



**Australian
Privacy
Foundation**

<http://www.privacy.org.au>

Secretary@privacy.org.au

<http://www.privacy.org.au/About/Contacts.html>

4 May 2012

Mr J. McMillan
The Information Commissioner
West Block, Queen Victoria Tce
Parkes ACT 2600

Dear John

Re: ABS Compulsory Surveys

The APF expresses serious concern about the use by the Australian Bureau of Statistics of its extraordinary powers of compulsion, and about the manner in which it plans and conducts its compulsory surveys.

The APF accordingly requests that you consider the matter from all three of the perspectives inherent in your Office, of information policy, FOI and privacy, and take such measures as are appropriate to instruct, advise, or negotiate with the ABS in relation to substantial improvements in their policies and practices.

The first attached page summarises the key issues, and the next three present them in greater detail.

The supporting attachments contain the correspondence that has taken place between APF and ABS during the last few months, preceded by a contents-page.

Together, we believe that these documents provide a great deal of the information that your staff will find necessary in order to form an opinion and devise and execute a strategy in relation to the matter.

We would appreciate an acknowledgement of this submission, and a substantive response in due course.

Thank you for your consideration.

Yours sincerely

Roger Clarke
Chair, for the Board of the Australian Privacy Foundation
(02) 6288 1472 Chair@privacy.org.au

ABS Compulsory Surveys

Summary of the Issues

Australian Privacy Foundation
4 May 2012

ABS has very substantial powers of compulsion, whose scope extends beyond the Census to at least some Surveys that it conducts, and possibly all Surveys that it conducts.

It appears that ABS may be invoking those powers in relation to many, and perhaps all, Surveys.

Five recent or current Surveys are inherently highly privacy-intrusive, in relation to:

- the privacy of personal data – variously because of the nature of the data that is demanded, the quantity of the data, and in one case the repetitiveness of the demands
- the privacy of personal behaviour – in particular because the procedures involve:
 - a demand that a collector be ‘invited’ into the individual’s home, and permitted to capture responses into a computer; and
 - exposure of sensitive personal data to the collector present in their home. No option is available to provide the responses on paper or using an online form. (That would avoid any person who knows the survey respondent being in possession of the data)
- privacy of the physical person, in that, in one case, intrusive procedures are involved – albeit at this stage without formal compulsion

More specifically, the Issues are as follows:

1. The ABS has failed to conduct a PIA in respect of four of the five current Surveys, despite the substantial privacy issues involved, which are more than enough to trigger a PIA.
2. Even in the case in which a PIA was conducted, ABS appears to have failed to include consultations with relevant advocacy organisations, and to make the PIA Report available.
3. The ABS has declined a request that it conduct a PIA on such Surveys as a matter of course.
4. The ABS has declined a request to conduct consultations with advocacy organisations in relation to such Surveys.
5. The ABS has declined a request to conduct a Privacy Impact Review of the Surveys on which it failed to conduct a PIA.
6. The ABS has failed to provide convenient public access to:
 - information about its powers and its interpretations of their scope; and
 - the instruments that must be tabled in the Parliament before conducting such Surveys.
7. The ABS has declined a request to publish the documents referred to in item 6. retrospectively in respect of the current Surveys.

Because of the degree of public concern that exists about these matters, the APF has found it necessary to provide a Public Advisory Statement in relation to these Surveys, at:

<http://www.privacy.org.au/Resources/ABSSurvAdvStmt-2012.html>

ABS Compulsory Surveys

The Issues in Detail

Australian Privacy Foundation

4 May 2012

This document contains the questions and requests put to ABS by APF, and APF's understanding of ABS's responses to those questions and requests.

1. The Scope of the Powers of Direction

- (a) It appears to the APF that s.5 of the Statistics Regulations empowers the ABS to demand a response by any Australian resident to any question that the ABS chooses to ask, under penalty of a criminal offence.

ABS's Reply:

Not quite correct. See the Reply to 1(e) below.

- (b) Further, it appears to the APF that all defences against such charges have been removed.

ABS's Reply:

Correct, because it is "an offence of strict liability meaning that a person can be charged simply on the basis of their conduct, without the need to establish any intention".

- (c) Further, it appears that ABS considers itself able to use these powers in relation to any survey that it conducts, for any client, and whether the activity is performed under a statutory power, or in accordance with an MoU or a contract.

ABS's Reply:

Correct.

- (d) Would you please advise whether you consider the interpretations in (a), (b) and (c) above to be reasonable.

ABS's Reply:

Subject to the small qualification re (a), the interpretations are correct.

- (e) If you believe any questions are precluded by s.5, would you please provide examples.

ABS's Reply:

Although the scope of s.5 is extremely wide, there are a couple of categories of questions to which the ABS is not empowered to demand answers. These are specifically "questions about religion [and] ethical or political beliefs".

2. Obligations under the FOI Laws

- (a) The APF contends that ABS has an obligation to provide far greater transparency than it currently does, and in particular to provide the public with convenient access to:

- (i) the s.5 authority
- (ii) all currently authoritative proposals that have been tabled in the Parliament

ABS's Reply:

The obligations are satisfied by the ABS's Information Publication Scheme (IPS) plan, at <http://www.abs.gov.au/websitedbs/d3310114.nsf/home/information+publication+scheme>.

"[s.5] is already available from a few public sources, including the ComLaw website"

APF's Interpretation:

ABS fails to provide convenient access to the s.5 authority, and to ABS's interpretation of what questions that authority does and does not authorise ABS to demand answers to.

ABS fails to provide convenient access to the currently authoritative proposals that have been tabled in the Parliament.

- (b) The APF specifically contends that reliance on the aph.gov.au web-site does not represent compliance with that obligation, because that site is not under the control of ABS, and is neither reliable nor convenient for the public.

ABS's Reply:

"[ABS is] unable to provide ... direct links to [the relevant] documents"

"If you would like access to tabling documentation for specific surveys, we would be happy to provide them to you".

"I have now asked my team to establish a process for loading future documents to the ABS website".

APF's Interpretation:

ABS acknowledges that it is appropriate to provide the public with access to "the tabling documents for all ABS statistical collections".

However, ABS fails to provide access to the following, and has declined to correct the failure:

- *the s.5 authority, and ABS's interpretation of what questions that authority does and does not authorise ABS to demand answers to*
- *the relevant tabling documents in respect of the current Surveys*

- (c) Using the ABS site, the APF has not been able to identify and acquire copies of the current tabled documents that relate to each of the compulsory surveys. We are accordingly requesting you to provide us with copies or direct URLs from which they can be downloaded.

ABS's Reply:

"[ABS is] unable to provide ... direct links to [the relevant] documents"

"If you would like access to tabling documentation for specific surveys, we would be happy to provide them to you".

APF's Interpretation:

Despite an explicit request, repeated, ABS has still failed to provide copies or URLs.

3. Obligations to perform PIAs

- (a) The APF contends that all compulsory surveys are highly intrusive, into the privacy of personal behaviour, and into the privacy of personal data (and, in at least the case of the Health Survey, into the privacy of the physical person as well).

ABS's Reply:

None.

- (b) The APF accordingly contends that It is untenable for the ABS to design such surveys without first conducting a PIA.

ABS's Reply:

"Where appropriate, PIAs are undertaken"

APF's Interpretation:

ABS declines to acknowledge its responsibility to conduct PIAs on all compulsory Surveys.

4. The Serious Inadequacy of Public Consultation

- (a) The APF contends that the obligation to conduct public consultation cannot be satisfied by focus groups, because they are a research tool, not a consultative tool.

ABS's Reply:

None. ("The ABS engages in a range of research and testing for our new surveys")

- (b) The APF further contends that the obligation to conduct public consultation cannot be satisfied through discussions with members of the public alone, unless members of the public are sufficiently well-informed about all aspects of the subject-matter.

ABS's Reply:

"The ABS ... actively engages directly with the public on a range of issues and has greatly valued the contributions of participants. We have found that members of the public who respond to the consultative process are both intelligent and well-informed. Furthermore, they represent the very people who will be selected in ABS surveys to provide information. On this basis, I disagree with your assertions on this matter".

- (c) The APF further contends that ABS surveys generally, but especially compulsory surveys, raise issues far too broad and deep to be appreciated by members of the public without the direct involvement of representative and advocacy organisations with specific expertise in civil liberties generally and privacy in particular.

ABS's Reply: None.

APF's Interpretation:

ABS, beyond declining to conduct PIAs for every compulsory Survey, is declining to engage with civil society organisations such as APF, within the context of a PIA or otherwise.

- (d) Would you please advise whether you consider the interpretations in (a), (b) and (c) above to be reasonable.

ABS's Reply:

ABS failed to respond to (a), explicitly disagrees with (b), and implicitly disagrees with (c).

5. Serious Concerns About Collection Practices

- (a) The APF has evidence that the practices of ABS's collectors are seriously privacy-invasive.

ABS's Reply:

"We are committed to investigating issues raised as a matter of priority. I encourage you to make any specific complaints directly to the Survey Participant Liaison Officer ...".

- (b) It would appear that some of the problems are arising from errors made by collectors (indicating inadequate training), and others because of the instructions provided by ABS.

ABS's Reply:

None.

- (c) The APF accordingly contends that a Privacy Impact Review is essential and urgent, into all aspects of the ABS's compulsory surveys, and particularly the collection practices.

ABS's Reply:

"The ABS does not believe that this would be a good use of public money".

- (d) The APF further contends that the Privacy Impact Review needs to involve public consultation as discussed immediately above, i.e. including civil society organisations such as APF.

ABS's Reply:

None.

