

**2014 – 2015**

**ANNUAL REPORT**

## The Personal Identification Information in Property Data Code of Conduct

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## MESSAGE FROM THE CHAIR

The Code Oversight Committee is pleased to present the 2014-2015 Annual Report for the Personal Identification Information in Property Data Code of Conduct. The Code of Conduct has been operational for six years.

This report outlines the Committee's efforts to enhance the administration and promotion of the Code of Conduct, and provides data on both complaints about breaches of the Code and requests by consumers for the suppression of their personal identification information.

The ongoing support of the Code Subscribers who assist consumers with their complaints and also fund the work of the Code Oversight Committee, through their membership of the Value Added Property Information Brokers Association Incorporated (VAPIBA), is gratefully acknowledged. Without the participation of the licensed information brokers who are the Code Subscribers, the Code of Conduct could not perform its role.

As Chair of the Code Oversight Committee I wish to thank my fellow Committee members, Ms Fiona FitzPatrick (Consumer Representative) and Mr Kris Matthews (Industry Representative) for their ever willing contributions of time and effort to the Committee's work.

Thanks also go to Ms Lyndall Blake and Ms Jodie Hughes, who during 2014-2015 shared the role as the Code's Administrator and provided secretariat support to the Committee.

Finally, I wish to acknowledge the advice and assistance of officers of the Department of Natural Resources and Mines. As the source of the QVAS data and the authority which licenses the use of that data, there is a collaborative working relationship between the Department and the Code Oversight Committee and Code Subscribers.

Neil Lawson  
*Chair, Code Oversight Committee*

## THE CODE OF CONDUCT

The Personal Identification Information In Property Data Code of Conduct (the Code), was introduced on 1 October 2009, (when it was known as the QVAS Code of Conduct,) to address concerns about the inappropriate use of personal identification information sourced from Queensland Valuation and Sales (QVAS) databases maintained by the Department of Natural Resources and Mines (DNRM). The database includes the following information:

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

The 'service address' is the address nominated by the property owner for the receipt of official correspondence, such as Council rates notices, and may differ from the property's

street address. Investor-owned as distinct from owner-occupier properties will frequently have service addresses different to the property's street address.

Access to the information held in the QVAS database is available online to individual businesses, industry professionals and members of the public and can be obtained over the counter for a fee from DNRM. The information is generally accessed by potential purchasers and professionals acting in property transactions, for example, real estate agents, financing sources (e.g. banks), solicitors and valuers.

### **Information Brokers**

Information brokers worked with the Queensland Government to develop the Code of Conduct. The industry has primary responsibility for the day-to-day operation of the Code and its associated dispute and sanction mechanisms. The Committee monitors complaints to ensure that they have been actioned in an appropriate and timely way. Serious or repeated breaches of the Code can be referred to the Committee for action.

Before an information broker will be licensed by DNRM 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 must agree to comply with the Code.

Subscribers to the Code include all the major property data information brokers operating in Queensland. Code membership is mandatory for a broker seeking to access personal identification data from QVAS. Contact details for each of the subscribers to the Code are listed on the scheme website and in the Appendix to this report.

During the year, two Code Subscribers, Australian Property Monitors (APM) and PriceFinder, merged their property data businesses to form a single entity, APM PriceFinder.

### **Licence Agreements**

The Queensland Government enters into licence agreements with individual information brokers enabling them to access QVAS data electronically on a wholesale basis. 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.

In turn, brokers' clients (Code Subscriber customers) access QVAS data and other products distributed by the information brokers. These clients include real estate agents, lawyers, valuers, surveyors, financial institutions and members of the public. The products include additional data added by the information brokers from other sources, such as photographs of the property or a map showing the property's location. This data does not come within the jurisdiction of the Code.

### **Direct marketing**

The Code is designed to prevent personal identification information in QVAS data being used for unsolicited direct marketing by the clients of licensed information brokers. It only prohibits direct marketing where the name and or address for service is obtained from the QVAS database. Direct marketing can include telemarketing, bulk email messaging, postal mail-outs and list brokering.

Consumers can lodge a complaint with a subscriber (information broker) or with the Committee if they believe that prohibited direct marketing has taken place, or if the Subscriber, or their clients, have otherwise breached the Code.

Using personal identification information from QVAS is a breach of both the Code and of the data user's contracts with their licensed data provider who is a Code Subscriber. The terms and conditions of the contracts between a licensed information broker and their customer stipulate that QVAS name and address data cannot be used for unsolicited direct marketing.

