

**Personal Identification Information in
Property Data (PIIPD) Code Oversight
Committee**

**PIIPD - Code of Conduct Review
(v15 4 March 2013)**

(Galexia Ref: GC417)

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1. Executive Summary

This report is the first Independent Review of the operations and effectiveness the *Queensland Personal Identification Information in Property Data Code of Conduct* (PIIPD). The report also includes a review of the operation of the Code Oversight Committee established under Section 18 of the Code.

The review compares the operation of the Code and the Committee against industry best practice in the areas of accountability, effectiveness, efficiency, accessibility, independence and fairness.

1.1. Introduction

The *Personal Identification Information in Property Data Code of Conduct* (the Code) commenced operation in October 2009. The objective of the Code is to help meet community and industry needs and expectations about the access to, and use of, personal identification information contained in the Queensland Valuation and Sales (QVAS) database.

The Code of Conduct works to prevent the use of the names and service addresses in the QVAS data for unsolicited direct marketing, and to allow individuals to suppress their personal information from the QVAS data provided by information brokers to their clients.

A Code Oversight Committee has been established with:

- An independent chair (appointed by the Queensland Minister of Natural Resources and Mines)
- A consumer representative (nominated by the Queensland Commissioner of Fair Trading¹); and
- An industry representative.

This review is an independent assessment of these arrangements and is examining the first three years of operation of the Code. In order to maintain consistency with statistics recorded by the Committee and consistency with their annual reporting requirements, the Review looks at information, statistics and issues that have arisen up to the end of June 2012. This review has been completed by Galexia <www.galexia.com> – independent consultants with expertise in privacy regulation and codes of conduct. The full methodology and scope of the review is set out in Section 2. Methodology at page 7

1.2. Findings

This review compares the operation of the Code and the Committee against industry best practice regarding codes of conduct.

The overall finding of this review is that the Code is operating in accordance with (or above) current standards of best practice. There have been minor issues with the introduction of the code that have been dealt with positively and pro-actively by the Code Oversight Committee. The establishment of the Code presents a positive case-study (for industry and government) on the introduction of co-regulation in a previous unregulated and complex sector.

Best practice guidelines have been developed by four Commonwealth regulatory agencies to assist in the framing of codes, and these provide a common core of criteria. The four guides are as follows:

- *ACCC, Guidelines for developing effective voluntary industry codes of conduct* (2005)
- *ACMA, Developing Telecommunications Codes for Registration: A Guide* (2003)

¹ Note: As of a December 2012 amendments to the Code, the Commissioner of Fair Trading makes the nomination

- ASIC, *Regulatory Guide 183 – Approval of financial services sector codes of conduct* (2007)
- OAIC (Office of the Australian Information Commissioner), *Privacy Code Development Guide* (September 2001)

The following table summarises the performance of the PIIPD Code and Committee against the key criteria in these guidelines. A more detailed table is provided at Appendix 4. – Best practice guidelines and Codes of Conduct at page 29.

Criteria	PIIPD Code	Finding
A. Binding	Code membership is mandatory for organisations accessing QVAS name data	Compliant with current best practice.
B. Jurisdiction	Jurisdiction clearly stated in Code	Compliant with current best practice.
C. Register of subscribers – available	Register of subscribers available on public website	Compliant with current best practice.
D. Proportion of industry that subscribe	Comprehensive coverage	Exceeds current best practice
E. Code compliance monitoring	Code oversight committee monitors compliance with suppression requests and also monitors consumer complaints	Compliant with current best practice. Some room for improvement in relation to monitoring processes.
F. Enforcement	Sanctions have been imposed when necessary. Public naming has not been required to date.	Compliant with current best practice.
G. Internal Dispute Resolution	Code includes a requirement for subscribers to have IDR in place	Compliant with current best practice.
H. External Dispute Resolution	Code Advisory Committee operates as the main EDR option, with recourse to an independent arbiter if required.	Compliant with current best practice.
I. Systemic Issues	Code requires Committee to identify systemic issues and report to the QVAS data custodian (the Department). The Code also includes a definition of serious or systemic breaches.	Compliant with current best practice.
J. Code Development	The Code was developed following a period of industry consultation. There are no overlapping Codes.	Compliant with current best practice.
K. Code Oversight	A Code Oversight Committee has been established, with balanced representation and clear objectives and terms of reference.	Compliant with current best practice.
L. Consumer representation	A consumer representative, nominated by the Office of Fair Trading, sits on the oversight Committee	Compliant with current best practice.
M. Code Chair	An independent Chair with no industry links sits on the Committee	Compliant with current best practice.
N. Code Review	An independent review has been commissioned (this report) three years after commencement of the Code.	Compliant with current best practice.
O. Public reports	The Committee provides regular annual reports, including statistics and case studies.	Compliant with current best practice.
P. Public naming of subscribers for non-compliance	Public naming is allowed under the Code, but has not been required at this stage. The list of excluded parties provides the name to all relevant information brokers.	Compliant with current best practice.
Q. Code promotion – industry body	The industry has formed a new body (VAPIBA) that has undertaken some limited code promotion.	Compliant with current best practice. Some room for improvement.
R. Code promotion – subscribers	To date, subscribers have promoted the Code directly to their clients. Some further promotion, e.g. website links may be required.	Compliant with current best practice. Some room for improvement.

1.3. Recommendation summary

Overall this Review has concluded that the Code and the Committee are working well, especially for such a new Code. Some minor areas for improvement have been identified, and some potential concerns regarding sustainability have been raised (if the number of complaints and / or suppression requests should grow in the future). Stakeholders have been cooperative with the review team and have expressed a high level of satisfaction with both the Code and the Committee.

The Code is well placed to deliver its objectives for another three years.

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2. Methodology

The following scope has been included from the *Terms of Reference for the Review (June 2012)* from the PIIPD Code Committee.

Galexia made a small number of agreed changes to this scope.

2.1. Scope In

The reviewer will report on the operations and effectiveness in the first 3 years of operation of the Queensland Personal Identification Information in Property Data Code of Conduct (PIIPD) and Code Oversight Committee as prescribed in section 18 of the Code.

The review will have regard to accountability, effectiveness, efficiency, accessibility, independence and fairness, taking into account but not necessarily limited to the following:

Independence

- The powers and roles of the Committee members
- The structure and roles of the Value Added Property Information Broker Association (VAPIBA; the Association)

Accountability of the Committee

- The adequacy of its systems for collecting and recording disputes information
- The content of the Annual reports, Brochures and other published material
- The reporting of systemic issues and serious misconduct to the Department of Natural Resources and Mines (DNRM) (previously the Department of Environment and Resource Management (DERM); (the Department)

Effectiveness of the Committee

- The appropriateness of the criteria used in decision making
- The degree of co-operation of subscribers with the Committee to achieve the purpose of the Committee
- The range of remedies and dispute resolution methods available to all parties, including consideration of a ‘reasonableness test’ on requests for an independent arbiter
- The investigation methodologies used by Code Subscribers when inquiring into complaints and possible breaches.
- The onus of proof – the question of whether Code Subscribers or their customers should be required to provide positive proof of the data source for name and address information used rather than the burden being placed on the Committee or Subscriber to prove, on the balance of probabilities, that QVAS has been used.
- Explicit mention in the Code that the standard of proof shall be the civil standard, i.e. the balance of probabilities
- The availability of support for the ongoing professional development of the Committee

Accessibility

- The amount and focus of the promotion conducted by the Committee
- The degree to which the Committee's contact points, processes and systems are user-friendly
- Effectiveness of referral of consumers from IDR mechanisms of subscribers

Efficiency of the Committee

- The degree to which the Committee meets its performance targets and reports to the Department
- The Committee's procedures and systems for monitoring subscribers compliance with timeframes for both responding to disputes and referrals to external dispute resolution
- The use of technology in the Committee's process, including on-line methods
- The timeframes set up by the Committee for the various stages of the dispute resolution process
- The systems in place to track disputes and reporting to parties re the progress of their dispute.

Fairness of the Committee's decision making procedures

- The information provided to consumers and subscribers about the procedures for resolving disputes
- Whether the Committee's procedures accord with the principles of reasonableness and allow for assessments and decisions of a matter to be based on other relevant industry Codes and industry practices.

Stakeholder consultation

The review shall include consultation with key stakeholders, which shall include but not necessarily be limited to:

- Queensland Department of Natural Resources and Mines (DNRM)
- Queensland Office of Fair Trading
- Code Subscribers / VAPIBA
- PIIPD Code Oversight Committee Chair
- Consumer stakeholder (if identified by the committee)

2.2. Scope out

The following items are considered to be out of scope by Galexia

- Detailed consideration of specific complaints
- Considerations of natural justice and detailed considerations of evidentiary burdens of proof – this changes the nature of an industry code
- Provision of legal advice to the committee
- Consideration of upcoming federal privacy reforms
- Review of the Queensland Privacy Act

- Public and open stakeholder consultations
- Development of detailed stakeholder questionnaires
- Supplying stakeholder interviews back to the committee
- Stakeholder interviews with complainants

2.3. Best Practice Guidelines

Comparisons can be made with best practice in the development and implementation of codes of conduct, as seen in the four best practice guidelines developed by Commonwealth regulatory agencies to assist in the framing of codes. These are set out below. There are a common core of similar criteria in these guides, and these form the basis of our comparative assessments of the Code.

