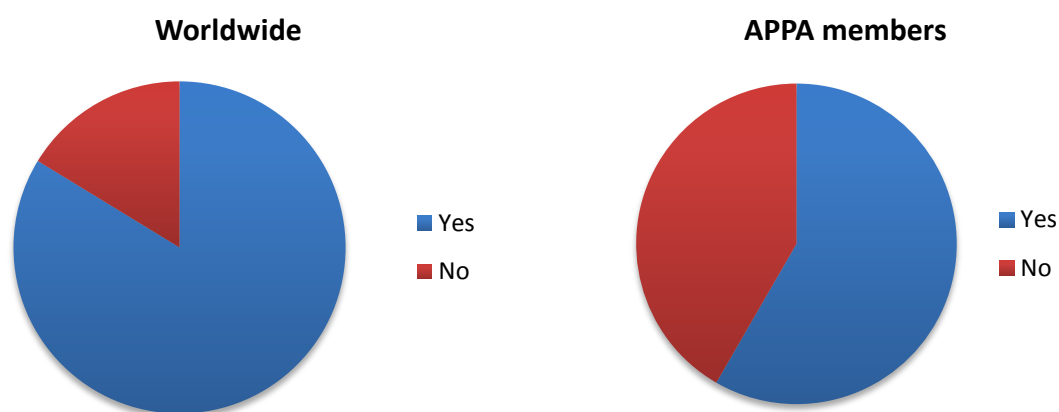


Figure 7⁶

Figure 8

⁵ Data represents 86 authorities

Exemptions for state intelligence and security agencies

The census asked whether respondents' laws exempted state intelligence and security authorities.

Does your data protection or privacy law contain?

Worldwide

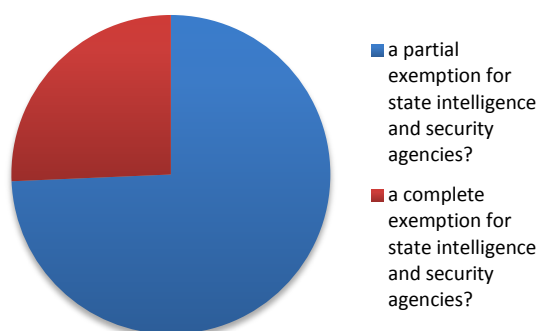


Figure 9⁷

APPA members

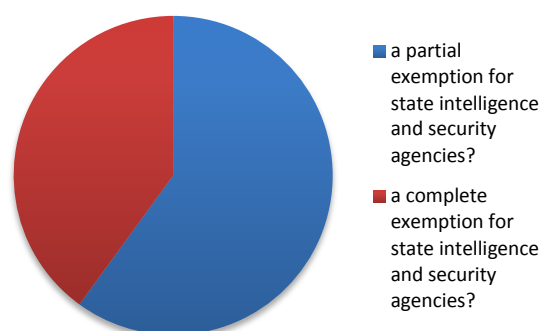


Figure 10⁸

A higher proportion of APPA members, than ICDPPC members globally, completely exempt intelligence and security agencies from their laws. The role of DPAs and privacy law in oversight of intelligence and security agencies has recently been considered by both [ICDPPC](#) and [IWGDPT](#).

Law reform

A sizeable minority of respondents' privacy laws have been revised in the last 3 years.

Has your data protection or privacy law been revised in the last 3 years?

Worldwide

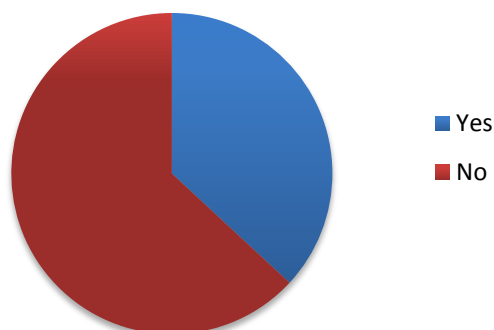


Figure 11⁹

APPA members

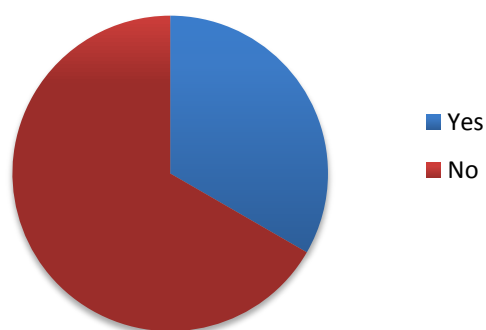


Figure 12

⁶ Data represents 86 authorities

⁷ Data represents 74 authorities

⁸ Data represents 10 authorities

The majority of privacy laws – both in the APPA region and globally – are currently being revised.