APF's Interpretation:

Because ABS declines to engage with civil society organisations such as APF in the context of PIAs (see 4(c) above), and has failed to respond to this point, it is reasonable to infer that ABS also declines to engage with civil society organisations in relation to Review of the current Surveys.

ABS Compulsory Surveys
Index of Correspondence Between APF and ABS
February-May 2012

- APF's 1st letter to ABS dated 3 February 2012
- APF's 2nd letter to ABS dated 13 February 2012
- ABS's 1st response dated 23 February 2012

- APF's 3rd letter to ABS dated 9 March 2012
- ABS's 2nd response dated 11 April 2012

- APF's 4th letter to ABS dated 22 April 2012
- ABS's 3rd response dated 1 May 2012
- APF's notes on ABS's 3rd response, dated 2 May 2012

- APF's Public Advisory Statement re ABS Compulsory Surveys, rev. 2 February 2012



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3 February 2012

Mr Brian Pink
Australian Statistician

Dear Mr Pink

Re: Compulsory Surveys

The Australian Privacy Foundation (APF) is the country's leading privacy advocacy organisation. A brief backgrounder is attached.

There is considerable public concern about the ABS's various compulsory surveys. While preparing a Public Advisory Statement on the matter, the APF was unable to find:

- a clear statement of the legal authority under which responses are compulsory
- copies of the texts that your agency is required to place before the Parliament in respect of each such survey

Would you please advise:

1. the URLs at which each of the above is accessible and/or provide us with copies of them

We further note that:

- a Privacy Impact Assessment (PIA) was conducted re the Australian Health Survey
- the APF did not become aware of that process until a few days ago
- despite APF's previous representations to the ABS, we can find nothing in our records to suggest that we were approached as part of that PIA process
- no evidence has been found of PIAs for the other compulsory surveys or the 2011 Census

Would you please further advise:

2. what PIAs have been conducted in relation to the compulsory surveys and the 2011 Census
3. what privacy advocacy and other consumer organisations did ABS engage with during the course of the PIA process in relation to the Australian Health Survey, and in relation to any other PIA processes that may have been conducted
4. the URLs at which instructions to collectors in relation to their dealings with respondents are accessible and/or provide us with copies of them

Thank you for your consideration.

Yours sincerely

Roger Clarke
Chair, for the Board of the Australian Privacy Foundation
(02) 6288 1472 Chair@privacy.org.au

Australian Privacy Foundation

Background Information

The Australian Privacy Foundation (APF) is the primary national association dedicated to protecting the privacy rights of Australians. The Foundation aims to focus public attention on emerging issues that pose a threat to the freedom and privacy of Australians. The Foundation has led the fight to defend the right of individuals to control their personal information and to be free of excessive intrusions.

The APF's primary activity is analysis of the privacy impact of systems and proposals for new systems. It makes frequent submissions to parliamentary committees and government agencies. It publishes information on privacy laws and privacy issues. It provides continual background briefings to the media on privacy-related matters.

Where possible, the APF cooperates with and supports privacy oversight agencies, but it is entirely independent of the agencies that administer privacy legislation, and regrettably often finds it necessary to be critical of their performance.

When necessary, the APF conducts campaigns for or against specific proposals. It works with civil liberties councils, consumer organisations, professional associations and other community groups as appropriate to the circumstances. The Privacy Foundation is also an active participant in Privacy International, the world-wide privacy protection network.

The APF is open to membership by individuals and organisations who support the APF's Objects. Funding that is provided by members and donors is used to run the Foundation and to support its activities including research, campaigns and awards events.

The APF does not claim any right to formally represent the public as a whole, nor to formally represent any particular population segment, and it accordingly makes no public declarations about its membership-base. The APF's contributions to policy are based on the expertise of the members of its Board, SubCommittees and Reference Groups, and its impact reflects the quality of the evidence, analysis and arguments that its contributions contain.

The APF's Board, SubCommittees and Reference Groups comprise professionals who bring to their work deep experience in privacy, information technology and the law.

The Board is supported by a Patron (until recently, Sir Zelman Cowen), and an Advisory Panel of eminent citizens, including former judges, former Ministers of the Crown, and a former Prime Minister.

The following pages provide access to information about the APF:

- Policies <http://www.privacy.org.au/Papers/>
- Resources <http://www.privacy.org.au/Resources/>
- Media <http://www.privacy.org.au/Media/>
- Current Board Members <http://www.privacy.org.au/About/Contacts.html>
- Patron and Advisory Panel <http://www.privacy.org.au/About/AdvisoryPanel.html>

The following pages provide outlines of several campaigns the APF has conducted:

- The Australia Card (1985-87) <http://www.privacy.org.au/About/Formation.html>
- Credit Reporting (1988-90) <http://www.privacy.org.au/Campaigns/CreditRpting/>
- The Access Card (2006-07) http://www.privacy.org.au/Campaigns/ID_cards/HSAC.html
- The Media (2007-) <http://www.privacy.org.au/Campaigns/Media/>



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13 February 2012

Mr Brian Pink
Australian Statistician

Dear Mr Pink

I refer to our letter to you of 3 February, concerning Compulsory Surveys, acknowledged on 7 February. We look forward to the substantive response from Ms Carlton in due course.

In the meantime, a further matter of concern has come to our notice.

Your Surveys Charter offers an email-address where complaints can be sent.

The web-page in question is:

<http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/1008.0Main%20Features82010?opendocument&tabname=Summary&prodno=1008.0&issue=2010&num=&view=>

And the email-address is surveys@abs.gov.au.

An email to that address gets the following response:

"surveys@abs.gov.au is either : misspelled, not permitted to receive email or is not defined to the system. Consequently, your email cannot be delivered ...".

The Charter and the page in question date to March 2010. So it seems reasonable to assume that the email-channel has never resulted in a single message reaching the Liaison Officer in the 23 months the Charter has existed; yet the Liaison Officer has never taken steps to check that it's working.

Would you please advise:

- (a) if anything in the above is incorrect or unreasonable
- (b) whether the situation is consistent with the statement in your letter of 7 February that "[ABS] has a long history of taking the privacy of respondents seriously and we continue to do so"
- (c) what email-address complaints should be addressed to

Thank you for your consideration.

Yours sincerely

Roger Clarke
Chair, for the Board of the Australian Privacy Foundation
(02) 6288 1472 Chair@privacy.org.au

ABS Letterhead

ABS's Reply ***with APF's Requests of 3 February Inserted into the text*** and key parts of the response picked out in **bold-face type**

23 February 2012

[No Addressee, but mailed to the private address of the APF's Chair]

Dear Mr Clarke

Thank you for your letters to the Australian Statistician dated 3 and 13 February 2012.

Accurate, timely and independent statistics, like those produced and published by the ABS, are vital to the development of effective public policy in a democratic society. ABS statistics are not only used by government departments and agencies but are also important to the work of community organisations, academic researchers, the media and many other groups.

Our goal is to balance the authority we have to collect statistics with the imposition this places on our respondents. We appreciate that participating in surveys can be time-consuming and we are grateful to the public for their participation. The vast majority of Australians are supportive of the work of the ABS and voluntarily respond to our requests for information.

The ABS is also committed to maintaining an open and transparent dialogue with the Australian public. This can be seen in the wealth of information that is freely available on our website.

The legal authority for compulsory surveys

APF's Request:

There is considerable public concern about the ABS's various compulsory surveys. While preparing a Public Advisory Statement on the matter, the APF was unable to find:

- ***a clear statement of the legal authority under which responses are compulsory***
- ***copies of the texts that your agency is required to place before the Parliament in respect of each such survey***

Would you please advise:

1. ***the URLs at which each of the above is accessible and/or provide us with copies of them***

The ABS collects information under the **Census and Statistics Act 1905**. This Act provides not only the authority for the collection of information but also protections for the information we hold.

- Under **section 9** of this Act, the Australian Statistician has the authority to collect **statistical information, where that topic has been prescribed. Prescribed topics are listed in section 5 of the Statistics Regulations 1983.**
[This contains a list that appears to have been devised to encompass everything known to mankind:
http://www.austlii.edu.au/au/legis/cth/consol_reg/sr1983259/s5.html]
- Sections 10 and 11 of the Census and Statistics Act 1905 state that statistical information can be collected by requesting or directing a person to complete a form or answer questions in response to a compulsory survey.
- Subsections 10(3) and 11(1) of this Act enable the Australian Statistician, or an authorized officer, to request a person to answer a question or fill up and supply the particulars specified in a survey form.

- Subsections 10(4) and 11(2) of the Census and Statistics Act 1905 goes further and states that **the Statistician can direct a person to answer a question or fill up and supply the particulars of a form**, within such period after the service of the notice of direction, being not less than 14 days.
- Section 12 of this Act then limits the information which can be disclosed by the Bureau, to ensure that information of a personal or domestic nature cannot be released in a manner that is likely to enable the identification of a person.
- Section 19 of the Census and Statistics Act 1905 makes it an offence for an ABS officer to divulge or communicate information collected under the Act. This is punishable by up to two years imprisonment or a fine of 120 penalty units, or both.

These provisions enable the Australian Statistician to collect reliable statistical information that is used by many Australian organisations, businesses and government departments to come to informed decisions about public policy, business directions and future planning.

A link to the Census and Statistics Act 1905 can be found below:

<http://www.comlaw.gov.au/Details/C2006C00178>

In addition, **section 6 of the Australian Bureau of Statistics Act 1975 requires that each new proposal for the compulsory collection of information for statistical purposes be laid before both Houses of Parliament**. This ensures that the ABS is transparent to the government and the Australian public for all statistical activities undertaken.

