

Question on Notice

No. 1207

Asked on 13 October 2021

MR T NICHOLLS ASKED THE ATTORNEY-GENERAL AND MINISTER FOR JUSTICE, MINISTER FOR WOMEN AND MINISTER FOR THE PREVENTION OF DOMESTIC AND FAMILY VIOLENCE (HON S FENTIMAN) –

QUESTION:

Will the Attorney-General advise for each financial year since 2015-16 (reported separately) (a) how many voluntary notifications of breaches of privacy were reported to the Office of the Information Commissioner and (b) how many affected individuals were associated with each breach?

ANSWER:

I am advised that mandatory notification of data breaches for private sector and Commonwealth agencies commenced under the *Privacy Act 1988 (Cth)* (the Privacy Act) in February 2018.

Except in very limited circumstances, the Privacy Act does not require Queensland agencies to notify of data breaches.

Queensland agencies may also be subject to additional mandatory data breach notification obligations through other legislative requirements, such as the information security reporting requirements under the Queensland Government Enterprise Architecture (QGEA), and the *My Health Records Act 2012 (Cth)*. These obligations do not arise from policies or legislation within my portfolio.

The *Information Privacy Act 2009* does not currently require agencies to notify the Office of the Information Commissioner (OIC) or affected parties of privacy breaches.

However, the OIC guidance assists agencies to respond to breaches and recommends that, as good practice, agencies notify OIC when data breaches occur.

OIC also strongly encourages agencies to notify affected individuals in appropriate circumstances to assist individuals to mitigate impacts of a breach and help build trust.

OIC published a new self-assessment tool in 2021 to support agency internal and external reporting of data breaches.

OIC received voluntary data breach notifications as follows:

- In 2015-16, OIC received 9 voluntary data breach notifications;
- In 2016-17, OIC received 10 voluntary data breach notifications;
- In 2017-18, OIC received 27 voluntary data breach notifications;
- In 2018-19, OIC received 25 voluntary data breach notifications;
- In 2019-20, OIC received 53 voluntary data breach notifications; and
- In 2020-2021, OIC received 86 voluntary data breach notifications.

The increase in voluntary notifications from agencies is a positive sign. OIC provides advice to agencies about an appropriate response, including whether individuals should be notified. Prompt notice to affected individuals allows victims to take steps to protect their personal information and helps to maintain trust and confidence in an agency.

Embedding a privacy champion within Queensland government agencies will help to foster improved reporting and notification within and external to agencies. OIC has established Privacy Champion networks across the Queensland Government department and Hospital and Health Service sectors in 2021 and is working with local governments on a similar network.

Number of individuals affected by each breach

OIC's new form for agency notifications, released in May 2021, includes a field to prompt agencies to nominate how many affected individuals were associated with each breach (for example, 1, 2-10 through to greater than 100 individuals). Although it is possible to identify the number of people affected where, for example, an email is sent to the wrong person, it is not always possible to identify with accuracy those affected in other circumstances.