

the private sector and the best means of implementing such a scheme, and the appropriateness of the provisions of the Privacy Amendment Bill 1998.

### **Privacy principles**

The Privacy Commissioner, Ms Moira Scollay launched the *National Principles for the Fair Handling of Personal Information* in February which will provide a basis for private businesses to develop practices to ensure that the privacy of individuals is protected.

The principles are not intended to be legalistic rules. Rather, they are intended to provide practical assistance to business – the principles will allow business to develop protections that meet privacy concerns.

The principles state that when organisations collect information about individuals, the individuals should know why it is being collected, what it will be used for and to whom it will be disclosed, and the organisation should not use it or disclose it in a way that the individual would not reasonably expect.

The principles also state that individuals should be able to have access to information which organisations hold about them, and have it corrected if necessary.

Use of the principles by business will enable individuals to be confident that their privacy will be protected, while safeguarding the legitimate interests of business in efficient and effective information handling in a changing competitive environment.

The Privacy Commissioner has stated that she intends to review the principles in six to twelve months to ensure any issues which arise in practice are taken into account.

### **Freedom of Information to apply to government outsourcing**

On 3 February 1998, the Attorney-General, Daryl Williams AM QC MP announced that the *Freedom of Information Act 1982* is to apply to requests by individuals for access to and correction of personal information about themselves held by contractors on behalf of the government.

The Attorney-General's press release says:

The Act will apply in such a way that government agencies will ultimately be accountable for compliance with obligations imposed by the Act.

The Government's decision gives practical effect to its earlier decision that the *Privacy Act 1986* should apply to personal information held by contractors on behalf of the government.

Access to information in the hands of contractors will still also be available through contractual provisions under which a government agency has a right of access to documents held by the contractor. The Government has also agreed to a minor clarifying amendment to the *Freedom of Information Act* which will ensure that these contractual rights of access are effective.

This decision, and the earlier decision on the application of the *Privacy Act* will ensure that individuals can be assured that personal information provided by them to the government, or to contractors, on behalf of the government, will continue to be subject to strong privacy protection.

I believe that this measure will assist in preserving accountability in relation to documents held by contractors on behalf of Government without imposing significant burdens on contractors...

## **Joint Standing Committee on Migration—Report on Deportation of Non-Citizen Criminals**

The Joint Standing Committee on Migration's Report on Deportation of Non-Citizen Criminals was tabled in the Parliament on 29 June 1998. Overall, the Committee found (at page xvii) that the existing deportation scheme was adequate although a number of specific weaknesses were identified. To overcome these weaknesses, there is a need to:

- improve co-operation with the state and territory governments, particularly to identify all potential deportees;
- improve the current merit review arrangements; and
- revise the existing legislative framework.

The Committee examined the appeal mechanisms which had been criticised by the Minister and other parties. It concluded that the present review arrangements did not give appropriate weight to the role of the Minister intended by Parliament.

### *Review of deportation decisions*

The Committee noted that most submissions, including the Administrative Review Council's, supported retention of the independent merits review system. The Department of Immigration and Multicultural Affairs (DIMA) suggested making AAT powers recommendatory whereas the AAT and the NSW Law Society argued that reinstating recommendatory powers (which existed until 1992) would politicise the review scheme and diminish the independence of the

system (the Society also argued that that system had been tried and had failed).

In a supplementary submission DIMA suggested that the Minister should be given a personal power to set aside deportation decisions of the AAT where the Minister was satisfied that it was in the national interest to do so. The Committee noted that the majority of the Senate Legal and Constitutional Legislation Committee had found that national interest powers in the Migration Legislation Amendment (Strengthening of Provisions relating to Character and Conduct) Bill 1997, which enabled the Minister to exclude merits review (by the Refugee Review Tribunal and Immigration Review Tribunal) if the Minister believed such review would be contrary to the national interest, were not too broad, and that:

'national interest' naturally applied to serious issues that might affect the Australian community. The majority also accepted that the courts would determine the boundaries of the phrase as the need arose; and that the Minister's bona fides would still be subject to legal appeal.

3.33 The findings of the Senate Legal and Constitutional Legislation Committee furnish cogent reasons for thinking that the Minister's power to overturn AAT decisions in the national interest will not be overly broad. In addition it should be noted that Immigration Ministers, for some years, have had power to exclude deportation decisions from AAT review where this is in the national interest (s.502) but have chosen not to use that power in relation to criminal deportation cases.

The Committee concluded that, although the AAT overturned less than 20% of the initial deportation decisions, when it did its determinations aroused ministerial and public disquiet which posed a threat to public confidence in