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Office of the Australian
Information Commissioner

Office of the Australian Information Commissioner

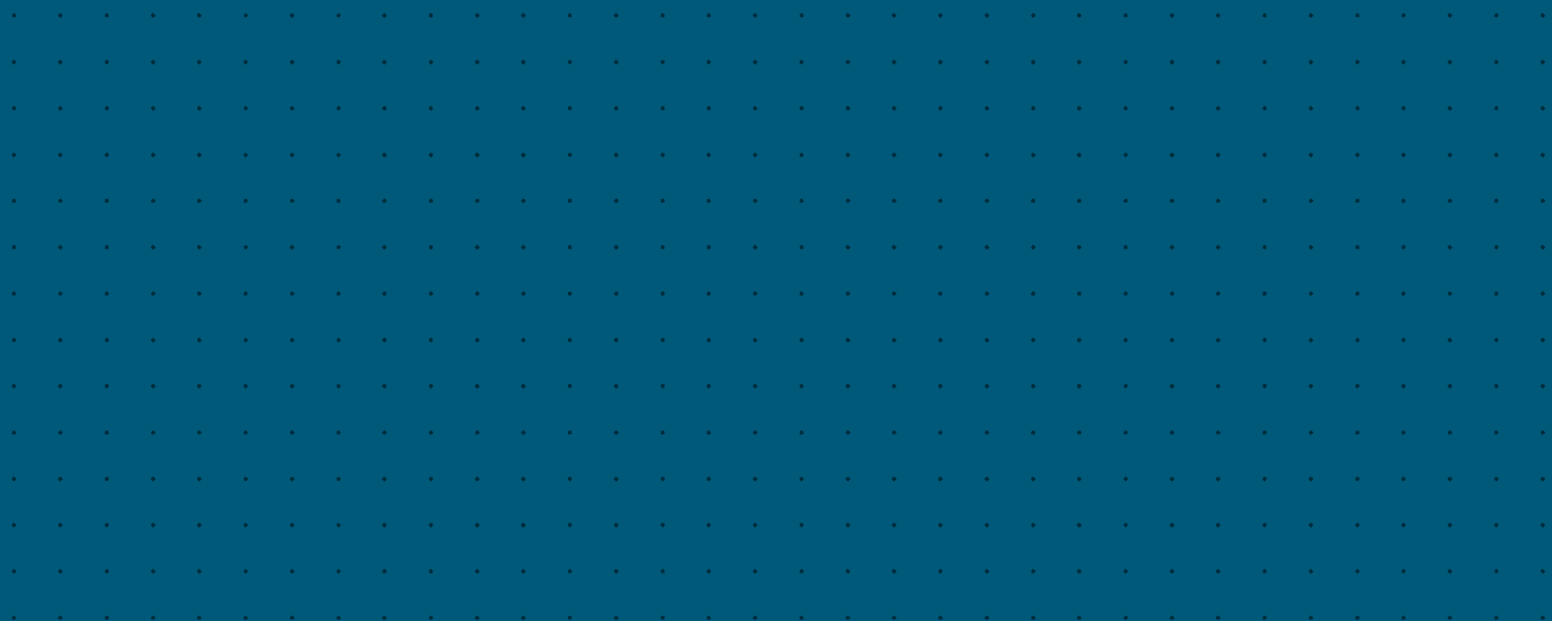
Annual Report 2020–21



OAIC

Office of the Australian Information Commissioner

Annual Report 2020–21



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Acknowledgement of Country

We acknowledge the traditional custodians of Australia and their continuing connection to land, sea and community. We pay our respects to the people, the cultures and the elders past, present and emerging.





Senator the Hon Michaelia Cash

Attorney-General
Parliament House
Canberra ACT 2600

Dear Attorney-General

I am pleased to provide the Office of the Australian Information Commissioner's (OAIC's) Annual Report 2020–21 for the year ending 30 June 2021.

This report has been prepared for the purposes of s 46 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), which requires that I prepare and provide an annual report to you for presentation to the Parliament.

Section 30 of the *Australian Information Commissioner Act 2010* (AIC Act) also requires the Information Commissioner to prepare an annual report on the OAIC's operations, including a report on freedom of information matters (defined in s 31 of the AIC Act) and privacy matters (defined in s 32 of the AIC Act). The freedom of information matters include a summary of the data collected from Australian Government ministers and agencies in relation to activities under the *Freedom of Information Act 1982*.

I certify that the OAIC has prepared a fraud risk assessment and fraud control plan. We also have a number of appropriate fraud prevention, detection, investigation, reporting and data collection mechanisms in place. The OAIC has taken all reasonable measures to minimise the incidence of fraud. I certify that this report has been prepared in line with the Public Governance, Performance and Accountability Rule 2014.

Yours sincerely

Angelene Falk

Australian Information Commissioner
Privacy Commissioner
23 September 2021

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Part 1

Overview

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About the OAIC

The Office of the Australian Information Commissioner (OAIC) is an independent statutory agency within the Attorney-General's portfolio, established under the *Australian Information Commissioner Act 2010*.

Our key role is to meet the needs of the Australian community in relation to the regulation of privacy and freedom of information. We do this by:

- ensuring proper handling of personal information under the *Privacy Act 1988* and other legislation
- protecting the public's right of access to documents under the *Freedom of Information Act 1982* (FOI Act)
- performing strategic functions relating to information management within the Australian Government under the *Australian Information Commissioner Act 2010* (AIC Act).

Outcome and program structure

Our Portfolio Budget Statement describes the OAIC's outcome and program framework.

Outcome	Provision of public access to Commonwealth Government information, protection of individuals' personal information, and performance of information commissioner, freedom of information and privacy functions.
Program 1.1	Complaint handling, compliance and monitoring, and education and promotion.

Our annual performance statement details our activities and key deliverables and measures our performance against our Portfolio Budget Statement targets and the strategic priorities set out in the *OAIC Corporate Plan 2020–21*:

- advance online privacy protections for Australians
- influence and uphold privacy and information access rights frameworks
- encourage and support proactive release of government-held information
- take a contemporary approach to regulation.

Purpose

Our purpose is to promote and uphold privacy and information access rights.

We do this by:

- making sure that Australian Government agencies and Australian Privacy Principles (APP) entities comply with the Privacy Act and other laws when handling personal information
- protecting the public's right of access to documents under the FOI Act
- carrying out strategic information management functions within the Australian Government under the AIC Act.

