



Freedom of Information Investigation Outcomes¹

Under Part VII B of the FOI Act, the Information Commissioner can investigate an action taken by an agency in the performance of its functions or the exercise of powers under the FOI Act. This involves investigating complaints (s 69(1)), as well as conducting investigations at the Commissioner’s own initiative (Commissioner initiated investigations (CIIs)) (s 69(2)).

On completing an investigation, the Information Commissioner must provide a ‘notice on completion’ to the agency and to the complainant (if there is one) (s 86). The Information Commissioner’s notice on completion must include the investigation results, the investigation recommendations (if any), and the reasons for those results and any recommendations (s 86(2)). A notice on completion must not include exempt matter or information about the existence or non-existence of a document that would be exempt under ss 33, 37(1) or 45A (ss 89C and 25(1)).

If recommendations have been made (s 88), and the Information Commissioner is not satisfied that the agency has taken adequate and appropriate action to implement a formal recommendation, the Information Commissioner may issue a written ‘implementation notice’ requiring the agency to provide within a specified time particulars of any action the agency will take to implement the Information Commissioner’s recommendations (s 89).

The Information Commissioner may subsequently report to the minister responsible for the agency and the minister responsible for the FOI Act if the Information Commissioner is not satisfied that the agency has taken adequate and appropriate action to implement the recommendations or has not responded to the implementation notice within the specified time (s 89A). The minister responsible for the FOI Act must table the report before each House of the Parliament (s 89A(5)).

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent’s response to recommendations	Further action to be taken
Department of the Prime Minister and Cabinet	Compliance with statutory processing timeframes.	Non-personal information.	22 November 2019	The Department did not comply with the statutory processing periods in processing 35.56% of FOI requests in the 2017-18 financial year and 72.65% in the 2018-19 financial year.	Four recommendations were made: <ol style="list-style-type: none"> a statement to be issued to all staff highlighting the Department’s obligations under the FOI Act. FOI requests are processed in accordance with the objects of the FOI Act the development of policies and procedures in relation to administrative access conduct a review and audit of the Department’s FOI processing guidance material and its compliance with statutory timeframes. 	Accepted and implemented.	No further action to be taken.
Australian Federal Police	Compliance with statutory processing timeframes.	Non-personal information.	22 November 2019	The AFP did not comply with the statutory processing periods in processing 34.44% of FOI requests in the 2017-18 financial year and 53.08% in the 2018-19 financial year.	Four recommendations were made: <ol style="list-style-type: none"> a statement to be issued to all staff highlighting the AFP’s obligations under the FOI Act. a review of its guidance relating to early assessment of whether an extension of time or consultation may be required a review and update its guidance material in line with the findings of the investigation. 	Accepted and implemented.	No further action to be taken.
Services Australia ²	Acknowledgment of FOI requests in accordance	Personal and non-personal information	22 November 2019	Delay in acknowledging the FOI requests was due to the complainant sending the FOI request as part of ‘shared’ correspondence addressed to the aged care pension claims nominated PO Box rather than	Two recommendations were made: <ol style="list-style-type: none"> to provide general FOI training to the external providers tasked with opening and categorising correspondence to 	Accepted and implemented.	No further action to be taken.

¹ As at 12 July 2022.

² At the time this investigation commenced the responsible department was the Department of Human Services. On 29 May 2019, the Administrative Arrangements Order established Services Australia.



Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response to recommendations	Further action to be taken
	with statutory timeframes.	made by post.		addressed to the FOI or central PO Box, and human error in categorising the documents as FOI requests at the mail sorting stage.	assist in the identification of FOI requests sent to general Departmental post boxes. 2. to review and update its guidance material in line with the findings of the investigation.		
Services Australia ³⁴	<p>Approach to the interpretation of the scope of FOI requests</p> <p>Approach to processing FOI requests relating to the OCI System</p> <p>Compliance with s 24AB of the FOI Act</p> <p>Combining FOI requests under s 24(2) of the FOI Act</p> <p>Imposition of a charge</p> <p>Payment of charges</p> <p>Disclosure Log content</p> <p>Delays in the provision of documents</p>	Non-personal and personal	5 December 2020	<p>Services Australia took a narrow approach to requests for information and did not attribute the plain English meanings to the terms used by applicants when that meaning was ascertainable in satisfaction of paragraph 15(2)(b) of the Act.</p> <p>Services Australia did not comply with the request consultation process under s 24AB.</p> <p>Services Australia did not take into consideration relevant public interest factors when deciding if applying charges is appropriate</p> <p>At the time the decisions were made in the relevant FOI requests, Services Australia's processes for collecting charges imposed under the FOI Act were inconsistent with the objects of the Act</p> <p>Services Australia did not comply with its obligations under s 11C(6) of the FOI Act in relation to the maintenance of its disclosure log.</p> <p>Services Australia did not have clear guidance for its FOI officers on:</p> <ol style="list-style-type: none"> timeliness to respond to request for assistance during consultation process consideration of whether it is appropriate to transfer requests under s 16 once a scope has been revised appropriate response times for the provision of documents on the disclosure log combining of requests under s 24(2) of the FOI Act, and making a decision to impose a charge. 	<p>Seven recommendations were made.</p> <ol style="list-style-type: none"> A statement is provided to staff highlighting Services Australia's obligations under the FOI Act and the pro disclosure emphasis in the Act. This statement should encourage and support staff in meeting their obligations under the FOI Act, to facilitate and promote public access to information, promptly and at the lowest reasonable cost. Services Australia take an approach to interpreting the scope of FOI requests in accordance with its obligations under s 15(3) of the FOI Act in a manner that as far as possible, seeks to facilitate and promote public access to information. Services Australia develop a policy that provides that where information that is subject to multiple FOI requests, it is uploaded onto the disclosure log as soon as practicable Services Australia update its FOI manual to include references to recent Information Commissioner decisions and FOI Guidelines on: <ol style="list-style-type: none"> the imposition of charges the interpretation of scope and s 24AB process. Services Australia update its FOI manual to include guidance about: <ol style="list-style-type: none"> consideration of s 16 transfers once the scope has been revised the provision of documents as soon as practicable under s 11A responding to requests for documents held on the disclosure log which are otherwise not readily available, within five working days. where there are multiple requests for the same subject matter, implement a process through which they can identify and utilise work previously undertaken. when it is appropriate to combine requests under s 24(2). 	Accepted and implemented.	No further action to be taken.

³ At the time this investigation commenced the responsible department was the Department of Human Services. On 29 May 2019, the Administrative Arrangements Order established Services Australia.

⁴ This investigation combined three FOI complaints made under s 70 of the FOI Act. Due to the overlapping issues raised in each FOI complaint the Information Commissioner progressed all three complaints under one investigation.

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					<p>f. factors to consider whether to impose a charge, including factors set out in the Guidelines issued under s 93A of the Act.</p> <p>6. Services Australia within six months⁵ of these conclusions conduct audits on the following and report back to the OAIC:</p> <p>a. The adherence to the FOI processing manual by FOI officers in relation to matters the subject of recommendations four and five above.</p> <p>7. Services Australia ensure processes are in place to assist applicants through the s 24AB consultation process.</p>		
Department of Home Affairs	Compliance with statutory processing periods. ⁶	Non-personal information	19 December 2019	The Department did not comply with s 15(5)(b) of the FOI Act.	The Information Commissioner deferred making any recommendations until the outcome of the Commissioner Initiated Investigation into the Department of Home Affairs' compliance with statutory processing periods for non-personal FOI requests. ⁷	No recommendations made.	No further action to be taken pending the outcome of the CII.
Services Australia ⁸	Consultation process under s 24AB of the FOI Act and internal review process	Personal information	18 February 2020	Consultation process was more appropriately considered in the related IC review process and subsequent decision by the Information Commissioner under s 55K of the FOI Act. Services Australia's internal review process complied with s 54C of the FOI Act.	No recommendations were made.	No recommendations made.	Not applicable.
Airservices Australia	<p>Acknowledgment of FOI requests in accordance with statutory timeframes.</p> <p>Taking reasonable steps to conduct searches for documents within scope of the FOI request.</p> <p>Withholding documents which fell within the scope of the FOI request</p> <p>Compliance with s 26 of the FOI Act.</p>	Personal information	23 April 2020	<p>At the time of the request, Airservices did not have a formalised process by which employees could access their personnel records.</p> <p>Airservices did not comply with ss 15(5)(a) and 26 of the FOI Act.</p> <p>During the processing of the request Airservices did not take reasonable steps to identify documents within the scope of the request.</p> <p>Airservices reduced the scope of the FOI request without agreement from the applicant.</p>	<p>Four recommendations were made.</p> <ol style="list-style-type: none"> 1. Airservices to issue a statement to all staff reminding them of their obligations under the FOI Act 2. Airservices to establish a general FOI training program for inclusion in its induction process and finalise policies which outline the procedures to follow when processing an FOI request. 3. Airservices to write to each FOI applicant within the past 12 months of which the FOI complaint was made and advise them of their review rights. 4. Airservices to conduct an audit within 6 months to track compliance of: <ol style="list-style-type: none"> a) Policies and procedures and b) Section 26 Notices 	Accepted and implemented.	No further action to be taken.