In addition to fulfilling these legal requirements, ABS policy goes beyond these requirements by also making sure ABS collections are **re-tabled every three years, and/or when there are significant changes to frequency, sample size, scope or questions in a particular survey**.

Tabled documents can be accessed at <http://parlinfo.aph.gov.au>.

Note: To search for documents related to the ABS, click on the Advanced Search/Browse tab. In the Search field, enter "Australian Bureau of Statistics proposals". Tick the box next to Tabled Papers Register (under the heading Publications) and then click the Search button. This will bring up a list of all the documents the ABS has had tabled.

<http://parlinfo.aph.gov.au/parlInfo/search/summary/summary.w3p;adv=yes;orderBy=customrank;page=0;query=Australian%20Bureau%20of%20Statistics%20proposals%20Dataset%3Atabledpapers;resCount=Default>

[This delivered 139 matches on 7 March 2012.

[The 14 during the decade commencing 2010 are listed in the attachment]

[The APH search-facility is an excruciatingly badly-designed user-interface.]

[It did not prove possible to download a copy of any of those documents.]

Where they are not available on that website, the Senate tabling office can, and have an obligation to, provide copies.

[The intention of the FOI Law is to obligate ABS to provide convenient access to them.]

Public Engagement for the Australian Health Survey

We further note that:

- ***a Privacy Impact Assessment (PIA) was conducted re the Australian Health Survey***
- ***the APF did not become aware of that process until a few days ago***
- ***despite APF's previous representations to the ABS, we can find nothing in our records to suggest that we were approached as part of that PIA process***
- ***no evidence has been found of PIAs for the other compulsory surveys or the 2011 Census***

The ABS has actively engaged with the Australian public and researched community attitudes extensively. In relation to the Australian Health Survey, this involved conducting focus group testing and cognitive interviews. Participants were sourced through newspaper advertisements which invited interested parties to participate. This was open to all Australians.

In 2010, the ABS conducted 16 focus groups across Australia with a total of 128 participants. Participants of the focus groups were asked if they had any concerns about the confidentiality of the personal information they provided on the consent form and the purpose for which the ABS needed their personal information. They were also asked if they had any hesitations with allowing the pathology service providers access to their personal information. No privacy concerns were raised by the participants.

In addition, a total of 12 cognitive interviews were conducted to test the understanding of consent material and whether respondents had any concerns about the pathology company collecting their personal information. Again, no concerns were raised by the participants.

Privacy Impact Assessments (PIAs)

... Would you please further advise:

- 2. what PIAs have been conducted in relation to the compulsory surveys and the 2011 Census**
- 3. what privacy advocacy and other consumer organisations did ABS engage with during the course of the PIA process in relation to the Australian Health Survey, and in relation to any other PIA processes that may have been conducted**

Undertaking PIAs is not required by law, but is a voluntary act that the ABS undertakes to investigate and communicate the privacy implications of non-compulsory collections. The ABS complies with the Office of the Australian Information Commissioner's guidelines on Privacy Impact Assessments.

The ABS undertook extensive public consultations in the development of **the Australian Health Survey and its PIA**. The Statistician also discussed the plans for the Australian Health Survey with the Privacy Commissioner during one of their periodic discussions.

[Q2 re 'what PIAs have been conducted ...?' has been responded to only to the extent that it has been confirmed that the one we identified was mentioned]

[Q3 has not been responded to at all]

Collector's instructions

... Would you please further advise:

- 4. the URLs at which instructions to collectors in relation to their dealings with respondents are accessible and/or provide us with copies of them**

The ABS takes pride in extensively training all collectors and they are considered to be highly valued professionals. However, we limit the amount of information that is publicly released about collector's instructions.

The ABS does not release collector instructions to protect the Australian people. This information is not made public to prevent individuals from imitating ABS officers and engaging in fraudulent activities. The ABS does release a variety of information for survey respondents, including information about the legislative authority for particular surveys and general information on each survey that is currently in the field as well as information about how we keep the information provided by respondents secure. Please find the links for these below:

Information for respondents

<http://www.abs.gov.au/websitedbs/D3310114.nsf/Home/Survey+Participant+Information?opendocument#from-banner=GT>

How the ABS keeps your information confidential

[Q4 was responded to with 'ABS does not release collector instructions']

ABS Survey Charter email address

On 13 February APF wrote:

... it seems reasonable to assume that the email-channel has never resulted in a single message reaching the Liaison Officer in the 23 months the Charter has existed; yet the Liaison Officer has never taken steps to check that it's working.

Would you please advise:

- (a) if anything in the above is incorrect or unreasonable***
- (b) whether the situation is consistent with the statement in your letter of 7 February that "[ABS] has a long history of taking the privacy of respondents seriously and we continue to do so"***
- (c) what email-address complaints should be addressed to***

Thank you for bringing the issue with the surveys@abs.gov.au email address to my attention. I note that the ABS offers several channels for our respondents to communicate with us and these are all listed on our website. I have been advised that the issues with the email address have been corrected by Monday, 20 February, 2012.

[Questions (b) and (c) were not responded to]

Should you require any further information on the above, please contact Michael Meagher on (02) 6252 7967.

Yours sincerely

Denise Carlton
Assistant Statistician (A/g)
Office of the Statistician and External Engagement
Australian Bureau of Statistics

[No contact-details provided, other than her assistant's phone number in the final para.]

1. Australian Bureau of Statistics Act Australian Bureau of Statistics Proposals 2011 No. 17, 18
[Tabled Papers Register]
Date: 31/10/2011 12:00:00 - Collection: Publications - ID: publications/tabledpapers/60946 - Source:
Both Chambers
2. Australian Bureau of Statistics Act Australian Bureau of Statistics Proposals 2011 No. 15, 16
[Tabled Papers Register]
Date: 13/09/2011 12:00:00 - Collection: Publications - ID: publications/tabledpapers/60209 - Source:
Both Chambers
3. Australian Bureau of Statistics Act Australian Bureau of Statistics Proposals 2011 No. 13, 14
[Tabled Papers Register]
Date: 16/08/2011 12:00:00 - Collection: Publications - ID: publications/tabledpapers/59663 - Source:
Both Chambers
4. Australian Bureau of Statistics Act Australian Bureau of Statistics Proposals 2011 No. 12
[Tabled Papers Register]
Date: 04/07/2011 12:00:00 - Collection: Publications - ID: publications/tabledpapers/59193 - Source:
Both Chambers
5. Australian Bureau of Statistics Act Australian Bureau of Statistics Proposals 2011 No. 09, 10,
11 [Tabled Papers Register]
Date: 20/06/2011 12:00:00 - Collection: Publications - ID: publications/tabledpapers/58841 - Source:
Both Chambers
6. Australian Bureau of Statistics Act Australian Bureau of Statistics Proposals 2011 No. 07, 8
[Tabled Papers Register]
Date: 15/06/2011 12:00:00 - Collection: Publications - ID: publications/tabledpapers/58691 - Source:
Both Chambers
7. Australian Bureau of Statistics Act Australian Bureau of Statistics Proposals 2011 No. 04, 5, 6
[Tabled Papers Register]
Date: 10/05/2011 12:00:00 - Collection: Publications - ID: publications/tabledpapers/58014 - Source:
Both Chambers
8. Australian Bureau of Statistics Act Australian Bureau of Statistics Proposals 2011 No. 01, 2, 3
[Tabled Papers Register]
Date: 08/02/2011 12:00:00 - Collection: Publications - ID: publications/tabledpapers/56752 - Source:
Both Chambers
9. Australian Bureau of Statistics Act Australian Bureau of Statistics Proposals 2010 No. 14
[Tabled Papers Register]
Date: 26/10/2010 12:00:00 - Collection: Publications - ID: publications/tabledpapers/55671 - Source:
Both Chambers
10. Australian Bureau of Statistics Act Australian Bureau of Statistics Proposals 2010 No. 10, 11,
12, 13 [Tabled Papers Register]
Date: 28/09/2010 12:00:00 - Collection: Publications - ID: publications/tabledpapers/55068 - Source:
Both Chambers
11. Australian Bureau of Statistics Act Australian Bureau of Statistics Proposals 2010 No. 08, 9
[Tabled Papers Register]
Date: 22/06/2010 12:00:00 - Collection: Publications - ID: publications/tabledpapers/54033 - Source:
Both Chambers
12. Australian Bureau of Statistics Act Australian Bureau of Statistics Proposals 2010 No. 03, 4, 5,
6, 7 [Tabled Papers Register]
Date: 16/06/2010 12:00:00 - Collection: Publications - ID: publications/tabledpapers/53758 - Source:
Both Chambers
13. Australian Bureau of Statistics Act Australian Bureau of Statistics Proposals 2010 No. 02
[Tabled Papers Register]
Date: 17/03/2010 12:00:00 - Collection: Publications - ID: publications/tabledpapers/52553 - Source:
Both Chambers
14. Australian Bureau of Statistics Act Australian Bureau of Statistics Proposals 2010 No. 01
[Tabled Papers Register]
Date: 09/03/2010 12:00:00 - Collection: Publications - ID: publications/tabledpapers/52240 - Source:
Both Chambers



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<http://www.privacy.org.au>

Secretary@privacy.org.au

<http://www.privacy.org.au/About/Contacts.html>

9 March 2012

Mr Brian Pink
Australian Statistician

cc. Ms Denise Carlton, Assistant Statistician (A/g)

Dear Mr Pink

Re: Compulsory Surveys

Thank you for the reply of 23 February to our letters of 3 and 13 February. It gives rise to a number of concerns, however, and we would therefore appreciate your responses to the following.

