T R A N S C R I P T

STANDING COMMITTEE ON THE ENVIRONMENT AND PLANNING

Inquiry into the proposed long-term lease of land titles and registry functions of Land Use Victoria

Melbourne — 26 June 2018

Members

Mr David Davis — Chair
Mr Cesar Melhem — Deputy Chair
Ms Melina Bath
Mr Richard Dalla-Riva
Mr Nazih Elasmar
Mr Daniel Mulino
Ms Huong Truong
Mr Daniel Young

Participating Members

Mr Jeff Bourman
Ms Samantha Dunn
Mr James Purcell
Mr Simon Ramsay
Dr Samantha Ratnam
Ms Jaclyn Symes

Witnesses

Ms Rachel Dixon (sworn), Privacy and Data Protection Deputy Commissioner, and

Ms Joanne Kummrow (sworn), Acting Public Access Deputy Commissioner, Office of the Victorian Information Commissioner.

The CHAIR — Can I welcome Rachel Dixon, the Privacy and Data Protection Deputy Commissioner, and Joanne Kummrow, the Acting Public Access Deputy Commissioner, to give us evidence. You are aware of our terms of reference. We would welcome any statement you want to make.

Ms DIXON — I have an opening statement, which is from the Information Commissioner himself, and there are some copies there for distribution. May I read the statement?

The CHAIR — Yes.

Ms DIXON — Thank you. It states:

> I would like to thank the Standing Committee on the Environment and Planning for the invitation to appear at this hearing.
>
> Please accept my apologies for being unable to attend in person as I am currently representing Victoria at the Asia Pacific Privacy Authorities forum, where I am fulfilling a longstanding commitment to present a paper alongside privacy regulators from Hong Kong and Singapore.
>
> My office is the primary regulator in relation to the privacy, data protection and freedom of information obligations of public sector agencies in Victoria. My legislative responsibilities include handling privacy and FOI complaints about agencies, reviewing FOI decisions as well as conducting audits, examinations and investigations on my own motion. I am also responsible for issuing protective data security standards and FOI professional standards. The functions of my role also include providing education and guidance to the public and agencies about privacy, data protection and FOI.
>
> The proposed long-term lease of land titles and registry functions of Land Use Victoria will mean that regulatory oversight for these functions in relation to data protection, privacy and FOI will move from a regime under legislation passed by Parliament to a regime that is made up of a combination of legislation and contracts negotiated by the operator and the government. This will necessarily alter the way in which individuals can expect their information rights, currently protected under statute, to be maintained and enforced.
>
> On the basis of discussions with DTF, I understand that the government has given significant thought to how best to preserve the information rights of Victorians following the proposed transaction. However, it is my view that the commercial nature of the transaction itself will necessarily and substantially change the dynamics of the land titles system, and the incentives that apply to those who participate in it. Some changes to information rights and how they can be exercised by Victorians are inevitable. This should be carefully considered, especially in light of the long term of the proposed lease.
>
> My written submission to the committee of 22 June 2018 explores these issues in more detail. I trust that the written submission and the evidence given at today's hearing by Rachel Dixon, privacy and data protection deputy commissioner, and Joanne Kummrow, acting public access deputy commissioner, will be of assistance to the committee.

That is from Sven Bluemmel, Information Commissioner.

The CHAIR — Thank you to the Commissioner for the submission, which we received in recent days. I do not think we have formally accepted it yet, but we will do that at a committee meeting quite shortly.

There are, I think, potential issues that are pointed to here. I think it would be helpful to have you outline what you see as the risks that are associated with the commercialisation process that is envisaged.

Ms DIXON — In our opening statement I think we alluded to the issue of the transition from a purely regulatory regime to a regulatory and contract regime, and the issue there is that certainly my understanding is that DTF have done their best to ensure that the current obligations remain as far as possible, but for us to enforce some of those obligations now we will be working with an operator which is under contract to, for example, the Registrar, and to that extent while some of the obligations, for example, in part 4 and part 3 of our act will apply to the operator under the proposal, there are pieces, for example, in part 6, which give us the right to go and inspect systems and data, and they will have to be done through the Registrar. So will many of the part 4 pieces, just because of the way that the contractual relationship works under the PDP act. So it is a slightly different way of us administering that particular act.