⁵ On 8 July 2020, the Information Commissioner granted an extension of time to respond to recommendation six until 30 October 2020.

⁶ This investigation combined 11 FOI complaints made under s 70 of the FOI Act. Due to the overlapping issue raised in each FOI complaint the Information Commissioner progressed all 11 complaints together.

⁷ Each FOI request forms a case study in the Commissioner Initiated Investigation into the Department of Home Affairs compliance with statutory processing periods for non-personal requests for information.

⁸ At the time this investigation commenced the responsible department was the Department of Human Services. On 29 May 2019, the Administrative Arrangements Order established Services Australia.

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response to recommendations	Further action to be taken
The Australian National University (the ANU)	Compliance with statutory timeframes. Communication regarding the processing delays	Personal information	14 September 2020	<p>The statutory timeframe was not extended by agreement under s 15AA, or as a result of consultation (ss 15(6), 15(8), 26A, 27, 27A), or under ss 15AB or 15AC.</p> <p>The ANU exceeded the statutory processing period by 26 days without authority.</p> <p>The ANU updated the complainant about the processing of the request and provided reasons for the delay.</p>	<p>The ANU should update its 'Guideline 1.15: Freedom of Information processing checklist' and 'Guideline 1.18: Freedom of Information request processing timeframes' to require staff to conduct an early assessment of whether an extension of time may be required and if so, to seek agreement from the FOI applicant to extend the processing period under s 15AA.</p> <p>2. The ANU should update its 'Guideline 1.15: Freedom of Information request processing checklist' and 'Guideline 1.18: Freedom of Information request processing timeframes', to require staff to consider whether it is appropriate to seek an extension of time pursuant to s 15AB where an applicant has not agreed to extend the statutory processing period under s 15AA, or to seek an extension of time from the Information Commissioner under s 15AC where a decision about an FOI request has not been provided to the applicant within the statutory processing period.</p>	Accepted and implemented.	No further action to be taken.
<p>Department of Home Affairs</p> <p>This investigation was an Commissioner Initiated Investigation under s 69(2) of the FOI Act.</p> <p>A copy of the Report is available here.</p>	Compliance with statutory timeframes for processing FOI request for non-personal information	Non-personal	11 December 2020	<p>The information considered in this investigation indicates that the Department does not have adequate governance and systems of accountability in place to ensure compliance with statutory time frames for processing FOI requests for non-personal information.</p> <p>The other key findings from my investigation may be summarised as follows:</p> <p>a. In a general sense, a greater degree of senior level support and leadership for embedding policies, procedures and systems of accountability for compliance with the statutory processing periods in the FOI Act, would assist the Department in meeting the statutory processing period requirements of the FOI Act.</p> <p>b. With regard to the Department's FOI Section:</p> <p>I. There is evidence that not all of the staff within the FOI Section are available to assist in the processing of FOI requests for non-personal information which has contributed to delays in processing these FOI requests.</p> <p>II. The policies and processes that the Department has in place for the FOI Section do not address the steps required, both in relation to escalation and finalisation of decisions, where delays are contributed to by business areas of the Department or third parties.</p>	<p>1. Appoint an Information Champion</p> <p>The Information Champion may be supported by an information governance board to provide leadership, oversight and accountability necessary to promote and operationalise compliance by the Department.</p> <p>2. Operational Processes and Procedures</p> <p>The Department prepare and implement an operational manual for processing FOI requests for non-personal information to be approved by the Information Champion referred to in Recommendation 1 and at a minimum:</p> <p>(a) specify the steps that will be taken to ensure compliance with statutory processing requirements (as set out in more detail in Part 5),</p> <p>(b) specify the steps that will be taken to ensure compliance with section 6C of the FOI Act and the processes to be adopted to request documents from contracted service providers, and</p> <p>(c) include a short form guidance note to assist business areas in processing FOI requests for non-personal information.</p> <p>Consistent with the requirements of the Information Publication Scheme, the operational manual should be made publicly available by the Department on its website.</p> <p>The steps that will be taken to ensure compliance with section 6C of the FOI Act, as referred to in subparagraph (c), should be replicated in all other policies of the Department which relate to contractual requirements for procurement by the Department.</p>	Accepted; to implement.	