1. The Scope of the Powers of Direction

- (a) It appears to the APF that s.5 of the Statistics Regulations empowers the ABS to demand a response by any Australian resident to any question that the ABS chooses to ask, under penalty of a criminal offence.
- (b) Further, it appears to the APF that all defences against such charges have been removed.
- (c) Further, it appears that ABS considers itself able to use these powers in relation to any survey that it conducts, for any client, and whether the activity is performed under a statutory power, or in accordance with an MoU or a contract.
- (d) Would you please advise whether you consider the interpretations in (a), (b) and (c) above to be reasonable.
- (e) If you believe any questions are precluded by s.5, would you please provide examples.

2. Obligations under the FOI Laws

- (a) The APF contends that ABS has an obligation to provide far greater transparency than it currently does, and in particular to provide the public with convenient access to:
 - (i) the s.5 authority
 - (ii) all currently authoritative proposals that have been tabled in the Parliament
- (b) The APF specifically contends that reliance on the aph.gov.au web-site does not represent compliance with that obligation, because that site is not under the control of ABS, and is neither reliable nor convenient for the public.
- (c) Using the ABS site, the APF has not been able to identify and acquire copies of the current tabled documents that relate to each of the compulsory surveys. We are accordingly requesting you to provide us with copies or direct URLs from which they can be downloaded.

3. Obligations to perform PIAs

- (a) The APF contends that all compulsory surveys are highly intrusive, into the privacy of personal behaviour, and into the privacy of personal data (and, in at least the case of the Health Survey, into the privacy of the physical person as well).
- (b) The APF accordingly contends that It is untenable for the ABS to design such surveys without first conducting a PIA.

4. The Serious Inadequacy of Public Consultation

- (a) The APF contends that the obligation to conduct public consultation cannot be satisfied by focus groups, because they are a research tool, not a consultative tool.
- (b) The APF further contends that the obligation to conduct public consultation cannot be satisfied through discussions with members of the public alone, unless members of the public are sufficiently well-informed about all aspects of the subject-matter.
- (c) The APF further contends that ABS surveys generally, but especially compulsory surveys, raise issues far too broad and deep to be appreciated by members of the public without the direct involvement of representative and advocacy organisations with specific expertise in civil liberties generally and privacy in particular.
- (d) Would you please advise whether you consider the interpretations in (a), (b) and (c) above to be reasonable.

5. Serious Concerns About Collection Practices

- (a) The APF has evidence showing the practices of ABS's collectors are seriously privacy-invasive.
- (b) It would appear that some of the problems are arising from errors made by collectors (indicating inadequate training), and others because of the instructions provided by ABS.
- (c) The APF accordingly contends that a Privacy Impact Review is essential and urgent, into all aspects of the ABS's compulsory surveys, and particularly the collection practices.
- (d) The APF further contends that the Privacy Impact Review needs to involve public consultation as discussed immediately above.

We believe that the issues raised in this letter are all important matters of public policy, and that they are deserving of your attention and formal response.

Would you please ensure that your organisation's responses are delivered in structured form, cross-referenced against the above numbering scheme. We believe that this is important, in order to facilitate future rounds of correspondence between the APF and ABS, and, if the problems have to be subsequently escalated to oversight agencies and the Parliament, to facilitate those discussions as well.

It would also be much appreciated if you could arrange for your response to be provided in text-copiable electronic form.

Thank you for your consideration.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Roger Clarke', with a long horizontal flourish extending to the right.

Roger Clarke
Chair, for the Board of the Australian Privacy Foundation
(02) 6288 1472 Chair@privacy.org.au

Roger Clarke
Chair
Board of the Australian Privacy Foundation

Dear Mr Clarke,

Thank you for your letter to the Australian Statistician dated 9 March 2012. He has asked me to respond to your questions on his behalf. For your convenience, I have used the numbering scheme from your letter in brackets at the end of each section of my response.

1: The *Census and Statistics Act 1905* and the Powers of Direction

As Australia's official statistical agency, the ABS only runs statistical collections that are of national importance. It is ABS policy to run these important statistical collections under the *Census and Statistics Act 1905* to ensure that the information collected is protected by the strictest secrecy provisions.

With regards to the scope of the powers of direction, as mentioned in my last letter, Section 10 and 11 of the *Census and Statistics Act 1905* give the Australian Statistician the power to issue a notice directing a person to fill in a form or answer a question within 14 days, if they have not done so voluntarily. (Ref: Q1, a and c)

If an individual fails to follow the direction within this stipulated time frame, they may be charged under section 14 of the *Census and Statistics Act 1905* for failing to answer a question after receiving a direction to do so. Failing to follow a direction is a Commonwealth offence under the *Census and Statistics Act 1905*, but does not fall under the Criminal Code. It is also an offence of strict liability meaning that a person can be charged simply on the basis of their conduct, without the need to establish any intention. (Ref: Q1, a, b and d)

Section 5 of the *Statistics Regulations 1983* outlines the range of topics on which the Statistician can collect information. This is suitably wide to ensure that measures of progress and of public programs are available to improve all areas of government policy as well as to increase accountability. However, it should be noted that questions about religion are not compulsory. In addition, the regulations do not cover the collection of information about ethical or political beliefs, for example. (Ref: Q1, e)

2: The *Freedom of Information Act 1982*

With regards to our obligations under the *Freedom of Information Act 1982*, the ABS meets all relevant legislation concerning access and transparency, and complies with all relevant provisions of the *Freedom of Information Act 1982*. The ABS has an Information Publication Scheme (IPS) plan in place and this can be found on our website: (<http://www.abs.gov.au/websitedbs/d3310114.nsf/home/information+publication+scheme>). This Scheme is reviewed regularly to ensure that all details are up-to-date and complete.

The ABS has, for many years, published information about all statistical collections undertaken. Each collection has dedicated web pages which explain their purpose and use to respondents.

In my previous letter to you, I provided instructions about how to access tabling documents on the Australian Parliament House website. Unfortunately, due to the format of the webpage, I am unable to provide you with direct links to documents. If you would like access to tabling documentation for specific surveys, we would be happy to provide them to you. **(Ref: Q2 a(ii), b and c)**

In relation to accessibility of section 5 of the *Statistics Regulations 1983*, this information is already available from a few public sources, including the ComLaw website (<http://www.comlaw.gov.au/Details/F2010C00792>). It should be noted that, by itself, section 5 does not provide any authority to collect statistics. However, it does limit the scope of section 9 of the *Census and Statistics Act 1905* that empowers the statistician to collect statistics. **(Ref: Q2 a(i), Q1 a)**

Thank you for your suggestion to include tabling documents for all ABS statistical collections on our website. I have now asked my team to establish a process for loading future documents to the ABS website. **(Ref: Q2, b and c)**

3: Privacy Impact Assessments

The ABS complies with the *Privacy Act 1988* in all dealings with public. The ABS ensures that only the minimum amount of information required to inform public policy is collected in each statistical collection. The sensitive nature of the data collected is protected by the *Census and Statistics Act 1905*, which imposes serious penalties on any ABS Officer for breaching the Act. **(Ref: Q3, a and Q5, a)**

With regards to the obligation for the ABS to perform Privacy Impact Assessments (PIAs), the ABS engages with the Privacy Commissioner regularly to ensure our actions are within the spirit and letter of the relevant laws. The ABS has an extensive process for developing and consulting on new statistical collections. Where appropriate, PIAs are undertaken after consultation with the Privacy Commissioner. **(Ref: Q3, b)**

4: Public Consultation

You have also enquired about the nature of our public consultation process. As previously discussed, the ABS has the legal authority to collect information from individuals for the purposes of the *Census and Statistics Act 1905*. In applying this authority, the ABS ensures it is transparent in the collection of personal information for statistical purposes and is very mindful of the privacy of individuals. While not obligated to conduct consultations, the ABS engages in a range of research and testing for our new surveys. This process ensures that the burden on respondents, subsequently selected in the surveys, is minimised.

The ABS also actively engages directly with the public on a range of issues and has greatly valued the contributions of participants. We have found that members of the public who respond to the consultative process are both intelligent and well-informed. Furthermore, they represent the very people who will be selected in ABS surveys to provide information. On this basis, I disagree with your assertions on this matter. **(Ref: Q4, a to d)**

5: Collection Practices

ABS field staff are equally valued members of our team and are highly professional and well-trained. The ABS provides avenues for respondents to raise concerns about our field staff and we take all concerns seriously. We are committed to investigating issues raised as a matter of priority. I encourage you to make any specific complaints directly to the Survey Participant Liaison Officer using the addresses below. **(Ref: Q5, a to d)**

Survey Participant Liaison Officer
Australian Bureau of Statistics
PO Box 10
Belconnen ACT 2616
Email: business.charter@abs.gov.au

I trust that the above information will be of assistance. If you would like to discuss anything further, please contact Michael Meagher on (02) 6252 7967.

Regards,

Denise Carlton
Assistant Statistician (A/g)
Office of the Statistician and External Engagement
Australian Bureau of Statistics

March 2012



**Australian
Privacy
Foundation**

<http://www.privacy.org.au>

Secretary@privacy.org.au

<http://www.privacy.org.au/About/Contacts.html>

22 April 2012

Mr Brian Pink
Australian Statistician

cc. Ms Denise Carlton, Assistant Statistician (A/g)

Dear Mr Pink

Re: Compulsory Surveys

I refer to our earlier letters of 3 and 13 February, replied to by Ms Carlton on 23 February, and to our subsequent letter of 9 March, replied to by Ms Carlton on 11 April.

Thank you for your agency's responses.

