



# **2011 – 2012 ANNUAL REPORT**

**The Personal Identification Information in Property Data Code of Conduct.**

The Code of Conduct provides for a free and independent dispute resolution scheme dealing with disputes that individuals have with subscribers to the Code.

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## **MESSAGE FROM THE CHAIR**

The Personal Identification Information in Property Data Code of Conduct commenced on October 1, 2009 and this is the third Annual Report of the Code Oversight Committee.

The Code aims to help meet community and industry needs and expectations about the access to, and use of, personal identification information contained in the QVAS electronic database maintained by the Queensland Department of Natural Resources and Mines (DNRM). In particular, an objective of the Code of Conduct is to prevent the use of the names and service addresses in the QVAS data for unsolicited direct marketing.

2011/12 was a significant year in many ways. In accordance with the requirements of the Code of Conduct an independent review of the operation and effectiveness of the Code was commissioned and was underway at the time of this Report's preparation. During the year the Code Oversight Committee finalised a complicated dispute, which resulted in one real estate agency being listed on the Register of Excluded Parties, with the consequential loss of access to QVAS personal identification data for a period of six months, for a breach of the Code's prohibition on unsolicited direct marketing. The year also saw continued efforts to inform and educate the real estate industry, in particular, about the Code. In addition a brochure to assist industry, consumers and the general public understand the Code was published.

As Committee Chair, I would like to express my thanks to my fellow Committee members, Mrs Kris Day (Consumer Representative) and Mr Kris Matthews (Industry Representative), for their committed efforts during the past year. My gratitude and that of the Committee as a whole goes to Ms Jodie Harling, the Code's Systems Administrator, who performs a vital role in supporting the Committee and its information systems and interacting with Code subscribers and consumers.

My thanks also go to the information brokers who are Code subscribers and members of the Value Added Property Information Broker Association Incorporated. The Association provides the financial support for the administration of the Code.

I also wish to convey my thanks to the officers of the Department of Natural Resources and Mines for their ongoing assistance with the Code's application.

Neil Lawson

**Chair, Code Oversight Committee**

## **ADMINISTRATION AND THE COMMITTEE**

The Code Oversight Committee consists of an independent Chair, a consumer representative and an industry representative.

The role of the Committee includes the following

- approving and registering Information Brokers as Code subscribers
- monitoring compliance with the Code by its subscribers and to ensure ongoing effective operation of the Code's requirements
- receiving and investigating unresolved complaints
- imposing sanctions on subscribers for failure to comply with the Code
- maintaining the Register of Suppression Requests
- maintaining a Register of Excluded Parties

The Committee also has reporting obligations including the collation of information and the publication of annual reports and the commissioning of an independent review of the scheme's operations every three years. The first review is currently underway.

Further guidelines published by the Committee, the Terms of Reference, include details of the jurisdictional limits of the Committee. These Guidelines assist interested parties in understanding the powers, duties and procedures of the Code Oversight Committee. The Guidelines should be read in conjunction with the Code of Conduct.

Amendments to the Code of Conduct can only be made by the Committee, in consultation with its stakeholders, appropriate individuals, industry and the Department of Natural Resources and Mines (DNRM, the Department).

### **Committee Members**

#### **Mr Neil Lawson**

##### *Chair*

Neil Lawson is the independent chair of the Code Oversight Committee and is nominated by the Minister for Natural Resources and Mines.

Mr Lawson has worked as a management consultant and has held executive management positions in the private and public sectors. He is a past Commissioner for Consumer Affairs for Queensland. Mr Lawson is an ethics consultant and trainer in workplace conduct matters in the public sector.

## **Mr Kris Matthews**

### *Industry Representative*

Kris Matthews has over 15 years' experience in the real estate and information technology industries.

Mr Matthews commenced with Micro Developments in May 1997 which was later acquired by RP Data in November 1999. In his current role he is responsible for overseeing Industry Development, which includes strategic partnerships, acquisition and management of the RP Data SME Sales Teams.

## **Mrs Kristina Day**

### *Consumer Representative*

Kris Day has over twenty five years' experience in the finance industry and more specifically in the consumer rights and complaints resolution sectors. Mrs Day was nominated by the Office of Fair Trading.

Mrs Day continues to be active in the fields of developing and improving complaints management processes and procedures, including internal disputes resolution schemes, and consumer education.

## **Administration**

Ms Jodie Harling

### *Systems Administrator*

Jodie Harling is the Systems Administrator for the Code Oversight Committee and the Value Added Property Information Broker Association. Her role includes administering the Personal Identification Information Property Data Code of Conduct (PIIPD) website.

Ms Harling has been employed by RP Data for over four years with roles as an Executive Assistant and the Assistant Privacy Officer. Prior to her commencement with RP Data, she worked in the real estate industry for 5 years.

Ms Harling contributes to the case management by documenting and recording all incoming correspondence and alerting Code subscribers to complaints received. Ms Harling also assists with quality assurance in case management and the ongoing management of external relationships.