Is your data protection or privacy law currently being revised?

Worldwide

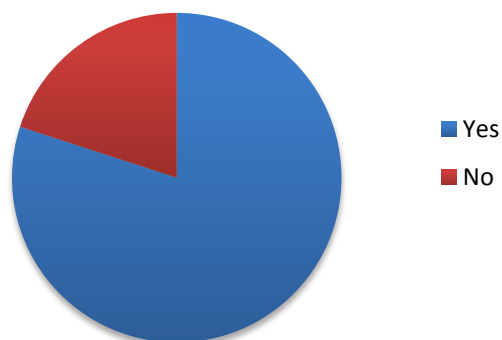


Figure 13¹⁰

APPA members

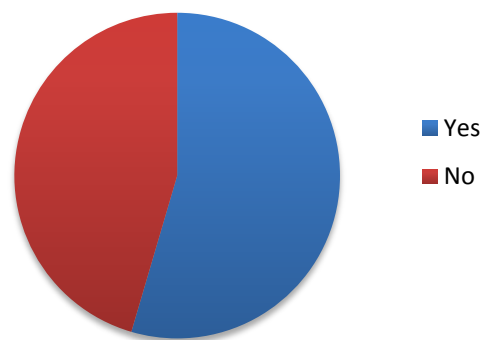


Figure 14¹¹

Although the figures for current revisions in the APPA region are quite high they are significantly lower than the figures globally. This can be explained in two ways. First, a sizeable proportion of the laws of APPA respondents are quite new. Second, the high global proportion is affected by the large numbers of respondents in the European region whose laws must be revised to accord with the EU GDPR, which commences in 2018.

⁹ Data represents 84 authorities

¹⁰ Data represents 85 authorities

¹¹ Data represents 11 authorities

Part C: Authority's funding and size

Total income: Change in budget

Authorities were asked how their budget compared to the previous year. The results for authorities worldwide and in the APPA members are reasonably similar.

How does the authority's total budget compare to the previous year?

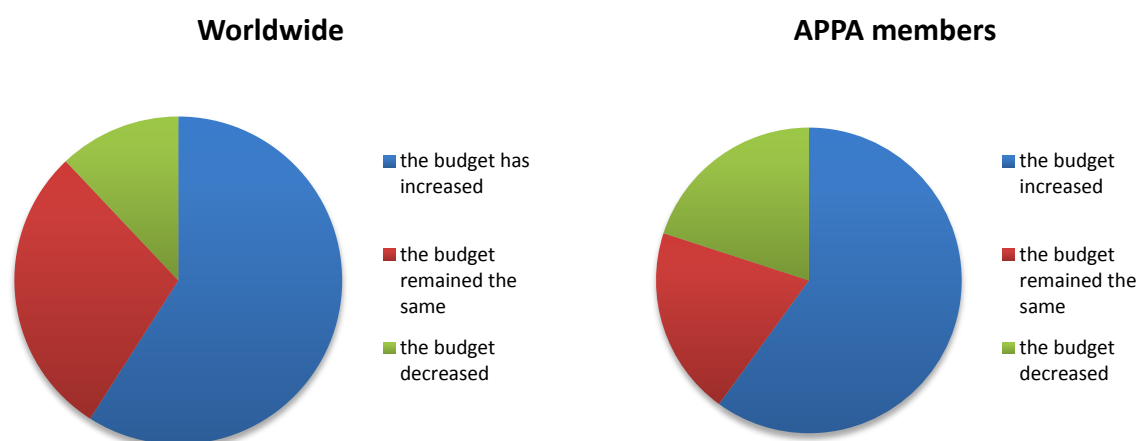


Figure 15¹²

Figure 16¹³

Staff numbers

The number of full time equivalent (FTE) employees in the APPA region and the authorities' worldwide ranges across a board spectrum.

APPA members: FTEs											
3	13	18	37	40	45	75	77	90	181	709	1144

Table 4

The smallest respondent APPA authority has 3 FTEs whereas the largest (the FTC) has 1144 FTEs. If the 1144 figure is excluded as being slightly anomalous,¹⁴ the median staff number is 45 in the APPA region and 29 worldwide. The 2 largest authorities worldwide are from the APPA region.