Our regulatory activities include:

- conducting investigations
- handling complaints
- reviewing decisions made under the FOI Act
- monitoring agency administration
- providing advice to the public, organisations and agencies.

Commissioner's review

In a year dominated by our ongoing response to COVID-19, the OAIC has worked to ensure access to information and privacy protections continue to be upheld. Information sharing by government and the use of personal information to help address the public health risks associated with the pandemic has been a hallmark of the past 12 months. The government and business response to community expectations for information sharing and strong privacy protections in areas of higher risk has set important benchmarks for best practice in privacy and information access.

The OAIC has joined with our domestic and international counterparts to highlight the need to maintain privacy and information access frameworks during the pandemic, through proportionate and pragmatic public health responses, and the proactive release of information.

Advancing our strategic priorities

As a contemporary regulator, we seek to respond to government and community public expectations when exercising our regulatory responsibilities and powers under the *Privacy Act 1988* and the *Freedom of Information Act 1982* (FOI Act).

Our compliance and enforcement activities hold organisations to account through determinations and other regulatory action. In 2020–21, we issued a record 17 determinations in relation to complaints alleging breaches of the Australian Privacy Principles, providing guidance to regulated entities around the interpretation of individual principles and establishing important precedents.

We finalised 10 privacy Commissioner-initiated investigations (CIIs) during the reporting period, and

significantly advanced our joint investigation with the UK Information Commissioner into Clearview AI Inc. over the use of 'scraped' data and biometrics for its facial recognition app. Our CII into the Department of Home Affairs' compliance with statutory timeframes for processing FOI requests for non-personal information resulted in the agency agreeing to implement all our recommendations.

In October 2020, we established our Regulatory Action Committee, a new internal governance mechanism to assist the OAIC in assessing regulatory options for responding to significant and emerging privacy risks.

Our work also shapes the privacy and access to information landscape through detailed submissions and policy advice to the Australian Government and others. In 2020–21, we made 21 submissions and 50 bill scrutiny comments across both privacy and FOI. This includes our submission to the landmark review of the Privacy Act led by the Attorney-General's Department. Among our recommendations is the need for a new standard to ensure that the collection, use and disclosure of personal information is fair and reasonable.

We continue to influence policy and reform through domestic and international engagement. I had the privilege of leading the adoption of 2 resolutions at the Global Privacy Assembly conference in October 2021 focused on facial recognition and emerging privacy issues. In June 2021, the International Conference of Information Commissioners voted unanimously to adopt the resolution authored by the OAIC in support of proactive publication of information relating to the COVID-19 pandemic. In 2020–21, we led a highly successful Privacy Awareness Week (PAW), signing up a record number of supporters. We also coordinated national campaigns across Australian jurisdictions for both PAW and International Access to Information Day.

Delivering our regulatory functions

The OAIC's work to deliver our core services to the Australian community has continued through the pandemic, as applications for Information Commissioner (IC) reviews increased by 15% to 1,224 and privacy complaints fell by 7% to 2,474. I am pleased to report that OAIC staff finalised 94% of privacy complaints within 12 months, against a target of 80%. We also closed 1,018 IC reviews, an increase of 23% compared to the previous financial year. Despite this significant improvement, resourcing issues means a gap between incoming FOI work and finalisation rates remains. The appointment of a new FOI Commissioner announced in the May Budget will assist our capacity to manage this growing workload.

COVID-19 was a key theme of new OAIC guidance and advice to drive best practice among agencies and organisations, including harmonising contact tracing orders and privacy protections in relation to vaccinations. We also released two COVIDSafe reports and the first of 5 COVIDSafe assessments in 2020–21.

Significant milestones

The Consumer Data Right celebrated its first year of operation in the banking sector on 30 June 2021. This important reform is empowering consumers to take greater control of their data to help them find products and services better suited to their needs. Alongside our co-regulator, the Australian Competition and Consumer Commission, the OAIC is working to embed and enforce the privacy safeguards built into the system and to advise as the Consumer Data Right is applied to additional sectors.

The Notifiable Data Breaches scheme has now been in operation for 3 years, and the OAIC has resolved

more than 3,000 data breach notifications since it began in February 2018. The scheme provides greater transparency to consumers whose data is caught up in a breach and keeps organisations accountable for their obligations to protect personal information. As it matures, we see clear trends: malicious or criminal attacks are the leading source of data breaches, followed by human error. Our regular reporting of this data highlights emerging issues and areas for attention by regulated entities.

We also marked the 10th anniversary of the OAIC in November 2020. The creation of the agency elevated the role of information management within the Australian Government, integrating freedom of information, privacy protection and information policy advice functions. Among our many achievements, during the past decade we resolved more than 24,000 privacy complaints and almost 800 FOI complaints, completed almost 6,000 IC reviews and answered more than 212,000 enquiries.

These achievements are the work of our committed and expert staff, who have maintained their efforts to serve the Australian community throughout this challenging 12-month period. In the year ahead, we will continue to employ our regulatory tools and capabilities to build public trust and confidence in access to government-held information and the protection of personal information, as we support proactive publication and help to develop a privacy framework with the protections and flexibility needed to support a thriving digital economy.



Angelene Falk

Australian Information Commissioner
Privacy Commissioner

23 September 2021

Our year at a glance

Privacy complaints

We **received**

2020–21

2019–20

↓ 7% fewer

2,474

2,673

privacy complaints

We **finalised**

2020–21

2019–20

↓ 36% fewer

2,151

3,366

privacy complaints*

94% 

of privacy complaints were closed within
12 months against a **target of 80%**

up from 2019–20 by

↑ 7%

Average time taken to finalise a
privacy complaint

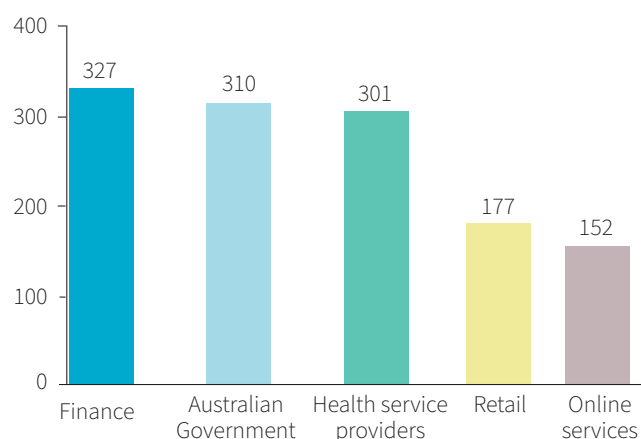
4.4 months



*We made a record
17 determinations on
privacy complaints, up
from 4 in the previous
reporting period*

* In 2019–20, we completed a backlog project which increased the finalisation figures so this is not a like-for-like comparison.