FOI is slightly different again, but certainly in the area of privacy — and I want to be clear that privacy and data protection are related but separate things — it just introduces a different dynamic I think for the public. The other risks of course would be that it is something regulated by contract and that contracts are amendable from time to time.

The CHAIR — So is the Privacy and Data Protection Deputy Commissioner secure that this regulation through the titles approach, rather than directly, is sufficient? Will there be weaknesses in that to the extent that

you may not at some future point be able to — I mean does it appear that you could act alone to investigate something?

Ms DIXON — We can act alone to the extent that the products and services are offered through the Registrar, which is the current proposal. So for existing products and services that are still offered through the Registrar we can compel, for example, the Registrar to assist us, and it is my understanding from discussions with DTF that the Registrar can then compel by contract the operator. So we can certainly still advise or use many of our powers through the Registrar's office, and that is similar to the arrangement that exists today. At the moment, for example, if we wanted to review — the Registrar is currently required under Victorian data protection standards to attest every year, not every year but as part of part 4, to the fact that they have understood all of the risks that are associated with their IT, HR, and all of those sorts of associated systems. That will continue to apply. The Registrar will still be bound.

To the extent that the products and services offered by the operator are sold through the Registrar under contract or at least are procured by the Registrar under contract, that will continue to be the case, because the obligation rests with the Registrar effectively. To the extent that the operator sells products directly — not through the Registrar — in the future, that will not be the case. They will be bound by the operations of the federal information commissioner, the OAIC, because they are a private company. So we would have no jurisdiction there. To the extent that they are on the same systems, we would still be able to go through the Registrar to ask them to provide, to compel the operator, but if there was, for example, an incident that was in relation to purely private operations, we would not actually have standing. So that is the difference.

The CHAIR — Even though it may be Victorian data that is being onsold in some way?

Ms DIXON — Because the data — and this is just my understanding — effectively under the contract, the data can be licensed for purposes. This is true currently for private products. LUV does actually license data to private entities now, so in that sense there is not a great change.

The CHAIR — All right. It is just the scale at which it is occurring.

Ms DIXON — I have no information on what the proposed future scale will be.

Mr MELHEM — Because the state registry will still own the data, and that is not changing.

Ms DIXON — This is my understanding, yes.

Dr RATNAM — Do you mind if I ask a follow-up question on that in terms of the current licensing arrangements that Land Use Victoria have with some data companies. Do you have anything that is with CoreLogic and APM — do you have any regulation or oversight on that? Are you consulted in the development of those mechanisms or licensing arrangements about data protection?

Ms DIXON — To the extent that they are offered by the Registrar in the current arrangements?

Dr RATNAM — Yes.

Ms DIXON — Then yes, we do, because those statutory bodies are bound under our act.

Dr RATNAM — Do you know if there are any provisions to protect against the onsell of that data a second or third time and what protections would be in place for that? For example, if the Registrar is licensing that data to an operator, it sounds like you will have some jurisdiction there, but if that operator then sub-licenses some of that data, are there any protections around that? It sounds like you will not have oversight once it goes to that next level, because it is not the Registrar then in the licensing regime.

Ms DIXON — That is true currently, though, for any data that they sell. But I will say that that data then is actually the province of the OAIC and their regulatory regime, such as it exists. So that would be a matter for them, I guess, and the degree to which those protections are offered are things you should take up with them.

The CHAIR — Would you be in the position to develop and insist upon additional protocols around some of the issues that might arise?