Largest authorities by FTEs

Worldwide ¹⁵				APPA region			
4 th largest	3 rd largest	2 nd largest	Largest	4 th largest	3 rd largest	2 nd largest	Largest
195	393	709	1144	90	181	709	1144

Table 5

Table 6

¹² Data represents 83 authorities

¹³ Data represents 10 authorities

¹⁴ The FTC figure is atypical for a DPA as staff in that authority are mostly working on matters other than privacy and data protection.

¹⁵ Data represents 81 authorities

Part D: Authority's enforcement powers, case handling and reporting

Principal roles

Respondents were asked to list the principal roles performed under their data protection/privacy law.

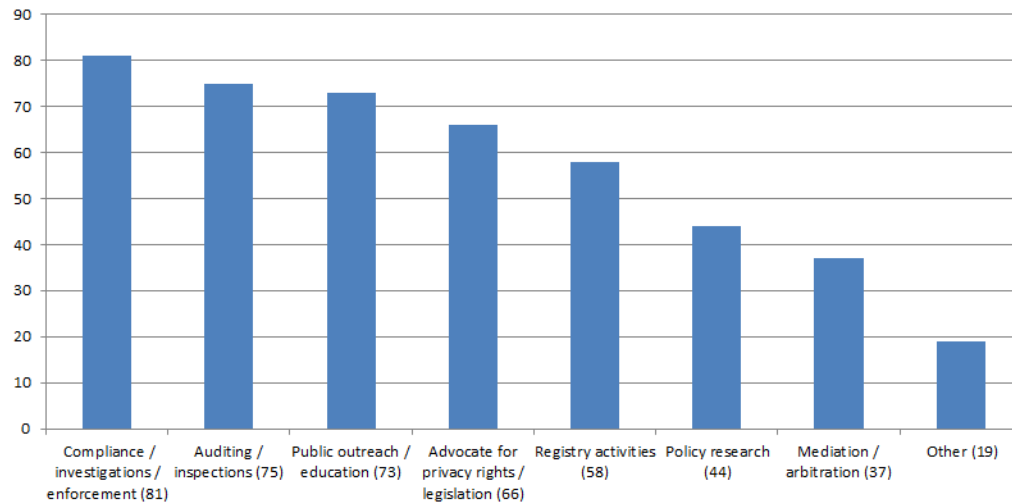


Figure 17: Worldwide¹⁶

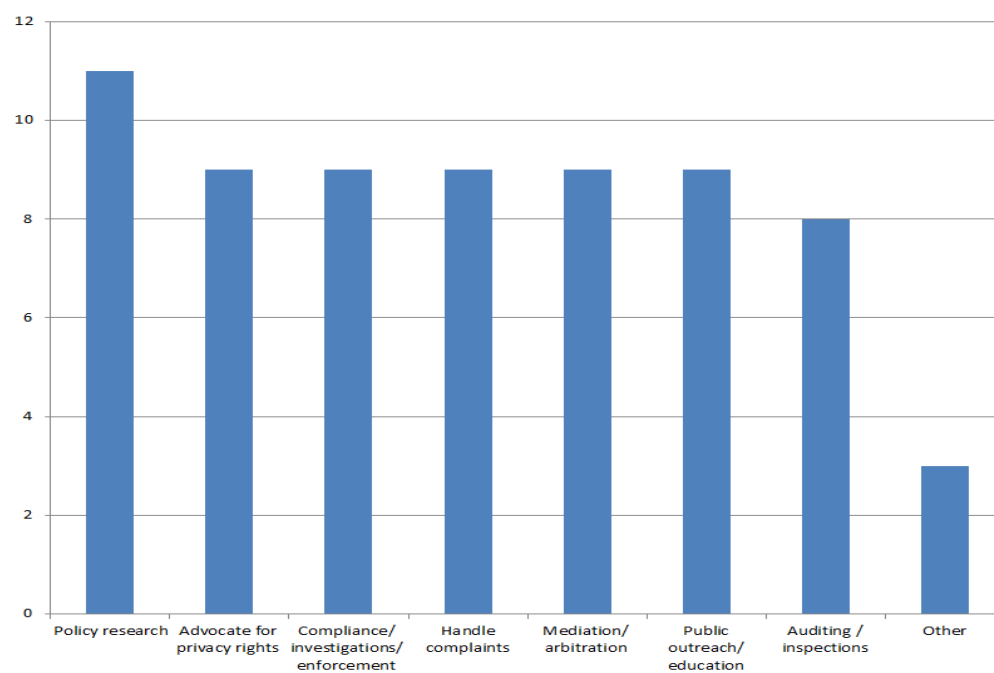


Figure 18: APPA members¹⁷

One noteworthy difference is that 'Policy research' features more strongly as a principal function amongst APPA members.