The Code is not breached where personal details are obtained from sources other than the QVAS database. For example, some local governments make rate lists public. Other sources of data include, for example, names and addresses collected when members of the public enter competitions using their personal contact details, or real estate agents' records of persons visiting houses during open inspections.

## **THE CODE OVERSIGHT 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 their clients 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 a Register of Suppression Requests
- maintaining a Register of Excluded Parties

The Committee also has reporting obligations and to this end it gathers, monitors and reviews data which is included in its annual reports. It also commissions an independent review of Code operations every five years.

Amendments to the Code of Conduct can only be made by the Committee, in consultation with its stakeholders, industry and the Department of Natural Resources and Mines (DNRM, the Department). As discussed later in this report, the Code was updated in May 2015.

### **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 18 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. RP Data is now known as CoreLogic and in his current role, Mr Matthews is responsible for overseeing Emerging Markets, which includes strategic partnerships, acquisition and International Business Development.

**Ms Fiona FitzPatrick - *Consumer Representative***

Fiona FitzPatrick has worked in legal and managerial roles in both the private sector and with the State and Federal governments. Her experience at the Office of Fair Trading has given her an understanding of consumer issues, including direct marketing, from the perspective of both consumers and business. Ms. FitzPatrick also has expertise in dispute and complaint management and in alternative dispute resolution.

## **Administration**

**Ms Jodie Hughes - *Systems Administrator***

Jodie Hughes is the Systems Administrator for the Code Oversight Committee and the Value Added Property Information Brokers Association. Her role includes administering the Personal Identification Information Property Data Code of Conduct website.

Ms Hughes has been employed by RP Data (now CoreLogic) since 2008 with roles as an Executive Assistant, Paralegal and the Assistant Privacy Officer. Prior to her commencement with CoreLogic, Ms Hughes worked in the real estate industry for five years.

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

During 2014-2015, while Ms Hughes was on leave, Ms Lyndall Blake undertook the role of Administrator and provided the secretariat support for the Code Oversight Committee. Ms Blake has been employed by CoreLogic since 2013 in her current roles as Office Manager, and Executive Assistant and has a background in State Government, Industrial and Construction in multiple roles.

## DEVELOPMENTS IN 2014-2015

During 2014-2015 developments in the administration and promotion of the Code of Conduct included:

- The updating of the Code of Conduct in May 2015, with the approval of the Minister for Natural Resources and Mines, the Honourable Anthony Lynham MP. The amendments included:
  - More clarity about the obligations of information brokers and their clients (data users) particularly in responding to consumer complaints and alleged breaches of the Code.
  - Explicit statement that the standard of proof in determining whether a breach of the Code has occurred is the Civil standard, i.e. on the balance of probabilities.
  - The requirement of five-yearly rather than three-yearly independent reviews of the Code of Conduct's operation and effectiveness. (The next review will be due at the end of 2017.)
- The production of a two-sided A4 Fact Sheet about the Code of Conduct which can be readily distributed electronically or in hardcopy and reproduced inexpensively for easy reference.
- In late 2014 the Code Oversight Committee welcomed the interest and support of the Real Estate Institute of Queensland (REIQ) in promoting the Code of Conduct to its members by publishing an article by the Chair in the October 2014 edition of the *REIQ Journal*.
- The REIQ has continued to support the education of its members by distributing the Code's Fact Sheet to persons attending the Institute's training courses. The publication of the *Code Subscribers' Guide to Handling Complaints and Alleged Breaches of the Code of Conduct* to assist the staff of Code Subscribers in responding to complaints and investigating allegations of breaches of the Code of Conduct.
- Mentoring of individual Code Subscribers to build their compliance and complaint handling capabilities and to embed the Code of Conduct in their business practices and in their relationships with clients who use QVAS data.
- Updating the Code of Conduct's website ([www.propertydatacodeofconduct.com.au](http://www.propertydatacodeofconduct.com.au)).

## **INDUSTRY REPRESENTATIVE'S REPORT**

I would firstly like to thank my fellow committee members, Mr Neil Lawson and Ms Fiona FitzPatrick for their passion and professionalism throughout the past year.

I would again like to extend thanks to Code members and in turn VAPIBA for its continued support, not only financially to the running of the Code, but also for the members' commitment to actively engage with the Committee and in turn action Committee instructions and requests diligently.

As is highlighted throughout this report, the year ending June 2015 has seen a 50% reduction in complaints, which has enabled the committee to further develop and enhance education and guidance to code subscribers to implement compliance best practices.