Unfortunately, the answers to many of the questions are not as clear as we had hoped.

In the attachment, we have:

- repeated APF's specific questions
- interpolated Ms Carlton's answers on behalf of ABS
- where necessary, indicated our interpretations of the ABS responses

Would you please advise within 7 days if you believe that any aspects of the attachment evidence misunderstanding on APF's part, or if you wish to provide further clarification.

Thank you for your consideration.

Yours sincerely

Roger Clarke
Chair, for the Board of the Australian Privacy Foundation
(02) 6288 1472 Chair@privacy.org.au

APF's Questions of 9 March 2012, and ABS's Responses of 11 April 2012

1. The Scope of the Powers of Direction

- (a) It appears to the APF that s.5 of the Statistics Regulations empowers the ABS to demand a response by any Australian resident to any question that the ABS chooses to ask, under penalty of a criminal offence.

ABS's Reply:

Not quite correct. See the Reply to 1(e) below.

- (b) Further, it appears to the APF that all defences against such charges have been removed.

ABS's Reply:

Correct, because it is "an offence of strict liability meaning that a person can be charged simply on the basis of their conduct, without the need to establish any intention".

- (c) Further, it appears that ABS considers itself able to use these powers in relation to any survey that it conducts, for any client, and whether the activity is performed under a statutory power, or in accordance with an MoU or a contract.

ABS's Reply:

Correct.

- (d) Would you please advise whether you consider the interpretations in (a), (b) and (c) above to be reasonable.

ABS's Reply:

Subject to the small qualification re (a), the interpretations are correct.

- (e) If you believe any questions are precluded by s.5, would you please provide examples.

ABS's Reply:

Although the scope of s.5 is extremely wide, there are a couple of categories of questions to which the ABS is not empowered to demand answers. These are specifically "questions about religion [and] ethical or political beliefs".

2. Obligations under the FOI Laws

- (a) The APF contends that ABS has an obligation to provide far greater transparency than it currently does, and in particular to provide the public with convenient access to:

- (i) the s.5 authority
- (ii) all currently authoritative proposals that have been tabled in the Parliament

ABS's Reply:

The obligations are satisfied by the ABS's Information Publication Scheme (IPS) plan, at <http://www.abs.gov.au/websitedbs/d3310114.nsf/home/information+publication+scheme>.

"[s.5] is already available from a few public sources, including the ComLaw website"

APF's Interpretation:

ABS fails to provide convenient access to the s.5 authority, and to ABS's interpretation of what questions that authority does and does not authorise ABS to demand answers to.

ABS fails to provide convenient access to all currently authoritative proposals that have been tabled in the Parliament.

- (b) The APF specifically contends that reliance on the aph.gov.au web-site does not represent compliance with that obligation, because that site is not under the control of ABS, and is neither reliable nor convenient for the public.

ABS's Reply:

"[ABS is] unable to provide ... direct links to [the relevant] documents"

"If you would like access to tabling documentation for specific surveys, we would be happy to provide them to you".

"I have now asked my team to establish a process for loading future documents to the ABS website".

APF's Interpretation:

ABS acknowledges that it is appropriate to provide the public with access to "the tabling documents for all ABS statistical collections".

However, ABS refuses to provide access to:

- *the s.5 authority, and ABS's interpretation of what questions that authority does and does not authorise ABS to demand answers to*
- *the relevant tabling documents in respect of the current Surveys*

- (c) Using the ABS site, the APF has not been able to identify and acquire copies of the current tabled documents that relate to each of the compulsory surveys. We are accordingly requesting you to provide us with copies or direct URLs from which they can be downloaded.

ABS's Reply:

"[ABS is] unable to provide ... direct links to [the relevant] documents"

"If you would like access to tabling documentation for specific surveys, we would be happy to provide them to you".

APF's Interpretation:

Despite an explicit request, ABS has still failed to provide copies or URLs.

3. Obligations to perform PIAs

- (a) The APF contends that all compulsory surveys are highly intrusive, into the privacy of personal behaviour, and into the privacy of personal data (and, in at least the case of the Health Survey, into the privacy of the physical person as well).

ABS's Reply: *None.*

- (b) The APF accordingly contends that It is untenable for the ABS to design such surveys without first conducting a PIA.

ABS's Reply:

"Where appropriate, PIAs are undertaken"

APF's Interpretation:

ABS refuses to acknowledge its responsibility to conduct PIAs on all compulsory Surveys.

4. The Serious Inadequacy of Public Consultation

- (a) The APF contends that the obligation to conduct public consultation cannot be satisfied by focus groups, because they are a research tool, not a consultative tool.

ABS's Reply:

None. ("The ABS engages in a range of research and testing for our new surveys")

- (b) The APF further contends that the obligation to conduct public consultation cannot be satisfied through discussions with members of the public alone, unless members of the public are sufficiently well-informed about all aspects of the subject-matter.

ABS's Reply:

"The ABS ... actively engages directly with the public on a range of issues and has greatly valued the contributions of participants. We have found that members of the public who respond to the consultative process are both intelligent and well-informed. Furthermore, they represent the very people who will be selected in ABS surveys to provide information. On this basis, I disagree with your assertions on this matter".

- (c) The APF further contends that ABS surveys generally, but especially compulsory surveys, raise issues far too broad and deep to be appreciated by members of the public without the direct involvement of representative and advocacy organisations with specific expertise in civil liberties generally and privacy in particular.

ABS's Reply: None.

APF's Interpretation:

ABS, beyond refusing to conduct PIAs for every compulsory Survey, is refusing to engage with civil society, whether within the context of a PIA or otherwise.

- (d) Would you please advise whether you consider the interpretations in (a), (b) and (c) above to be reasonable.

ABS's Reply:

ABS failed to respond to (a), explicitly disagrees with (b), and implicitly disagrees with (c).

5. Serious Concerns About Collection Practices

- (a) The APF has evidence that the practices of ABS's collectors are seriously privacy-invasive.

ABS's Reply:

None. ("We are committed to investigating issues raised as a matter of priority. I encourage you to make any specific complaints directly to the Survey Participant Liaison Officer ...").

- (b) It would appear that some of the problems are arising from errors made by collectors (indicating inadequate training), and others because of the instructions provided by ABS.

ABS's Reply: None.

- (c) The APF accordingly contends that a Privacy Impact Review is essential and urgent, into all aspects of the ABS's compulsory surveys, and particularly the collection practices.

ABS's Reply:

None.

APF's Interpretation:

Because ABS refuses to accept that it must conduct a PIA on each compulsory Survey prior to implementation (see 3(b) above), and has failed to respond to this point, it is reasonable to infer that ABS also refuses to conduct a Privacy Impact Review on the current Surveys.

- (d) The APF further contends that the Privacy Impact Review needs to involve public consultation as discussed immediately above.

ABS's Reply:

None.

APF's Interpretation:

Because ABS refuses to recognise the need to engage with civil society in the context of PIAs (see 4(c) above), and has failed to respond to this point, it is reasonable to infer that ABS also refuses to engage with civil society in relation to Review of the current Surveys.

Dear Mr Clarke,

The ABS is committed to balancing the need for accurate statistics to inform the development of policy against the imposition this places on our respondents. In addition, the ABS maintains an open and transparent dialogue with the Australian Public. This includes:

- engaging with the public when developing new collections;
- tabling proposals for new collections in parliament;
- treating providers of information with respect; and
- protecting the confidentiality of information given to us.

In your recent letter dated 22nd April 2012, you have grossly misrepresented the position of the ABS. I have restated or clarified the position of the ABS where your interpolation seems to have disregarded the information I have previously provided.

As indicated in my previous correspondence, if you would like specific tabling documents to be provided to you, please contact Michael Meagher on 02 6252 7967.

Yours sincerely,

Denise Carlton
Assistant Statistician (A/g)
Office of the Statistician and External Engagement
Australian Bureau of Statistics

April 2012

Restatements and Clarifications of the ABS Position

Excerpt from page 1, Attachment to APF letter dated 22nd April 2012:

1. The Scope of the Powers of Direction

(c) Further, it appears that ABS considers itself able to use these powers in relation to any survey that it conducts, for any client, and whether the activity is performed under a statutory power, or in accordance with an MoU or a contract.

ABS's Reply: Correct.

This is not true. The Statistician will only conduct collections of national importance. These nationally important collections may be funded in a range of arrangements, including MOUs. However, the Statistician would not enter into an MOU or contract to collect data which was not nationally important.

Excerpt from page 1, Attachment to APF letter dated 22nd April 2012:

2. Obligations under the FOI Laws

(a) The APF contends that ABS has an obligation to provide far greater transparency than it currently does, and in particular to provide the public with convenient access to:

(i) the s.5 authority

(ii) all currently authoritative proposals that have been tabled in the Parliament

ABS's Reply:

The obligations are satisfied by the ABS's Information Publication Scheme (IPS) plan, at <http://www.abs.gov.au/websitedbs/d3310114.nsf/home/information+publication+scheme>.

"[s.5] is already available from a few public sources, including the ComLaw website"

APF's Interpretation:

ABS fails to provide convenient access to the s.5 authority, and to ABS's interpretation of what questions that authority does and does not authorise ABS to demand answers to.

ABS fails to provide convenient access to all currently authoritative proposals that have been tabled in the Parliament.

This is not true.

The ABS is always clear about the authority under which our collections are conducted. Every ABS collection identifies to participants that the collection is conducted under the *Census and Statistics Act 1905*. The ABS web site contains many Frequently Asked Questions on this specific issue:

<http://www.abs.gov.au/websitedbs/D3310114.nsf/Home/Survey+Participant+Information?opendocument#from-banner=GT>

As identified in my previous letter, section 5 of the *Statistics Regulations 1983* does not provide any authority, rather it lists prescribed topics. Regardless, I have previously provided a link directly to the Australian Government repository for legislation, which is available at <http://www.comlaw.gov.au/Details/F2010C00792>.