Top 5 sectors by privacy complaints received



Privacy enquiries

We **handled**

11,647

privacy enquiries

↓ **22%**

decrease from 2019–20



phone

7,020



written

4,625



in person

2

Notifiable Data Breaches scheme

We **received**

↓ **7% fewer**

notifications under the Notifiable
Data Breaches (NDB) scheme

2020–21

975

2019–20

1,050

80% 

of NDBs were finalised within 60 days
against a **target of 80%**

up from 2019–20 by

↑ **18%**

Average time taken to finalise a data
breach notification

62 days



Privacy Awareness Week 2021

629 supporters

joined the OAIC campaign

up from 2019–20 by

↑ **15%**

Our year at a glance

FOI enquiries

We **handled**

1,824

FOI enquiries

↓ 21%

decrease from 2019–20



phone

1,106



written

718

FOI complaints

We **received**

↑ 39% more

FOI complaints

2020–21

151

2019–20

109

We **finalised**

↑ 145% more

FOI complaints

2020–21

174

2019–20

71

82%

of FOI complaints were finalised within
12 months against a **target of 80%**

up from 2019–20 by

↑ 30%

Average time taken to finalise an
FOI complaint

6.8 months



Information Commissioner (IC) reviews

We **received**

↑ 15% more

applications for IC reviews of FOI decisions

2020–21

1,224

2019–20

1,066

We **finalised**

↑ 23% more

IC reviews

2020–21

1,018

2019–20

829

73% 

of applications for IC reviews were finalised within 12 months against a **target of 80%**

up from 2019–20 by

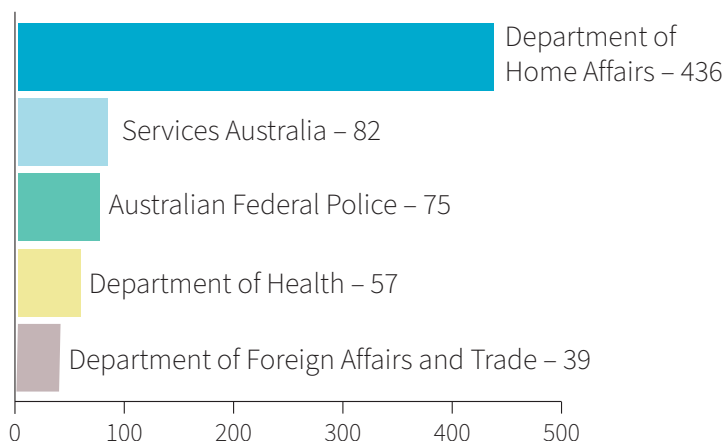
↑ 1%

Average time taken to finalise an IC review

8.3 months



Top 5 agencies involved in IC reviews



We finalised 57% of IC reviews within 120 days

Our structure

The OAIC is headed by the Australian Information Commissioner, a statutory officer appointed by the Governor-General. The Commissioner has a range of powers and responsibilities outlined in the AIC Act, and also exercises powers under the FOI Act, the Privacy Act and other privacy-related legislation.

The Australian Information Commissioner is the agency head accountable for strategic oversight and the OAIC's regulatory, strategic, advisory and dispute resolution functions, as well as financial and governance reporting.

Angelene Falk was appointed by the Governor-General to the roles of Australian Information Commissioner and Privacy Commissioner on 16 August 2018 for a 3-year term. She was acting Australian Information Commissioner and Privacy Commissioner from 24 March 2018 to 15 August 2018.

Angelene Falk

Angelene Falk has held senior positions in the OAIC since 2012, including serving as Deputy Commissioner from 2016 to March 2018. Over the past decade, she has worked extensively with Australian Government agencies, across the private sector and internationally, at the forefront of addressing regulatory challenges and opportunities presented by rapidly evolving technology and potential uses of data. Her experience extends across industries and subject matter, including data breach prevention and management, data sharing, credit reporting, digital health and access to information.

Commissioner Angelene Falk is a member of the National Data Advisory Council, and sits on the Executive Committee of the Global Privacy Assembly (GPA), chairing the GPA's Strategic Direction Sub-Committee. She holds a Bachelor of Laws with Honours and a Bachelor of Arts from Monash University and a Diploma in Intellectual Property Law from Melbourne University.

Support to the Commissioner

The Commissioner is supported by a Deputy Commissioner, 3 Assistant Commissioners and expert staff, working within the Dispute Resolution, Regulation and Strategy, and Corporate branches, and the FOI Regulatory Group.

The Dispute Resolution branch is responsible for privacy dispute resolution, managing privacy enquiries, resolving and investigating privacy complaints, and administering the Notifiable Data Breaches scheme. This includes resolving privacy complaints at the earliest opportunity by assisting parties to reach settlement through conciliation; investigating more complex complaints and providing outcomes; and supporting the Commissioner to make determinations, which may include declarations about entities taking remedial action. The branch deals with entities to ensure that individuals are notified of eligible data breaches so they can act to protect their personal information. It also conducts CII into particular acts and practices which may result in further regulatory action.

The Regulation and Strategy branch is responsible for providing strategic policy advice and guidance to individuals, government and business. This includes examining legislation and other proposals that may have an impact on privacy and managing the program of work under the OAIC's International Strategy. It also undertakes proactive regulatory activities by auditing privacy practices in industry and government agencies. The branch is responsible for regulating privacy safeguards under the Consumer Data Right system and monitoring the privacy aspects of the COVIDSafe System.