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response to recommendations	Further action to be taken
				<p>III. The policies and processes that the Department has in place for FOI requests for non-personal information do not adequately address use of the provisions of the FOI Act which enable an agency to seek an extension of time in processing FOI requests.</p> <p>c. With regard to the business areas of the Department:</p> <p>I. The Department has implemented an approach for processing FOI requests for non-personal information that requires significant engagement by the staff in the business areas to which a relevant FOI request relates. The training and resources made available to those staff does not facilitate processing FOI requests within the FOI Act statutory processing periods.</p> <p>II. The Department's processes for consulting with senior staff, the Department's Media Operations and Minister's Office in relation to FOI requests limits the ability of the Department to meet FOI Act statutory processing periods.</p> <p>d. There are inadequate policies and procedures in place to support compliance with the requirements of section 6C of the FOI Act.</p>	<p>3. Training</p> <p>The Department:</p> <ol style="list-style-type: none"> undertake and complete training for FOI Section staff and other staff (both decision makers and other staff who assist decision makers), and ensure that online training in processing FOI requests for non-personal information is available to all staff of the Department. <p>New staff joining the FOI Section should be trained within 2 weeks of commencing in the FOI Section.</p> <p>4. Audit of Compliance</p> <p>The Department undertakes an audit of the processing of FOI requests for non-personal information to assess whether Recommendations 2 and 3 have been implemented and operationalised and whether those actions have been sufficient to address the issues identified in this CII. The audit should be undertaken either by the Department's internal audit committee or by an external auditor, as determined by the Department. A copy of the audit report is to be provided to the OAIC.</p>		
Department of Defence	Collection of charges amounts	Non-personal	17 December 2020	The Department's process that required an invoice to be raised before allowing a FOI applicant to make a payment in order to recommence the processing period is inefficient and does not facilitate and promote public access to information, promptly and at the lowest reasonable cost.	<ol style="list-style-type: none"> Update its guidance to ensure that, where there has been an overpayment of a charges amount, the FOI applicant is to receive a refund in accordance with regulation 10(4)(a) of the FOI Charges Regulations. The Department adjust the way it administers charges to: <ol style="list-style-type: none"> Provide payment options at the time of issuing a preliminary charges notice and Accept payment of the charge as notification in writing by the applicant of acceptance of the charge.⁹ 	Accepted and suggestions implemented.	No further action to be taken.
Department of Defence	The Department's consultation process conducted during the	Personal information	17 February 2021	The Department's FOI manual sets out the procedure for conducting consultations with third parties. The Department did not consult with the complainant where it was 'possible to consult' and 'reasonably practicable' to do so.	<ol style="list-style-type: none"> Issue a statement to staff engaged in processing FOI requests highlighting the Department's obligations under the FOI Act to consider whether a person might reasonably wish to make a contention that the document is conditionally exempt under s 47F of the FOI Act (s27A(1)(b)). The statement should highlight 	Accepted and implemented.	No further action to be taken.

⁹ Suggestions made pursuant to s 87(d) of the FOI Act.

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response to recommendations	Further action to be taken
	processing of an FOI request.				the importance of following the Department's processes and procedures when processing and making decisions on FOI requests where third party information is contained within documents that fall within the scope of an FOI request.		
Services Australia	Compliance with Information Publication Scheme (IPS). Imposition of charges for documents held on the IPS requested under the FOI Act.	Non-personal	8 September 2021	At the time of the complaint, Services Australia did not meet its obligation to publish operational information as required by s 8(2)(j). Services Australia failed to have adequate systems and processes in place to confirm that business areas were appropriately considering their IPS obligations at the time that Operational Blueprints (OBPs) were created or to ensure that documents appropriately categorised under s 8C were regularly reviewed to consider whether s 8C continued to apply. Services Australia did not deliberately withhold documents that were required to be published under the IPS for the purpose of improperly imposing a charge in relation to access requests for those documents, as alleged in the complaint.	1. Develop and implement a system to ensure that: a. decisions taken by business areas in relation to the publication of operational information are consistent with Part II of the FOI Act, and b. where a decision is taken not to publish an OBP – either because it does not comprise operational information or is exempt under s 8C of the FOI Act – that decision is recorded c. decisions taken by business areas not to publish particular OBPs are periodically reviewed to determine whether the reasons for non-publication continue to apply to the OBP. 2. Services Australia staff adheres to current internal policies to consider the potential administrative release of OBPs in response to access requests before considering whether a charge should be applied under s 29 of the FOI Act for access to those materials.	Accepted and implemented.	No further action to be taken.
Department of Foreign Affairs and Trade	Impartiality of the Internal Review decision maker	Non-personal	17 September 2021	No evidence before the Commissioner which supported the complainant's contentions.	No recommendations made	Accepted.	Not applicable.
Services Australia	Compliance with Information Publication Scheme (IPS). Where Services Australia has decided not to publish the document – the reason why it is considered exempt should be published.	Non-personal	17 September 2021	Services Australia was not required to list the applicable FOI Act exemption against the title of an unpublished document. Services Australia complied with the Act when it listed titles of operational documents on its IPS. However, the agency's reliance on requests from the public to reconsider earlier decisions not to publish those documents, in the absence of a more systematic process, is not consistent with the ongoing obligations under Part II of the FOI Act.	1. Develop and implement a system to ensure that: a. decisions taken by business areas in relation to the publication of operational information are consistent with Part II of the FOI Act, and b. decisions taken by business areas not to publish particular OBPs are periodically reviewed to determine whether the reasons for non-publication continue to apply to the OBP.	Accepted and implemented.	No further action to be taken.