Excerpt from page 2, Attachment to APF letter dated 22nd April 2012:

(b) The APF specifically contends that reliance on the aph.gov.au web-site does not represent compliance with that obligation, because that site is not under the control of ABS, and is neither reliable nor convenient for the public.

ABS's Reply:

"[ABS is] unable to provide ... direct links to [the relevant] documents"

"If you would like access to tabling documentation for specific surveys, we would be happy to provide them to you".

"I have now asked my team to establish a process for loading future documents to the ABS website".

APF's Interpretation:

ABS acknowledges that it is appropriate to provide the public with access to "the tabling documents for all ABS statistical collections".

However, ABS refuses to provide access to:

- *the s.5 authority, and ABS's interpretation of what questions that authority does and does not authorise ABS to demand answers to*
- *the relevant tabling documents in respect of the current Surveys*

The ABS has not refused.

In my previous letter, the ABS offered to send you any specific tabling documents on your request. In addition, I identified the specific Australian Government web site where the public can review the ABS legislation.

As noted above, the ABS always discloses the Authority under which our collections are conducted.

Excerpt from page 2, Attachment to APF letter dated 22nd April 2012:

(c) Using the ABS site, the APF has not been able to identify and acquire copies of the current tabled documents that relate to each of the compulsory surveys. We are accordingly requesting you to provide us with copies or direct URLs from which they can be downloaded.

ABS's Reply:

"[ABS is] unable to provide ... direct links to [the relevant] documents"

"If you would like access to tabling documentation for specific surveys, we would be happy to provide them to you".

APF's Interpretation:

Despite an explicit request, ABS has still failed to provide copies or URLs.

There have not been any explicit requests. As noted above in my previous letter the ABS offered to send you any specific tabling documents on your request. If you would like the tabling documents for a specific collection, we would be happy to forward this to you.

Excerpt from page 3, Attachment to APF letter dated 22nd April 2012:

4. The Serious Inadequacy of Public Consultation

(c) The APF further contends that ABS surveys generally, but especially compulsory surveys, raise issues far too broad and deep to be appreciated by members of the public without the direct involvement of representative and advocacy organisations with specific expertise in civil liberties generally and privacy in particular.

ABS's Reply: None.

APF's Interpretation:

ABS, beyond refusing to conduct PIAs for every compulsory Survey, is refusing to engage with civil society, whether within the context of a PIA or otherwise.

This is not true.

The ABS follows our commitments outlined in the ABS Survey Charter (Cat No. 1008.0 - ABS Surveys Charter, 2010) for all of our collections. We work to minimise reporting burden on the community by:

- only conducting surveys to collect high priority information where needed
- seeking information in a way that reduces the time to respond to our surveys
- accepting approximate responses and careful estimates where precise information is not available
- thoroughly testing our questions before running a survey
- using sampling methods to keep the size of surveys as small as possible.

As noted in previously, "We have found that members of the public who respond to the consultative process are both intelligent and well-informed. Furthermore, they represent the very people who will be selected in ABS surveys to provide information."

Excerpt from page 3, Attachment to APF letter dated 22nd April 2012:

(d) Would you please advise whether you consider the interpretations in (a), (b) and (c) above to be reasonable.

ABS's Reply:

ABS failed to respond to (a), explicitly disagrees with (b), and implicitly disagrees with (c).

With regards to point (a), the ABS meets, and often surpasses, any obligation to consult on privacy issues. The ABS uses a range of processes to consult on privacy, this may include either testing, focus groups or other consultative methods.

Excerpt from page 3, Attachment to APF letter dated 22nd April 2012:

5. Serious Concerns About Collection Practices

(a) The APF has evidence that the practices of ABS's collectors are seriously privacy-invasive.

ABS's Reply:

None. ("We are committed to investigating issues raised as a matter of priority. I encourage you to make any specific complaints directly to the Survey Participant Liaison Officer ...").

Please forward your evidence to the ABS and we will investigate.

Excerpt from page 3, Attachment to APF letter dated 22nd April 2012:

(b) It would appear that some of the problems are arising from errors made by collectors (indicating inadequate training), and others because of the instructions provided by ABS.
ABS's Reply: None.

Please forward the specific details of the errors that you believe to have been made and we will investigate.

Excerpt from page 3, Attachment to APF letter dated 22nd April 2012:

(c) The APF accordingly contends that a Privacy Impact Review is essential and urgent , into all aspects to the ABS's compulsory surveys, and particularly the collection practices.

ABS's Reply: None.

APF's Interpretation:

Because ABS refuses to accept that it must conduct a PIA on each compulsory Survey prior to implementation (see 3(b) above), and has failed to respond to this point, it is reasonable to infer that ABS also refuses to conduct a Privacy Impact Review on the current Surveys.

Given the considerable processes that the ABS currently has in place to consider the privacy of participants in our collections and protect the information given to us, the ABS does not believe that this would be a good use of public money.

Excerpt from page 3, Attachment to APF letter dated 22nd April 2012:

(d) The APF further contends that the Privacy Impact Review needs to involve public consultation as discussed immediately above.

ABS's Reply: None.

APF's Interpretation:

Because ABS refuses to recognise the need to engage with civil society in the context of PIAs (see 4(c) above), and has failed to respond to this point, it is reasonable to infer that ABS also refuses to engage with civil society in relation to Review of the current Surveys.

This is not true. As previously noted, the ABS is committed to balancing the need for accurate statistics against the imposition this places on our respondents. The ABS already engages extensively and directly with the community.

Australian Privacy Foundation

Notes in Response to the ABS Reply of 1 May 2012

Roger Clarke
2 May 2012

The sections below are keyed to APF's questions and ABS's responses.

1(c)

ABS claims that APF's interpretation is "not true".

APF said "ABS considers itself able to use these powers in relation to any survey that it conducts ...".

ABS says this is not true because ABS "will only conduct collections of national importance".

Hence the ABS's response is beside the point, and ABS's response to APF is unjustified.

2(a)

ABS claims that APF's interpretation is "not true".

APF said that "ABS has an obligation to provide far greater transparency... and ... provide the public with convenient access to ... the s.5 authority [and] all currently authoritative proposals".

The FAQs do not provide the information that APF contends needs to be provided.

The ABS site does not lead to the s.5 authority.

The ABS does not provide access to the currently authoritative proposals.

Hence the ABS's response is beside the point, and ABS's response to APF is unjustified.

2(b)

ABS declares that "the ABS has not refused".

APF said that "ABS refuses to provide access to the s.5 authority, and ABS's interpretation of [s.5] and ... the relevant tabling documents".

APF will change the word "refuses" to "fails to do the following, and has declined to correct that failure".

2(c)

ABS says that "There have not been any explicit requests".

APF said (in March) "We are accordingly requesting you to provide us with copies [of the current tabled documents that relate to each of the compulsory surveys] or direct URLs from which they can be downloaded".

Hence the ABS's response is incorrect.

4(c)

ABS claims that APF's interpretation is "not true".

APF said that "ABS ... is refusing to engage with civil society".

ABS's response says nothing at all about engagement with civil society, a term that refers to NGOs / public interest representative and advocacy organisations rather than the general public.

Hence the ABS's response is beside the point, and ABS's response to APF is unjustified.

4(d), re 4(a)

ABS appears to be claiming that APF's point 4(a) is not reasonable.

APF said that "the obligation to conduct public consultation cannot be satisfied by focus groups".
ABS's response says nothing at all in response to the point that APF made.

Hence the ABS's response is beside the point, and APF's point stands.

5(c)

ABS states that "ABS does not believe that [a PIA] would be a good use of public money".

APF said that "it is reasonable to infer that ABS ... refuses to conduct a Privacy Impact Review on the current Surveys".

ABS is confirming APF's statement.

5(d)

ABS claims that APF's interpretation is "not true".

APF said that "it is reasonable to infer that ABS ... refuses to engage with civil society in relation to Review of the current Surveys".

ABS's responses say nothing about civil society.

And, in any case, ABS has affirmed that it has no intention of conducting Privacy Impact Reviews.

Hence the ABS's response is beside the point, and APF's point stands.



**Australian
Privacy
Foundation**

Advisory Statement re ABS Compulsory Surveys

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Public Advisory Statement re ABS Compulsory Surveys

28 January 2012, rev. 2 February 2012

Contents	
Background	The Possible Consequences of Not Providing Data <ul style="list-style-type: none"> • A Case Study
ABS's Compulsory Surveys	The Number of People Who Decline to Provide Data
Why So Many People are Concerned	How to Complain
	The Legal Basis for the Surveys
What Concerned People Are Doing	The APF's Work in This Area

Background

For many decades, the Australian Bureau of Statistics (ABS) was highly trustworthy. In particular, unlike some other agencies, the ABS had a strong reputation for not allowing the personal data it collected to be used for secondary purposes. Unfortunately, a significant change has occurred, and the organisation has become highly intrusive, and arrogant in its dealings with the public.

The ABS runs a Population Census every 5 years. Participation is compulsory. Since 2006, the Census has become highly and unjustifiably intrusive. The levels of public concern about the 2011 Census were so high that the APF issued a [Public Advisory Statement regarding the 2011 Census](#).

This document is not about the Census, but about other compulsory surveys that ABS undertakes.