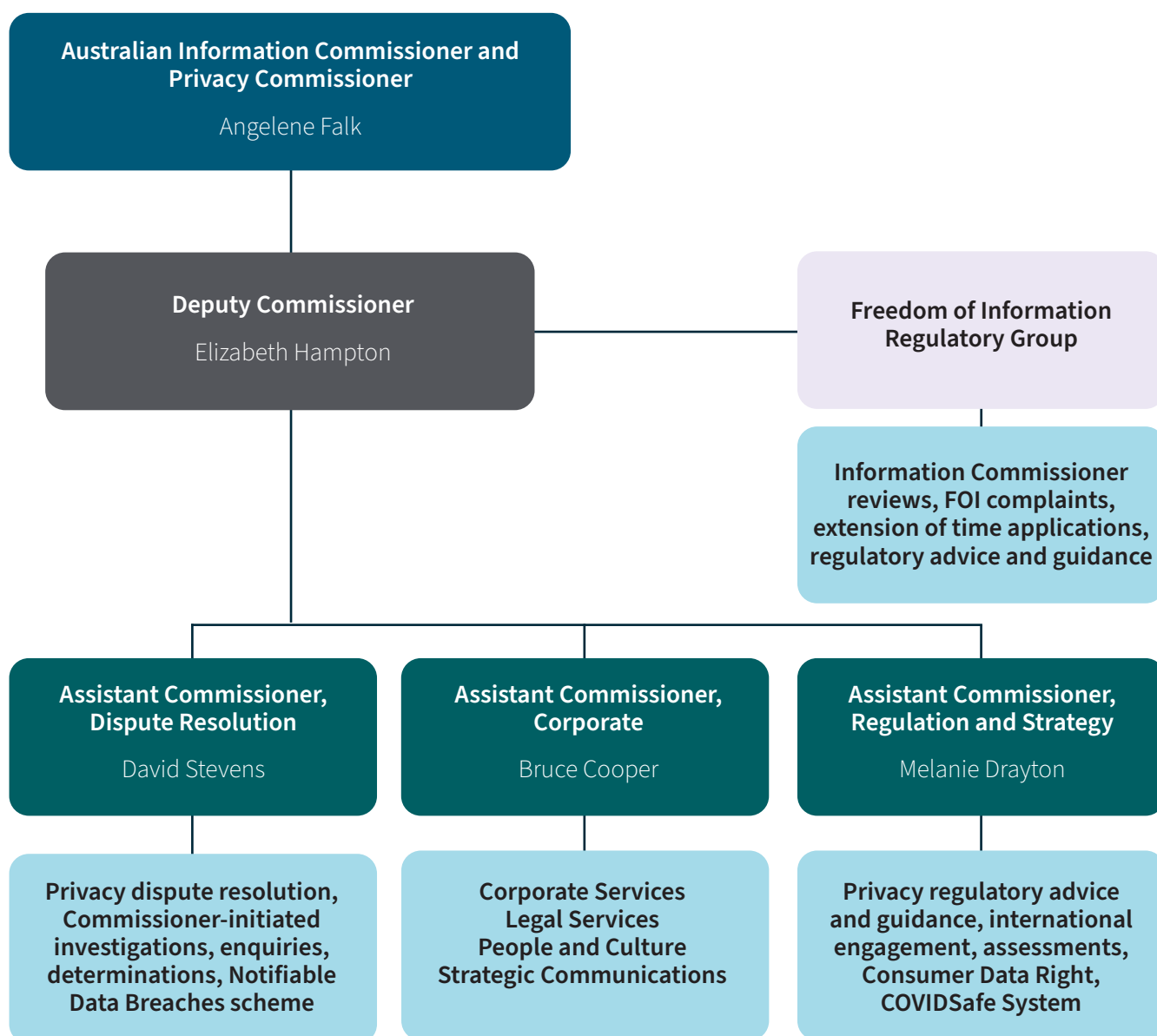
The FOI Regulatory Group is responsible for undertaking IC reviews, monitoring, investigating and reporting on compliance through FOI complaints and Commissioner-initiated FOI investigations, deciding applications for vexatious applicant declarations and extensions of time, collecting information and statistics from agencies and ministers about FOI matters, and providing

advice and guidance on FOI and information access related matters.

The Corporate branch includes legal services, strategic communications and corporate services with people and culture, governance, finance and information management services functions. The Corporate Branch coordinates the OAIC's identification, assessment and mitigation of

strategic and operational risks, and manages the security posture of the office, including compliance with the Protective Security Policy Framework. During 2020–21, the Corporate Branch has worked with a new shared services delivery partner to commence transition of the human resources and finance functions, in line with government's shared services policy.

Figure 1.1: OAIC corporate structure





Part 2

Performance

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Our annual performance statement

Introduction

I, Angelene Falk, as the accountable authority of the Office of the Australian Information Commissioner (OAIC), present the 2020–21 annual performance statement of the OAIC, as required under paragraph 39(1)(a) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). In my opinion, this annual performance statement is based on properly maintained records, accurately reflects the performance of the entity, and complies with subsection 39(2) of the PGPA Act.

Overall performance

During this reporting period, the OAIC delivered on our purpose to promote and uphold privacy and information access rights. We measure our success against the performance indicators outlined in the *OAIC Corporate Plan 2020–21*, which features

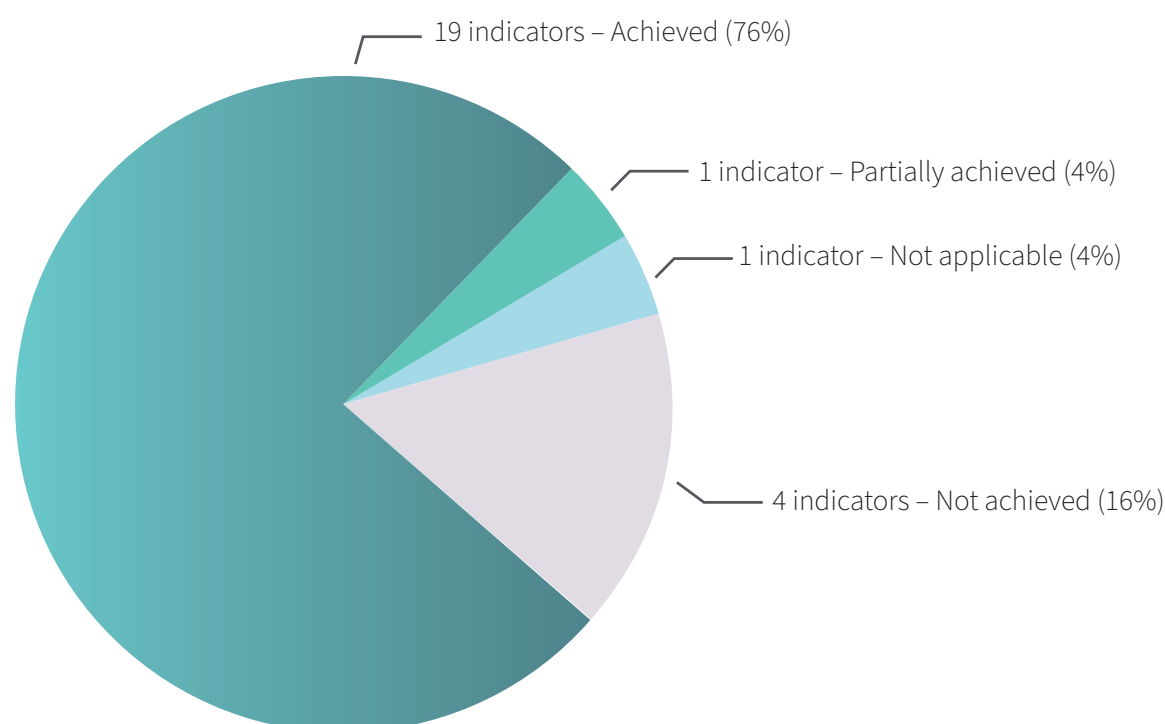
25 indicators grouped under 4 strategic priorities. In 2020–21 we achieved 19 out of our 25 indicators. For more information, see Table 2.1: Breakdown of indicators by status.