The four guides are as follows:

- **ACCC**, *Guidelines for developing effective voluntary industry codes of conduct* (2005)
<http://www.accc.gov.au/content/index.phtml/itemId/658186>
- **ACMA**, *Developing Telecommunications Codes for Registration: A Guide* (2003)
http://www.acma.gov.au/webwr/telcomm/industry_codes/codes/codes.pdf
- **ASIC**, *Regulatory Guide 183 – Approval of financial services sector codes of conduct* (2007)
[http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/ps183.pdf/\\$file/ps183.pdf](http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/ps183.pdf/$file/ps183.pdf)
- **OAIC**, Office of the Australian Information Commissioner, *Privacy Code Development Guide* (September 2001, originally published by the then Office of the Federal Privacy Commissioner)
<http://www.privacy.gov.au/materials/types/guidelines/view/6482>

3. Overview of the Code

The *Personal Identification Information in Property Data Code of Conduct* (the Code) commenced operation in October 2009. The objective of the Code is to help meet community and industry needs and expectations about the access to, and use of, personal identification information contained in the Queensland Valuation and Sales (QVAS) database – this is an electronic database maintained by the Department of Natural Resources and Mines (DNRM).

The Code of Conduct works to prevent the use of the names and service addresses in the QVAS data for unsolicited direct marketing, and to allow individuals to suppress their personal information from the QVAS data provided by information brokers to their clients.

The Code was approved by the Government (as a way forward) after considering a range of options for improving compliance in the sector. Part of the agreement between Government and industry was that a Code Oversight Committee was formed with an independent chair (appointed by the Minister), a consumer representative nominated by the Commissioner of Fair Trading and an industry representative.

The role of the Committee includes:

- Approving and registering Information Brokers as Code Subscribers;
- Monitoring compliance with the Code by subscribers;
- Receiving and investigating unresolved complaints;
- Imposing sanctions on subscribers for failure to comply with the Code;
- Maintaining the Register of Suppression Requests; and
- Maintaining a Register of Excluded Parties (brokers or their clients whose access to data has been suspended following a breach).

The Committee also has reporting obligations including the publication of annual reports and the commissioning of an independent review every three years.

Informal meetings take place every 4-6 weeks by telephone and there is on average 4 formal minuted meetings of the Code Oversight Committee per year.

The Value Added Property Information Broker Association Incorporated (VAPIBA) has become the industry vehicle for managing the interests of Code Subscribers. There are different categories of membership of VAPIBA – full members are those who access QVAS data including names, sub members are any organisations who are a sub agent or only access QVAS data without names. There are 10 members. 7 full brokers and 3 sub members – these 10 members have been funding the Committee.

There have been 14 minuted meetings of the VAPIBA (including 2 AGMs) for the period from June 2010 to July 2012.

Member subscriptions help to pay for committee expenses, the website and the backend systems for accepting, tracing and processing suppression requests. RP Data administers the web site and manages the administration of suppression requests. They also provide a secretariat service to the Committee.

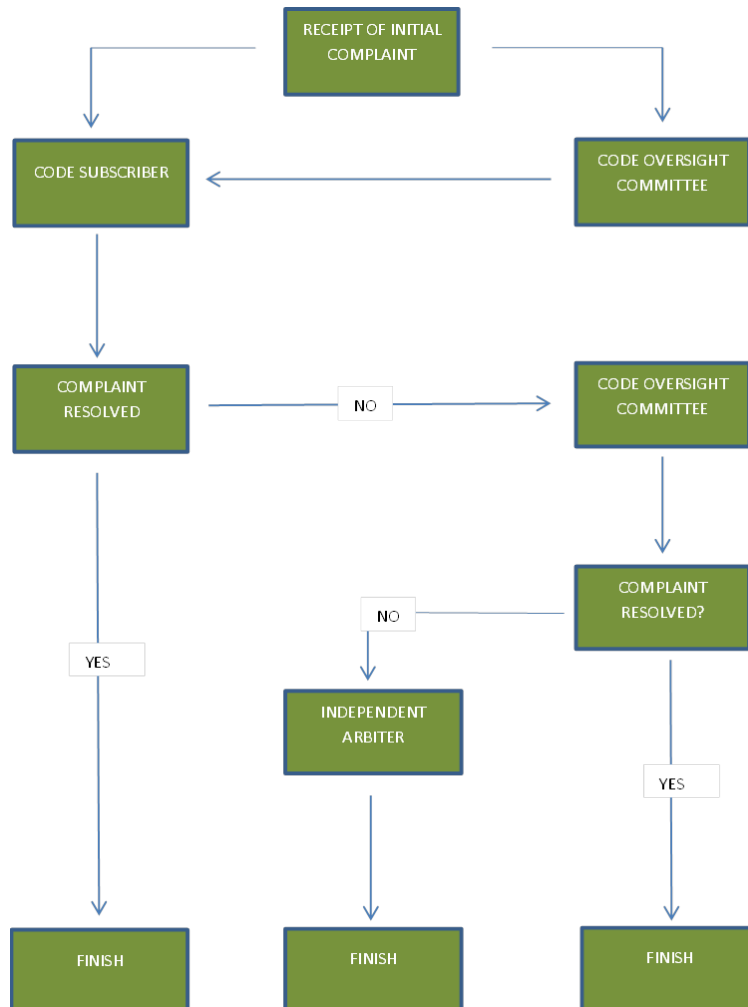
Suppression Requests

Consumers may apply (via the website), to have their personal identification information suppressed. The personal information that can be suppressed is the name of the purchaser or vendor, and their service address. Property held in the name of an incorporated body is not eligible for suppression. Once approved (by the administrator), this triggers an electronic workflow that alerts Code Subscribers to activate suppression.

Under the Code, as at the end of June 2012, there have been 100 requests to the Code Committee for suppression of personal information from QVAS data. This has resulted in 79 approved entries in the Suppressions Register.

Complaints

The Code also sets up a process for managing consumer complaints that cannot be immediately resolved directly with information brokers. The Code Committee has established the following dispute resolution process:



Under the Code, for a 3-year period until June 2012, there have been 105 complaints received (by the Committee, Subscribers and 3rd party agencies). 101 of these complaints were resolved without being referred to the Code Oversight Committee

Disputes

Under the Code, as at the end of June 2012, there have been 4 disputes referred to the Code Committee. All of these disputes have been resolved and there have been no referrals to an independent arbiter.

Serious and Systemic Breaches of the Code

Under the Code, as at the end of June 2012, the Code Committee has determined there has been 1 serious and systemic breach; the result was a sanction where the Subscriber's client was listed on the Excluded Parties Register for 6 months.

Summary for the period from October 2009 to June 2012

- 100 suppression requests
- 79 entries in the Suppressions Register
- 105 complaints
- 101 complaints resolved through Subscriber's internal dispute resolution processes and without escalation to the Code Committee
- 4 complaints escalated as disputes and referred to the Code Committee
- 4 complaints resolved
- 0 complaints referred to an independent arbiter
- 1 serious and systemic breach of the Code recorded
- 1 sanction for a serious breach resulting in an entry in the Excluded Parties Register for a 6 month period

Process development and activities

The Code Committee has organically developed infrastructure and processes over a 3 year period, including:

- Terms of Reference
- Dispute resolution process
- Systemic issue process
- Development of templates and guidelines for formal written decision made by the Committee (for example, Determinations and Jurisdiction Decisions)
- Development of funding model
- Finalisation of organisational structure
- Planning and commencement of detailed internal policy and procedure guidelines
- Publishing of Annual Reports (including statistics, updates on process and infrastructure, case studies)
- Establishment (and ongoing enhancement) of a web site and electronic workflows for key processes (such as suppressions)
- Development of a Brochure for members of the public
- Educational activities, including seminars conducted by Code Subscribers.

4. Participating Subscribers to the Code

The Code Oversight Committee must approve an information broker as a Code Subscriber before electronic access is granted to QVAS data by the Queensland government.

As at June 2012 there were 10 subscribers to the Code – 7 of these directly licence the QVAS data set and 3 are sub-agents:

	Broker	Website	Subscriber Type	Year Subscribed
1.	Australian Property Monitors	www.apm.com.au	Full access	Year 1
2.	CITEC Confirm	www.confirm.com.au	Full access	Year 1
3.	GlobalX Information Services	www.globalx.com.au	Full access	Year 1
4.	InfoTrack (was Leap Searching)	www.infotrack.com.au	Sub Agent	Year 1
5.	onthehouse.com.au	www.onthehouse.com.au	Full access	Year 2 (from 1 July 2010)
6.	Property Data Solutions (PDS)	www.pricefinder.com.au	Sub Agent	Year 1
7.	Residex	www.residex.com.au	Full access	Year 1
8.	RP Data	www.rpdata.com	Full access	Year 1
9.	Searchess	www.searchess.com.au	Sub Agent	Year 1
10.	Veda Advantage Information Services	www.vedaadventure.com	Full access	Year 1

9 of the 10 information brokers were initial subscribers to the Code, in 2009. From July 2010 there was an additional subscriber. Other than changes to the names of some information brokers, the number of subscribers has remained constant until June 2012.

In September 2012 onthehouse.com.au completed its acquisition of Residex and this may result in some changes to the number of Code Subscribers.

5. Operation of the Code

The Code was established to address concerns about the use of personal information being sourced from the Queensland Valuation and Sales (QVAS) database.

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
- Personal details of the parties (e.g. the name and service addresses of the vendor and purchaser).

The service address is the address for formal correspondence and may differ from the property address.

Over the counter access to QVAS information is available to individual businesses, industry professionals and members of the public for a fee. Bulk access is available only to information brokers who have signed a licence agreement with the Department. Code membership is mandatory for a broker seeking to access personal identification data.

A number of brokers' clients also access QVAS data through products distributed by the information brokers. The clients can 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 photos of the property or a map of the property location.

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.

The two key Code processes are (1) dealing with a suppression request and (2) dealing with a consumer complaint.