ABS's Compulsory Surveys

In addition to the 5-yearly Census of every person in the country, the ABS conducts a number of Surveys that require information from individuals, and that the Bureau claims are compulsory. Currently, there appear to be [five such Surveys](#):

1. [Monthly Population Surveys \(MPS\)](#)
2. [The Australian Health Survey 2011-13 \(AHS\)](#)
3. [Survey of Income and Housing 2011-2012 \(SIH\)](#)
4. [Household Energy Consumption Survey \(HECS\) 2012](#)
5. [Programme for the International Assessment of Adult Competencies \(PIAAC\)](#)

APF has received multiple expressions of concern from members of the public about the first three of those Surveys.

The ABS is deliberately vague about whether participation is actually compulsory, preferring to initially give the impression that responses are voluntary and only later revealing its powers. Attempts by the Privacy Commissioner in the 1990s to persuade the ABS to be more 'up-front' about its powers failed, exposing a weakness in the principle that supposedly requires openness about such matters.

In respect only of Survey 1, ABS claims that the [Census and Statistics Act 1905](#) "authorises the ABS to ask the questions in the survey" – which fails to declare which section of the Act is relied upon, and fails to make clear whether people have to provide answers! In relation to the other four Surveys, the ABS's web-site says very little about compulsion. From various reports, however, APF understands that the ABS considers all of these five Surveys to be compulsory.

The laws are anything but clear, and the ABS has abjectly failed its responsibility to communicate what they are. It appears that ABS might be able to ask any question it likes, and might be able to make it compulsory to answer every such question. We've provided below the information that we currently have about [the legal basis for the Surveys](#).

In the case of **Survey 1 (MPS – which is a rolling mini-Census)**, questions are asked about work, and about a range of other matters such as education, the environment, conditions of employment, child care arrangements, work related injuries, participation in sports and physical recreation, attendance at cultural venues and events, sports attendance, patient experience, family characteristics and crime and safety. The questions apply to all household-members and the answers can be provided by any adult member of the household. It is repeated every month for eight successive months. 35,000 households are involved, each year.

In the case of **Survey 2 (AHS – Health)**, ABS provides some [additional information](#). Many of [the questions to which answers are demanded](#) involve personal data that is highly sensitive to many people, including long-term conditions, medication, use of health services and recent visits to the doctor. The ABS tries to make people feel a moral obligation to provide the data, and avoids declaring on the web-pages that participation is legally mandatory. The ABS is also requesting blood and/or urine samples – and may pressure people to provide them. However, this part of the program is not compulsory. 50,000 adults and children are involved.

In the case of **Survey 3 (SIH – Income and Housing)**, the demand is made for declaration of all income from PAYE and shares, whether the householder inherited or bought their house, mortgage arrangements, superannuation, loans, how much their house and its contents are insured for, and more besides. Additional personal data is demanded, including age, birthplace, cultural background, employment, education and income. Apparently householders are also told that they have to furnish a great deal of supporting documentation, specifically pay slips, income tax returns, bank and superannuation account statements, returns on investments, council rates, house contents insurance, mortgage and personal loan details. 15,000 households are involved. Here is [a media article from January 2012 on one household's reaction to this extraordinarily-intrusive survey](#).

In relation to **Survey 4 (HECS – Energy Consumption)**, detailed information is demanded about energy sources, expenditure and consumption and energy efficiency characteristics, actions and intention. It appears that this may be folded into Survey 3 during 2012. It involves every person in 13,000 households.

In relation to **Survey 5 (PIAAC – Adult Competencies)**, information is demanded about age, birthplace, income, employment, education and training, literacy, numeracy, information and communication technology practices at work and in everyday life, and skills used at work. 14,400 households are involved, with additional questions applied to one person in each household.

Why So Many People are Concerned

Many people consider it to be a good idea to collect data that will assist in planning government services. On the other hand, some people are sceptical about government data collection, and in particular about secondary uses unrelated to the original purpose of collection; some people are concerned about being expected to provide particular kinds of information; and some people are directly opposed to such surveys.

Many people consider it to be unreasonable for personal data to be forcibly collected. The concern increases if the data is sensitive, and if the data is identifiable, and if data from one survey is linked with data from other surveys, or from other sources entirely.

All of these compulsory Surveys:

1. demand personal information that is highly sensitive to some people
 2. in some cases make the demands in an aggressive and even downright bullying manner
 3. demand that the information be disclosed directly to the ABS employee or contractor
 4. demand that the information be disclosed in a context that may expose it to other householders who don't know it, and who shouldn't know it
 5. appear to make no allowances for people who are especially sensitive about particular items of personal information
 6. appear to make no allowance for individuals in particularly sensitive circumstances, such as
 - being under physical threat from other people
 - being a vulnerable household (e.g. all-female, with young children or with handicapped householders)
 - having assets on the premises that are attractive to criminals (such as artworks or coin-collections)
 - having secrets that they want to hide from other householders (e.g. relations, or just flatmates)
 7. create the risk of criminals gaining access to people's homes by masquerading as ABS collectors
 8. impose a considerable burden of time and effort on the households and individuals affected
 9. are not anonymous, because both the collector and the ABS know where the household is, and who is in it
 10. produce rich data that may not be feasible to anonymise
 11. produce rich data that make it even more attractive for hackers to break into the ABS's databases, as they have done with many other organisations
 12. produce data that may at some stage be combined with data from other sources, such as the Census, and data compulsorily given to other government agencies
-

What Concerned People Are Doing

The APF is aware of a range of actions that are being taken by people who want to avoid their personal data being captured or their private life intruded upon. **The APF neither encourages nor discourages any of these approaches.** But the APF believes that the information should be widely published, so that people are informed about the situation. Here are examples that the APF is aware of:

1. **Not being resident on the date(s) that the ABS schedules the Survey.**
It appears that most of these Surveys are based on the premises, not the person, and hence their correct procedure should be to record an empty dwelling if you aren't resident at the right time or times. (It appears that 'grey nomads' have had success with this approach)
2. **Being absent or too busy.**
Whenever the ABS's contractor calls or arrives, some people make themselves absent or say that they're too busy, and avoid appointments. (This requires great persistence, because collectors and their supervisors are paid to chase, chase, and chase again. Eventually they may run out of time, although they have the option to argue to the magistrate that your continual busyness constitutes refusal to answer)
3. **Asking lots of questions.**
These may be about the process, the privacy protections or the security of the data. This may be accompanied by saying or implying that you may be prepared to provide the data once you have satisfactory answers. (Based on experience, the ABS is likely to reply slowly, and with carefully-composed and vague text that does not answer your questions. It's commonly necessary to ask the questions again, and address letters further up the organisation. It's necessary to sustain your patience over many months until one side or the other gives up)
4. **Making a video-recording of the interview.**
It's completely justifiable to do so, in order to have a record of the interviewer (in case they're an imposter) and of what happened and what was said. (This may cause the interviewer considerable discomfort, and they might choose to abandon the interview)
5. **Refusing to permit the ABS's contractor to enter their home.**
It appears that the collector may then demand a table and chairs outside – but it's unclear how the ABS could possibly enforce such a demand, or prosecute you for failure to comply. (This may cause enough confusion and delay that the ABS might give up)
6. **Offering to go to the contractor's home instead.**
This can be coupled with a promise to bring your video-camera along. If they were to offer a venue other than your home, but tried to deny permission to be filmed, this could be used as justification for not participating. (This may cause the interviewer even more discomfort, make the ABS uncertain, and muddy the case if it ever got to the magistrate's court)
7. **Instructing other people in the household to provide no information.**
If some people in the household are prepared to comply with the ABS's demands, an objector may instruct the others to provide no information about themselves. (This may cause ructions within a family, but may be more appropriate in a shared house or flat. The wording of the Act leaves open whether the ABS may still have the power to prosecute the objector)
8. **Refusing to have an interview.**
(This is an invitation to prosecution. However, some people prefer to explain to the magistrate why they are so concerned, and others simply are not prepared to yield up the data)
9. **Refusing to provide answers to particular questions that are of greatest concern.**
(This appears less likely to lead to prosecution, and it seems likely that the magistrate would be both less likely to convict, and less likely to levy a significant fine)
10. **Providing made-up answers in response to the questions that are of greatest concern.**
(This is not appropriate for people who do not like to be forced to lie in order to protect their privacy. Moreover, if the intention is to avoid prosecution, the lies need to be subtle enough that the ABS believes them, or considers them too difficult to prove to be lies)
11. **Refusing to provide particular documentation that the ABS collector demands.**
(This appears even less likely to lead to prosecution, and such prosecutions appear even less likely to succeed. There are very few obligations to keep documents – although there are a few, such as the documents that substantiate taxable income or tax deductions)
12. **Demanding a form to fill in.**
Some people may be prepared to provide the information to the ABS, but object strongly to having to disclose sensitive information to an interviewer. (It's unclear whether ABS have any forms available as substitutes for the interview). If people get a form, they might continue the fight, by:
 - sending a form in that contains no data. (A completely blank form would very likely result in successive re-visits from the collector, followed by threatening letters from the ABS. But if enough people were to do it, the volume would be such that the ABS might not be able to follow everyone up)
 - sending a form that contains no answers to particular questions that the person objects to. (It's unclear what ABS would do about missing items. It might still result in successive re-visits from the collector, followed by threatening letters from the ABS. But it would seem far less likely that the ABS would prosecute)
 - providing made-up answers, at least in response to the questions the person objects to. (This is not appropriate for people who do not like to be forced to lie in order to protect their privacy. Moreover, if the intention is to avoid prosecution, the lies need to be subtle enough for the ABS to believe them, or consider them too difficult to prove to be lies)
13. **Writing to local MPs and Senators.**
Amendments have been previously tabled in Parliament to make these Surveys voluntary. They did not succeed last

time. They might next time.