Highlights

Among the highlights of our performance in 2020–21:

- We completed 1,018 Information Commissioner (IC) reviews (compared to 829 in the previous year), finalising more than half within 120 days.
- We finalised 174 freedom of information (FOI) complaints, an increase of 145% on the previous year.
- We completed a Commissioner-initiated investigation (CII) into FOI processes at the Department of Home Affairs, making

Figure 2.1: OAIC indicators by status



recommendations which have been accepted and are being implemented by Home Affairs.

- We conducted a joint privacy investigation with the UK Information Commissioner's Office (ICO) into Clearview AI Inc., with findings to be published in the next reporting period.
- We made 17 privacy determinations, more than in any previous financial year.
- We closed 2,151 privacy complaints, resolving 94% within 12 months.
- We commenced 4 COVIDSafe privacy assessments and completed one assessment of the National COVIDSafe Data Store Access Controls.
- We provided advice on privacy impact assessments (PIAs) related to the COVID-19 vaccination rollout, and published guidance for employers and employees.
- We provided advice to government on its review of the *Privacy Act 1988* and in relation to the proposed Online Privacy Code legislation.
- We consulted stakeholders as part of our reviews of the National Health (Privacy) Rules 2018 and Data-matching Program (Assistance and Tax) Guidelines 1994.
- We worked with the Digital Transformation Agency to ensure that privacy is at the centre of new legislation that will enable the expansion of the Digital Identity system.
- We led our biggest Privacy Awareness Week campaign ever, enlisting 629 supporters, and grew our Information Contact Officers Network by 20%, from 573 to 685 members.
- We engaged proactively with domestic and international regulators through a range of forums, working groups and other collaborative mechanisms, including through the Commissioner's role on the Executive Committee of the Global Privacy Assembly (GPA).
- We chaired the Global Privacy Assembly Strategic Direction Sub-Committee, co-chaired its Digital Citizen and Consumer Working Group, and authored 2 resolutions adopted at the GPA's annual conference, including one on facial recognition technology.
- We convened a National COVID-19 Privacy Team with state and territory privacy regulators which met regularly throughout the year to respond to proposals with national implications.
- We led work for the International Conference of Information Commissioners (ICIC) that resulted in publication of a joint statement supporting the proactive publication of information relating to the COVID-19 pandemic.

Results

Our performance is measured against the 25 indicators in the *OAIC Corporate Plan 2020–21*.

Table 2.1: Breakdown of indicators by status

Indicator	Measure	Target	Status
1.1	Australians' personal information is protected wherever it flows	(1) The OAIC supports mechanisms that facilitate international data flows while protecting personal information (2) The OAIC engages in international regulatory compliance and enforcement	Qualitatively and quantitatively demonstrated Achieved
1.2	Australia's privacy frameworks are fit for purpose in the digital age	The OAIC provides policy advice to the Australian government	Qualitatively and quantitatively demonstrated Achieved
1.3	The OAIC is a leader in the global privacy community to strengthen protection of Australians' personal information	The OAIC has a leadership role in key international forums	Qualitatively demonstrated Achieved
1.4	The OAIC engages with stakeholders in the development of online privacy protections	Views of stakeholders have been sought and considered	Qualitatively demonstrated Achieved
1.5	A code of practice for digital platforms increases the privacy protection of Australians in the online environment	Code of practice for digital platforms is developed	Code is registered Not applicable ¹
2.1	The OAIC identifies, scrutinises and advances policy and legislative reform proposals	The OAIC influences policy and law makers to support privacy and information rights	Number of submissions published and number of times bill scrutiny tasks completed Achieved
2.2	Respond to privacy and information access enquiries from the public	Time taken to finalise written enquiries	90% of written enquiries are finalised within 10 working days* Not achieved
2.3	Resolve privacy complaints	Time taken to finalise privacy complaints	80% of privacy complaints are finalised within 12 months* Achieved

¹ Indicator 1.5 was 'Not applicable' because the legislation to support the Online Privacy Code was delayed.

Indicator	Measure	Target	Status
2.4	Ensure timely handling of data breach notifications	(1) Time taken to resolve Notifiable Data Breaches (NDBs) 80% of NDBs are finalised within 60 days* (2) Time taken to resolve My Health Record notifications 80% of My Health Record notifications are finalised within 60 days*	Partially achieved
2.5	Strategic assessment and advice provided to the Commissioner in relation to all significant privacy risks	The Commissioner receives strategic advice regarding the appropriate regulatory response to significant privacy risks	Achieved
2.6	Conduct Commissioner-initiated investigations	Time taken to finalise privacy and FOI CIIs	Not achieved
2.7	Provide merits review of FOI decisions made by agencies	Time taken to finalise Information Commissioner reviews	Not achieved
2.8	Improve agencies' processes for managing FOI requests	(1) Time taken to resolve FOI complaints 80% of FOI complaints are finalised within 12 months* (2) Agencies accept and implement recommendations made following complaint investigations 90% of recommendations made are accepted	Achieved
2.9	The OAIC promotes awareness of privacy and access to information	The OAIC leads campaigns such as International Access to Information Day and Privacy Awareness Week	Achieved
2.10	The OAIC promotes awareness of CDR privacy rights	Education and awareness materials are developed and promoted	Achieved
2.11	Australians are confident about the system of oversight of privacy and security of the COVIDSafe app	(1) Assessment program identifies any privacy risks Assessment program conducted and outcomes published (2) Guidance to government, businesses and the community regarding COVIDSafe app-related privacy law Guidance material prepared and published (3) Effective enquiry, complaint and data breach notification systems Enquiry, complaint and data breach systems utilised	Achieved

* OAIC Portfolio Budget Statement 2020–21 target.