5.1. Suppression requests

It is a requirement under the Code that subscribers must reasonably cooperate with all requests to suppress QVAS identified information. The personal information that can be suppressed is the name of the purchaser or vendor, and their service address. Property held in the name of an incorporated body is not eligible for suppression. Provision of a current rates notice is mandatory in order for the suppression request to be actioned and to identify the Lot number of the property (which assists with accuracy and matching for each of the brokers processing the suppression to the QVAS data).

Consumers must apply via the website, to have their personal identification information suppressed. The following information (as well as proof of ownership, such as a rates notice) must be included.

Applicant1: Surname <input type="text"/> * Given Name <input type="text"/> *	
Applicant2: Surname <input type="text"/> Given Name <input type="text"/>	
Address of Property for which Suppression Direction is requested:	
Unit Number <input type="text"/>	Street Number <input type="text"/> * Name <input type="text"/> *
Suburb <input type="text"/> *	Town/City <input type="text"/> * Postcode <input type="text"/> *
Real Property Description	
Lots <input type="text"/> *	Plans <input type="text"/> *
Proof of Ownership: <input type="button" value="Choose File"/>	

The Administrator receives this information and validates that the details are correct, by running a search against the QVAS database. Some requests take some time to be validated and may require additional proof of ownership.

The exact data that has been entered by the consumer on the website forms the suppression request sent to subscribers and the entry in the Suppressions Register. The Administrator cannot amend the data (to make minor corrections) or make notes. Additionally, consumers may accidentally submit their request multiple times – this results in multiple entries in the register (that the administrator can not correct).

Once the Administrator has approved the request, an email alert is sent (with the suppression details) to the Code Subscribers. The Code Subscribers are required to logon to the Code Portal and indicate that they have downloaded the suppression information – this process does not always occur, as there is enough information in the email alert to action the suppression.

Code Subscribers must then suppress that information within their systems within thirty days of receiving notification of the request.

Interviews with Code Subscribers indicated that when they received a suppression request it was actioned immediately (or within a 5 business day processing window) and for the most part it appears that Suppression Requests are activated well within the thirty-day requirement.

All suppression requests are added to a Register of Suppressions, which is the responsibility of the Committee and maintained by the Administrator.

The Administrator is able to generate regular compliance reports on the timely processing of suppressions. This includes the time taken for the Administrator to action the request and the time taken for the Code Subscriber to action. It is possible for the Code Subscriber to action the request from the email and bypass the web-based workflow – meaning the Administrator may not have confirmation in the web-based workflow that the suppression has been actioned.

Reporting Period	Suppression Requests	Denied (or awaiting proof of ownership)	Approved/active suppressions
Year 1 (Oct 2009 to Sept 2010)	40	7	33
Year 2 (Oct 2010 to June 2011)	14	7	7
Year 3 (July 2011 to June 2012)	46	7	39
Total	100	21	79

Table 1 – Suppression requests in the first 3 years of operation

5.2. Consumer complaints

A *complaint* under the Code is any expression of dissatisfaction with a subscriber’s service. Consumers must try to resolve their complaint with the subscriber before the Committee can become involved. If consumers make contact with the Committee *before* using the member’s internal complaint process, the Committee will refer them to the relevant nominated complaints officer to give the member the opportunity to resolve the matter.

A *dispute* is a complaint that has not been resolved through the subscriber’s internal dispute resolution process. The Committee can also consider a matter if a consumer has been waiting more than thirty days for a response from the member. All disputes must be put in writing to the Committee.

The Committee makes an initial assessment of whether the basis of the complaint falls within the jurisdiction 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, the Code 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.

The key area where disputes may arise is in relation to direct marketing. A key objective of the Code is to prevent personal identification information in QVAS data from being used for unsolicited direct marketing by businesses that are clients of licensed information brokers. Direct marketing can include telemarketing, bulk email messaging, postal mail outs and list brokering.

The Code of Conduct does not apply to direct marketing unless the address for service is obtained from the QVAS database through a Code Subscriber, and the direct marketing is personally addressed to the named individual at the property address or service address.

Reporting Period	Received by Committee	Received by Subscribers	Received by external agencies	Total
Year 1 (Oct 2009 to Sept 2010)	11	-	-	11
Year 2 (Oct 2010 to June 2011)	8	38	1	47
Year 3 (July 2011 to June 2012)	4	42	1	47
Total	23	80	2	105

Table 2 – Complaints in the first 3 years of operation

5.3. Summary of suppressions, complaints, disputes and sanctions for the period from October 2009 to June 2012

The following data provides a snapshot of the first 3 years operation of the Code:

- 100 suppression requests
- 79 entries in the Suppressions Register
- 105 complaints
- 101 complaints resolved through Subscriber’s internal dispute resolution processes and without escalation to the Code Committee
- 4 complaints escalated as disputes and referred to the Code Committee
- 4 disputes resolved
- 0 disputes referred to an independent arbiter
- 1 serious and systemic breach of the Code recorded
- 1 sanction for a serious breach resulting in an entry in the Excluded Parties Register for a 6 month period

6. Best Practice, Findings and Recommendations

When the Code was first established, there were some minor teething issues. Brokers reported difficulties in establishing basic compliance processes and educating their customers. Committee members reported some difficulties getting compliance with the early suppression requests.

However, all stakeholders have noted that the code process has matured and is working well. The Code is considered by stakeholders to be going through a ‘quiet’ or ‘steady’ period. This section discusses how the operation of the Code compares to best practice and includes the input from 13 stakeholder interviews.

6.1. Coverage

Industry best practice for a purely self-regulatory Code is for around 80% of the relevant industry to be members of the Code. This should be higher for co-regulation where the Government is also involved, as is the case with QVAS data. The ACCC Code Guidelines state that the level of coverage of a code should be measured in terms of the number of actual code signatories against potential signatories within the industry. [Refer to: ACCC, *Guidelines for developing effective voluntary industry codes of conduct* (2005), <http://www.accc.gov.au/content/index.phtml/itemId/658186>].

In Queensland, all major information brokers are members of the Code. This has been achieved, as Code membership is mandatory for organisations that want a licence to access name data in the QVAS database.

However, during discussions with stakeholders, one existing member raised concerns that new organisations may be accessing QVAS data without being members of the Code. It was unclear how this could occur – possibly through a sub-licence agreement with an existing information broker, or through a hyperlink provided through a white-label style product.

The current standard licence agreement states in part:

4.6 The Licensee may establish a hyperlink with a third party (if the third party is not a Licensee’s Agent under this Agreement) where the third party’s website provides a hyperlink to the Licensee’s website or where the Licensee’s website provides a hyperlink to the third party’s website provided that the Licensee is responsible for all Licensee’s Customer billing, maintaining a secure environment and provided that customers of the service accept the Standard conditions set out in Schedule B by signed agreement or by responding to an ‘I Agree’ button (or similar to the same effect) on the screen prior to gaining access to Licensed Data Products.

...

4.10.4 If an application is approved the Licensee may appoint the Licensee’s Agent to distribute the Licensee’s Licensed Data Products in accordance with the following conditions:

- (i) The Licensee must not supply Licensed Data Products to a Licensee’s Agent unless the Licensee’s Agent is an approved PIIPD Code Subscriber, and maintains financial membership to the PIIPD Code of Conduct.
- (ii) The Licensee must ensure the Licensee’s Agent cannot appoint any further resellers or agents to distribute Licensed Data Products.

At this stage it seems the combination of the licence agreement and the Code should prevent any opportunity for accessing QVAS data by organisations that are not members of the Code – thus ensuring a level playing field for all of industry.

However, organisations to gain access to QVAS ‘name data’ without necessarily being members of the Code. They queried if the Committee would be informed if a new organisation gains access to the data.

In discussions with the Department and also with the Committee, confidence has been expressed that all relevant organisations are members of the Code. A reconciliation process exists so when the Department receives a request to access QVAS 'name data', membership of the Code is verified and reconciled. It also may be useful to conduct a documented consideration of Code coverage and communicate the results to all stakeholders.

Recommendation 1: Coverage

The Review has found that Code membership is comprehensive and the rate of coverage is very high for a code of this type, exceeding industry best practice. However, the Review has noted concerns expressed by some stakeholders regarding potential small gaps in coverage (or understanding of what organisations should be covered).

Action: We recommend that the Committee establish a periodic review of the industry to assess who has access to data (and how) and to measure penetration of Code membership. Penetration level is currently very high, but may diminish over time if there is no built in review. The findings of the periodic review should be communicated to all stakeholders.

6.2. Accessibility

Accessibility is a key criteria for all Codes of Conduct.

- The ACMA Code Guidelines state that Codes should include provisions to publicise the code to consumers.
- The ASIC Code Guidelines state that the code administration body should be responsible for ensuring the code is adequately promoted.
- The OAIC Code Guidelines 'encourage' promotion of a code by subscribers to ensure that individuals are aware that an organisation is bound by the code.

(Refer to Appendix 4. – Best practice guidelines and Codes of Conduct at page 29 for further details)

The Code is currently made accessible through a website <<http://www.propertydatacodeofconduct.com.au>>. Links to the Code website are very limited². However, some consumer contact is initially made through information brokers or their customers (e.g. real estate agents). Contact details for the Committee and complaints staff at each of the subscribers to the Code are also listed on the Code website.

The Code website is simple to use and meets the relevant standards for website accessibility for people with a disability or with communications difficulties, although there are few minor improvements that could be made.

All brokers reported that they incorporate the Code requirements into their terms and conditions. They are generally aware of the brochure and the website but do not actively use these tools to promote the Code – they place more reliance on terms and conditions, internal training, and 'pop-up' compliance reminder messages when customers are using their service.