Ms DIXON — We do not get involved in the design of solutions. That would not be appropriate for a regulator. We restrict ourselves to an assurance process, so we set standards. How you fulfil those standards is a matter for other entities. In the government, typically something like DPC's Enterprise Solutions branch, for example, would determine how something should be done for government. We would simply review it and then say we are satisfied or not satisfied that this meets the standard of the data protection framework that we have.

Mr MELHEM — With the proposed changes, how comfortable are you with the security of data going forward? I know you touched on that earlier, but based on what you know going forward with the proposed changes to the system, how comfortable are you that there are sufficient safeguards to make sure that data security is in place both in the Victorian legislation and the federal legislation? Does that give you a bit of comfort?

Ms DIXON — Our understanding of the current proposal is that all of the current access that we have and the ability we have to enforce the VPDSF will continue to apply through the Registrar. And by the way, the first attestation period under the framework has not actually happened yet — it will happen on 31 August. At that point a great deal more information about the current operations of the Registrar will be available to us. At the moment we are waiting for them to, along with every other agency in government, submit that material to us.

Following the current proposal presumably we would still get that risk-based assessment from the Registrar at each reporting period under the VPDSF. Under the current proposal, which I stress is under contract and not under legislation, that is proposed to continue through the Registrar. In the same way that, for example, at the moment if a government agency has a contract with Microsoft Azure, they will be required to get Microsoft to provide them with information so that they can attest to us that their risks have been covered. But it is a risk-based assessment; there is no such thing as perfect security. There is, shall we say, an awareness of the things that one needs to work on.

Mr MELHEM — And that is the point I am getting to: that, as the land titles office is currently doing the processing and where the process now will move to a private provider, the Registrar will be in the same boat today because they are not developing the software to operate the system themselves — they get a third party to do that — and part of that data will be accessed by that third party. So really there is no change between whether the Registrar is doing it themselves or a private operator.

The concern you have, with which I do not necessarily disagree, is that going forward we do not relax the safeguard, we do not just sit back and sort of just let it happen — or a minister, you are saying, in 10 years' time might say, 'Look, don't worry about compliance', which I do not believe will ever happen, and it better not happen. But if we are now comparing apples with apples, we should be somewhat comfortable that, with the current assurances in place, the Registrar is still responsible for the data, we still own the data, the checks and balances are in place, we should be okay. No-one can give you a 110 per cent guarantee that there will not be breaches from time to time.

Ms DIXON — The risks are also slightly different. So if I can give you an example, where the Registrar is directly responsible, their staff give them the assurances or the information that filters back up to management for management to make that risk assessment. I should say from a data protection standpoint — and I will separate out privacy because it is different — with any agency making those assessments, it is not just about the machines or the software, it is about your security vetting processes for your staff, it is about how you rotate out your keys. It is a raft of things, so it is HR and so on. And our framework, which the Registrar will still be required to abide by, will still exist. But the degree to which management has that information, my understanding from DTF is that the private operator will be compelled to provide as much information as the Registrar needs in order to fulfil their responsibilities under the VPDSF. I think with that as an understanding it really resides then with the Registrar as to how they manage that risk. We can only set the standard and then make them aware that it still applies.

Mr MELHEM — So you have to make sure that happens and that gets reinforced.

Ms DIXON — That is what my team does.

The CHAIR — Again I am thankful to the Commissioner for the submission that we received, and I think it may be worth just relying on a couple of the comments that are made there, if you do not mind, and you may

want to make some additional comment. In paragraphs 27 and 28 on page 5, that submission, which will become public in due course when the committee has accepted it, it says:

> 27. Certain powers in part 6 of the PDP act, which allow me to seek assurance from public sector organisations of their compliance with the PDP act, will not apply to the operator following the proposed transaction. These powers include the ability to request access to public sector data and data systems, which operate for all other bodies subject to part 4 of the PDP act.

At 28 it says:

> Based on the OVIC's discussions with DTF, I understand that the Registrar will have the right to compel the assistance of the operator —

I am in effect paraphrasing what you sought to relay to us before —

> and the operator will be required to assist the Registrar in responding to any PDP-related issues that may arise.
>
> Although this does provide a mechanism for OVIC to scrutinise the privacy and data protection practices of the operator, the absence of a requirement for the operator to assist the OVIC directly may make it more difficult for the OVIC to ensure the operator is complying with its PDP act obligations.