¹⁶ Data represents 87 authorities

¹⁷ Data represents 12 authorities

Powers in individual cases

A lower proportion of authorities in the APPA region have powers to take decisions in individual cases than globally and instead APPA authorities must typically refer matters to courts or tribunals when binding decisions are required.

Does the authority:

Worldwide ¹⁸		
	Yes	No
Have the power to make decisions in individual cases?	69 (80%)	17 (19.5%)
Have the power to make recommendations in individual cases?	88 (93%)	4 (4.5%)
Have the power to refer the case to an authority with decision making power in individual cases?	64 (74%)	19 (22%)

Table 7

APPA members		
	Yes	No
Have the power to make decisions in individual cases?	7 (58%)	5 (42%)
Have the power to make recommendations in individual cases?	11 (92%)	1 (8%)
Have the power to refer the case to an authority with decision making power in individual cases?	10 (83%)	2 (17%)

Table 8

Case reporting

Authorities in the APPA region are more likely of the ICDPPC seem to publicly report on cases they handle than DPAs generally. Perhaps this may owe something to APPA's commitment to [Case Note Dissemination](#).

Does the authority report publicly on cases it has handled?

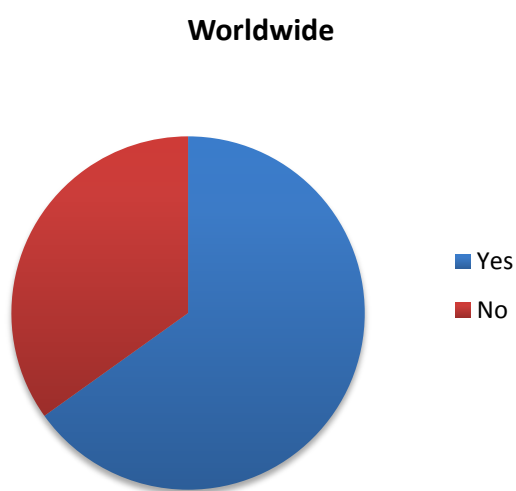


Figure 19¹⁹

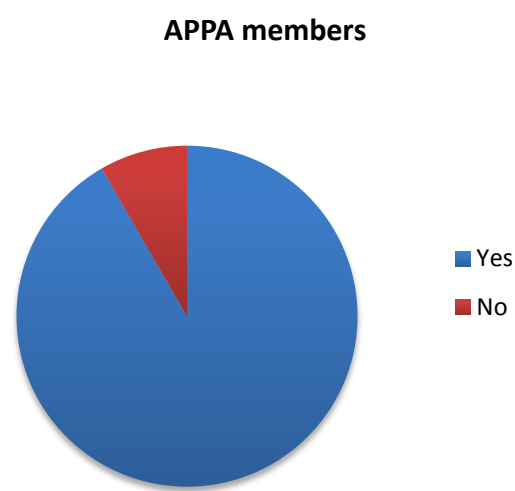


Figure 20

¹⁸ Data represents 85 authorities

¹⁹ Data represents 75 authorities

Publicly naming organisations

The willingness of DPAs to publicly name organisations that are in breach of privacy law is apparent both globally and within the APPA region.

Does the authority ever publicly name organisations that have breached the privacy or data protection law?