## **INDUSTRY, GOVERNMENT AND THE CODE OF CONDUCT**

The Code of Conduct (the Code), was established to address concerns about the use of personal identification information being sourced from Queensland Valuation and Sales (QVAS) databases maintained by the Department of Natural Resources and Mines.

The database contains the following information:

- details of the property, including the street address
- transaction details (e.g. purchase price and type of sale); and
- relevant details, i.e. names and service addresses of the vendors and purchasers.

The service address is to where formal correspondence is sent, for example, a rates notice and in some instances may differ from the property address.

Access to the information held in the QVAS database is available to individual businesses, industry professionals and members of the public and can be obtained over the counter for a fee from the Department. The information is generally accessed by potential purchasers and professionals acting in property transactions, for example, solicitors and valuers.

### *Information Brokers*

Subscribers to the Code include all the major information brokers operating within Australia. The Code came into effect on 1 October 2009.

Code membership is mandatory for a broker seeking to access personal identification data.

Before an information broker will be licensed by the Department to have electronic access to the QVAS data, the broker must be approved by the Code Oversight Committee as a subscriber to the Code and thereby be committed to comply with the requirements set out under the Code.

Information brokers worked with the Queensland Government to develop the Code of Conduct as a means for the industry to self-regulate the use of the data.

Industry is responsible for the day-to-day operation of the Code and its associated dispute and sanction mechanisms, as well as overall management of the Code.

### *Licence Agreements*

The role of Government is primarily through its licence agreements with the individual information brokers that electronically access the Queensland Valuation and Sales (QVAS) data.

Access to bulk data held in the QVAS database has been granted to a number of information brokers. This is in the form of a licence agreement obtained through the Department. A number of brokers' clients also access QVAS data through products distributed by the information brokers.

The clients include real estate agents, valuation agents, surveyors, financial institutions and members of the public. The products include additional data added by the information brokers from other sources. These may include photographs of the property or a map of the property location.

The QVAS data fields containing the names and service addresses of purchasers and vendors (QVAS Identified Information) are only accessible to approved information brokers who subscribe to the Code.

### *Direct marketing*

A fundamental aspect of the Code is to prevent personal identification information in QVAS data from being used for unsolicited direct marketing by businesses who are clients of licensed information brokers. Direct marketing can include, but is not limited to, telemarketing, bulk email messaging, postal mail outs and list brokering.

Names and addresses of persons are commercially available, as mailing lists, from sources other than the QVAS database. For example, in some instances local government makes its rate lists available or names and addresses are collected when members of the public enter competitions and complete entry forms with their personal contact details.

In some instances letters are mailed to generic addressees such as “The Home Owner” or “The Property Owner” at specified street addresses.

The Code of Conduct does not apply to these examples of direct marketing unless the address for service is obtained from the QVAS database through a Code subscriber.

## **ACCESSIBILITY**

Contact details for the Committee and complaints staff at each of the subscribers to the Code are listed on the scheme website or alternatively, made available upon request to the Systems Administrator.

Consumers can utilise the scheme to lodge a complaint with a subscriber to the Code if they believe that direct marketing has taken place or if the subscriber has breached the Code in other circumstances.

If the consumer is unhappy with the outcome of their complaint as determined by the subscriber, the consumer may then lodge a dispute with the Committee.

Persons wishing to suppress their personal information may do so via an online suppression request function on the website.

The Committee will continue to ensure the existence of the scheme is actively promoted and easily accessible to consumers.

## SUPPRESSION REQUESTS

The personal information that can be suppressed is the name or names of the persons who are purchasers or vendors and the address they have nominated for service (i.e. their service address). Property held in the name of an incorporated body, such as a Proprietary Limited company, is not eligible for suppression.

Consumers may apply via the website, to have their personal identification information suppressed. Code subscribers must then suppress that information within their systems within thirty days of receiving notification of the request. A current rates notice is requested in order for the suppression request to be actioned as it is evidence of the person's link to the property.

It is a requirement under the Code that subscribers must reasonably cooperate with all requests to suppress QVAS identified information. All suppression requests are added to a Register of RequestSuppressions which is the responsibility of the Committee and maintained by the Systems Administrator.

*Table 1 - Total of Suppression Requests*

Suppression requests	Up to 30 September 2010	Number of Properties	Up to 30 June 2011	Up to 30 June 2012
Received by Committee	93	43		
Lodged online			14	46

The Code came into effect on 1 October 2009 with the web based online Suppression Request function following in October 2010.

The online system means that for each property to be suppressed, an individual request must be submitted. This system also means a quicker response in terms of the initial request being made by the consumer. The Committee no longer receives the requests, rather they are responded to immediately when done online. If there are any issues with the request, the Systems Administrator will make contact with the consumer making the request.

In the current reporting period, the total number of suppression requests was 46; with 39 being approved. A total of 7 were declined; 1 was a NSW property, 5 were not made by individual property owners and 1 provided no proof of ownership. (Refer Table 1).

### *Timeframes for completion of Suppression Requests*

All suppression requests were actioned by subscribers within the thirty day timeframe. This is in accordance with the Code's requirements.