I wish to thank Lyndall Blake and Jodie Hughes for their assistance in administering the code. I look forward to continuing to work with both Industry and the Committee throughout 2015/16 as we continue to grow the recognition and education of the Code.

Kris Matthews

*Industry Representative, Code Oversight Committee*

## **CONSUMER REPRESENTATIVE'S REPORT**

It is pleasing to note a 50% reduction in the number of complaints about unsolicited direct marketing from owners of property in Queensland between 2013-2014 and 2014-2015. Moreover, none of the substantiated complaints were found to be a 'second breach', so it was not necessary for the Committee to impose any formal sanctions. While several factors may have contributed to this improvement, I am confident that the ongoing efforts of the Committee, Code Subscribers and the Department to ensure that QVAS personal identification information is used responsibly have been influential.

In the last 12 months the Committee has implemented new strategies to promote compliance with the Code, such as industry education and mentoring by way of privacy officer education and onsite visits by the Chair. The Committee has worked with the REIQ to educate its members about their obligations under the Code, and with Code Subscribers to enhance the timeliness and effectiveness of their internal complaints processes. The publication of a complaint handling guide and template letters is designed to promote quality, consistency and timeliness in subscriber complaint handling.

Applications to suppress the publication of personal identification information in Code Subscriber databases have remained fairly constant over the past few years. While suppression requests are usually applied by Subscribers without incident, on occasion some

suppressed information is still identifiable due to technical issues. When these issues arise Code Subscribers and Code Administrators work together to ensure that the information is properly suppressed.

The Committee is ably supported by Code Administrators Jodie Hughes and Lyndall Blake, who consistently provide prompt and informed support to consumers, Subscribers and the Committee and I thank them for their valuable contribution.

I welcome feedback from consumers or consumer groups about how I can most effectively represent their interests under the Code. I can be contacted by email at [info@propertydatacodeofconduct.com.au](mailto:info@propertydatacodeofconduct.com.au) or in writing at GPO Box 1815, Brisbane, Queensland 4001.

Fiona FitzPatrick  
*Consumer Representative*

## **VAPIBA**

The membership of the Value Added Property Information Brokers Association Incorporated (VAPIBA) is made up of the licensed information brokers who are Code Subscribers. The members of VAPIBA pay annual subscriptions to meet the costs of the administration of the Code of Conduct, including the fees paid to members of the Code Oversight Committee, where applicable. The Code is fully industry funded.

During 2014-2015 the office bearers of VAPIBA were:

President – Mr Luke Ingham-Myers, Onthehouse Group (until May 2015)

Vice President – Mr Kris Matthews, CoreLogic

Treasurer / Secretary – Mr Richard Williams, Searchess Pty Ltd

## **SUPPRESSION REQUESTS**

Consumers can apply to suppress the name or names of the persons who are purchasers or vendors of properties in Queensland and their service addresses. Corporate property owners are not eligible to apply for suppression a current Council rates notice must be produced as evidence of the applicant's standing to make the request. During the year 44 suppression applications for suppression were granted by the Committee.

Code subscribers must suppress any personal identification information within their systems within thirty days of receiving the request from the Committee.

*Table 1 - Total of Suppression Requests*

Suppression requests	1 Oct 2009 to 30 Sept 2010	1 Oct 2010 to 30 June 2011	1 July 2011 to 30 June 2012	1 July 2012 to 30 June 2013	1 July 2013 to 30 June 2014	1 July 2014 to 30 June 2015
Lodged	93	14	46	43	43	44

## COMPLAINTS AND DISPUTES RECEIVED

### *Complaints*

After a significant increase in the number of complaints during 2013-2014 with 65 complaints being received, the number of complaints in 2014-2015 decreased markedly to 30. The Committee is confident that this reflects a growing awareness and commitment to Code compliance amongst subscribers and their customers.

Of the complaints received, 18 were received from the public by the Code Oversight Committee while 12 were received by Code Subscribers.

Of the 30 complaints received all involved alleged breaches by Real Estate Agents. After investigation, five agents were found to be in breach of the Code of Conduct. In all cases, it was the agent's first recorded breach and the agent was given a warning and required to attend training on their obligations under the Code of Conduct, with an emphasis on the prohibition of direct marketing as provided for by the Code.

*Table 2 – Total of complaints received*

Total Complaints	Financial year to 30 June 2011	Financial year to 30 June 2012	Financial year to 30 June 2013	Financial year to 30 June 2014	Financial year to 30 June 2015
Complaints Received	47	47	22	65	30

### *Register of Excluded Parties*

There were no additions to the Register of Excluded Parties in 2014-2015.