Is this the case in New South Wales? Does the same set of issues apply in New South Wales and South Australia, where those commercialisation —

Ms DIXON — No, because they were actually done first of all by legislation, so they are operated by private entities and as such they are now the province of the OAIC from a regulatory perspective —

The CHAIR — Of the?

Ms DIXON — The Office of the Australian Information Commissioner, which is the federal regulator. So state regulations in that context do not apply. The OAIC does not deal with companies that are bound under contract to the state, but they do deal where the companies are actually operating independently.

The CHAIR — But it would be open to the state to put legislation to Parliament to clarify those points and to make it clear that the OVIC could investigate?

Ms DIXON — It would. If I can separate out the South Australian and New South Wales examples because they are quite different. The part 6 piece is the one where we can compel access to the systems directly — that is the part 6 power — and say, 'We want copies of the data'. If, for example, we were investigating a significant breach of standards, then we may wish to get into that detail. Under part 4, the current proposal that DTF have explained to us is that they wish to procure the Governor in Council, should the Governor agree, to make the body responsible under part 4 of our act, which the Governor has the power to do. That power does not extend to part 6, and part 6 is about our access and our ability to actually exercise that direct access.

Treasury have gone to a great deal of trouble, as I say, in the current contract to ensure that the operator must assist the Registrar with the Registrar's responsibilities. But to get, for example, access to those systems we would have to go through the Registrar. He might say, practically speaking —

The CHAIR — It might not matter.

Ms DIXON — Exactly, because there is almost no situation that I can envisage — to take the Microsoft Azure example before — where we would go directly to Microsoft Azure without involving the agency that actually had the contract. I cannot imagine that we would do that. But practically speaking in terms of actual compulsion, it is always at one step removed, which is a different foray for an operator. It just establishes that the operator then has a responsibility to the Registrar as a customer, and the way that companies tend to work with customers is quite often slightly different in terms of the way they work with regulators, if that makes sense.

Mr MELHEM — How would that work with privacy under the federal act? They would be able to go directly to the operator?

Ms DIXON — I am not familiar enough with the OAIC's powers to talk about how they would directly exercise those powers. I would suggest that probably it is best if you actually —

Mr MELHEM — Surely they would have similar powers to —

Ms DIXON — The VPDSF is quite specific. There is nothing quite like it in other jurisdictions. Treasury have gone to a great deal of trouble I think to compel the operator to be bound by best practice in the commercial space, like looking at standards through ASD — essentially best practice. Best practice is one of those moveable feasts, but hypothetically under the contract they must always maintain that best practice. So while there is no specific framework that they must be compelled to abide by, there is certainly a place where the Registrar can go and club them over the head and say, 'Well, I'm your customer and you have not actually maintained best practice in this regard'.

Mr MELHEM — And a heavy financial penalty can be imposed should they not comply with the contract.

Ms DIXON — I am not familiar with any penalties involved in the agreement.

Mr MELHEM — My understanding is that part of the proposed contract is that if they do not comply with KPIs, and that is one of them, a heavy financial penalty will be imposed by the regulator against the operator.

Ms DIXON — Again, in the Commonwealth space the OAIC has certain powers. In fact they have I think more significant powers than we do in terms of acting in that regard. But again I would not like to speculate on how they would exercise those powers. That is really a matter for them as a regulator rather than us.

Mr MELHEM — That is why I am trying to see. You have got the dual compliance regime, if we are going to put it that way — the Victorian regime, which is through yourselves via the Registrar, and then you have the federal jurisdiction, which basically applies to the same thing. So there is a dual, I suppose, supervisory role to make sure they are doing the right thing.

Ms DIXON — It is not quite the same because in fact in practice the regulators do not both pursue the same thing.