Some of the larger information brokers had also run training sessions and awareness raising activities amongst their clients, e.g. real estate agents. A brochure has been produced and circulated to some major real estate franchise groups and the REIQ, however stakeholders noted that circulation to date was fairly limited.

² One of the only website links is from the Queensland government website at <http://www.derm.qld.gov.au/property/valuations/qvs-gateway.html>. CITEC provide a link to the Code Brochure at http://www.confirm.citec.com.au/citecConfirm/elearning/land/qld_valuation_and_sales.shtml

The public profile of the Code remains very low. There has been no media coverage or Ministerial announcements. People who have concerns about the material they are receiving and wish to take it to the next step will generally approach the Office of Fair Trading (OFT) or do some targeted web searching – then they will be informed about the Code. All stakeholders agreed that the profile tended to match the level of complaints (and risk of future complaints). It would be difficult to justify a large-scale public awareness campaign in these circumstances.

The Department agreed that more could be done to promote the Code, but cautioned that the name of the Code may not be meaningful to many consumers. The Department made a comparison with the Do Not Call Register that has a much simpler name and is easily understood and recognised by consumers. The Department agreed that more sites could include links to the Code, especially agents, brokers and the Office of Fair Trading.

The Code Committee has access to website analytics to track the number of visits, hits and where referrals come from – and the visitor numbers from the sample provided to Galexia are very low.

Recommendation 2: Accessibility

Overall, the Code meets the general test for accessibility, and although public awareness remains low, those consumers who need to find information about the Code can do so relatively quickly. However, more organisations should provide direct links to the Code website – this should include all Code members and the REIQ.

Action: The Committee should request all members to include a link on their website to the Code website and the Brochure should be explicitly linked to. The Brochure should be supplied to real-estate agents in training sessions.

6.3. Effectiveness of the Code process and the Committee

Stakeholders were generally very supportive of the Code processes and the work of the Committee, although some suggestions for improvements and enhancements were raised.

One stakeholder with a very positive view of the effectiveness of the Code was the Department of Natural Resources and Mines (DNRM) – the key Government stakeholder in this sector. The Department representative noted that prior to the establishment of a Code of Conduct, the Department received hundreds of complaints per year. These could be difficult to handle, as the Department did not always have appropriate investigative and enforcement powers. Consumers with complaints were quite active and committed to finding a solution.

Now, the Code process is handling all of the complaints. There have been no complaints to the Department or Minister about dis-satisfaction with the Code process.

The Government still retains a suppression clause within the legislation (e.g. for family law suppressions, police officers, etc.), but believed that the Code was the best vehicle for managing the administration of suppression requests. Centralisation of the suppression requests has been a major benefit – rather than having to contact all brokers.

The Department also noted that the direct marketing rules were ‘being handled very well’. Any complaints are directed to the committee directly, so the Department can focus on other areas of responsibility.

Industry views on the Code process were supportive, but stakeholders raised some minor concerns.

One broker raised concerns that the process was costly and complex to administer. They had to match suppression requests manually. While they were willing to continue doing this, they noted that they were not themselves the subject of any breaches or complaints, so the compliance burden had been forced on them by the actions of other brokers. However, they had recently noticed ‘a big slowdown in suppressions and complaints from the committee’ – and they acknowledged that this could be a sign that the Code is working.

Another broker noted that ‘The Committee works. There has been an increase in industry knowledge. The coalescing into an industry group has been useful ... it has made sure we are all in the same boat and doing the same things.’

A number of Brokers considered the Code (and the processes) to level the playing field amongst users of Broker’s services and pointing to the Code enabled them to effectively communicate to clients that the same regime applied to all end users of QVAS data.

Recommendation 3: Effectiveness of suppressions and complaints

Overall the Code is effective. There is an online suppressions process that is easy for consumers to use and results in effective suppressions. There is a complaints process and Subscribers resolve more than 95% of complaints before being referred as a dispute to the Code Oversight Committee.

Action: Effectiveness could be improved through the establishment of a more rigorous central record of suppressions (refer to section 9 of the Code). This should include all approved suppressions since October 2009, not include duplicates and include accurate Lot/Plan and name/address information.

Recommendation 4: Sustainability and scalability of the Suppressions Register

The use of online suppression requests and the maintenance of a suppressions register (by industry) is a unique consumer protection tool that sets a benchmark for industry practice. It is currently working well – based upon the scale and frequency of requests received.

Action: The Committee should continue to monitor and report on suppression requests received. It is important to ensure that the suppressions register remains efficient and effective – and if there is a significant increase in the number of suppression requests, the Committee should work with industry and government to ensure ongoing sustainability of the register.

Recommendation 5: Effectiveness of Compliance and Education

During the first 3 years of operation of the Code, industry has demonstrated the ability to update internal processes in order to meet the new standards in the Code. There are useful examples of collaboration, education and training initiatives – including the sharing of knowledge and privacy and complaints management processes amongst Code Subscribers. This has resulted in the rapid implementation of the Code across industry and a high level of awareness and compliance by Code Subscribers.

However, there are still opportunities to share information more broadly – particularly with real-estate agents and other end users of QVAS data.

Action: The focus of the Committee’s work should continue to be the promotion of compliance and education amongst industry. This should include current (and potential) Code Subscribers and their end users. A good example of an opportunity for industry promotion is to draw attention to sanction and enforcement action undertaken by the Committee – such as where a suspension order was issued against an end user. At this stage there is not a strong need for the promotion and education amongst the general public.

6.4. Efficiency of the Code process and the Committee

The Department noted that the Code process is an efficient solution (from the Department's perspective) because it is industry run and funded, allowing the Government to concentrate its resources on other issues.

One specific issue raised by several brokers is a perceived lack of clarity around how long a suppression should stay in place. Committee members were quite clear that it would remain in place until the subject had moved on to one *further* address after the first move – basically two transactions later. However, some brokers were possibly unaware of this approach, or they chose to apply their own rules. This could lead to inconsistency over time and there is an opportunity for the Code process to clarify this issue and drive consistency across the industry.

Recommendation 6: Length of suppression

The Review has noted some uncertainty amongst stakeholders regarding the length of time that information should remain suppressed, especially where the property has subsequently been sold to another party.

Action: The Committee may need to clarify the length of time that a suppression should remain in place (e.g. the number of transactions) and that the historical information about a transaction will become available. This could be achieved by an amendment to the Committee Terms of Reference or the Code itself, and should be communicated to all members.

Some brokers also noted that complying with suppression orders was still a manual process. For some brokers this is a semi automated process and for others it is quite manual. When there is a full QVAS update, the brokers must reprocess the data from the Suppressions Register. For some brokers this remains a fully manual process. There have been some incidences of suppressed information becoming visible again and it is acknowledged that some brokers need to improve their QA processes. The view of the Department is that it is not possible for the suppression requests to be actioned at the source, and the current system was working well. The number of suppression requests is very low, so it may be difficult to invest further time and resources in this area.

There was interest in the development of a suppression register with a common key, so that matching could be simplified and improved. Several brokers noted that there might be inconsistencies with the lot/plan number in suppression requests so the manual matching process could be quite difficult. Those brokers that have not automated the re-processing of suppressions into QVAS updates will have increasing inefficiencies.

Additionally, the Code Committee's register of suppressions is never pruned. Original suppression requests remain, and it is up to the brokers to determine when the suppression on the property/owner is no longer valid. When there are inevitable name changes and sales, the suppression registry entry will still exist, it will just not be a match in the QVAS data stream. For some brokers this is going to trigger exceptions in their processing and further add to inefficiencies. It is not practical or efficient for the Code Committee to track expiries in the Suppression Register.

Recommendation 7: Efficiency and scalability of the suppression register

The review noted that some stakeholders still had concerns about the manual processing of suppression requests and over time this will be increasingly burdensome for brokers and may increase the risk of accidental publishing of suppressed data. While the number of suppressions remain low, then current processes are adequate. However, the issue of scalability will face the committee and some brokers in the future.

Action: Options should be explored to simplify the process for ensuring suppression requests are applied quickly across all broker systems. Some options include the development of a common index number that can be used across all systems. A second option is to explore whether more information could be provided to assist in the matching process. Another option is the future development of a simple standard to ensure automated electronic processing of the Suppressions Register (so rather than an excel Spreadsheet the use of a XML based interchange)

Recommendation 8: Quality of the suppression register

The state of the Suppression Register directly reflects the data entered by consumers on the website. Any mistakes entered by the consumer in the web form are reflected in the register. They may not be mistakes; they may use the word 'three' for a Lot, rather than the number '3', or they may be simple typographical errors in the name and address. Additionally, a consumer may (accidentally) submit the same entry twice. The Code System Administrator does not have the ability to make corrections to the entered data, flag/delete a duplicate or to attach a note to the Suppression Register entry for other information brokers.

Action: Options should be explored to make simple improvements to the web based workflow system to enhance processing by the Code System Administrator and information brokers – with a future goal of machine readability of the suppressions register. This may include the addition of a notes field, placing some data entry requirements on the consumer facing web form, enabling the Code System Administrator to make simple correcting entries to ensure a direct match with QVAS

Recommendation 9: Improving security of suppression requests and tracking of compliance by brokers

The process of the Code System Administrator approving a suppression request is very quick (and efficient). However, there have been some minor issues with Brokers actioning the suppression request (or communicating this). The detail of the suppression request (the name and property details) are emailed to the nominated Broker email address. There are a few issues with this. 1) The inclusion of the details to be suppressed in an email to all brokers is not best practice; 2) Staff changes at individual brokers have resulted in delays in actioning suppression request; and 3) Some brokers action the suppression from the email but do not indicate this has been done in the workflow on the Code portal (they do not need to access the portal if all of the information is included in the email). This results in inconsistencies in the suppression request compliance report run by the Code System Administrator – they do not have an accurate picture of which Brokers have been actioning the suppressions within the time requirement.