## FINANCIAL STATEMENT

**Table 3: Financial Statement 1 July 2014 - 30 June 2015**

Code Subscriber Contributions	35,200.00
Code Oversight Committee Fees – Chair and Consumer Representative <i>(Includes fees incurred in 2013-2014 but not invoiced in that year.)</i>	30,419.70
Code Oversight Committee Fees – Industry Representative	Nil
Code Oversight Committee Fees - Administrator	Nil
Website Development Fees	Nil
Insurance	1,905.00
Other Expenses – Postage, bank fees, lodgment fees	306.53

## **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 purchases 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 Code Subscriber concerning any act or omission by a Subscriber in relation to a subscriber's product or service if it relates 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 by their customers. 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 Queensland Department of Natural Resources and Mines, which is responsible for administering the QVAS database

### *Direct Marketing*

One to one marketing, normally supported by a database, which uses one or more media to affect a measurable 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 DNRM. 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.

"End users" can include real estate agents, valuation agents, surveyors, financial institutions and members of the public.

### *Independent Arbitrator*

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

### *Information Broker*

Information brokers 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.

### *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

### *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.

### *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.

*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 - COMPLAINTS AND DISPUTES

Consumers must try to resolve their complaint with the subscriber before escalating it to the Committee. If consumers make contact with the Committee before using the subscriber's internal complaint process, the Committee will redirect them to the contact person at the relevant subscriber's office.

Code subscribers are obliged to establish binding agreements with their customers, agents or other third parties wishing to access QVAS information. These agreements must reflect the prohibition on direct marketing using personal identification information. Further, the Code requires all subscribers to have a documented internal dispute resolution (IDR) framework for dealing with consumer complaints.

### *Lodging a complaint with a subscriber*

The website contains contact names and other details for the nominated complaints officer at each subscriber.

If the consumer remains dissatisfied with the subscriber's response or where their complaint has not been resolved within 30 days, the consumer can escalate the complaint to the Committee by giving written notice of a dispute

### *Lodging a dispute with the Committee*

Written notification of disputes and supporting material may be lodged by email with the Committee. If the dispute is not covered by the Code the consumer will be advised in writing.

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

- complaints which do not involve a breach of the Code;
- 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 which is necessary to investigate and determine the complaint;
- complaints that on the balance of probabilities have no basis in fact;
- complaints that arose prior to the date of commencement of the Code, 1 October 2009; and
- 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.

The Committee will not usually consider a complaint which has been settled. An exception may arise if there is evidence of serious or systemic breaches of the Code or if the data user has not complied with the terms of the settlement.

The Committee will not accept disputes brought outside the following time limits:

