

Northern Territory: Information Commissioner



## Description of applicant

4. Description of Authority (e.g. commissioner, commission, board etc)  
Information Commissioner
5. Is the Authority a public body? YES
6. Geographical jurisdiction  
Northern Territory of Australia
7. Sectoral coverage (i.e. does the applicant's jurisdiction cover the entire public and private sectors? If only part of a sector or if there are significant activities not covered, please specify)  
Public Sector
8. Is the role of the Authority mainly concerned with data protection and privacy?  
Authority has two functions: Data protection/privacy and freedom of information.

## Legal basis

9. Title of law under which the Authority is constituted  
Information Act 2002 (commences 1 July 2003)
10. Is this principally a data protection law?  
Law has two principal aspects: Data protection/privacy and freedom of information.
11. Status of the law (e.g. statute, regulation, executive order)  
Statute.
12. Which body made the law?  
Northern Territory Parliament
13. What body has the power to amend or revoke the law?  
Northern Territory Parliament

## Autonomy and independence

14. Who appoints member(s) of the Authority? (Please explain if a different process applies to the presiding member from other Authority members in this question and in subsequent questions.)

Information Commissioner appointed by the Administrator of the Northern Territory (essentially equivalent to the Governor of a State)

15. What process is followed?

Merit selection process following nationwide advertising.

16. For what term are appointments made?

Up to 5 years (current appointment 5 years).

17. Does the law under which the Authority operates explicitly state that it acts independently? YES s.3(1)(c).

18. May the member(s) be removed before expiry of their term? YES

19. If yes, who may remove members of the Authority before expiry of their term?

Administrator of the Northern Territory

20. Are there limited reasons specified in the statute, or in another law, providing the permitted grounds for removal?

YES.

21. What are the grounds for removal?

Conviction for indictable offence, bankruptcy, engaging in other paid employment, misbehaviour, inability to perform duties, misconduct, protracted absence: see s.91.

22. Does the Authority possess the following powers (briefly describe and give statutory references)

(e) to initiate an investigation with seeking provision YES

details: investigate and issue compliance notice. S. 82

(f) to report to the head of State, head of Government or legislature YES

details: Report to Attorney-General for tabling in Parliament. S.98

(g) make public statements YES

details: about matters relevant to privacy. S.86(1)(i)

23. Does the Authority (and its staff) have immunity from legal suit for actions performed in the course of their duties?

Yes. Ss.151 & 152

24. Applicants may list any other measures set out in the statute or in other laws which guarantee the Authority's independence (for example if the law provides specifically that the Authority's finances are protected).

No further information.

### Consistency with international instruments

25. Does the Authority explicitly implement any international instrument (for example if the law under which the Authority operates specifies that it implements such international instrument)?

NO

If "yes", which of the following does it principally implement?

(e) OECD Guidelines (1980) YES/NO

(f) (i) Council of Europe Convention No 108 (1981) YES/NO

(ii) Council of Europe Additional Protocol (8 November 2001)  
YES/NO

(g) UN Guidelines (1990) YES/NO

(h) EU Directive (1995) YES/NO

26. Does the law instead, or additionally, implement any general or specific international instrument? (If so, list the international body and the instrument)

The NT Information Privacy Principles are closely aligned with the Australian government's National Privacy Principles, as contained in the Commonwealth of Australia *Privacy Act 1988*, which implements the OECD Guidelines.

27. Have significant questions been raised about the extent to which the law is consistent with the international instruments which are claimed to be implement in answer to questions 25 and 26? (Applicants should supply further information to assist the Committee including a description of any measures under way to address these inconsistencies.)

NO

## Appropriate functions

28. Does the Authority possess functions in any of the following areas (briefly describe and give statutory references):

(d) compliance (e.g. audit, inspection) YES

details: audit of records to determine compliance. S.86(1)(e)  
full and free access to records. S.87

(e) approvals (e.g. prior-checking, notification) YES

details: Approval. Codes of Practice. Ss.73&74  
Consultation: Records management standards. S.137(3)(b)

(f) redress for individuals (e.g. complaints, conciliation enforcement) YES

details: right to complain. S.104. Orders for monetary compensation,  
and restraining agency conduct. S.115(4)

(g) sanctions available to Authority (for example, prosecution and enforcement) YES

details: Compliance orders S.82. compensation and restraining  
orders. S.115(4). Offences of obstruction of Commissioner, s.101,  
false and misleading statements, s.146, concealing or disposing of  
information, s.147

(h) guidance (e.g. compliance advice) YES

details: guidelines, promotion, advice and training.  
S.86(1)(a), (c) and (d)

(i) public education YES

details: educational programs to promote public awareness.  
S.86(1)(h)

(g) policy advice for government YES

details: examine and assess proposed legislation and policies.  
S.86(1)(f)

(h) studies or research (e.g. into developing technologies, privacy issues) YES

details: research and monitor developments. S.86(1)(g)

## Additional comments

29. Applicants are invited to offer any further comments that they wish.

No further comments.