Table 2.1: Breakdown of indicators by status continued

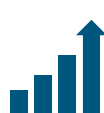
Indicator	Measure	Target	Status	
3.1	More government-held information is published proactively	(1) The OAIC actively promotes proactive publication through agency engagement (2) The OAIC actively promotes proactive publication through development of resources and guidance	The OAIC uses the Information Contact Officers Network to promote the benefits of proactive publication of government-held information The OAIC develops resources to help agencies make more information available to the public	Achieved
3.2	Increase in community awareness and understanding of information access rights	The OAIC will develop resources to help the community understand the right to access government-held information	Publish practice direction to assist members of the public better understand the IC review process	Achieved
4.1	The OAIC takes appropriate regulatory action in relation to strategic privacy and access to information risks	The OAIC utilises the range of regulatory powers and outcomes provided by the Privacy and FOI Acts	Qualitatively and quantitatively demonstrated	Achieved
4.2	The OAIC engages with domestic and international counterparts on regulatory policy and practice	The OAIC collaborates on policy development, shares intelligence and participates in forums	Qualitatively demonstrated	Achieved
4.3	Improved employee engagement	Positive rates against APS Employee Census (Strive, Stay, Say index)	Improvement on previous year (positive variance)	Achieved
4.4	Increased staff retention	Reduced staff turnover and increased internal mobility	Align with APS Employee Census rates for workforce mobility	Achieved
4.5	Attracting high-quality applicants	OAIC recruitment activities result in appointment of a candidate and an order of merit	90% of recruitment activities result in appointment and an order of merit	Achieved
4.6	Staff capability map supports the full range of OAIC functions	The OAIC uses staff capability map to support delivery of full range of functions	Recruitment and training aligned to staff capability map	Not achieved
4.7	Mature the OAIC data management capability to understand and address emerging privacy and enterprise risks	Timely, accurate and reliable data supports core business	Data management complies with OAIC data strategy	Achieved

Strategic Priority 1

Advance online privacy protections for Australians

The OAIC works to advance online privacy protections for Australians which support the Australian economy. We do this by influencing the development of legislation, applying a contemporary approach to regulation (including through collaboration) and raising awareness of online privacy protection frameworks.

Indicator 1.1: Australians' personal information is protected wherever it flows



Measure

(1) The OAIC supports mechanisms that facilitate international data flows while protecting personal information



Target: Qualitatively and quantitatively demonstrated

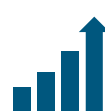
Achieved

In 2020–21, the OAIC has focused on protecting Australians' privacy and building public trust in information handling practices within an environment that enables digital innovation and allows Australia to compete in the global economy. We are committed to taking part in global networks and initiatives to ensure we are well placed to protect the personal information of Australians in a globalised data environment. This includes our active participation in 2 Asia Pacific Privacy Authorities (APPA) forums, and the annual Global Privacy Assembly (GPA) conference, as well as regular meetings of 5 GPA working groups.

Internationally, privacy protection tools are being developed to support cross-border data flows. These tools provide a 'bridge' to connect the different privacy frameworks across the globe.

Globally there is a growing recognition that strong protections for information flows are critical to international trade. The OAIC has provided expert advice to the Australian Government on privacy protection mechanisms that support international data flows. This includes advice provided to the Department of Foreign Affairs and Trade on matters such as free trade agreements.

For more information see Privacy Act review – OAIC submission on page 25.



Measure

(2) The OAIC engages in international regulatory compliance and enforcement



Target: Qualitatively and quantitatively demonstrated

Achieved

In 2020–21, the OAIC has participated in a range of existing networks and arrangements that promote and support international cooperation in investigation and the enforcement of privacy and data protection laws.

The OAIC is a member of the GPA and Commissioner Angelene Falk is a member of the Executive Committee. We participate in 5 GPA working groups, including the International Enforcement Working Group (IEWG).

GPA committee name	Meetings attended 2020–21
Executive Committee	7
Strategic Direction Sub-Committee	4
Ethics and Data Protection in Artificial Intelligence Working Group	3
COVID-19 related Privacy and Data Protection Issues Working Group	8
International Enforcement Cooperation Working Group	10
Digital Citizens and Consumers Working Group	7
Policy Strategy Working Group Workstream 1: Global Standards and Frameworks	2
TOTAL	41

On 21 July 2020, the OAIC joined with other regulators through the IEWG to sign an open letter to video teleconference providers, setting out clear expectations of these companies given increased privacy risks associated with the sharp uptake of these services during the pandemic. Microsoft, Cisco, Zoom and Google replied to the open letter. The joint signatories undertook further engagement with Microsoft, Cisco, Zoom and Google following their responses to the open letter, and published an update to the joint statement in December 2020.

The OAIC also participates in the Global Cross Border Enforcement Cooperation Arrangement (GCBECA), the APEC Cross-border Privacy Enforcement Arrangement (CPEA) and the Global Privacy Enforcement Network (GPEN).

The OAIC exchanges information related to investigations and provides mutual assistance under memorandums of understanding with the UK Information Commissioner's Office (ICO), the Data Protection Commissioner of Ireland and the Personal Data Protection Commission of the Republic of Singapore.

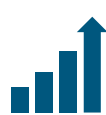


Case Study: Clearview AI Inc. investigation

Case Study 1.1.1: Clearview investigation – joint investigation by OAIC and UK ICO

In July 2020, the OAIC and the UK ICO opened a joint investigation into the personal information handling practices of Clearview AI Inc., focusing on the company's use of 'scraped' data and biometrics of individuals. The joint investigation considered Clearview's compliance with the Privacy Act and the UK Data Protection Act 2018. It has been conducted under the GPA's Global Cross Border Enforcement Cooperation Arrangement and the MOU between the OAIC and the ICO. The matter is expected to conclude in 2021–22.

Indicator 1.2: Australia's privacy frameworks are fit for purpose in the digital age



Measure

The OAIC provides policy advice to the Australian Government



Target: Qualitatively and quantitatively demonstrated

Achieved

The OAIC has provided timely and informed policy advice to key Australian Government agencies to promote privacy best practice and address emerging privacy risks arising from advancements in technology.