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response to recommendations	Further action to be taken
Australian Building and Construction Commission	Extending the statutory processing period to conduct third party consultation and related communication with the FOI applicant. Transfer of FOI requests under s 16 of the FOI Act	Non-personal	22 September 2021	It was open to the ABCC to extend the processing timeframe for the FOI request to conduct consultation with third parties under s 27A of the FOI Act, even in circumstances where the subsequent consideration of the documents resulted in a conclusion that consultation was not necessary because the documents initially considered in scope were found to be outside the scope of the request. However, it was not open to the ABCC to extend the timeframe in circumstances where the documents had not been identified or considered against the requirements of s 27A. The consent of the FOI applicant is not required for the transfer of a request under s 16 of the FOI Act.	<ol style="list-style-type: none"> The ABCC should provide guidance to FOI officers to ensure that, prior to extending the processing periods as permitted by s 15 of the FOI Act, proper consideration is given to the statutory prerequisites to the exercise of that power. That the ABCC review its correspondence with FOI applicants to ensure that it is clear, accurate and not misleading. That the ABCC implement systems and processes to ensure that the ABCC understands and adheres to FOI processing timeframes. 	Accepted and implemented.	No further action to be taken
Department of Veterans' Affairs	Compliance with statutory timeframes for processing FOI requests. Compliance with s 29 of the FOI Act	Non-personal	24 September 2021	The Department did not comply with the statutory processing timeframes in relation to three FOI requests. The Department did not comply with s 29(6) in relation to one FOI request	<ol style="list-style-type: none"> The Department develops and makes available to staff an operational manual for processing FOI requests that should include, at a minimum, the steps that will be taken to ensure compliance with statutory processing requirements, including in relation to: <ol style="list-style-type: none"> meeting processing timeframes under the FOI Act the steps to be taken when notifying an applicant of the imposition of a charge, including the obligation to provide a decision in accordance with s 29(6). 	Accepted; to implement.	
Department of the Prime Minister and Cabinet	Compliance with statutory timeframes for processing an FOI request.	Non-personal	5 October 2021	The Department did not comply with the statutory processing timeframe.	<ol style="list-style-type: none"> The Department appoint an Information Champion. The Information Champion may be supported by an information governance board to provide leadership, oversight and accountability necessary to promote and operationalise the Department's compliance with the FOI Act. The Department provide training to FOI Section staff and relevant Senior Executives about the obligations under the FOI Act to comply with statutory processing periods. 	Accepted findings. Response received.	