Worldwide

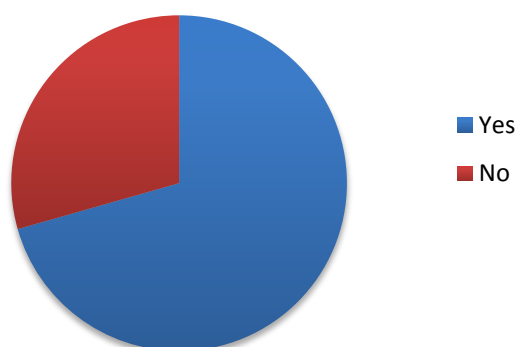


Figure 21²⁰

APPA Members

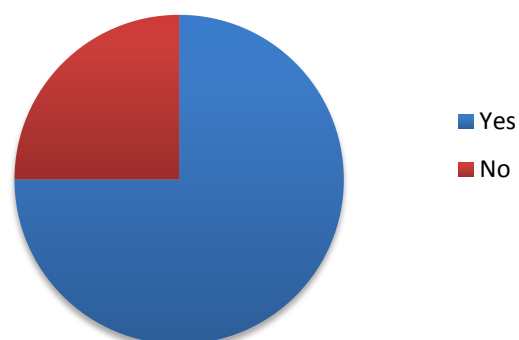


Figure 22

²⁰ Data represents 85 authorities

Part E: Cross-border data flows, enforcement and cooperation

Express provision for cross-border cooperation in domestic law

Authorities were asked to confirm whether their law included an express provision for cross-border cooperation. While only one-third of respondent authorities globally have express provision in their law for transfer of complaints to another jurisdiction one-half of APPA members' laws make such provision.

Results for other provision in law for other kinds of assistance were roughly comparable between the APPA regional laws and globally.

DOES THE PRIVACY OR DATA PROTECTION LAW INCLUDE EXPRESS PROVISION FOR ANY OF THE FOLLOWING

World wide			APPA Members		
	Yes	No		Yes	No
Transfer of complaints to privacy enforcement authorities in other jurisdictions?	27 (32%)	57 (68%)	Transfer of complaints to privacy enforcement authorities in other jurisdictions?	6 (50%)	6 (50%)
Disclosure to privacy enforcement authorities in other jurisdictions of information obtained in investigations?	24 (29%)	58 (70%)	Disclosure to privacy enforcement authorities in other jurisdictions of information obtained in investigations?	3 (25%)	9 (75%)
Assisting other privacy enforcement authorities in cross-border investigations?	37 (45%)	46 (55%)	Assisting other privacy enforcement authorities in cross-border investigations?	6 (50%)	50 (50%)

Table 9²¹

Table 10

Few authorities have an express prohibition against providing information to other enforcement authorities.

DOES THE PRIVACY OR DATA PROTECTION LAW INCLUDE EXPRESS PROVISION FOR THE FOLLOWING

Worldwide			APPA Members		
	Yes	No		Yes	No
A prohibition on providing information to other enforcement authorities?	5 (11%)	74 (89%)	A prohibition on providing information to other enforcement authorities?	2 (17%)	10 (83%)

Table 11²²

Table 12

Secondments

APPA's secondment framework may have contributed to a higher proportion of secondments reported by APPA authorities compared with the global figures.

²¹ Data represents 83 authorities

²² Data represents 82 authorities

In 2016, has the authority participated in any secondment with another privacy enforcement authority?

Worldwide

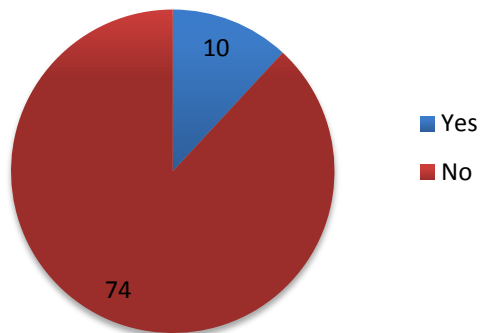


Figure 23²³

APPA Members

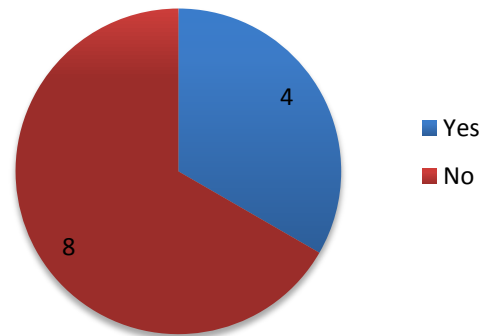
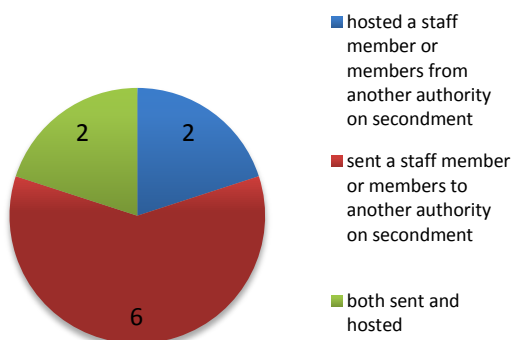