## Other materials

30. List any attachments which will accompany the application as an electronic attachment or to follow by post.

Information Act (electronic attachment)

31. If law under which the Authority operates is accessible on the Internet, please give the reference

URL: <http://www.infoact.nt.gov.au>. Userid: infoact. Password: infoact. Enter twice.  
Public website under development.

32. If a recent annual report of the Authority (or a similar recent publication outlining typical activities) is available on the Internet, please give the reference

URL: As Office has only recently been established none available at this time.

## Research use

33. With the consent of applicants, the Committee proposes to make copies of the applications available to appropriate researchers approved by the Committee to facilitate a study on data protection. Please indicate whether you agree to this use:
- I agree to this application being released to a researcher YES

## Making the application

The application should be emailed to the credentials committee at [credentials@privacy.org.nz](mailto:credentials@privacy.org.nz)  
If sent as an email attachment it should be in M/S Word.  
If unable to email the application, it should be posted to:

Credentials Committee  
C/- Privacy Commissioner  
P O Box 466  
Auckland  
New Zealand

The Committee needs access to a copy of the law under which the Authority is constituted. This need not be supplied in hard copy if it is available on the Internet and listed at question 31. If the law itself is not in English or French, it will be useful to supply an English or French summary or translation if one exists.

## Use of information

The information in this form will be used for processing the application and will be disclosed to members of the committee and their staff (being the commissioners from New Zealand, France and the United Kingdom) and future committees. It may be also disclosed also to the Data Protection Authorities which participate to the international conference and approved researchers. Any personal data contained in the form is available for access and correction in accordance with the applicable data protection laws of current and future committees. In the first instance it is subject to the New Zealand Privacy Act 1993.

ACCREDITATION OF DATA PROTECTION AUTHORITY  
CHECKLIST FOR THE CREDENTIALS SUB-GROUP

1 Name of Authority

**Information Commissioner for the Northern Territory, Australia**

2 Does the authority have clear and wide ranging data protection functions covering a broad area of economic activity (eg not just an advising body or a body operating in a narrow field such as medical privacy)?

Yes

Notes

**Public sector coverage only.**

*Sufficient coverage as state wide*

3 Legal Basis.

Is the authority a public body established on an appropriate legal basis (eg by statute or regulation)?

Yes

Notes

**The Information Act 2002 is, as far as I am aware, unique in bringing together freedom of information, privacy and records and archives management.**

4 Autonomy and Independence?

Is the authority guaranteed an appropriate degree of autonomy and independence to perform its functions (eg the power to make public statements and protection from removal from office)?

Yes

Notes

5 Consistency with International Instruments.

Is the law under which the authority operates compatible with at least one of the international instruments dealing with data protection and privacy (eg EU Directive, OECD Guidelines, Council of Europe Convention)?

Yes

Notes

**No particular instrument is claimed. However, the Australian approach is consistent with OECD Guidelines.**

*Follows National Privacy Principles consistent with OECD Guidelines*

6 Appropriate Functions.

Does the authority have an appropriate range of functions with the legal powers necessary to perform those functions (eg the power to receive and investigate complaints from individuals without seeking permission)?

Yes

Notes

*Full range of functions*



7 Does the Sub-group recommend accreditation?

Yes

Notes

8 If accreditation is recommended what is the accreditation as?

**Authority within a limited sub-national territory**

Notes

9 If accreditation is as an authority within an international/supranational body does the recommendation include voting rights?

**Not applicable**

Notes

10 If accreditation is not recommended does the Sub Group recommend that accreditation is refused or is more information needed before a decision can be made?

Refusal

More Information

Notes

11 If accreditation is not recommended and the application is from an authority with narrow functions does the Sub Group recommend that, at the discretion of the conference host, observer status is granted?

**Not Applicable**

Notes

If more information is required what is this:

Signed on behalf of the Sub-group:

**Blair Stewart**

Date: **19 June 2003**

\_\_\_\_\_  
*Jonathan Bamford*

\_\_\_\_\_  
Date: *20 June 2003*

\_\_\_\_\_

Date: \_\_\_\_\_

Note: 2 signatures required for recommendations for accreditation.  
3 signatures required for recommendations for refusal