## **INDUSTRY REPORT**

### *Industry Representative's Report*

In the third year of operation it has been a pleasure to see the commitment of both the Broker Industry through the Value Added Property Information Broker Association Incorporated and the continued support of fellow Code Oversight Committee members, Neil Lawson and Kris Day.

This year continued the good work of prior years, in particular the following key milestones:

- Receipt and handling of 46 suppression requests, up from 14 last year via the PIIPD website.
- In addition the Code Oversight Committee reviewed and found a systemic breach by one end user resulting in the listing of that end user on the Register of Excluded Parties.
- Revised and enhanced PIIPD website, through the continued financial support of the broker industry – now represented with 7 Brokers and 3 Agents.

The Association has also funded and commissioned the first independent review of the Code and its initial 3 years of operation.

Kris Matthews

*Industry Representative, Code Oversight Committee*

# **THE ASSOCIATION PRESIDENT'S REPORT**

## *President's Report*

It's my pleasure to provide the President's report for 2012.

Whilst the year has been relatively uneventful, our Association continues to effectively meet the core purposes behind its formation three years ago, being to provide the financial basis for the operation of the Personal Identification Information in Property Data Code of Conduct (the Code), to provide an effective means by which members of the public can manage their personal information as contained in QVAS data and to promote the Code to the wider community.

The Code website has had some minor changes and continues to provide good access to consumers wishing to have their identity details suppressed from QVAS data. The majority of suppression requests received by the Code Oversight Committee (the Committee) are now received via the Code website. The website now includes a Register of Excluded Parties, allowing members to easily download and review organisations or individuals that the Committee has found to have been in breach of the Code and are not to be provided access to QVAS data. To date only one organisation has been excluded.

We have facilitated access to information on the Code with the production of an easy to read brochure that is available for download from the Code website. The brochure is also available for members to use in informing and training their customer base. An earlier version of the brochure had already been used by some members for this purpose.

This year also marks the third anniversary of the Code itself and as such the first triennial review of the operation and effectiveness of the Code is due to be completed. The Association endorses the appointment of Galexia Pty Ltd to conduct the review.

I am pleased to note that the Association continues to have a very good working relationship with the Code Oversight Committee. I thank and commend the Code Oversight Committee for their continued good work in administering the Code. I thank the Chair, Neil Lawson, and the Consumer Representative, Kris Day, for their contributions and dedication and fully support their continuation in those roles.

I would also like to thank departing office holders of our Association, Tom White and Grant Carter, for their contributions. I welcome the two newly appointed office holders Yvonne Chan and Colin Wilson and congratulate Kris Matthews on his reappointment to the role of Treasurer/Secretary and thank him for all the work he has done for our Association.

Finally, a huge thanks to Jodie Harling for keeping things ticking along for another year.

Yan De Horta

*President VAPIBA (Value Added Property Information Brokers Association Incorporated)*

## **USERS OF THE SCHEME**

### *Consumers*

The Committee will continue to work towards promoting the scheme and provide equitable access to its services.

The focus will be on achieving a higher profile in the community and will look for opportunities to continue to provide ready access through different mediums of accessibility. This, will include rural consumers, which would be those defined as living in the non-capital statistical divisions identified by the Australian Bureau of Statistics.

Being accessible means removing any barriers that make people unable or unwilling to utilise the complaints and disputes process. The language used to communicate to consumers and subscribers and their clients, if it is too abstract, technical or long-winded, can be a barrier.

In the first half of the reporting period, the Committee developed new templates and guidelines for the formal written decisions it makes, for example, Determinations and Jurisdictional Decisions. These documents promote writing in plain language. They will help ensure that decisions follow the same simple structure and format and are as clear and concise as possible, without sacrificing factual accuracy.

### *Subscribers and clients*

Promotion of the Code and related compliance and enforcement activities of the Committee, particularly in relation to prohibited direct marketing, will remain a focus of promotional literature as we move forward.

In the previous reporting period, seminars were conducted across Queensland which attracted large numbers of industry attendees. The seminars were organised and conducted by a major information broker and subscriber to the Code.

Seminars continue to be held with specific broker's clients if a breach of the Code is determined. This is done in order to ensure that there is future compliance with the Code's requirements.

### ***Promotional Activity***

#### *Case studies*

Case studies will be regularly posted on the website. These provide consumers with an opportunity to be informed about what sort of complaints the Committee can investigate. Due to the low number of disputes at this time no case studies have been posted.

Case studies also alert subscribers to possible problem areas with their procedures and enable them to make changes with a view towards minimising complaints before they escalate to a dispute.

#### *Publications*

A brochure, specifically designed to educate and inform consumers about the Code, the ability to request suppressions and how to lodge a complaint has been distributed to real estate agents and other industry specific entities. It is envisaged the brochure will be more widely distributed and this will also include consumer groups.

Further publications will be created as the scheme continues.

#### *Website*

The website contains important information about the Committee's jurisdiction and processes.

