



## 4A framework – A tool for assessing and implementing new law enforcement and national security powers

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The Office of the Australian Information Commissioner has developed a proposed framework for assessing and implementing new law enforcement and national security powers. The 4A framework sets out a lifecycle approach from development to implementation and review. The aim of the framework is to bring balance and perspective to the assessment of proposals for law enforcement or national security measures with significant effects on privacy.

### Analysis

Careful analysis is needed in the development phase to ensure that the proposed measure is necessary, effective, proportional, the least privacy invasive option and consistent with community expectations. This analysis should involve consideration of the size, scope and likely longevity of the problem, as well as the range of possible solutions, including less privacy invasive alternatives. The impact on privacy of the proposed solution should be analysed and critical consideration given to whether the measure is proportional to the risk.

### Authority

The authority by which the measure is implemented should be appropriate to its privacy implications. Where there is likely to be a significant impact on privacy, the power should be conferred expressly by statute subject to objective criteria. Generally, the authority to exercise intrusive powers should be dependent on special judicial authorisation. Intrusive activities should be authorised by an appropriately senior officer.

### Accountability

Implementation of the measure should be transparent and ensure accountability. Accountability processes should include independent complaint handling, monitoring, independent audit, and reporting and oversight powers commensurate with the intrusiveness of the measures.

### Appraisal

There should be periodic appraisal of the measure to assess costs and benefits. Measures that are no longer necessary should be removed and

unintended or undesirable consequences rectified. Mechanisms to ensure such periodic review should be built into the development of the measure. This could involve a sunset clause or parliamentary review after a fixed period.

#### In summary:

**Analysis** – Is there a problem? Is the solution proportional to the problem? Is it the least privacy invasive solution to the problem? Is it in line with community expectations?

**Authority** – Under what circumstances will the organisation be able to exercise its powers and who will authorise their use?

**Accountability** – What are the safeguards? Who is auditing the system? How are complaints handled? Are the reporting mechanisms adequate? And how is the system working?

**Appraisal** – Are there built in review mechanisms? Has the measure delivered what it promised and at what cost and benefit?

The information provided in this fact sheet is of a general nature. It is not a substitute for legal advice.

#### For further information

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