



Speech by

**LINDA LAVARCH**

**STATE MEMBER FOR KURWONGBAH**

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### **TENANCY DATABASES**

**Mrs LAVARCH** (Kurwongbah—ALP) (11.50 a.m.): On Friday, 16 April the federal Privacy Commissioner, Malcolm Crompton, made his determination on the four representative complaints brought by the Tenants Union of Queensland and the Tenants Union of New South Wales against TICA Default Tenancy Control, a tenancy database operator. These complaints related to the excessive costs to access a tenancy record by mail or by telephone, the accuracy of the database listings, the excessive time TICA keeps the database listings and the inappropriateness of the consent forms to access information a person is required to sign upon applying for a tenancy.

In making his determination, the Privacy Commissioner found that TICA had breached the Privacy Act. In fact, he found that there were 13 breaches of the national privacy principles and ordered TICA to rectify their information handling practices. I take the opportunity today, as a matter of public importance, to welcome this determination by the Privacy Commissioner. In so doing I note that this decision was handed down by Malcolm Crompton on his last day in the position of federal Privacy Commissioner.

Malcolm worked tirelessly in this position and, despite some resistance, has managed to move the protection of individual privacy forward, both in the public policy sense as well as at a practical, individual level. I place on public record my gratitude to Malcolm for all his hard work in this area and wish him all the best for the future.

When it comes to addressing the concerns surrounding the operation of tenancy databases, Queensland has led the way. Our Minister for Housing, Mr Swarten, championed finding a way through the jurisdictional and legal maze created by tenancy databases to provide a proper balance between the lessors and the interests of tenants in the private rental market.

In the last parliament I had the honour of chairing the special backbench committee to inquire into the operations of tenancy databases. The final report of our committee was tabled in parliament in September 2002. This report built upon the report of Fiona Guthrie. Her report, entitled *Recommended Queensland government strategy regarding tenancy databases*, was commissioned by the Residential Tenancies Authority and presented in January 2002. The special backbench report made a number of recommendations going to legislating standards for the listing of information on tenancy databases.

In 2003, Minister Swarten introduced amendments to the Residential Tenancies Act to capture the majority of these recommendations. The new legislative proceedings in relation to listing on tenancy databases came into force in August last year. However, it was recognised at the time, for reasons that Queensland did not have jurisdiction over database operators themselves, that there were gaps in the legislative coverage. It would have been futile for us to legislate in relation to areas such as the cost of access to information held or to regulate the amount of time a listing could be held on a database. Yet these two matters are critical to ensuring that a database meets the tests of fairness, accuracy and openness.

The Privacy Commissioner's determination filled some of the gaps that Queensland was unable to address in relation to the cost of accessing information from TICA. The present cost by telephone is \$5.45 per minute or \$327 per hour. The Privacy Commissioner's finding that these costs are excessive implies that TICA will need to reduce its fees. In relation to the amount of time a listing can be held, it was recommended that it should be no more than four years. Our committee recommended two years, which we believed was a reasonable time for a listing to allow a landlord to assess risk.

Nevertheless, in my view, this is a positive improvement on what exists at present. While this determination is most welcome and continues to progress overcoming injustices occasioned by the operation of tenancy databases, there are still many areas in database operations that need to be addressed. The most desirable outcome for both tenants and the industry would be the application of national standards. The national nature of databases, together with the mobility of the Australian population, means that individual and different state and territory responses are far less effective and equitable to get a nationally coordinated response.

I do note, however, that the Ministerial Council on Consumer Affairs has formed a residential database working party to investigate whether tenants in other states and territories are experiencing similar difficulties with databases as are found in Queensland. This investigation is under way and I await the results with much interest. Where tenancy databases are concerned, Queensland tenants are much better off than their interstate counterparts.