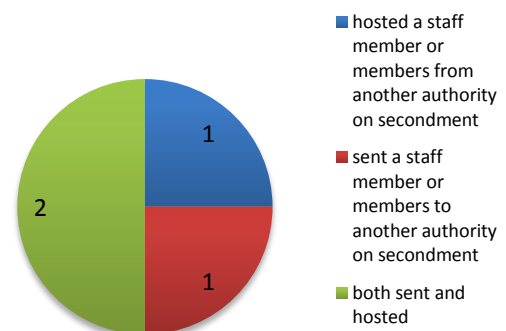
Figure 24

The authority that participated in a secondment:

Worldwide



APPA Members



²³ Data represents 84 authorities

Enforcement cooperation networks and arrangements

Authorities in the APPA region participate in various enforcement cooperation networks with the Global Privacy Enforcement Network being the most popular. Unsurprisingly, given that it is a regional network, APEC's CPEA features more prominently in the APPA regional results than globally.

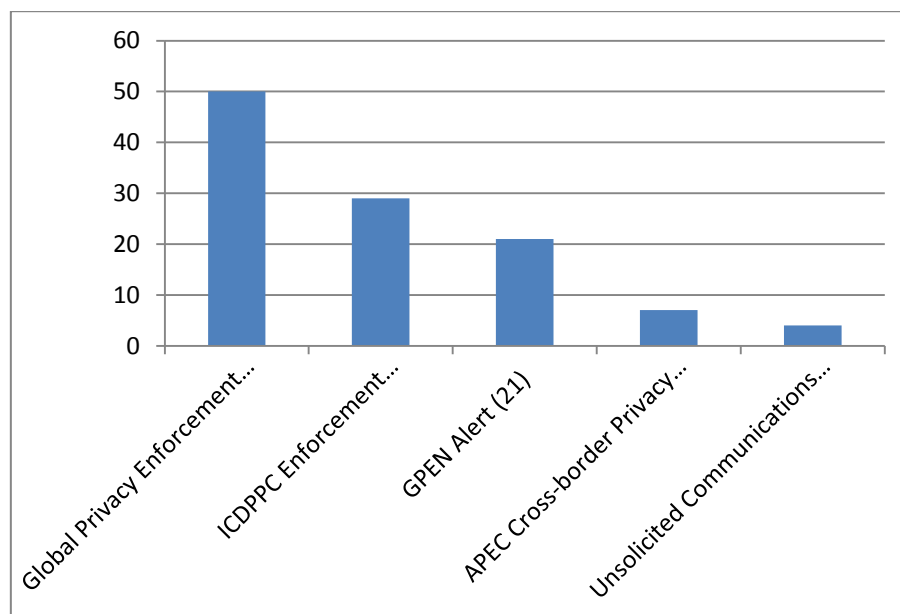


Table 13: Worldwide²⁴

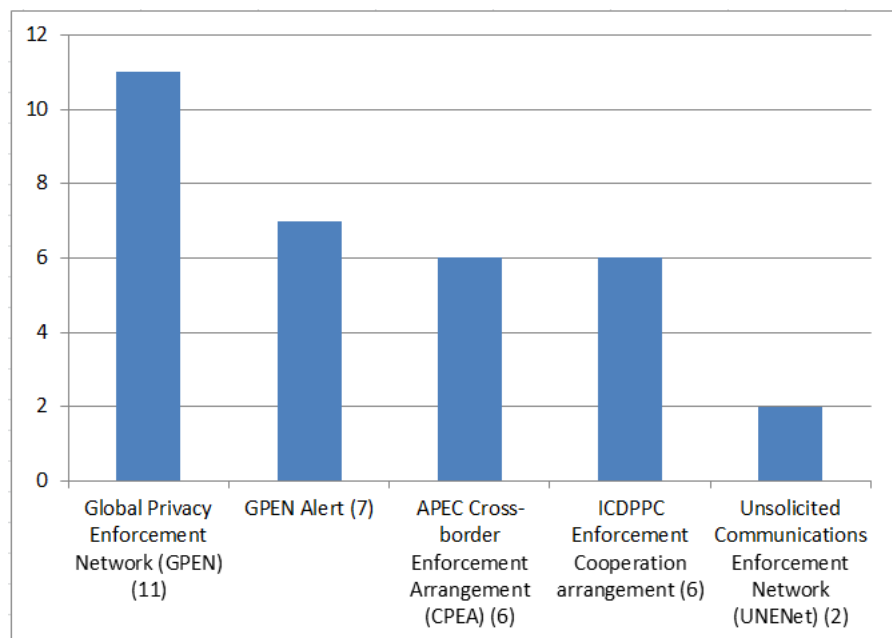


Table 14: APPA Members

²⁴ Data represents 55 authorities

Part F: Breach notification

Voluntary guidelines

Voluntary breach notification guidelines are popular in the APPA region. The typical model is to encourage notification to both the individual concerned and the DPA.