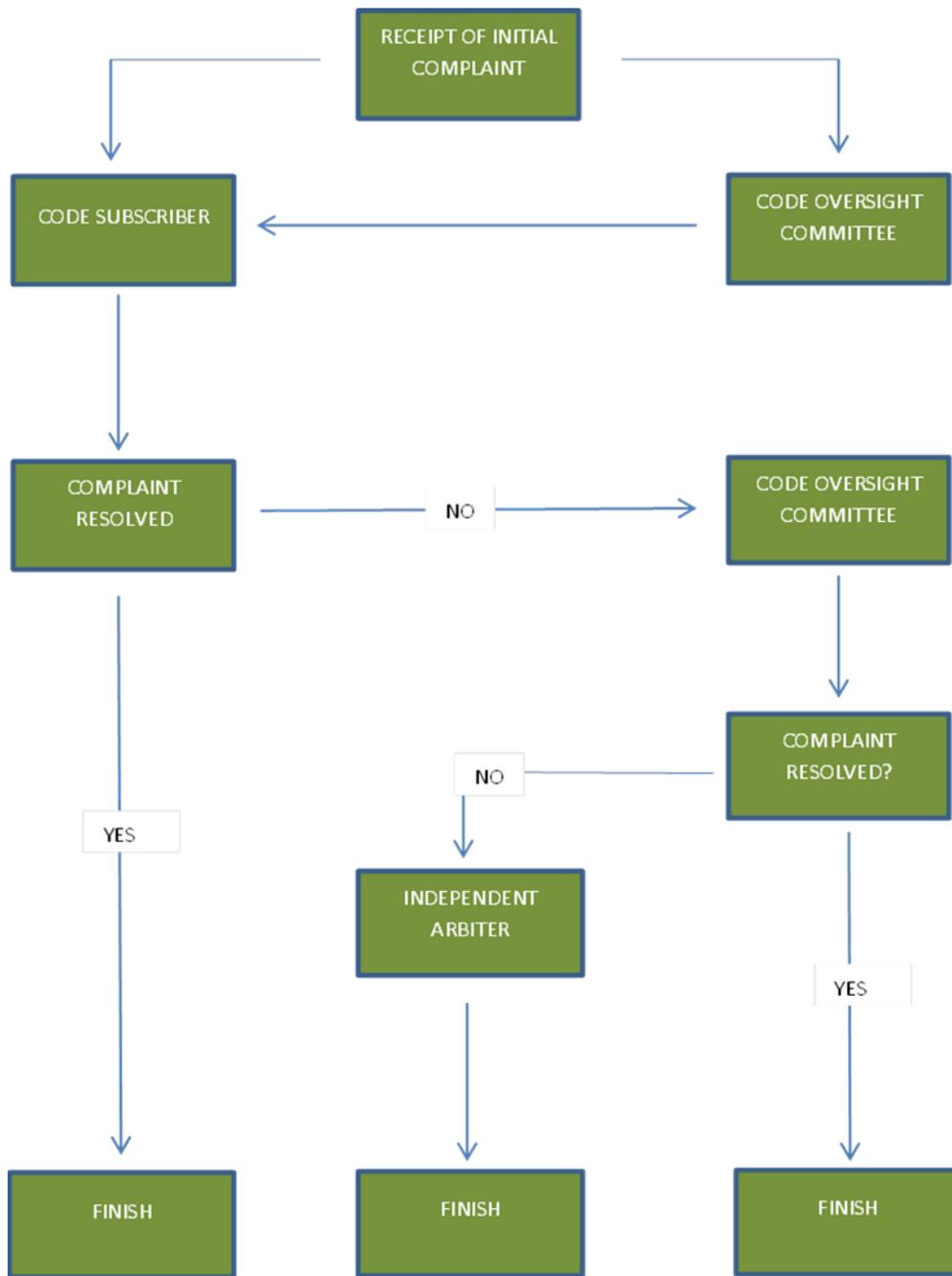
- where the act or omission occurred more than 12 months before the date on which the consumer made the complaint to the subscriber in writing; where the event occurred before the subscriber became a subscriber to the Code;
- where the complaint is between a consumer and a data user, the business of 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.

The Committee may refuse to revisit a dispute which has already been determined, except where it has decided that the dispute may be reopened on the happening of some specific event.

If the dispute falls within the ambit of the Code, the Committee will investigate and will make a decision.

If either the subscriber or the consumer is not satisfied with the Committee's decision the Code allows them to apply to 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.

The process for resolving disputes under the code was arrived at after considering complaints processes across a broad range of industries. The process is outlined in the flow chart below.



## **APPENDIX C - SERIOUS AND SYSTEMIC BREACHES OF THE CODE**

### *Identification of systemic issues*

The identification, investigation and reporting of serious or systemic issues plays a critical role in raising industry standards. A systemic issue may be identified either by a number of disputes of the same type or by one dispute where the impact of the issue in dispute will extend beyond the immediate parties.

The following actions could constitute a serious or systemic breach of the Code:

- the Code subscriber's actions have caused substantial harm to consumers or the reputation of the industry;
- the Code subscriber has engaged in 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.

### *Investigation and resolution*

If the Committee determines that a serious or systemic breach has occurred, it advises the Code subscriber in writing and requests a detailed response.

### *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.

### *Sanctions for Serious or Systemic Breaches*

The Committee may impose any of the following sanctions:

- 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.

## APPENDIX D - LIST OF SUBSCRIBERS TO THE CODE

As at 30 June 2015 there were seven Code Subscribers being (in alphabetical order):

**APM PriceFinder** Level 7, 140 Ann Street, Brisbane Qld 4000

**CITEC Confirm** 317 Edward Street, Brisbane Qld 4000

**CoreLogic** (previously RP Data Pty Ltd) 6 Eagleview Place, Eagle Farm Qld 4009

**GlobalX Information Pty Ltd** Level 6, 410 Ann Street, Brisbane Qld 4000

**onthehouse.com.au Pty Ltd** Level 2, 200 Adelaide Street, Brisbane Qld 4000

**Searchess Pty Ltd** Level 5, 110 Mary Street, Brisbane, Qld 4000

**Veda** Level 15, 100 Arthur Street, North Sydney NSW 2060

### Code Oversight Committee

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