This information includes various publications, detailed information about how to lodge a dispute and complaint resolution contact details for subscribers to the Code.

## **REPORT FROM CONSUMER REPRESENTATIVE**

The primary role of the Committee is to fairly and independently resolve disputes. But to effectively carry out our role, we need to engage more broadly with the public, with subscribers to the Code and with various industry, consumer and government bodies.

This broader engagement with our stakeholders involves:

- **raising awareness** of the Code and the scheme in general in the community
- **educating our stakeholders** about how our dispute resolution process works, how we approach specific issues and how disputes can be avoided or quickly and collaboratively resolved
- **talking with our stakeholders**, to find out how we can best meet their needs and make our service as accessible as possible
- **contributing to policy discussions** relating to the industry, alternative dispute resolution and the jurisdiction of the Committee.

We can do these things through a mix of website resources, publications, creation of policy and ongoing communications.

The scheme is now three years old. This is a short time in the life of an organisation, but the scheme has had an extremely productive first three years. It has developed its Terms of Reference, dispute resolution process, systemic issue process, funding model and organisational structure. Most importantly, it now has a sound basis on which to continually improve.

So the first three years have been a time of process development and rapid growth. The goal now for the scheme is to enhance the service it offers to its stakeholders, to refine its processes and communications and to realise its potential. This work has already begun.

The Committee is continually striving to improve on procedures and the creation of policy. The strategies we will be using to achieve this objective include creating a fast track resolution process and identifying ways to improve and promote the scheme by way of process analysis.

Kris Day, Consumer Representative

## **COMPLAINTS AND DISPUTES**

A *complaint* is the term given to communications from consumers when they express dissatisfaction with a subscriber's service. Under the Code, all subscribers are required to have a documented internal dispute resolution (IDR) framework in place in order to deal with consumer complaints.

Consumers must try to resolve their complaint with the subscriber before the Committee can consider the matter. If consumers make contact with the Committee before using the subscriber's internal complaint process, the Committee will refer them to the nominated complaints person in authority at the relevant subscriber's office to give them the opportunity to resolve the matter.

A *dispute* is a complaint which has not been resolved through the subscriber's internal dispute resolution process or where the proposed resolution by the subscriber is not acceptable to the consumer. The dispute must be put in writing to the Committee.

### *Lodging a complaint with a subscriber*

In the first instance, consumers must direct all complaints to the relevant subscriber. The website contains contact names and other details for the nominated complaints officer at each subscriber.

If the matter has been dealt with internally by the subscriber and the consumer remains dissatisfied or if they had brought their complaint to the attention of the subscriber but with no response or resolution after thirty days, the Committee will then lodge the complaint as a dispute.

### *Lodging a dispute with the Committee*

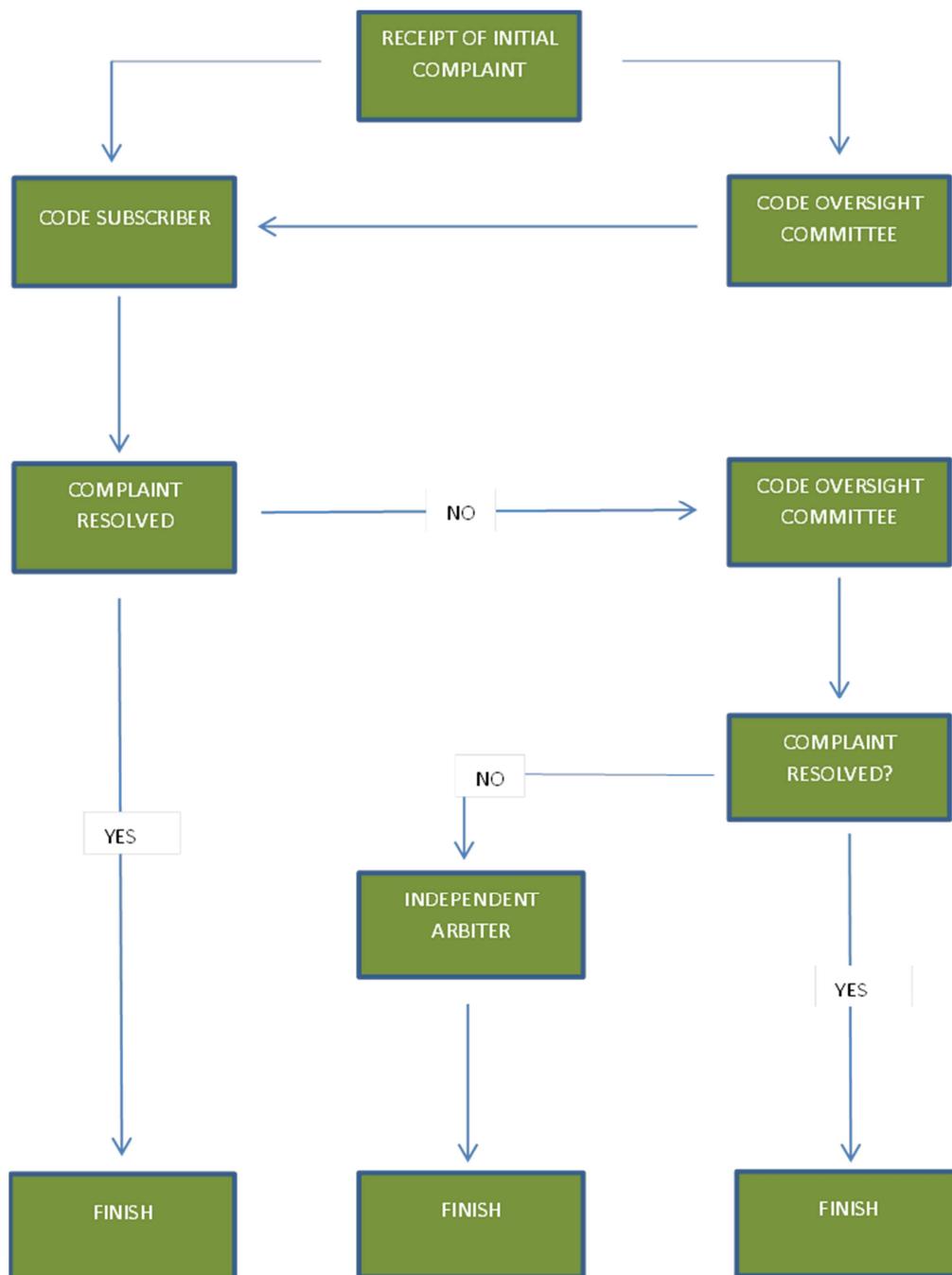
Following receipt of the unresolved complaint, the Committee will make an initial assessment of whether the basis of the complaint falls within the jurisdictional limitations and provisions of the Code. If it is not covered by the Code, the Committee will be unable to accept the dispute and the consumer will then be advised in writing of the reasons why an investigation will not take place.