Mr MELHEM — That is right.

Ms DIXON — So it would be one or the other. I think we have addressed this in our submission, particularly in relation to privacy rather than data protection. The question for the public is: which regulator do I go to? By and large our understanding from the discussions that we have had with DTF is that all of the current operations that Land Use Victoria currently conduct will still be offered through the Registrar. This is the current proposal. In that event the OAIC would not step in because it is an element that we would have jurisdiction on, and we do not tend to fall over one another in those situations. What does happen is that occasionally we have to refer matters to one or the other. That happens currently — not terribly frequently, but it does happen currently. In this specific example though, I think there needs to be an understanding, a clear commitment, that where they are offering new products, for example, the public be clear —

The CHAIR — You are saying a transparent process —

Ms DIXON — and industry as well, so that in the event that there is an issue, that people are aware of which jurisdiction is appropriate because it is a private operator, it is a government entity. Who are my dealings with as an individual? There just needs to be a clarity for the community I think in that regard. As I say, it is a bigger issue I think in the privacy space than in the data protection space.

Dr RATNAM — Could I ask a follow-up question on that?

The CHAIR — Yes.

Dr RATNAM — I think you mentioned previously, perhaps it was in relation to New South Wales, in terms of where some of those practices are regulated through legislation as opposed to regulation. Do you think that we would have more safeguards if this was being proposed through legislation versus a regulatory environment? Do you have a comment on that?

Ms DIXON — It has been government policy to pursue this particular objective. It is for the government to determine the mechanism they want to undertake, not for us to express a view as to whether or not their policy is sensible.

Dr RATNAM — In terms of the privacy protections, I guess I am getting at more. Do you think you have greater safeguards if it is mandated through legislation as opposed to through regulation?

Ms DIXON — Speaking of privacy, and I think our submission makes this clear, Treasury has gone again to some lengths to bind the operator to the IPPs, and as a contract service provider for the government they would be bound by the IPPs anyway. The OAIC has the APPs, which are the Australian Privacy Principles, which are related but not exactly the same. In binding the operator, and again this comes down to things that are done through the Registrar, the IPPs do apply because of the contractual requirement. To that extent people still have the right to pursue privacy complaints and the operator will be bound and we will be able to actually deal with the operator directly because they are bound. This, again, happens quite commonly at the moment where there is a government contract service provider and we approach the agency and they say, 'Well, we've signed a contract' and they give us the name of the contractor and we pursue the contractor.

Dr RATNAM — I believe I read in your submission that potentially one of the risks is that if there are further changes made to that contract in terms of the oversight and the scrutiny and transparency that would be afforded to those changes in contracts, that was one of your concerns. Is that a fair summation, that you would be concerned if there were further contract changes that were not subject to scrutiny?

Ms DIXON — As the Information Commissioner's opening statement said, it just changes the dynamic. At the moment if you wish to change those things, it would have the oversight of Parliament. The processes would be that —

The CHAIR — At paragraph 21 you lay it out very clearly:

> Contracts can be modified by agreement between the contracting parties. It is possible that the obligations placed on the operator could be modified by agreement between the operator and the state and the Registrar without direct parliamentary oversight.

It is very clear at paragraph 21.

Ms DIXON — Yes. The degree to which the contract now contains protections, they are contractual protections, not legislative ones. When you asked at the opening about the risk, that would be the chief risk.

The CHAIR — The government could as part of the contract indicate, for example, that it would make a parliamentary statement of some kind if it were to undertake those kinds of changes.

Ms DIXON — I do not know that I am in a position to recommend the instrument that the Parliament should take. I think you would be far better informed on those matters than me.

Mr MELHEM — In relation to that, are you still in discussions with DTF and the government in relation to these matters before contracts are finalised?