Specifically, we have engaged closely with the Attorney-General's Department as part of its ongoing review of the Privacy Act, which began in October 2020. On 11 December 2020, we made a substantial submission to the first phase of the review, with 70 recommendations for reform to ensure that the Privacy Act is fit for purpose in the digital age.

We have also made 16 formal submissions on a range of topics related to online privacy, including

the Online Safety Bill 2020 and the Online Safety Bill 2021, the Data Availability and Transparency Bill 2020, the Consumer Data Right, Digital Identity system and the Australian Human Rights Commission (AHRC) discussion paper *Human rights and technology*.

We have also engaged on key digital health reforms such as the Department of Health's Review of the My Health Records legislation. We completed a review of the Data-matching Program (Assistance

and Tax) Guidelines 1994 and have commenced a review of the National Health (Privacy) Rules 2018 to ensure these privacy frameworks remain appropriate in the evolving digital environment.

We are committed to ensuring that Australia's privacy framework reinforces strong cyber security protections and have provided advice to the Department of Home Affairs on its *Strengthening Australia's cyber security regulations and incentives* discussion paper.

Privacy Act review – OAIC submission

The OAIC's submission in response to the Attorney-General's Department's *Privacy Act review issues paper* focused on the need for a strong, fair and flexible privacy framework that prevents harm, protects fundamental human rights and builds public trust to support a successful economy. We made recommendations that build on the existing, well-established privacy framework to ensure that privacy protections remain consistent with the values of Australians and support organisations and government to use data fairly and responsibly in an increasingly digital economy.

The OAIC's submission recommended:

- greater emphasis on the protection of individuals and the obligations on entities to ensure business models and practices safeguard privacy
- the introduction of fairness and reasonableness standards for the collection, use and disclosure of personal information
- stronger organisational accountabilities for entities, with an onus on organisations to understand the risks that they create for others, and to mitigate those risks up front
- the removal of exemptions for employee records and acts and practices by small business operators and political parties

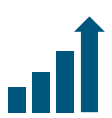
- that individuals should have a direct right to bring actions in the courts against organisations covered by the Privacy Act to seek compensation
- the introduction of a statutory tort that can respond to a wide range of serious invasions of privacy.

The OAIC's submission also recommended reforms to ensure that we can take proportionate regulatory action and meet community expectations through broadening the jurisdiction of the courts to determine privacy matters, strengthening the compulsive powers of the Commissioner and allowing the Commissioner to issue infringement notices.

Additional enforcement powers would enhance the OAIC's ability to focus on issues of greatest risk to privacy, investigate potential breaches of the Privacy Act, deter inappropriate conduct and support privacy best practice.

We have continued to engage with the Attorney-General's Department since making our submission, as well as preparing to provide input to the second phase of the review process, which will seek more specific feedback on the preliminary outcomes of the review.

Indicator 1.3: The OAIC is a leader in the global privacy community to strengthen protection of Australians' personal information



Measure

The OAIC has a leadership role in key international forums



Target: Qualitatively demonstrated

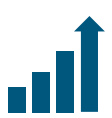
Achieved

The OAIC is a member of the GPA and Commissioner Angelene Falk is a member of the Executive Committee and chair of the Strategic Direction Sub-Committee. The Executive Committee provides strategic direction to the GPA's membership of more than 130 privacy and data protection authorities from across the globe. In October 2020, the OAIC authored 2 key resolutions which were unanimously adopted at the 42nd GPA conference, on facial recognition technology and a joint statements mechanism for emerging global privacy issues.

The OAIC is an active member of 5 GPA working groups, including co-chairing the Digital Citizen and Consumer Working Group. We seek to influence consistency and cooperation in the global regulation of privacy to ensure that Australians' personal information is protected wherever it flows.

We are a founding member and actively participate in APPA, which provides leadership and support for the privacy regulator community across the region. During the reporting period, we attended 2 virtual APPA forums with our counterparts in the Asia Pacific region.

Indicator 1.4: The OAIC engages with stakeholders in the development of online privacy protections



Measure

Views of stakeholders have been sought and considered



Target: Qualitatively demonstrated

Achieved

The OAIC has met with stakeholders in preparation for the development of the proposed code of practice for social media and online platforms that trade in personal information (the Online Privacy Code). We have also liaised with the Attorney-General's Department on the development of draft legislation that will amend the Privacy Act to introduce these code-making powers.

The OAIC has worked with stakeholders as part of our engagement with the department on its review of the Privacy Act to discuss our proposals and learn from other privacy experts across business, government and academia. See Privacy Act review – OAIC submission on page 25.

The OAIC also engages with stakeholders across the Australian Government to ensure that new initiatives involving the use of personal information online contain suitable privacy protections. For example, the OAIC has engaged closely with the Digital Transformation Agency to ensure that strong privacy protections are embedded in the legislation that will enable the expansion of the Digital Identity system.

The OAIC has worked closely with stakeholders across the Australian Government and with state and territory privacy authorities, through the National COVID-19 Privacy Team, to respond to COVID-19 proposals and developments with national implications. For example, we have worked collaboratively with the Department of Health on its rollout of the COVID-19 vaccination program.

Engagement on COVID-19 developments

We have continued to engage with the Australian Government to provide advice and guidance on key COVID-19 developments with personal information handling implications. We provided advice to the Department of Health regarding privacy impact assessments related to the COVID-19 vaccination program and published guidance for state and territory health authorities regarding COVID app data. We also meet regularly with the National COVID-19 Privacy Team to consider privacy risks associated with the pandemic, such as the collection of personal information for contact tracing purposes.

International privacy forums

The OAIC recognises that global and regional forums present a unique opportunity for Australia to be a leader in the privacy community and influence the global debate on privacy issues.

These forums allow us to collaborate and draw on best practice in:

- cooperating on investigations and enforcement
- developing policy, guidance and education campaigns
- influencing the development of global policy and standards.

Through these forums we work towards the interoperability of Australia's privacy framework with other data protection frameworks around the world, and exchange information to make the best use of our resources and help ensure consistency in the system of regulatory oversight.

Global Privacy Assembly

The OAIC is a member of the Global Privacy Assembly (GPA), which provides international leadership by coordinating the efforts of over 130 privacy and data protection authorities from across the globe. As well as co-chairing the Digital Citizens and Consumers Working Group, the OAIC is a member of working groups on International Enforcement Cooperation, COVID-19 related privacy and data protection issues, Artificial Intelligence, and global standards and frameworks.