If, however, the dispute falls within the ambit of the Code, the Committee will conduct a detailed investigation and will then make a decision.

If either the subscriber or the consumer is not satisfied with the outcome of the Committee's consideration of the matter, the Code then provides for the use of an independent arbiter. The cost of the arbitration is borne by the subscriber involved with no fee being charged to the consumer.

The decision of the independent arbiter is binding on the subscriber.

## OVERVIEW OF THE DISPUTE RESOLUTION PROCESS



This process is in line with the majority of complaints processes across a broad range of industries.

## **USE AND COLLECTION OF INFORMATION**

Reports about complaints and disputes are documented. These reports include the actions taken and decisions made in respect of complaints or disputes.

Data about complaints or disputes, including the actions taken and decisions made, are made available for independent reviews and for the purpose of continual improvement.

The continual improvement of the complaints or disputes handling process and the quality of products and services are a primary and ongoing objective of the Committee.

The establishment of a recording system is useful for managing complaints or disputes, and at the same time protects personal information and ensures consumer confidentiality.

The system specifies the steps for identifying, gathering, maintaining, storing and disposing of records.

All complaints or disputes are classified and then analysed to identify systemic, recurring and single incident problems and trends. This will help eliminate the underlying causes of complaints or disputes.

To do this, it is important to be able to analyse complaints or disputes according to categories, such as type of complainant, subject of complaint, outcome of complaint, and timeliness of response.

## COMPLAINTS AND DISPUTES RECEIVED IN THE REPORTING PERIOD

### *Complaints*

A total of 42 complaints were received internally by subscribers in the reporting period. A total of 3 complaints were outstanding at the end of the period. The Committee directly received 4 complaints which were referred back to the subscriber for internal dispute resolution. (Refer Table 2)

If a complaint is received and it is not known which information broker is involved, the Systems Administrator will contact all the information brokers, individually, requesting advice as to whether the agent, who is the subject of their complaint, is one of their clients. The relevant broker will respond and advise the complaint refers to one of their clients. The complaint details are then forwarded on to the broker in order for the internal dispute process to take place.

As of November 2011, the Systems Administrator received all complaints (other than those received directly by subscribers) and determines as to which subscriber the complaint is to be referred.

*Table 2 – Total of complaints received*

Total of Complaints	Up to 30 September 2010	Up to 30 June 2011	Up to 30 June 2012
Received by Committee	11	8	4
Received by subscribers	-	38	42
Received by external agencies	-	1	1

### *Disputes received and investigated by the Committee*

During the year under review there was one dispute registered with the Committee, with two incomplete disputes carried over from the previous reporting period. As of 30 June 2012, there were no disputes open at the end of the period.

### *Timeframes*

The time taken to resolve the dispute was lengthy. This was mainly due to the complicated facts of the matter and both parties being given opportunities to respond to the Committee upon being advised that a breach had been found by the Committee to have taken place.

In this case, the timeframe for resolution was also significantly delayed due to reports being finalised following receipt of other relevant correspondence from the parties. (Refer to Table 3)

*Table 3 – Days taken to resolve disputes*

Number of days to resolve	30 days	60 days	90 days	120 on
Disputes				1

*Outcomes - Consequences for a Breach of the Code*

The consequences of a breach of the Code by a Code subscriber, their agent or client can be very serious. The Code subscriber can lose access to personal identification information in the QVAS database and the Code subscriber’s agent or client can lose access to the same data from their information broker.