Action: Consider amending the automatically generated emails going to brokers so it does not include the personal information and require the broker to access from the Code web portal. This will remove security and privacy issues associated with emailing personal information and it will give the Code Administrator a more accurate exception report, including any delays in actioning a suppression or any issues with email delivery.

Other than these specific concerns, a general attitude amongst most brokers was that the Committee process, online methods, communications, website and annual report are all as good as could be expected, and there was no desire to invest any more in these processes.

Despite any small concerns with the Code process, all brokers noted that the arrangements in QLD were preferable to the complex arrangements in most other states. Access was seen as too restrictive in WA and Victoria, and compliance costs were high in all states. For example, some brokers reported that they had been audited in NSW. The inconsistency across borders was frustrating for those brokers offering a national product. There was some interest amongst stakeholders in expanding the Code approach to cover other jurisdictions, or developing a national Code, although this was not a high priority for most stakeholders at this time.

6.5. Fairness of the Committee's decision making procedures

There is a very uneven distribution of complaints across the brokers who are members of the Code. Many brokers reported only receiving one or two complaints since joining the Code (or no complaints at all for several members). Their experience of Code decisions is therefore very limited. The brokers with limited exposure to complaints nonetheless reported high levels of satisfaction with decisions and outcomes.

Brokers appreciated the 'practical middle ground' that the Committee has applied in its decisions to date. Decisions were seen as 'proactive', yet 'not too heavy handed'. The Committee publishes sample case studies in the Annual Reports and these were useful in explaining issues such as jurisdiction.

Industry best practice is for the Code to include the possibility of hefty sanctions:

- The ACCC Code Guidelines state that commercially significant sanctions may be necessary and the sanctions should reflect the nature, seriousness and frequency of the breach.
- Similarly the ACMA Code Guidelines state that sanctions should be commercially significant, although they should not impose a pecuniary penalty.

Both guidelines suggest that sanctions should be developed on a 'sliding scale'. (Refer to Appendix 4. – Best practice guidelines and Codes of Conduct at page 29 for further details)

Case study:

One recent complaint was the subject of considerable discussion in the industry, as it is the only complaint to result in a significant sanction against a broker's client. It is also the only case where a consumer has asked for an independent review of a decision.

The original complaint came from an owner resident in the ACT but with property holdings in QLD. A real estate agent sent the owner personalised marketing material. In the original decision from the Code Oversight Committee it was decided that on the balance of probabilities the information had come from QVAS. The agent was given a warning and they claimed that they had deleted the information from their own database. They were required to undergo training and the action was more or less a 'slap on the wrist'.

Unfortunately the same agency then sent more marketing material to the owner in the ACT. The same office was responsible. The consumer demanded an independent review of the earlier decision. The Committee elected to review the original and subsequent breach together (in conjunction with the broker). On the balance of probabilities it was decided that the agent was in breach. The Committee imposed a 6-month suspension. There was no public 'naming and shaming' of the agent, but during the 6-month period the agent has no access to names in the QVAS data. The suspension has been communicated to all brokers.

This case study demonstrates the ability of the Committee to take action that is in proportion to the seriousness of the breach – in this instance a repeated breach indicated significant non-compliance, so a suspension was justified.

Overall, the Committee has only had to manage a small number of complaints and has yet to face a significant challenge. For example, there have not been any identified mass marketing campaigns using QVAS data while the Code has been in operation, and breaches have been /Office of ly simple and one-off. This means that the sanctions regime has not yet faced a significant test.

One stakeholder (a Committee member) raised a concern with the uncertainty in the Code regarding the burden of proof in the decision making process. They believed it would be helpful if the Code included guidance on who bore the onus of proof – i.e. whether it was the consumer or the Code Subscriber (or typically their client) who had to provide positive proof on where the data had been sourced. Stakeholders generally agreed that if a client (e.g. a real estate agent) could not provide information showing that the data had come from an alternative source, then the Committee should be able to assume that the data has been sourced from QVAS, resulting in a finding of a breach.

Recommendation 10: Onus of proof

The review noted that stakeholders believed the onus of proof should fall on the information broker or their client to show that information had been obtained from a source other than QVAS. Otherwise the Committee should be able to assume a breach.

Action: Options should be explored to clarify the onus of proof. This could be achieved through an amendment to the Code or the Terms of Reference of the Committee. The change should be communicated to all stakeholders.

6.6. Accountability of the Committee

One broker noted that the Committee faces a difficult task promoting its work. They stated: ‘All of the brokers are very different, so the term ‘industry’ is very loose – what we have in common is just that we use QVAS data. This makes it difficult to communicate or to have industry wide campaigns – it is just not a strong enough industry group with common goals to achieve this.’ Brokers believed the Committee was doing a good job within these limitations.

Another broker believed that the suppression process could potentially be improved if the Committee published data on the timing of suppressions – for example they could note what proportion of suppressions were actioned within 5 days, 10 days, 30 days etc. This broker wanted to communicate to consumers that processes happen speedily and responsively.

Membership fees are now the same for sub agents and full members – this is a recent change and may result in some smaller members leaving the Code. One stakeholder view was that sub agents were getting all of the benefits of the association at a fraction of the price and there was a need to spread the load of the cost. However, another broker expressed concerned about the single tier pricing structure – they found it difficult to justify the expense of contributing to the Code and Committee processes for a small player.

Recommendation 11: Accountability of the Committee

There was generally no desire for more reporting or greater accountability by the Committee, especially while the volume of suppression requests and consumer complaints remains low. The review found that accountability was in line with industry best practice at this stage. However, the practice of charging all members the same contribution fee could have negative consequences for smaller organisations, especially in a situation where membership is effectively compulsory.

Action: No significant action is required at this time in relation to accountability. However, the Committee may need to monitor member contribution fees closely to ensure that the fee structure does not unnecessarily exclude smaller players from obtaining access to QVAS data.

6.7. Independence

Independence is a key criteria for all Codes of conduct:

- The ACCC Code Guideline states: The code administration committee needs to have representatives of all stakeholder groups, including consumer representatives.
- The ASIC Code Guideline states: The oversight of the code is to be conducted by an administrative body that is independent of the industry or industries that subscribe to the code and provide the body’s funding and has adequate resources to fulfil its functions and ensure code objectives are not compromised.

(Refer to Appendix 4. – Best practice guidelines and Codes of Conduct at page 29 for further details)

Consumers are adequately represented through the Queensland Office of Fair Trading (OFT) nominee to the Committee and all stakeholders appeared happy with this arrangement.

All broker stakeholders reported that they were happy for RP Data to continue to maintain the Committee secretariat. They are generally not seeking a greater role for themselves, and there had been no problems with conflict of interest or perceptions of bias. Stakeholders were also happy with RP Data representing brokers on the Committee and there was no push for a change in representation. However, this situation should not be retained indefinitely, and other industry stakeholders should be represented on the Committee over time.

Agents and valuers are not represented on the Committee. However, stakeholders generally believed that the current committee is the right size and make up and that an expansion of the Committee could not be justified while complaints numbers remained low.

Recommendation 12: Independence

Overall the size and makeup of the Committee is adequate to ensure independence without becoming expensive or unwieldy. However, Committee membership should, eventually, rotate to allow other broker stakeholders to participate in the Committee process. It is understandable if this does not occur in the first 3-5 years of the Code’s operation.

Action: The Committee should continue to encourage other industry representatives to seek membership of the Committee.

7. Appendix 1. – Stakeholder Consultations

A number of nominated stakeholders were consulted for the PIIPD Code Review.

Consultation	Date	Organisation
1	3 September 2012	Code Committee (Industry Representative and Administrator) RP Data
2	26 September 2012	Code Committee (Chair)
3	27 September 2012	Code Committee (Consumer Representative)
4	17 October 2012	Pricefinder
5	18 October 2012	GlobalX
6	22 October 2012	SearchESS
7	24 October 2012	VEDA
8	26 October 2012	Department of Natural Resources and Mines
9	28 October 2012	CITEC
10	8 November 2012	On the House / Residex
11	20 November 2012	Code Committee (Chair) – Follow-up
12	20 November 2012	Code Committee (Administrator) – Follow-up
13	21 November 2012	Code Committee (Chair, Community Representative, Industry Representative & Administrator)

Table 3 – Stakeholder Consultations

8. Appendix 2. – Information Review

A number of documents were considered in this review:

- QLD Government Cabinet Minute
- PIIPD Website (August 2012) <www.propertydatacodeofconduct.com.au>
- PIIPD Code Committee Annual Reports – available from <www.propertydatacodeofconduct.com.au>
- PIIPD Code Committee Meeting Minutes
- VAPIBA Code Subscriber Meetings
- PIIPD Code Committee processes and reports
- RPDATA
- CITEC
- Pricefinder

9. Appendix 3. – Acronyms and Terms

Acronym	Description
ACCC	Australian Competition & Consumer Commission
ACMA	Australian Communications and Media Authority
ASIC	Australian Securities & Investments Commission
DNRM	Queensland Government's Department of Natural Resources and Mines
PIIPD	Personal Identification Information in Property Data
QVAS	Queensland Valuation and Sales System
REIQ	Real Estate Institute of Queensland
VAPIBA	Value Added Property Information Broker Association Incorporated

Table 4 – Acronyms

10. Appendix 4. – Best practice guidelines and Codes of Conduct

The Galexia team has developed a summary of best practice guidelines in the development of Code of Conduct.