Ms DIXON — We have had several discussions with DTF, in some detail, and they have attempted to address all of our concerns. I think when we first came to them we had quite a lot of questions and they have endeavoured to answer all of those questions, which is to their credit. I am not aware that we would get to see the nature of the contract, and the detail of the contract will probably contain a lot of provisions that are commercial in confidence and I think it will be difficult for us to compel some of those things. Having bound them, however, to the standards, they will be required to report back to us on how those things are operating. We had not envisaged at this stage pursuing a great deal further in detail, because as I say, to the extent to which they are bound by the standards, that is fine. We do not demand how people do things; we just demand that they do them to a standard. It depends on timing a little bit, but when the Registrar comes to attest on 31 August and looks at their risk framework, we will be very interested in that.

Mr MELHEM — Because one of the areas you are suggesting, for example, is that a consultative body be put in place to oversee —

Ms DIXON — I do not believe that was our suggestion. I believe that Treasury have actually informed us that they intend to have some kind of governing body. I think we have suggested that if they do that, it would be really lovely if they had somebody who had some awareness of privacy — again, not data security. The data security stuff is fairly easy to spell out, but the awareness of privacy — if I can be as broad as possible here, privacy is a right that you have. Data protection is an obligation that the government has. And those are quite

different things. On the privacy side of things, when you are proposing a new product or service, for example, it is always good practice for anybody to do a privacy impact assessment — to ask yourself, 'Well, I'm doing this new product. What are the risks to privacy in this new product or service? What could go wrong with the rights of those individuals?', and refer those back to the IPPs. We have lots of resources in our office to assist agencies and organisations that are working under contract with understanding that. But from a governing perspective, I think we would say for any government agency proposing any new service, 'Do a PIA. It's best practice'. It would be great to have that followed through in the private sphere as well.

Mr MELHEM — Last question from me. Can you share with us any experience in the other jurisdictions — South Australia, for example, or New South Wales. How have they gone about their data protection?

Ms DIXON — As I say, they are quite different jurisdictions for a start, so a lot of them do not have — both New South Wales and South Australia lack the kind of protective framework we have in Victoria. It is quite specific to Victoria, so it is very difficult to compare, because there is no framework to bind an operator to. The second point there is that it was done by legislation, and those are now private entities. Again, it is a totally different animal, and it is very hard to assess what the risks of one or the other would be — first of all, because the jurisdictions are different; secondly, because the revised bodies now do not fall under our jurisdiction or any of those state jurisdictions. They are under the province of the OAIC.

Mr MELHEM — It is hard to compare them.

Ms DIXON — It is apples and oranges. It is impossible to do a direct comparison.

The CHAIR — To summarise the recommendations here for protection of privacy rights into the future, you are saying the governance body that is discussed should have a suitably qualified person with privacy knowledge. There should be consideration of privacy issues when approving new products. Your office and the Commissioner is saying in effect, 'I suggest a process for approving new products should be made as transparent as possible and that there should be privacy involvement in that process, and I am doing this for the benefit of the public so that they understand exactly what is being proposed here'. Finally, there should be a requirement to notify your office of data breaches. That does not seem to be currently in the proposal.

Ms DIXON — No, so this is the interesting thing about a collision of jurisdictions where it is a private operator and a state government registrar. To the extent that part 4 or part 6 or part 3 or any of those parts of our act apply to them, there is no mandatory data breach legislation in Victoria. There is in the Commonwealth, but for all the products sold by the Registrar there is not currently a requirement for a data breach notification. Obviously our experience as a regulator is that in fact data breaches always go better for everybody where the entity that has suffered the breach comes clean very quickly, because it gives the public a view of whether they need to go and do things like change passwords or actually delete their accounts or whatever else they want to do, but it also then gives other agencies or operators that might be dealing with that entity a way to reduce their risk as well. The earlier that that happens — and of course a mandatory data breach notification actually compels that; the OAIC's experience has been that people have to come forward, so they do come forward.

The CHAIR — So on this, it seems to me that the state government could bind Land Use Victoria and the titles Registrar to report breaches, and the contract could require the operator to report immediately to either of those bodies.