The party or parties responsible for the breach can be listed as ‘Excluded Parties’ under the Code and denied access to the QVAS personal identification information data. The Code subscriber’s client, such as a real estate agent, who is listed as an ‘Excluded Party’, cannot then obtain the data from any other subscriber. The Code subscriber has the responsibility of establishing binding agreements with its customers, agents or other third parties who gain access to the information. These agreements reflect the prohibition on direct marketing using personal identification information.

In making a decision the Committee may make any of the following types of orders requiring the subscriber to undertake immediate remedial action including the following

- require the subscriber to undertake privacy training
- issue a warning to a subscriber regarding the impact of any further breaches on future sanctions
- suspension of Code membership for 1- 6 months - resulting in the suspension of their QVAS user license
- require the subscriber to cease providing data and/or services to its customer or other third party
- require the subscriber to remove specified personal identification information from its data

In the dispute received in the reporting period, the Committee’s investigation reached the conclusion that a serious breach of the Code had taken place and the outcome was that the subscriber’s client was listed on the Register of Excluded parties for a period of 6 months.

## **THE COMMITTEE'S JURISDICTION**

The Committee has discretion to decide whether or not to consider a complaint. It may decline to consider a complaint if the subject matter of the complaint falls outside the Committee's powers or authority as provided for by the Code.

The circumstances in which the Committee may decline to consider a complaint include

- where the information provided indicates that the Committee could not fairly and reasonably exercise the complaint resolution powers
- where the complaint is outside the Committee's powers or authority as provided for by the Code
- where consumers do not authorise the subscriber to disclose confidential information to the extent necessary to permit the Committee to have access to and consider such information in the course of considering the complaint.

The types of complaints that the Committee may consider but decide not to act on, may include

- complaints that are more appropriately dealt with in another forum, provided that they do not involve a breach of the Code
- complaints that on the balance of probabilities have or are considered to have no basis in fact
- complaints that have not first been considered by the subscriber
- complaints that arose prior to the date of commencement of the Code, 1 October 2009
- complaints that the Committee has already considered and made a decision on, and there are no reasonable grounds for the matter to be re-opened

*Resolution already reached with subscriber or the internal complaint process has not been satisfied*

The Committee will not normally consider a complaint which has previously been settled. For example, the same claim has previously been made and the subscriber has offered a resolution of the complaint and the consumer has accepted it. An exception may arise if the complaint is evidence of serious or systemic breaches of the Code or the subscriber has not complied with any undertakings given to the complainant in resolution of their complaint.

In accordance with the Code, each subscriber is required to have an internal complaint process to deal with consumers' complaints. Consumers must try to resolve their complaint with the subscriber before the Committee can consider the matter. If consumers make contact with the Committee before using the subscriber's internal complaint process, then they will be referred to the correct person in authority at the subscriber's office to give them the opportunity to resolve the matter.

The Committee cannot consider the complaint until

- 30 days have elapsed since the consumer lodged the complaint with the subscriber's complaint resolution process, and the matter has not been resolved; or
- the consumer has notified the subscriber that its formal proposal to resolve the complaint is unacceptable, whichever is the earlier.

#### *Complaints outside the Committee's time limits*

The Committee may not exercise any of the complaint resolution powers

- if the act or omission to which the complaint relates took place more than 12 months before the date on which the consumer made the complaint to the subscriber in writing
- if the event occurred before the subscriber became a subscriber to the Code
- if the complaint is between a consumer and an agent, the business of which has been acquired by a subscriber, and if that agent was not an agent of the subscriber at the time the events (which are the subject of the complaint) occurred.

It should be noted that where a complaint relates to a series of events that commenced prior to the subscriber's date of membership and continued after this date, the Committee is able to consider the matter in its entirety (including those events that occurred prior to membership).

#### *Complaints already considered by the Committee*

The Committee may not exercise any of the complaint resolution powers if the subject matter of the complaint has already been considered. This provision does not prevent the Committee from reconsidering a case which has been previously closed, on the understanding that it may be reopened on the happening of some specific event.

If that event occurs, the Committee may recommence its investigation of the complaint.

## **SERIOUS AND SYSTEMIC BREACHES OF THE CODE**

### *Identification of systemic issues*

A systemic issue may be identified either by receipt of several disputes of the same type or as the result of only one dispute where the effect of the particular issue in dispute will clearly extend beyond the immediate parties.

### *Investigation and resolution*

If a determination is made that a serious or systemic breach has occurred, this decision is then provided to the Code subscriber in writing requiring a detailed response.

The following actions would be seen to constitute a serious or systemic breach of the Code:

- the Code subscriber has been responsible for substantial harm to consumers or the reputation of the industry
- the Code subscriber has engaged in repetitive or ongoing noncompliance
- the Code subscriber has ignored the Committee's request to remedy a breach or failed to do so within a reasonable time
- the Code subscriber has breached an undertaking given to the Committee.