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response to recommendations	Further action to be taken
Services Australia	Compliance with Information Publication Scheme (IPS). Imposition of charges for documents held on the IPS requested under the FOI Act.	Non-personal	7 October 2021	Services Australia complied with the Act when it listed titles of operational documents on its IPS. However, Services Australia's process of requiring individuals to lodge an FOI request for access to documents is only appropriate where the agency has a robust and reliable process to routinely consider whether the reasons for not publishing the documents continue to apply.	1. Develop and implement a system to ensure that: a. decisions taken by business areas in relation to the publication of operational information are consistent with Part II of the FOI Act, and b. decisions taken by business areas not to publish particular OBPs are periodically reviewed to determine whether the reasons for non-publication continue to apply to the OBP. 2. Develop and implement systems and processes to ensure that, where Services Australia exercises its discretion to impose a charge under s 29, that decision is consistent with both the relevant statutory provisions, the FOI Guidelines and its obligations under Part II of the FOI Act.	Accepted and implemented.	No further action to be taken.
Department of Veterans' Affairs	Compliance with statutory timeframes for processing FOI request	Personal	12 October 2021	The Department did not comply with the statutory processing period due to an internal administrative error identifying the FOI request where the FOI request had delay in providing it to the FOI team.	Given the steps that the Department took upon becoming aware of the FOI request, including engaging with and providing an explanation to the complainant, processing the request and apologising to the complainant, no recommendations were made.	Accepted.	No further Action to be taken.
Department of Veterans' Affairs	Compliance with statutory timeframes for processing FOI request	Personal	19 October 2021	The Department complied with the statutory processing timeframes.	No recommendations made	Accepted.	Not applicable.
Australian Federal Police	Compliance with statutory timeframes for processing FOI request	Personal	27 October 2021	The AFP did not comply with the statutory processing timeframe which is attributable to: <ul style="list-style-type: none">the failure of business areas to provide documents at issue to the FOI section and/or the time taken in the subsequent processing by the FOI section.the AFP's late consideration of whether an extension of time is required in relation to the processing of FOI requests.	1. The AFP should develop and implement a compliance action plan and provide a copy of that plan to the OAIC. The compliance action plan should include an explanation and assessment of the reasons for non-compliance with the statutory processing period for the 2019-20 and 2020-21 financial years and proposals to improve compliance, including in relation to: a) adequacy of resources b) training c) operational improvements and d) proposals for how the AFP will comply with the statutory processing period in relation to any backlog of outstanding FOI requests as well as new requests. 2. The AFP should provide an implementation report to the OAIC, providing statistical evidence and analysis to demonstrate the effectiveness of the implementation of the compliance action plan in recommendation 1 and whether the reasons for non-compliance identified in the compliance action plan have been rectified.	Accepted; to implement.	
Department of Foreign Affairs	Compliance with statutory processing periods.	Non-personal	11 November 2021	The Department did not comply with the statutory processing period. No adverse findings or recommendations made in relation to remaining issues.	1. The Department appoint an Information Champion. The Information Champion may be supported by an information governance board to provide leadership, oversight and accountability necessary to promote and operationalise the Department's compliance with the FOI Act.	Accepted	

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	Administrative access arrangements. Exercising a discretion to impose a charge. Incorrect refund form provided.				<ol style="list-style-type: none"> 2. The Department should develop and implement a compliance action plan include an explanation and assessment of the reasons for non-compliance with the statutory processing period for the 2019-20 and 2020-21 financial years and proposals to improve compliance, including in relation to: <ol style="list-style-type: none"> a. adequacy of resources b. training c. operational improvements and d. proposals for how the Department will comply with the statutory processing period in relation to any backlog of outstanding FOI requests as well as new requests. 3. The Department should provide an implementation report, including statistical evidence and analysis to demonstrate the effectiveness of the implementation of the compliance action plan in recommendation 2 and whether the reasons for non-compliance identified in the compliance action plan have been rectified. 		
Department of Home Affairs (17 matters)	Compliance with statutory timeframes for processing FOI request	Personal	25 November 2021	The Department did not comply with the statutory processing period.	<ol style="list-style-type: none"> 1. The Department prepare and implement an operational manual for processing FOI requests for personal information to be approved by the Information Champion. The operational manual is to include, at a minimum, the steps that will be taken to ensure compliance with statutory processing requirements. Consistent with the requirements of the Information Publication Scheme, the operational manual should be made publicly available by the Department on its website. 2. The Department ascertain the additional resources (human or otherwise) anticipated to be required in order to meet statutory timeframes (taking account of the improvements through implementing recommendation 1) and provide an action plan to meet those requirements. 3. The Department: <ol style="list-style-type: none"> a. undertake and complete training on the operational manual for FOI Section staff and other staff (both decision makers and other staff who assist decision makers). b. ensure that online training in processing FOI requests for personal information is available to all staff of the Department, and c. ensure that new staff joining the FOI Section are trained in relation to the operational manual within 2 weeks of commencing in the FOI Section. 4. The Department undertake an audit of the processing of FOI requests for personal information to assess whether Recommendations 1, 2 and 3 have been implemented and operationalised and whether those actions have been sufficient to address the issues identified in these complaints. The audit is to be undertaken by either the Department's internal auditors or by an external auditor, as determined by the Department. A copy of the audit report should be provided to the OAIC. 	Noted by the Department.	