Are there any voluntary breach notification guidelines issued by the authority in your jurisdiction?

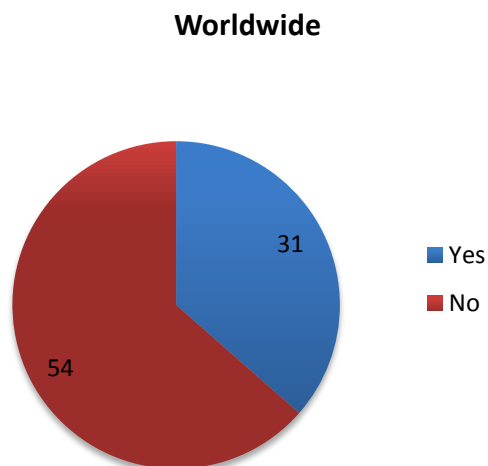


Figure 25²⁵

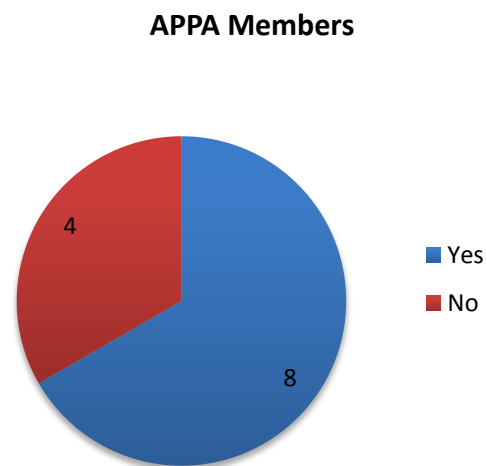


Figure 26

Do they recommend notification to?

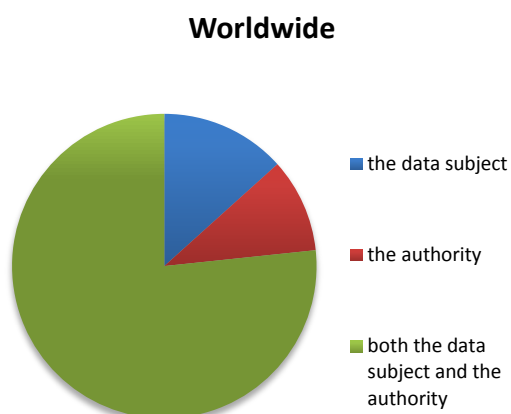


Figure 27²⁶

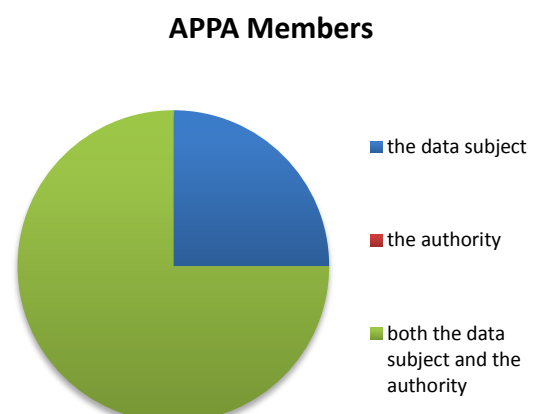


Figure 28²⁷

²⁵ Data represents 85 authorities

²⁶ Data represents 30 authorities

²⁷ Data represents 8 authorities

Mandatory requirements

Are there any mandatory breach notification requirements in your jurisdiction?