Ms DIXON — My understanding at the moment is that under the proposal from Treasury, in the proposed contract the operator will be required to report breaches to the state — meaning Treasury — and to the Registrar, but there is nothing ongoing, as there is not now currently. We do not have any legislation for that in Victoria, so at the moment if the Registrar suffers a breach, there is no legal requirement for them to tell us about that breach. We encourage everybody to come forward as fast as possible, and we work with agencies —

The CHAIR — But across the public sector that can be done by protocols and agreed —

Ms DIXON — Only by encouragement. To the degree to which we work with agencies, we have a very good relationship with a number of agencies, and we have an entire team devoted to working with those agencies whenever a breach occurs and working with the affected parties. That occurs across the state and includes local government and state government. We assist everybody in that regard. Certainly the best

outcome, actually, for everybody concerned is if the body comes to the regulator before a skilful journalist uncovers the fact that it has happened, because then there is a lot of panic, and it is always much better if everybody just actually calmly discusses the issue.

Dr RATNAM — Can I ask, with the recent PEXA breach, were you all officially notified of that?

Ms DIXON — No. The first thing is PEXA is actually a private company, so they will be caught up in the OAIC's regime. I have not contacted OAIC to see whether or not PEXA has reported to them. Certainly there is a legislative requirement now for PEXA to report that breach, so I presume that that has happened, but it is out of our jurisdiction and we try not to tell the other regulators how to do their job.

Dr RATNAM — But in any case, mandatory requirements aside, PEXA has not come to you officially to notify you of the breach?

Ms DIXON — They have no obligation to, and as I say, we would not investigate anyway, because it would be an issue for the federal regulator. It would be inappropriate to have multiple regulators poking around. It introduces noise rather than clarity.

Dr RATNAM — In terms of the differences potentially between that example — the PEXA breach, which is a private company, and the proposed land titles office commercialisation of some of their functions — are you suggesting that because the Registrar is the kind of intermediary, you would have some jurisdiction, you would have the jurisdiction that —

Ms DIXON — We would encourage the Registrar to come to us. The committee may wish to make a recommendation that that in fact be part of the regime, but we would encourage the Registrar certainly to engage us as early as possible.

Dr RATNAM — Just one last question from me, sorry. At the beginning of your submission you talked about the move to the regulatory and contract regime. Are there any other examples? Can you tease out some of the issues with that moving to more of an arrangement that is bound by contract, not regulation? Are there other examples recently where you have seen that occur? How has it worked in terms of moving from just regulation to regulation and contract?

Ms DIXON — I should just clarify that I have only been in this role since November, so as to the number of breaches that I have seen involving service providers, I am aware of one. Again that is an issue where we had a privacy complaint — not a data complaint; we had a privacy complaint — and it hinged on the private operator. That is an ongoing matter, so I would not want to comment on it in detail, but because it was done under a state contract, we do have the power to work with that operator. It is just that the first step is that we get notified that it is a private operator and that they are bound under the contract with the state. It is certainly doable — certainly achievable.

Dr RATNAM — My final question is just in response to your previous mention of the consultation that has occurred to date and a number of concerns it will have raised. You said the Department of Treasury and Finance has gone a long way to responding to your concerns. Are you satisfied with the responses that you have been given so far — that your concerns have been satisfied?

Ms DIXON — Yes, as per our submission, I think the residual concerns that we have are due partially to the nature of the way that the thing is being done, which is unavoidable; that is the government policy. Having done that, there are some residual issues. These are not things that are soluble contractual arrangements; it is just the nature of the thing. So we do not want to beat Treasury over the head for something that cannot actually be further explored in that kind of context. They have gone as far, I believe, under contract as you can go, with the exception of the two or three things we have called out in our submission. We would encourage those things, but we have no legislative ability to mandate them.

The CHAIR — Can I thank you both for your evidence. Can you pass on our thanks to the Commissioner?

Ms KUMMROW — We certainly will.

Ms DIXON — Thank you for your time.

Committee adjourned.