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response to recommendations	Further action to be taken
Australian Digital Health Agency	Acknowledgment of FOI requests in accordance with statutory timeframes. Extending the processing under s 15(6) of the FOI Act to conduct third party consultation. Delay in responding to FOI request.	Non-personal	2 December 2021	<ul style="list-style-type: none"> The ADHA failed to acknowledge one FOI request within the period required by s 15(5)(a) of the FOI Act. The ADHA reasonably formed the view that consultation with a third party was required and notified the complainant of the extension of the processing period for this purpose as required by the FOI Act. The ADHA attempted to delay the processing of the FOI request, when it corresponded with the complainant to advise them that they must submit a new FOI request to a different email address in order for the request to be valid, when the original request was validly made. 	<ol style="list-style-type: none"> The ADHA review its internal policies, procedures and practices to clarify that the processing periods for valid FOI requests commence from the day the request is received by the agency, even if the request is not sent to the FOI team until a later day, and that FOI request are not invalid only because they were not sent to the email address specified pursuant to s 15(2A). The ADHA review its processes and procedures to ensure that FOI requests are acknowledged within 14 days of receipt and that decisions are provided within the relevant statutory processing period. The Chief Executive Officer issue a statement to all staff, highlighting the ADHA's obligations under the FOI Act and pro-disclosure emphasis of the Act, this statement should encourage and support staff in meeting their obligations under the FOI Act, to facilitate and promote public access to information, promptly and at the lowest reasonable cost. The ADHA appoint a member of the Executive to be the agency's Information Champion, to foster and promote compliance with the objectives and requirements of the FOI Act. 	Accepted and implemented.	
Attorney-General's Department	Acceptance of transfers under s 16 of the FOI Act.	Non-personal	13 December 2021	The Department did not correctly apply the statutory test in s 16(1) of the FOI Act when it agreed to accept the transfer of an FOI request from the Attorney-General.	<ol style="list-style-type: none"> The Department update its <i>AGD FOI Procedures Manual: Standard procedures for processing FOI requests to the Attorney-General's Department</i> in relation to the matters required to be considered in accepting the transfer of FOI requests, including but not limited to: <ul style="list-style-type: none"> whether the transferring agency demonstrated that it took reasonable steps to search for documents that are the subject of the FOI request and the Department is reasonably satisfied that either: <ul style="list-style-type: none"> the transferring agency is not in possession of the documents within the scope of the request (s 16(1)(a)) or the transferring agency or minister has indicated why, and the Department agrees, that the subject matter is more closely connected to the functions of the Department (s 16(1)(b)) where the Department accepts a transfer under s 16(1), it should record the reasons why it has accepted the transfer, including (where relevant) how the agency demonstrated it is not in possession of the documents or why it considers the subject matter to be more closely connected to the functions of the Department the option of transferring or accepting the transfer of part of an FOI request in accordance with s 16(3A) of the FOI Act. 	Accepted; to implement.	

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					2. The Department provide a report to the Office of the Australian Information Commissioner (OAIC) on the implementation of the amended procedures relevant to accepting the transfer of FOI requests under s 16 of the FOI Act. This may take the form of a report following a review of matters transferred to the Department to ensure that the amended procedures have been implemented.		
Services Australia	Search and retrieval processes and identification of documents within the scope of a request	Personal	10 February 2022	At the time of the complainant's original FOI request, the documented search and retrieval processes that Services Australia had in place did not specifically draw officers' attention to the requirement to identify relevant call recordings. resulted in the omission of relevant call recordings from the agency's original FOI decision in this case. The changes made to Services Australia's search and retrieval template, to specifically refer to call recordings, will reduce the likelihood of call recordings being omitted from responses to FOI requests made to the agency in the future.	1. To review the training provided to officers undertaking search and retrieval activities in response to FOI requests to ensure it includes guidance regarding the requirement to identify and retrieve call recordings in response to FOI requests, and the process for same. ¹⁰	Accepted and implemented.	No further action to be taken.
National Disability Insurance Agency	Reasonable assistance provided to the applicant to lodge a valid FOI request.	Personal	11 February 2022	The NDIA had not documented, operationalised processes and procedures to provide reasonable assistance to applicants under s 15(3) of the FOI Act	1. That the NDIA establish, document and operationalise a mechanism whereby individuals who contact the agency by telephone can discuss the complexities of their FOI request or potential FOI request with a suitably qualified officer. That officer may be a member of the FOI team or the NCC. 2. That the NDIA's website be adjusted to provide clear advice to individuals regarding how they can initiate telephone contact with a suitably qualified officer in relation to their FOI request or their potential FOI request.	Accepted and implemented.	No further action to be taken.
Australian Trade and Investments Commission	Extending the processing under s 15(6) of the FOI Act to conduct third party consultation and imposing a charge.	Personal and non-personal	2 March 2022	Complaint not substantiated.	No recommendations made.	Not applicable.	Not applicable.
Veterans' Review Board	Compliance with statutory timeframes for processing FOI request.	Personal	14 March 2022	The VRB did not comply with the statutory processing period. The non-compliance was attributable to an isolated IT fault which has been rectified, and that once the VRB was made aware of the FOI request by the OAIC, it took reasonable steps to process the FOI request.	No recommendations made.	Not applicable.	Not applicable.