Worldwide

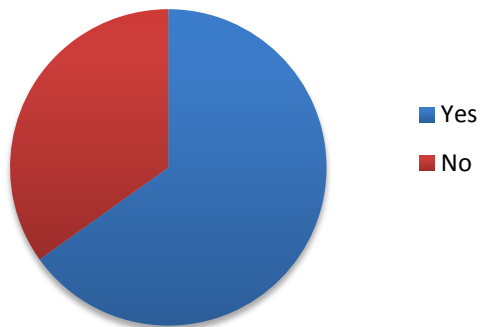


Figure 29²⁸

APPA Members

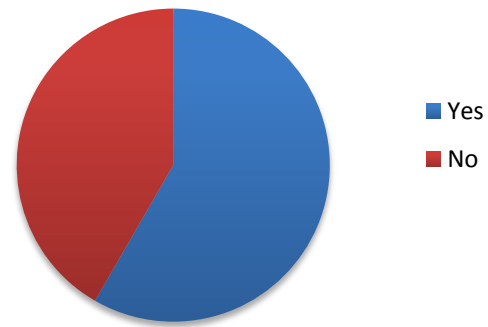


Figure 30

Do mandatory breach notification requirements recommend notification to?

Worldwide

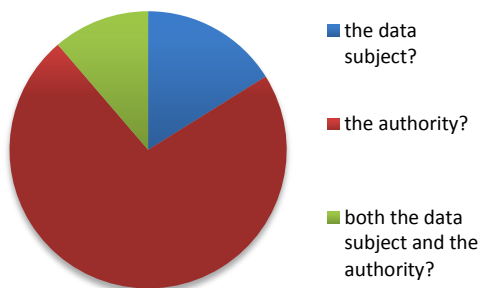


Figure 31²⁹

APPA Members

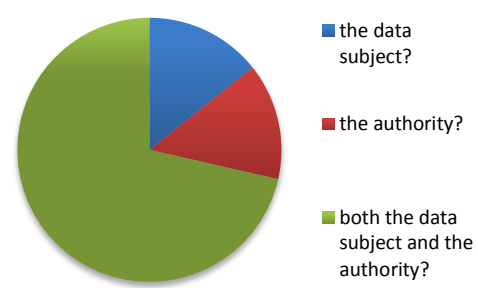


Figure 32³⁰

Number of notifications

The absolute number of breach notifications to APPA members seems reasonably low. Further research would be needed to be sure whether this is significant and how it stacks up globally (e.g. no correlation with size of authority, breadth of jurisdiction or population size).

²⁸ Data represents 86 authorities

²⁹ Data represents 55 authorities

³⁰ Data represents 7 authorities

HOW MANY BREACH NOTIFICATIONS (UNDER VOLUNTARY OR MANDATORY ARRANGEMENTS) DID THE AUTHORITY RECEIVE IN 2016?

WORLDWIDE	
No of notifications received in 2016	No of authorities
0	18
1-5	13
6-10	7
11-20	5
21-50	5
51-100	3
101-200	5
201-500	4
501-1000	2
1001-2000	0
2001-5000	2
5001-10,000	1
10,000+	1

Table 15³¹

APPA MEMBERS	
No of notifications received in 2016	No of authorities
0	0
1-5	2
6-10	0
11-20	0
21-50	1
51-100	1
101-200	3
201-500	1
501-1000	0
1001-2000	0
2001-5000	0
5001-10,000	0
10,000+	0

Table 16³²

Publication of information and statistics

Majority of authorities worldwide and in the APPA region seem to the publicly report on breach notifications.

Does the authority publish any information on the breach notifications it receives, for example total number of notifications received, sectoral breakdown, details of those that result in formal action?

Worldwide

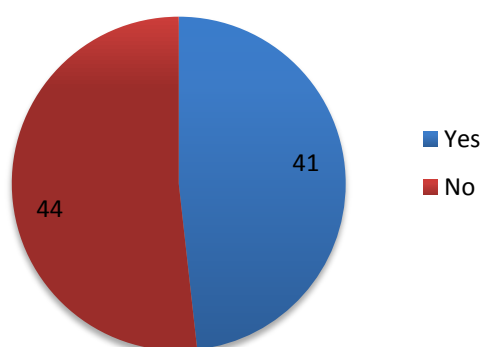


Figure 33³³

APPA Members

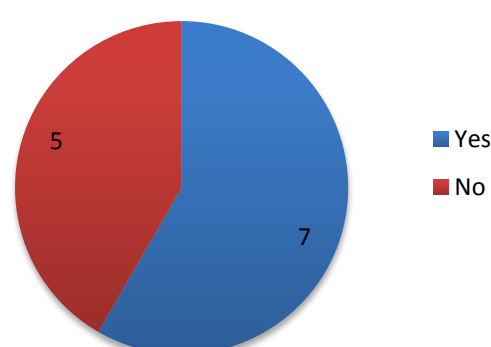


Figure 34

³¹ Data represents 88 authorities

³² Data represents 8 authorities

³³ Data represents 85 authorities