Best practice guidelines have been developed by four Commonwealth regulatory agencies to assist in the framing of codes. These are set out below. There are a common core of similar criteria in these guides, and these form the basis of our comparative assessments of the codes.

The four guides are as follows:

- *ACCC, Guidelines for developing effective voluntary industry codes of conduct* (2005)
<http://www.accc.gov.au/content/index.phtml/itemId/658186>
- *ACMA, Developing Telecommunications Codes for Registration: A Guide* (2003)
http://www.acma.gov.au/webwr/telcomm/industry_codes/codes/codes.pdf
- *ASIC, Regulatory Guide 183 – Approval of financial services sector codes of conduct* (2007)
[http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/ps183.pdf/\\$file/ps183.pdf](http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/ps183.pdf/$file/ps183.pdf)
- **OAIC** (Office of the Australian Information Commissioner), *Privacy Code Development Guide* (September 2001, originally published by the then Office of the Federal Privacy Commissioner)
<http://www.privacy.gov.au/materials/types/guidelines/view/6482>

Not all guides cover all criteria; where they overlap, they are largely consistent at a high level, with some differences in detail.

Criteria	ACCC	ACMA	ASIC	OAIC	PIPD Code
A. Binding	ACCC Guidelines refer to voluntary industry codes of conduct.	N/A	N/A	OAIC Guidelines state that the OAIC can only approve voluntary codes.	Code membership is mandatory for organisations accessing QVAS name data
B. Jurisdiction	N/A	The jurisdiction of the code must be clearly stated.	A code should set enforceable standards across an industry or part of an industry.	N/A	Jurisdiction clearly stated in Code
C. Register of subscribers – available	An effective code should incorporate strategies to raise consumer's awareness and this may be achieved through a published list of code signatories.	N/A	N/A	In most situations, the commissioner requires the code administrator to provide accurate, up to date and an easily accessible record of code members.	Register of subscribers available on public website

Criteria	ACCC	ACMA	ASIC	OAIC	PIPD Code
D. Proportion of industry that subscribe	The level of coverage of the code should be measured in terms of the number of actual code signatories against potential signatories within the industry	N/A	N/A	N/A	Comprehensive coverage
E. Code compliance monitoring	The code administration committee needs to ensure that each signatory has an in-house system to ensure compliance with the code. The committee may assist with advice and training to the signatories.	The code administration body is required to monitor compliance and to ensure code signatories are not being disadvantaged due to compliance and the codes objectives are being satisfied.	The code administration body should be responsible for monitoring compliance. Additionally, there should be some form of external or independent monitoring or auditing. Shadow shopping exercises may be appropriate.	Code administrators are a body established to oversee the maintenance and operation of the code.	Code oversight committee monitors compliance with suppression requests and also monitors consumer complaints
F. Enforcement	A code administration committee is to be created and written into the code to enforce the code. Commercially significant sanctions may be necessary and the sanctions should reflect the nature, seriousness and frequency of the breach. Possible sanctions include: corrective advertising, fines, and expulsion as signatory to the code, expulsion from industry association and censures and warnings.	The ACMA can make a direction to comply with a code under s121. Sanctions should be commercially significant however not a pecuniary penalty and developed on a 'sliding scale'.	An independent body that is empowered to administer and impose sanctions is required. Possible sanctions include: formal warnings, public naming of non-complying organisations, corrective advertising orders, fines and suspension or expulsion from the industry association.	N/A	Sanctions have been imposed when necessary. Public naming has not been required to date.

Criteria	ACCC	ACMA	ASIC	OAIC	PIPD Code
G. Internal Dispute Resolution	The code should have a procedure implemented where complaints should be first considered by the signatories to the code. If the member of public or industry member is dissatisfied with the initial attempt to resolve the complaint, the industry association may attempt to conciliate the dispute.	The code should include provisions for complaints handling and should be the key responsibility of the signatories. However, a dedicated administration body such as a committee should also be responsible for investigating and monitoring complaints by industry members.	The process must comply with standards and requirements made or approved by ASIC. The IDR process should consider all alleged breaches of the code.	The code must provide that the code adjudicator must be satisfied that the complaint has not been resolved to the satisfaction of the complainant or the respondent has not responded within 60 days from the date of the complaint lodgement before an outcome can be determined.	Code includes a requirement for subscribers to have IDR in place
H. External Dispute Resolution	If the internal review mechanism for complaints fails to resolve the complaint, then the industry should sponsor an independent complaint body to review the decision. The independent review body should be recruited from outside the industry, have fixed tenure and be qualified to hear and resolve complaints.	If the complainant is dissatisfied with the outcome of the complaint, an independent arbitrator (such as TIO) may be sought.	The external dispute resolution scheme is to be approved by ASIC and is explicitly required to take into account any relevant industry code in the assessment of the consumer complaint.	External Dispute resolution will be provided by the Commissioner.	Code Advisory Committee operates as the main EDR option, with recourse to an independent arbiter if required.
I. Systemic Issues	There should be collection of data concerning the origins and causes of complaints to assist in the identification of systematic and recurring problems facing the industry members.	The code administration body should collect detailed data on the numbers, types, sources and resolution of complaints.	The code administration body should also be responsible for establishing appropriate data reporting and collection procedures to identify systematic issues.	The code must provide that a report on the operation of the code is to be provided to the Commissioner. The report must include data concerning all the complaints made during the financial year and any systematic problems arising.	Code requires Committee to identify systemic issues and report to the QVAS data custodian (the Department). The code also includes a definition of serious or systemic breaches.

Criteria	ACCC	ACMA	ASIC	OAIC	PIIPD Code
J. Code Development	The code should develop from the code development committee. The code development committee should consult with its stakeholders to assess the support for the proposed code and incorporate any relevant comments.	Before commencing development the industry body should check for registered codes that may be covering similar issues as proposed in the new code. Extensive consultation of a minimum of 30 days is required with: representatives of end-users in the code, ACCC, the TIO, at least one consumer representative organisation and the Privacy Commissioner if it was a telecommunications privacy code. There should also be a broad public consultation with affected industry participants and the general public before submitting a code for registration.	The development of the code involves identifying all relevant stakeholders, effectively consulting with all stakeholders to identify and debate the key issues, providing an opportunity for public consultation, consulting with ASIC and other relevant regulators, assessing whether a code actually provides the best option to address the identified problems and ensuring that there is an absence of bias in the code.	The code is expected to have a minimum of six weeks for public consultation and a statement of consultation is to be provided to the commissioner. The statement would include: duration of time for the public consultation, people or groups to be affected by the code, list of individuals or groups who made submissions, summary of issues raised, reasons why any feedback was not incorporated and list of organisations likely to adopt the proposed code.	The Code was developed following a period of industry consultation. There are no overlapping Codes.
K. Code Oversight	Code administration committee role is to ensure successful implementation and ongoing effectiveness of the code.	The industry association responsible for registering the code is also responsible for the code's oversight.	The oversight of the code is to be conducted by an administrative body that is independent of the industry or industries that subscribe to the code and provide the body's funding and has adequate resources to fulfil its functions and ensure code objectives are not compromised.	The code administrator is also responsible for the oversight of the code and to ensure its effectiveness.	A Code Oversight Committee has been established, with balanced representation and clear objectives and terms of reference.
L. Consumer representation	The code administration committee needs to have representatives of all stakeholder groups, including consumer representatives	Consumer representatives are required.	Consumer representatives are required.	N/A	A consumer representative, nominated by the Office of Fair Trading, sits on the oversight Committee

Criteria	ACCC	ACMA	ASIC	OAIC	PIPD Code
M. Code Chair	N/A	The administration body should aim to balance the representation of affected parties to include consumer representatives and to have an independent chair.	There should be a balance of industry representatives and consumer representatives and an independent chair.	N/A	An independent Chair with no industry links sits on the Committee
N. Code Review	The code administration committee should regularly monitor codes for compliance and to ensure the desired outcomes are achieved.	Codes should be subject to regular review and amendment to ensure they are meeting community expectations and working effectively.	ASIC Guidelines impose an independent review of the code to be conducted in a transparent manner and involving relevant stakeholders every 3 years.	Ordinarily, the Commissioner expects: a process for independent review to occur once every three years, stated commitment to allocate sufficient resources for the review of the code and requires the code administrator to produce a review report and to submit it to the commissioner.	An independent review has been commissioned (this report) three years after commencement of the Code.
O. Public reports	Public annual reports on the operation of the code and assessment of its effectiveness should be published and readily available.	N/A	The code administration body is responsible for publicly reporting annually on code compliance.	N/A	The Committee provides regular annual reports, including statistics and case studies.
P. Public naming of subscribers for non-compliance	Not expressly stipulated.	Not expressly stipulated.	Public naming of non-complying organisations is expressly permitted as a sanction for code breaches however there must be regard to procedural fairness.	N/A	Public naming is allowed under the Code, but has not been required at this stage. The list of excluded parties provides the name to all relevant information brokers.

Criteria	ACCC	ACMA	ASIC	OAIC	PIPD Code
Q. Code promotion – industry body	N/A	Codes (especially consumer codes) should include provisions to publicise the code to consumers.	The code administration body is also responsible for ensuring the code is adequately promoted. This may include providing training for community sector case workers or ensuring availability of copies of the code at public offices.	N/A	The industry has formed a new body (VAPIBA) that has undertaken some limited code promotion.
R. Code promotion – subscribers	N/A	N/A	N/A	Commissioner encourages promotion of a code by subscribers to ensure that individuals are aware that an organisation is bound by the code.	To date, subscribers have promoted the Code directly to their clients. Some further promotion, e.g. website links may be required.