¹⁰ Suggestion made pursuant to s 87(d) of the FOI Act.

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response to recommendations	Further action to be taken
Australian Skills Quality Authority	Whether required assistance was provided to the applicant during the consultation process.	Non-personal	14 June 2022	The purported consultation process was more appropriately considered in the related IC review process. ASQA was not under any obligation to conduct a request consultation process under s 24AB of the FOI Act in relation to the internal review application. The internal review applicant to revise the scope of the request was reasonable in the circumstances.	Update policies and procedures to include: <ol style="list-style-type: none"> s 24AB of the FOI Act does not apply in the context of an internal review process an informal consultation process similar to that prescribed by s 24AB generally will, however, be appropriate where an internal review process raises the likelihood of practical refusal under s 24 of the FOI Act, and the informal consultation process referred to in (2) above must occur within the period prescribed by s 54C(3) of the FOI Act or such further time, if any, as is allowed under s 54D of the FOI Act.¹¹ 	Not applicable.	Not applicable.
National Disability Insurance Agency	Acknowledgment of FOI requests in accordance with statutory timeframes. Documents relevant to requests sent to incorrect postal address.	Non-personal	15 June 2022	The NDIA failed to acknowledge the complainant's FOI requests within the statutory timeframes set out in s 15(5)(a) of the FOI Act. The documents requested by the complainant under the FOI Act being sent to the incorrect postal address, despite the complainant's notification of the change of address being provided to the NDIA, resulted in a failure to comply with s 15(5)(b) of the FOI Act.	No recommendations made.	Not applicable.	Not applicable.
Australian Electoral Commission	Assistance provided to applicant during the consultation process. Compliance with the timeframe for notification of the Commission's decision as set out in the related Information Commissioner decision.	Non-personal	15 June 2022	At the time of processing the FOI request, when corresponding with the complainant, the Commission did not engage in practices appropriate to advancing the objects of the FOI Act. The Commission did not comply with the timeframe set out in the Information Commissioner review decision and so failed to comply with s 55N of the FOI Act	<ol style="list-style-type: none"> Update the Commission's proposed FOI processing procedure and guide to decision making process and procedure document to reflect the opinions and conclusions reached in this investigation in relation to each of the two matters investigated. Provide to the OAIC a copy of the FOI processing procedure and guide to decision making process and procedure document as updated in accordance with recommendation 1. Provide to the OAIC an update on the implementation of training of the FOI team which the Commission indicated it would undertake following the 2022 general election. Provide a formal apology to the complainant as proposed by the Commission 	Accepted and implemented.	No further action to be taken.
Australian Federal Police	Compliance with statutory timeframes for processing FOI request Documents relevant to the request not appropriately stored.	Non-personal	17 June 2022	The AFP's failure to ensure that documents were stored in accordance with AFP records management procedures resulted in the AFP failing to process the complainant's FOI request within the statutory timeframe prescribed by s 15(5)(b) of the FOI Act. It does not appear that there existed, or exist, sufficient escalation processes and procedures in	<ol style="list-style-type: none"> the AFP update its relevant information management guidance to include appropriate escalation points for the AFP FOI team to follow where AFP personnel have not followed processes and procedures which then impacts on the processing of FOI requests. 	Accepted and implemented.	No further action to be taken.

¹¹ Suggestions made under s 87(d) of the FOI Act.

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response to recommendations	Further action to be taken
	Handling of documents relevant to the request.			place to enable the AFP's FOI team to address circumstances of the kind which impacted on the processing of the complainant's FOI request. Remainder of the FOI complaint outside of the jurisdiction of the FOI Act.			
Department of Veterans' Affairs	Whether a notice of decision under s 26 of the FOI Act should include the signature, name and position of the person who has made the decision. Compliance with Disclosure log obligations.	Non-personal	22 June 2022	There was a period of time during which the Department was clearly non-compliant with the requirements of s 26(1)(b) of the FOI Act. The Department has altered its earlier practice so that the given name, position number and designation of the relevant staff member is included in a decision. In the Department's specific circumstances, this altered practice is reasonable and results in the giving of valid notices under s 26. The Department is complying with the requirements of s 11C(3) of the FOI Act.	1. The Department review its capacity to enable the direct downloading of relevant information by persons who wish to obtain it and, absent a technical or resource barrier to doing so, implement a direct download facility so as to improve this aspect of the Department's information access processes. ¹²	Not applicable.	Not applicable

¹² Suggestion made under s 87(d) of the FOI Act.