### *Reporting*

The Committee is required to report all systemic issues to the department. When dealing with serious or systemic issues, the obligations of the Committee are

- to identify systemic issues that arise from its consideration of complaints;
- to refer these matters to the subscriber for response and action; and
- to impose remedies or sanctions.

The investigation and reporting of serious or systemic issues is of significant benefit to consumers and industry in that it will raise industry standards in the long term.

### *Sanctions for Serious or Systemic Breaches*

Where the Committee has made a decision that there has been a breach by a Code subscriber, the Committee may impose any of the following sanctions but are not limited to:

- issue a warning to a Code subscriber regarding the potential impact of any further breaches on future sanctions.
- publication of the name of the Code subscriber and the nature of the serious or systemic breach in the annual code compliance report or in other publications

- require the Code subscriber to undertake immediate remedial action including, but not limited to, changes to documentation or internal processes, and/or corrective advertising;
- require the Code subscriber to remove QVAS Identified Information from its data
- require the Code subscriber to remove specified Personal Information from its data
- require the Code subscriber to cease providing data and/or services to a Code subscriber's agent or other third party
- suspension from membership of the Code for a period of between one and six months, at the discretion of the Committee, and/or
- permanent suspension from membership of the Code and listing on the Register of Excluded Parties.

In cases where the Committee has determined to impose a sanction that involves suspension from membership of the Code, the Committee will advise the Department, so that it will then suspend provision of Personal Information under the subscriber's licence.

#### *Recording of Systemic Issues*

The Committee is responsible for the recording and maintenance of the Register of Excluded Parties.

A dispute was received in the current reporting period by the Committee where it found a serious breach of the Code had taken place. The Committee undertook an investigation and the result was the subscriber's client was listed on the Register of Excluded Parties.

## **CASE STUDIES**

### *Case Study 1*

Two neighboring property owners were most concerned when they started chatting one day and each commented how they had seen a photograph of the other person's house on the website run by a well-known property information company. They were more concerned that the website included the price for which each of their properties had been purchased.

Both parties complained and were advised that the publication of a photograph of a property on a website is not contrary to the Code of Conduct. It was further explained to them that the use of sales data is allowed by the Code of Conduct.

Information about the values of properties is seen in particular as important in supporting a well-informed marketplace.

### *Case Study 2*

The Committee received a complaint from a person who lives in Queensland but owns property in New South Wales. The complainant had received marketing material from a NSW real estate agent regarding her property in that State.

The complainant was advised that the Code of Conduct only applied to properties in Queensland and that she should make her concerns known to the NSW Government agency responsible for property data.

### *Case Study 3*

After receiving a complaint from two property owners about receiving unsolicited marketing material addressed to them personally, the information broker approached the real estate agent for an explanation.

The real estate agent made inquiries and came back with an apology. They acknowledged that one of their new staff had made a mistake and that the person had been reprimanded and instructed in the agency's obligations under the Code of Conduct. The real estate agent offered the complainants an apology.

While it was clear that a breach had occurred the explanation appeared to be genuine and the real estate agent was cautioned about the potential consequences of future breaches of the Code.

#### *Case Study 4*

A consumer complained that he had received marketing material from a real estate agent which he believed used his name and service address from the QVAS database. In this case, the real estate agent obtained property data from two different information brokers as well as from the firm's own database built up over many years.

This complaint was first investigated by one of the brokers. They contacted both the consumer and the real estate agent. The agent was asked to explain where they had obtained the consumer's address details. While the agent could not pinpoint where they had obtained the details they suggested that they had sourced the information from the other broker.

As a result the complaint was referred to the second information broker.

After receiving the referred complaint, the second broker contacted both the consumer and the real estate agent. The broker also checked the logs they keep of the data accessed by their clients. The broker's examination of their records did not reveal any evidence that the real estate agent accessed the consumer's details from the broker's database. This meant that there did not appear to be any conclusive evidence as to from where the consumer's details had been obtained.

However the address details had been obtained from some source and the result of the inquiries, in that no clear finding was made, was disappointing for the consumer who had made the complaint.

Unfortunately it is not always possible to obtain sufficient evidence to make a finding even after applying the standard of proof of the 'balance of probabilities' which is used under the Code of Conduct.

The consumer was advised that if they were of the opinion that the complaint had not been satisfactorily resolved through the broker's internal complaint process, there was an option under s 12 of the Code of Conduct for the complaint to be referred to the Code Oversight Committee for its consideration as an external dispute.

The consumer did not take the matter to the Committee for further investigation.