14. Alerting the media.

A lot of media work involves merely re-publishing press releases that were issued by the government. But some reporters are much more active and will pursue a story

The APF neither encourages nor discourages any of these approaches. And it would be unwise for anyone else to actively encourage their use, because that might be interpreted as an incitement to break the law.

The Possible Consequences of Not Providing Data

Here are [samples of the kinds of letters that ABS sends to people who refuse](#), called in sequence a 'passive refusal letter', an 'active refusal letter', a 'pre-NOD (Notice of Direction) letter' and a 'NOD (Notice of Direction)' letter, mirrored [here](#).

The APF is aware that:

- many people have received successive follow-ups and letters
- many of them have been threatened with prosecution
- the unluckier among them have actually been prosecuted
- the unluckiest few have been subjected to further abuse by the ABS, in that expensive barristers were brought to the magistrate's court, in order to increase the costs that the person has to pay

The ABS has the power to seek fines that the magistrate could choose to apply once, or (in principle at least) for every day that the data is not provided. The magistrate can also award the costs of court, and even the costs of the ABS.

In practice, it does not appear that the ABS carries through with its threats very often. The APF is aware of few cases in which people have actually been taken to court, and does not know what fines and costs have been applied. (However, it is a matter for magistrate's courts, and most cases in magistrate's courts go unreported. In addition, the APF is a voluntary association that works to achieve privacy protections and combat privacy-invasive practices. It does not have the resources to handle complaints. So it has only limited exposure to information about prosecutions).

A Case Study (added 2 February 2012)

In a celebrated instance of resistance against the Monthly Population Survey in 1987-88, Shirley Stott Despoja (mother of Natasha, later Senator, Stott Despoja) fought and won a case against ABS. Here is [a 2008 article by her daughter, Natasha](#).

Shirley's refusal was based on the following:

- the ABS was deceitful, or at least behaved in bad faith, in that it adopted the pretence that participation was voluntary and only later communicated that it was compulsory
- at the time, the household was vulnerable, in particular because it comprised two females, and one had a serious hearing impairment, and the concern about this was sufficient that their phone-number was unlisted
- the survey procedure involved:
 - having to permit a stranger in the house
 - having to expose personal data to that stranger, some of which was sensitive, including health data and personal opinions

At that time, the C&S Act s.10(4) included a statutory defence of 'reasonable excuse'. A defendant could establish, on the balance of the probabilities, that a reasonable excuse existed. Remarkably, the magistrate did not accept that the above factors constituted reasonable excuse.

The magistrate did, however, find that the form of the ABS's demands contained a procedural defect, and that, in view of the criminal nature of the charge, that defect was material. He accordingly found Stott Despoja not guilty.

The case was David Geoffrey Steel (Deputy Statistician) v. Shirley Despoja, Adelaide Magistrate's Court File No. 88/2577, judgement delivered on 26 August 1988. The matter was reported in The Advertiser and The Age of Saturday 27 August 1988. Stott Despoja is a journalist, and she wrote on the matter in her column 'Saturday Serve' in The Advertiser on several occasions during 1987, and again, at length, at the end of August 1988.

Despite the magistrate's failure to accept a 'reasonable excuse', ABS has since arranged for the Parliament to remove that defence, with the result that there appears to be no defence whatsoever available against the charge. All ABS has to do is to present the facts, and, if challenged, prove them.

Most defendants will be likely to agree with the ABS's Statement of Facts, although they may insist on adding in some relevant facts that the ABS might prefer to be omitted. So, if ABS's lawyers dig their heels in, the defendant may be well-advised to agree with the ABS's Statement of Facts, but also provide a Supplementary Statement. A guilty plea submitted in advance of the hearing greatly simplifies matters for the magistrate. It also has the benefit that the ABS has no justification for hiring expensive lawyers in an endeavour to impose undue cost on the defendant.

The Number of People Who Decline to Provide Data

It does not appear that the ABS publishes any clear data about refusals. Some information is available about the large numbers of active objectors to, and non-participation in, the Census. That is contained in the APF's companion [Public Advisory Statement about the 2011 Census](#). The APF has the distinct impression that the numbers of people who are very concerned about these surveys, and who take actions to deal with them, has greatly increased in recent years.

How To Complain

The APF has received a considerable number of enquiries from the public about this topic. We don't have the resources to help. But here are some channels for complaints.

1. To the ABS

The ABS has not made it easy for people to find out how to complain about these Surveys.

There is [a general feedback page](#). There is also a [general list of ABS office contact-points](#).

For Survey 2 (AHS – Health), there is [a Health Survey contacts page](#), which is vague and unhelpful.

If you search hard across the entire site, it's possible to find (at the end of the ABS's Charter), a [contact-point for resolving complaints](#). This appears to be the most appropriate starting-point:

Survey Participant Liaison Officer
Australian Bureau of Statistics
PO Box 10
Belconnen ACT 2616
surveys@abs.gov.au

No phone-number provided. See the [general contacts page](#).

2. Escalating the Complaint Within the ABS

The same page offers a first line of review if (and most likely, when) you are dissatisfied with the response:

Complaints Review Officer
Policy & Legislation Section
Australian Bureau of Statistics
PO Box 10
Belconnen ACT 2616
No email provided!?
No phone-number provided!?

If you encounter vague, unhelpful or obstructive behaviour, it may be more useful to send the complaint directly to the agency's CEO:

Mr Brian Pink
Australian Statistician
ABS House
45 Benjamin Way
Belconnen ACT 2617
Brian.Pink@abs.gov.au
(02) 6252553

3. Next to The Ombudsman or the Privacy Commissioner

See [the Ombudsman's Complaints page](#).

No email.

Phone Enquiries 9am - 5pm (AEST) Monday to Friday - 1300 362 072.

The online form option requires a (very?) recent Adobe Reader.

The Privacy Commissioner has, in APF's view, a poor track record of helping either individuals or non-government organisations resolve either specific privacy complaints or systemic issues; but you can try at [the Privacy Commissioner's Complaints page](#).

4. And/or to Your Local MP

This is a channel that's always open to you. You can [find your local MP here](#).

5. And/or to the Media

Unfortunately, most of the media are hard-pressed, and just regurgitate the 'good news' stories about the ABS that are fed to them by the ABS's Public Relations machine. But if your story is interesting, some media outlets may pick it up. Here is [one media article from January 2012](#).

The Legal Basis for the Surveys

Finding the legal authority under which the ABS makes these Surveys compulsory is not easy. This section summarises our current understanding of the relevant law.

The [Census and Statistics Act](#) provides for the Census in s.8. The same Act includes the following provisions about other surveys:

- under [s.9](#), the ABS "may ... collect such statistical information in relation to the matters prescribed for the purposes of this section as he or she considers appropriate"
- under [s.10](#), ABS is granted the power to "require persons included in a specified class of persons to fill up and supply ... the particulars specified in [a] form and to cause the form ... to be furnished to the Statistician"
- under [s.11](#), ABS appears to have the power to demand verbal answers to questions
- under [s.14](#), failure to comply with those requirements constitutes an offence, and no defences appear to be permitted
- under [s.15](#), providing information that is "false or misleading in a material particular" is also an offence
- under [s.18](#), it seems clear that the ABS does not have the power to enter a dwelling

In addition, under the [Australian Bureau of Statistics Act s.6\(3\)](#), the ABS appears to have a responsibility to lay proposals for compulsory surveys before the Parliament: "each new proposal for the collection of information for statistical purposes by the Bureau shall be laid before both Houses of the Parliament before its implementation, unless the proposal is for the collection of information on a voluntary basis".

Under both the C&S Act s.9 and the ABS Act s.6(3), surveys require the authority of the Parliament. Transparency demands that the Bureau make readily available, i.e. on its web-site, the documents that satisfy its obligations under those sections. Yet no such documents have come to light, even when searching with the Parliamentary site itself.

The APF's Work in This Area

The [Australian Privacy Foundation \(APF\)](#) is the country's primary advocacy organisation dedicated to protecting the privacy rights of Australians. It has operated continuously since 1987, and makes [scores of submissions each year](#) to government, government agencies, industry associations and corporations, supporting privacy-protective approaches to business and government, and opposing unjustifiable privacy intrusions.

The APF has made many attempts over many years to hold back the ABS's slide from a trustworthy agency to a highly privacy-invasive agency.

The APF had [some limited success in relation to the 2006 Census](#); but it still became far more privacy-intrusive than previous Censuses had been. The APF was then completely ignored in relation to the 2011 Census. The levels of public concern about the 2011 Census were so high that the APF issued a [Public Advisory Statement](#).

Despite being the country's sole specialist public advocacy organisation in the privacy area, APF was not approached by ABS on any aspect of any of the five compulsory Surveys discussed in this document.

In relation to the Health Survey, it appears that a Privacy Impact Assessment (PIA) was undertaken, and [the PIA Report](#) was published in February 2011. APF discovered this recently, while preparing this Public Advisory Statement. The ABS ran focus groups, but appears to have studiously avoided any consultation with healthcare consumer and privacy advocacy groups, and ignored the APF.

It appears that the ABS published a 'Surveys Charter' in March 2010. APF discovered it recently, again while preparing this Public Advisory Statement. It can be read in sections on the ABS website, commencing [here](#), or the set of pages can be downloaded [in PDF form](#). It is not clear what consultation processes led up to the publication of the Charter. If there were any, they did not include the APF. For people concerned about privacy, the Charter is of almost no value at all.

APF thanks its site-sponsor:



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