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11. Appendix 5. – Personal Identification Information in Property Data Code of Conduct (23 October 2012)

Code of Conduct

1. Title

- 1.1 This is the Code of Conduct for bulk data access to identified information in the Queensland Valuation and Sales System (QVAS) database.
- 1.2 The short title is the Personal Identification Information in Property Data Code of Conduct (the Code).

2. Objectives

- 2.1 The aims of this Code are to:
- 2.1.1 Mandate a high degree of privacy protection for bulk data access to QVAS Identified Information;
 - 2.1.2 Develop a culture of confidence and trust in the services provided by Code Subscribers regarding the collection, use, storage and disclosure of all Personal Information; and
 - 2.1.3 Demonstrate a commitment to best practices regarding the secure, proper and consistent handling of all Personal Information.

3. Definitions

— Code Subscriber

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

— Code Subscriber Customer

An individual or organisation that purchases or otherwise obtains QVAS Identified Information from a Code Subscriber.

— Code Oversight Committee

The committee administering the Code as described in section 5 of the Code.

— Consumer

An individual whose Personal Information appears in any field in the QVAS Database.

— Department

The Department of Natural Resources and Mines (DNRM) and any successor agency that takes responsibility for the management of the QVAS Database.

— Direct Marketing

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

— Independent Arbitrator

An independent person with expertise in dispute resolution, appointed by the Code Oversight 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 information or opinion.

— Prohibition on Direct Marketing

Not using or distributing QVAS Identified Information for Direct Marketing or with the intention of encroaching upon the privacy of a Consumer.

— QVAS Database

The Queensland Valuation And Sales System (QVAS) database administered by the Department.

— QVAS Identified Information

The details of any identified Consumer in the QVAS Database limited to the name and service address of the vendor and / or purchaser. For the avoidance of doubt QVAS Identified Information does not include the property address and transaction details.

4. Code membership

- 4.1 Membership of the Code is open to all information broker organisations. An information broker organisation becomes a Code Subscriber by submitting an application for membership to the Code Oversight Committee agreeing to be bound to the provisions of the Code, and receiving the approval of the Code Oversight Committee.
- 4.2 Membership of the Code is mandatory for information broker organisations seeking to obtain and / or retain a bulk data access licence that includes QVAS Identified Information from the Department. The information broker organisation must also comply with any other relevant terms of the licence and, if inconsistent, the terms of the licence take precedence over the terms of the Code.
- 4.3 The State of Queensland (through the Department) is the owner of the intellectual property rights including copyright in and to the QVAS Database. The Code does not confer on the Code Oversight Committee, Code Subscribers or Code Subscriber Customers any rights of ownership in the QVAS Database and all intellectual property rights including copyright in the QVAS Database are unaffected by the Code.

5. Code Oversight Committee

- 5.1 The Code is administered by a Code Oversight Committee, comprising:
 - 5.1.1 One independent chairperson – a person with experience in industry, commerce, public administration or government service. This person will be appointed for a maximum three-year term, and may be reappointed for further terms. The chairperson will be nominated by the Minister for the Department.
 - 5.1.2 One industry representative – a person with relevant experience at a senior level in the information broking industry nominated by a simple majority of the Code Subscribers. This person will be appointed for a maximum three-year term, and may be reappointed for further terms.
 - 5.1.3 One consumer representative – a person with experience in consumer advocacy. The consumer representative will be nominated by Fair Trading Policy, Department of Justice and Attorney General (and any successor agency that takes responsibility for fair trading) and may be from a consumer advocacy organisation. This person will be appointed for a maximum three-year term, and may be reappointed for further terms.
- 5.2 The Code Oversight Committee will be funded by levying membership fees and / or complaint administration fees on Code Subscribers. These fees will include the following:

- 5.2.1 The Code Oversight Committee chairperson is to be remunerated at the rate set out for a chair for meetings in the Remuneration of Part-time Chairs and Members of Government Boards, Committees and Statutory Authorities Category C1.
- 5.2.2 The Code Oversight Committee industry representative is to be remunerated at the rate set out for a member for meetings in the Remuneration of Part-time Chairs and Members of Government Boards, Committees and Statutory Authorities Category C1.
- 5.2.3 The Code Oversight Committee consumer representative is to be remunerated at the rate set out for a member for meetings in the Remuneration of Part-time Chairs and Members of Government Boards, Committees and Statutory Authorities Category C1.
- 5.2.4 The Code Oversight Committee may organise and pay for administrative and systems support and maintenance of registers (including third party maintenance of registers) as necessary.
- 5.2.5 For the avoidance of doubt, the Code Oversight Committee is not a Government board, committee or statutory authority.

5.3 The roles of the Code Oversight Committee shall include:

- 5.3.1 To monitor compliance under the Code;
- 5.3.2 To manage the registration of Code Subscribers and maintain an accurate and up to date Register of Code Subscribers;
- 5.3.3 To investigate, and to make a determination on, any complaints regarding breaches of the Code that have not been resolved by internal complaints processes;
- 5.3.4 To investigate, and to make a determination on, any matter that otherwise comes to the attention of the Code Oversight Committee regarding breaches of the Code;
- 5.3.5 To appoint and manage an Independent Arbiter as required from time to time;
- 5.3.6 To impose sanctions on Code Subscribers who breach the Code;
- 5.3.7 To prepare and publish an annual report on Code administration and compliance;
- 5.3.8 To commission, manage and publish an independent review of the Code every three years;
- 5.3.9 To implement, manage and maintain an accurate and up to date Register of Excluded Parties;
- 5.3.10 To implement, manage and maintain an accurate and up to date Register of Request Suppressions;
- 5.3.11 To, if necessary, audit Code Subscribers' compliance with the Code; and
- 5.3.12 To perform such other tasks necessary or desirable for the effective operation of the Code.

6. Prohibition on Direct Marketing

- 6.1 A Code Subscriber must not use QVAS Identified Information for Direct Marketing or with the intention of encroaching upon the privacy of a Consumer.
- 6.2 A Code Subscriber must not distribute QVAS Identified Information to any Code Subscriber Customer or any third party for the purpose of Direct Marketing or with the intention of encroaching upon the privacy of a Consumer.
- 6.3 A Code Subscriber must ensure that the Prohibition on Direct Marketing extends to Code Subscriber Customers and any third parties who gain access to QVAS Identified Information. This requires, as a minimum, the following steps:

- 6.3.1 A Code Subscriber must establish a binding legal agreement with all Code Subscriber Customers and any third parties who gain access to QVAS Identified Information. This binding legal agreement may be established by a Code Subscriber Customer indicating their acceptance of terms and conditions that are presented to them in an electronic format. This binding legal agreement must incorporate the Code definition of Direct Marketing and the Code Prohibition on Direct Marketing;
- 6.3.2 This binding legal agreement must include an obligation on the Code Subscriber Customer to assist the Code Oversight Committee with any investigation and notice that a person or organisation in breach of the Prohibition on Direct Marketing or who refuses to assist the Code Oversight Committee with an investigation may be added to the Register of Excluded Parties (set out in Clause 17 of the Code);
- 6.3.3 A Code Subscriber must promote the Code and the Prohibition on Direct Marketing in relevant Code Subscriber Customer marketing literature and online material; and
- 6.3.4 A Code Subscriber must prominently display the Prohibition on Direct Marketing in the terms and conditions of use of its products.

7. Data security

- 7.1 A Code Subscriber must not provide access to any QVAS Identified Information to an organisation or individual who appears on the Register of Excluded Parties (set out in Clause 17 of the Code).
- 7.2 A Code Subscriber must take reasonable steps to protect any Personal Information that it holds from misuse and loss and from unauthorised access, modification, disclosure and transfer.
- 7.3 A Code Subscriber must take all reasonable steps to maintain and safeguard the security of the QVAS Identified Information in its database.
- 7.4 A Code Subscriber must ensure that its employees and consultants maintain the security of QVAS Identified Information and use this data solely for purposes permitted under the Code.

8. Identification and logging of access

- 8.1. A Code Subscriber must take all reasonable steps to identify and log Code Subscriber Customer and other third party access to QVAS Identified Information.
- 8.2. A Code Subscriber must retain access logs for a period of at least 12 months.
- 8.3 A Code Subscriber must provide one free access login to its system to the Code Oversight Committee to assist with investigation and audit.

9. Suppression of data

- 9.1. A Code Subscriber must reasonably cooperate with all requests to suppress QVAS Identified Information.
- 9.2. Where a request to suppress QVAS Identified Information comes to a Code Subscriber directly from a Consumer the Code Subscriber must inform the Consumer of the existence of the Code and the Register of RequestSuppressions.
- 9.3 The Code Oversight Committee must maintain a Register of RequestSuppressions. The management and maintenance of this register, which may be website based, may be delegated to a third party service provider.
 - 9.3.1 The Code Oversight Committee may, upon receipt of a written request from a Consumer, add the Consumer's QVAS Identified Information to the Register of RequestSuppressions.
 - 9.3.2 Code Subscribers must be informed at regular intervals of any additions to or removals from the Register of RequestSuppressions and must reasonably ensure that all the Code Subscriber's relevant data is amended to reflect that suppression within 30 days of notification.

- 9.4 The Department will continue to manage statutory orders for suppression under Part 8 of the Valuation of Land Act 1944 (Qld). Where an order to suppress QVAS Identified Information comes from the Department pursuant to Part 8 of the Valuation of Land Act 1944 (Qld), the Code Subscriber must ensure that all the Code Subscriber's relevant historical and current data are amended to reflect that suppression.