## FINANCIAL STATEMENTS

**1 July 2011 - 30 June 2012**

Code Subscriber Contributions	22,000.00
Oversight Committee Fees – Chair Neil Lawson & Consumer Representative Kris Day	17,257.95
Oversight Committee Fees – Industry Representative Kris Matthews	Nil
Administrator Fees – Jodie Harling	Nil
Website Development Fees	20,800.00
Other Expenses – Postage, Bank Fees, lodgement fees	989.33

## **APPENDIX A - DEFINITION OF TERMS**

### *Code subscriber*

An information broker that has agreed to be bound by the Code and has been approved as a member by the Code Oversight Committee

### *Code subscriber customer/client*

An individual or organisation that purchase or otherwise obtains QVAS Identified Information from a Code subscriber

### *Code Oversight Committee*

The Committee administering the Code

### *Complaint*

A complaint by a consumer to a subscriber concerning any act or omission by a subscriber in relation to a subscriber's product, service or a matter relating to personal privacy information. An act or omission includes offering, withholding, providing and administering a subscriber's service. Consumers may complain about the use or management of a subscriber's service. They may also complain about the failure or refusal of a subscriber to provide a service where there is an obligation to do so.

### *Consumer*

An individual whose personal information appears in any field in the QVAS database

### *DNRM*

The Department of Natural Resources and Mines responsible for the QVAS database

### *Direct Marketing*

One to one marketing, normally supported by a database, which uses one or more media to affect a measureable response and/or transaction from a person and includes, but is not limited to, telemarketing, bulk email, postal canvassing and list brokering

### *Dispute*

A dispute can be defined as a complaint by a consumer or government agency to the subscriber concerning a product, service or privacy issue which has not been resolved through the internal complaint resolution process of the subscriber within 30 days after notification that it exists, or the consumer has notified the subscriber that its formal proposal to resolve the complaint is not acceptable, whichever is the earlier.

### *End User*

A number of information brokers have been granted access to bulk data from QVAS. This is in the form of a licence agreement obtained through DERM. A number of brokers' clients also access QVAS data through products distributed by the information brokers.

These products include additional data added by the information brokers from other sources. These may include photos of the property or a map of the property location.

In these instances, clients can include real estate agents, valuation agents, surveyors, financial institutions and members of the public.

### *Independent Arbiter*

An independent person with expertise in dispute resolution, appointed by the Code Oversight Committee

### *Information Broker*

Information brokers are organisations which acquire data and information and provide it to their customers. The data and information is often obtained from multiple sources and is assembled according to the customer's needs.

Customers and clients of information brokers include banks, other finance providers, real estate agents, lawyers and other professional advisers, and members of the public.

### *Jurisdiction*

The structure and operation of the Committee, and the limitations of the powers and duties of the Committee.

### *Personal Information*

Information or an opinion (including information or an opinion forming part of a database) whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the opinion or information

### *PIIPD*

Personal Identification Information in Property Data

### *QVAS Database*

The Queensland Valuation and Sales System database administered by the Department of Natural Resources and Mines.

### *QVAS Identified Information*

Database fields containing the names and service addresses of purchasers and vendors which are only accessible to approved information brokers who subscribe to the Code.

### *Subscriber*

Before an information broker will be licensed by the department to have electronic access to the QVAS data, the broker must be approved by the Code Oversight Committee as a subscriber to the Code and thereby be committed to comply with the requirements set out under the Code.

### *Systems Administrator*

The systems administrator manages the day to day operations of the scheme

### *Systemic Issue*

An issue which has been raised in a dispute or several disputes which has the potential to affect consumers in addition to those who have complained to the scheme.

### *Terms of Reference*

A written document explaining the powers, duties and obligations of the Committee as set out under the Code of Conduct

### *VAPIBA*

The Value Added Property Information Broker Association Incorporated – the industry body responsible for the financial administration of the Code.

## **APPENDIX B - LIST OF PARTICIPATING SUBSCRIBERS TO THE CODE**

### **RP Data Limited**

(name change to RP Data Pty Ltd as of November 2011)

6 Eagleview Place

Eagle Farm Qld 4009

### **CITEC Confirm**

Level 3, 192 Ann Street

Brisbane Qld 4000

### **GlobalX Information Services Pty Ltd**

(name change to GlobalX Information Pty Ltd as of 12/5/2012)

GPO Box 2746

Brisbane Qld 4001

### **Residex Pty Limited**

6/21 Walker Street

North Sydney NSW 2060

### **Veda Advantage Information Services**

#### **And Solutions Limited**

Level 15, 100 Arthur Street

North Sydney NSW 2060

### **Australian Property Monitors Pty Ltd**

Level 1, Darling Island Road

Pymont NSW 2009

### **Onthehouse.com.au Pty Ltd**

4/55 McDougall Street

Milton Qld 4064

#### ***Sub Agents***

### **Property Data Solutions**

92 Petrie Terrace

Brisbane Qld 4000

### **Searchess Pty Ltd**

Lvl 9, 333 Adelaide Street

Brisbane, Qld 4000

### **Leap Searching**

(name change to InfoTrack as of 9/2/2012)

Level 8, 189 Kent Street

Sydney NSW 2001

**Code Oversight Committee**

**GPO Box 1815 Brisbane, Queensland 4001**

**Email [info@propertydatacodeofconduct.com.au](mailto:info@propertydatacodeofconduct.com.au)**