10. Referral of complaints

- 10.1 Where a complaint is received directly by the Code Oversight Committee it will first be referred to the relevant Code Subscriber for the purpose of resolution through the internal complaints process. The complainant must be informed immediately regarding this referral.
- 10.2 Where a complaint is received by a Code Subscriber that would clearly be more appropriately directed to another Code Subscriber it may be referred to the Code Oversight Committee to identify and refer to the relevant Code Subscriber for the purpose of resolution through that Code Subscriber's internal complaints process. The complainant must be informed immediately by the first Code Subscriber that their complaint has been referred to the Code Oversight Committee as it may be more appropriately directed to another Code Subscriber. The Code Oversight Committee must inform the complainant immediately regarding referral to the other Code Subscriber.
- 10.3 Where a complaint is received directly by the Department it may refer the complaint to the Code Oversight Committee for resolution.

11. Internal complaints

- 11.1 A Code Subscriber must provide an internal complaints process for Consumers. The internal complaints process must be free of charge.
- 11.2 Upon receipt of an internal complaint (either directly from a Consumer or by referral from the Code Oversight Committee, the Department or another Code Subscriber), the following information must be provided to the complainant:
- 11.2.1 A copy of the Code (if it has not already been provided);
 - 11.2.2 Full contact details for the management of the complaint; and
 - 11.2.3 An acknowledgment that the complaint has been accepted and notification that the Code Subscriber has 30 days to resolve the complaint.
- 11.3 A Code Subscriber must endeavour to resolve all internal complaints promptly, but at least within 30 days of receipt.
- 11.4 Complainants must be provided with written reasons for any decisions made under the internal complaints process. Appropriate remedies and sanctions for the internal complaints process are at the discretion of the Code Subscriber.
- 11.5 Where a complaint is not resolved to the satisfaction of the Consumer or where the 30 day period is exceeded, a Code Subscriber must inform the complainant immediately of the external complaints process established by the Code (set out in Clause 12), including the provision of contact details for the Code Oversight Committee.
- 11.6 Where an internal complaint identifies a breach by a Code Subscriber Customer or third party of the Prohibition on Direct Marketing (set out in Clause 6), the Code Subscriber must inform the Code Oversight Committee, so that the Code Oversight Committee can determine whether an addition should be made to the Register of Excluded Parties (set out in Clause 17).

12. External complaints

- 12.1 The external complaints process under the Code will apply in the following circumstances:
- 12.1.1 Where a complaint cannot be resolved through the internal complaints process of a Code Subscriber;
 - 12.1.2 Where a complaint cannot be resolved within 30 days of receipt by a Code Subscriber;

- 12.1.3 Where a complaint has been received and / or referred but it is unclear which Code Subscriber should be responsible for management of the complaint;
 - 12.1.4 Where the Department requests that a complaint be treated directly as an external complaint (including, but not limited to, circumstances where there is a requirement for urgent resolution); and / or
 - 12.1.5 Where a complaint involves a dispute between Code Subscribers.
- 12.2 External complaints must be made to the Code Oversight Committee in writing (electronic communication is acceptable). External complaints will be assessed at regular meetings of the Code Oversight Committee and are not subject to any specific timeline. The Code Oversight Committee must inform the Consumer in writing of the date that their external complaint will be assessed. The Code Oversight Committee may assess urgent matters out of session, at its discretion.
- 12.3 The external complaints process will be free of charge to Consumers and the Department. However, the Code Oversight Committee may levy a complaints administration charge on Code Subscribers to offset the costs of the external complaints process. The rates of any such charges will be notified in advance.
- 12.4 While there is no right to a formal hearing, the Code Oversight Committee will endeavour to consult both parties during the external complaints process. Written reasons for any decisions made in the external complaints process will be provided to both parties.

13. Independent Arbiter

- 13.1 If either party is not satisfied with the outcome of the external complaints process, they may elect to have the complaint referred to an Independent Arbiter.
- 13.2 The Independent Arbiter will be appointed by the Code Oversight Committee. Appointments may be on an 'as required' basis.
- 13.3 The Independent Arbiter process will be free of charge to Consumers and the Department. However, the Code Oversight Committee may levy a complaints administration charge on Code Subscribers to offset the costs of the Independent Arbiter. Any such charges will be notified in advance.
- 13.4 Decisions of the Independent Arbiter are binding on Code Subscribers.

14. Breaches

- 14.1 A breach of the Code can be found by the Code Oversight Committee following the assessment of an external complaint, or following their own investigation, or following advice from the Independent Arbiter. A determination that a breach has occurred must be provided to the Code Subscriber in writing (electronic communication is acceptable).
- 14.2 The following actions constitute a breach of the Code:
 - 14.2.1 The Code Subscriber fails to comply with its obligations under the Code;
 - 14.2.2 The Code Subscriber acts or engages or repeats a practice that is contrary to or inconsistent with the Code;
 - 14.2.3 The Code Subscriber fails to respond to a complaint by a Consumer;
 and / or
 - 14.2.4 The Code Subscriber fails to pay a levy.

15. Serious or systemic breaches

- 15.1 A serious or systemic breach of the Code can be found by the Code Oversight Committee following the assessment of an external complaint, or following their own investigation, or following advice from the Independent Arbiter. A determination that a serious or systemic breach has occurred must be provided to the Code Subscriber in writing (electronic communication is acceptable).

- 15.2 The following actions constitute a serious or systemic breach of the Code:
- 15.2.1 The Code Subscriber is responsible for a breach of the Code resulting in substantial harm to Consumers and / or damage to the reputation of the industry;
 - 15.2.2 The Code Subscriber has engaged in repetitive or ongoing non-compliance;
 - 15.2.3 The Code Subscriber has ignored the Code Oversight Committee's request to remedy a breach or failed to do so within a reasonable time; and / or
 - 15.2.4 The Code Subscriber has breached an undertaking given to the Code Oversight Committee.

16. Sanctions

- 16.1 Where the Code Oversight Committee has made a finding that there has been a breach see Clause 14) by a Code Subscriber of the Code, they may impose any of the following sanctions:
- 16.1.1 Require the Code Subscriber to undertake immediate remedial action including, but not limited to, changes to documentation, changes to business processes and / or corrective advertising;
 - 16.1.2 Require the Code Subscriber to remove QVAS Identified Information from its data;
 - 16.1.3 Require the Code Subscriber to remove specified Personal Information from its data;
 - 16.1.4 Require the Code Subscriber to cease providing data and / or services to a Code Subscriber Customer or other third party;
 - 16.1.5 Require the Code Subscriber to apologise to affected parties;
 - 16.1.6 Require the Code Subscriber to undertake privacy training; and / or
 - 16.1.8 Issue a warning to a Code Subscriber regarding the impact of any further breaches on future sanctions.
- 16.2 Where the Code Oversight Committee has made a finding that there has been a serious or systemic breach (see Clause 15) by a Code Subscriber of the Code, they may impose any of the following sanctions:
- 16.2.1 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;
 - 16.2.2 Suspension from membership of the Code for a period of between one and six months, at the discretion of the Code Oversight Committee;
- and / or
- 16.2.3 Permanent suspension from membership of the Code and listing on the Register of Excluded Parties.
- 16.3 Where the Code Oversight Committee has determined to impose a sanction that involves suspension from membership of the Code, the Code Oversight Committee must advise the Department (so that the Department knows to suspend provision of Personal Information under the licence).

17. Register of Excluded Parties

- 17.1 The Code Oversight Committee must maintain a Register of Excluded Parties. The management and maintenance of this register may be delegated to a third party service provider.
- 17.2 Code Subscribers must add Code Subscriber Customers or other third parties to the Register of Excluded Parties where they have breached the Prohibition on direct marketing established in Section 6.3 of this Code.
- 17.3 Code Subscribers must check the Register of Excluded Parties before allowing access to QVAS Identified Information by a new Code Subscriber Customer or other third party.

- 17.4 The Code Oversight Committee may, upon receipt of a written request, remove a party from the Register of Excluded Parties, where a reasonable period has expired, and/or the Code Oversight Committee is satisfied that the removal does not represent a significant risk of further breaches.
- 17.5 Code Subscribers must be informed immediately of any additions to or removals from the Register of Excluded Parties and must exclude access to QVAS Identified Information immediately for a Code Subscriber Customer or other third party who is on the Register of Excluded Parties.

18. Code annual report, three year review and amendment

- 18.1 By 31 August 2010, and annually thereafter, the Code Oversight Committee must prepare and publish an annual report.
- 18.2 By 31 August 2012, and once every three years thereafter, the Code Oversight Committee must commission and publish an independent review on the operation and effectiveness of the Code. The review may include an analysis of changes in industry practice, privacy regulation and best practice. The review may recommend necessary changes and amendments to the Code.
- 18.3 The review must be conducted by an impartial, independent third party, with expertise in best practice self-regulation. Sufficient resources for the review process will be allocated. If necessary, Code Subscribers may be levied for the costs of the review.
- 18.4 Where major changes and amendments to the Code are proposed, the Code Oversight Committee must undertake adequate consultation with the Government, public, Code Subscribers and other interested parties and provide a report on the result of the consultation process, before finalising any proposed amendments.
- 18.5 The agreement of a simple majority of Code Subscribers must be sought before making any changes and amendments to the Code.

19. Reserve powers of Minister

- 19.1 The Minister may direct the Code Oversight Committee to permanently list an entity on the Register of Excluded Parties should the Minister, in exceptional circumstances, consider it necessary.
- 19.2 The Minister may direct the Code Oversight Committee to permanently suspend a Code Subscriber from membership of the Code and list the Code Subscriber on the Register of Excluded Parties should the Minister, in exceptional circumstances, consider it necessary.
- 19.3 For the avoidance of doubt, it is not expected that the Minister or the Department will have a role in the day to day administration or review of complaints or will have occasion to exercise the reserve powers except in exceptional circumstances.