The OAIC has had ongoing engagement with the GPA AI Facial Recognition Technology subgroup, which is focusing on developing a set of agreed privacy principles and expectations for the appropriate use of personal information in facial recognition technology.

Asia Pacific Privacy Authorities

We are a founding member of Asia Pacific Privacy Authorities (APPA), the principal forum for privacy authorities in the Asia Pacific region to form partnerships and exchange ideas about privacy regulation, new technologies and the management of privacy enquiries and complaints.

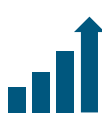
In December 2020, the OAIC attended the 54th APPA forum hosted by the Office of the Victorian Information Commissioner, where we presented on Australia's current privacy law reform, Consumer Data Right regime and findings from the Australian Community Attitudes to Privacy Survey (see page 48). In June 2021, we attended the 55th APPA forum hosted by the Personal Information Protection Commission (PIPC) of the Republic of Korea and engaged in discussions on the new normal in a post-COVID-19 world, artificial intelligence and formulating global standards in privacy.

Global Privacy Enforcement Network

The OAIC is part of the Global Privacy Enforcement Network (GPEN) designed to facilitate cross-border cooperation in the enforcement of privacy laws. GPEN builds on the Organisation for Economic Co-operation and Development's Recommendation on Cross-border Cooperation in the Enforcement of Laws Protecting Privacy which recognises the need for greater cooperation between privacy enforcement authorities on cross-border privacy matters.

The OAIC attends regular teleconferences to discuss topical issues, engages in the GPEN Alert system and participated in the annual GPEN Sweep survey in 2020–21.

Indicator 1.5: A code of practice for digital platforms increases the privacy protection of Australians in the online environment

Measure
 Code of practice for digital platforms is developed



Target: Code is registered

Not applicable¹

The Attorney-General's Department is developing legislation to amend the Privacy Act to introduce new powers for the development of an Online Privacy Code for social media and online platforms that trade in personal information. The Online Privacy Code will require these entities to be more transparent about data sharing and obtain more specific consent from users when they collect, use and disclose personal information.

This legislation has been delayed as a result of the department's work in relation to the COVID-19 pandemic.

The OAIC has undertaken preparatory work to assist in collaborating with stakeholders to develop the Online Privacy Code once the Privacy Act has been amended. We have established a dedicated project team to manage this work. We have also liaised with the department to assist in the development of the draft legislation.

Cyber security

Through our role as the national privacy regulator, the OAIC has a key part to play in raising the cyber security posture of Australian business and promoting awareness for individuals. This work supports the Australian Government's objective to uplift the nation's cyber security posture through the Cyber Security Strategy 2020.

The OAIC is committed to ensuring that Australia's privacy frameworks support cyber security protections that are fit for purpose in the digital age. Frameworks which require the strong protection of personal information will have flow on effects to strengthen Australia's cyber security ecosystem.

We have liaised with government on a number of proposals, including the *Strengthening Australia's cyber security regulations and incentives* discussion paper.

We have also identified security of personal information as a key regulatory focus that will support the government's efforts to protect Australians from cyber security incidents. In 2020–21, we began a review of our *Guide to securing personal information* including early public and targeted consultation to inform the development of an updated guide.

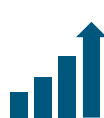
¹ Indicator 1.5 was 'Not applicable' because the legislation to support the Online Privacy Code was delayed.

Strategic Priority 2

Influence and uphold privacy and information access rights frameworks

The OAIC regulates the collection and management of personal information by organisations and agencies to ensure it is handled responsibly. We promote access to government-held information through the regulation of the *Freedom of Information Act 1982* (FOI Act) and our role in information policy. The OAIC promotes and upholds these rights and regulatory frameworks through the delivery of our core functions. This includes influencing domestic legislative and regulatory developments to protect and advance privacy and access to information for the community.

Indicator 2.1: The OAIC identifies, scrutinises and advances policy and legislative reform proposals



Measure

The OAIC influences policy and law makers to support privacy and information rights



Target: Number of submissions published and number of times bill scrutiny tasks completed

Achieved

The OAIC has provided timely and informed advice to government regarding the privacy and access to information impacts of proposals for legislative reform.

Privacy submissions and bill scrutiny

In 2020–21, the OAIC made 21 submissions and provided bill scrutiny comments and advice to a range of Australian Government stakeholders on 38 draft bills in relation to privacy law. Topics included the COVID-19 pandemic; developments in education, credit, health, aged care, financial sector reform, national security, law enforcement, telecommunications, data matching; and the development and deployment of new technologies across various industry sectors.

We have provided detailed advice to government in relation to privacy law reform. This includes engaging with the Attorney-General's Department's review of the Privacy Act and liaising with the department on the development of draft legislation to introduce an Online Privacy Code.

Following the launch of the Consumer Data Right in the banking sector on 1 July 2020, the OAIC has continued to provide privacy advice to government on reforms to the *Competition and Consumer Act 2010* and the Competition and Consumer (Consumer Data Right) Rules 2020 relating to the expansion of the Consumer Data Right system.

FOI submissions and bill scrutiny

The OAIC has given timely and expert advice to government regarding the access to information impacts of legislative reform proposals. We have provided bill scrutiny comments across a broad range of subject areas including financial sector reform, investment funds, online safety, access to digital records, and migration and citizenship.

During 2020–21, the OAIC provided 12 bill scrutiny comments relating to freedom of information (FOI), including comments on draft legislation for the Commonwealth Integrity Commission.

We provided submissions to the Senate Finance and Public Administration Legislation Committee's inquiry into the Data Availability and Transparency Bill 2020 in November 2020

and March 2021. We were also consulted on report recommendations for the Parliamentary Joint Committee on Intelligence and Security

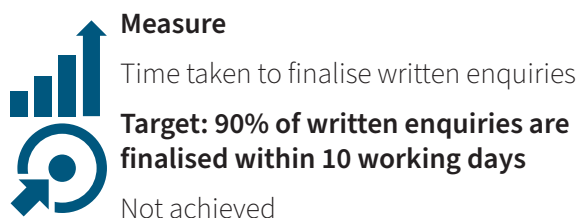
(PJCIS) inquiry into the impact of the exercise of law enforcement and intelligence powers on the freedom of the press.

Privacy law submissions

The OAIC made 21 submissions in 2020–21 covering a wide range of topics including submissions to:

- the National Transport Commission regarding a national in-service safety law for automated vehicles
- the Attorney-General's Department on draft legislation on the Commonwealth Integrity Commission
- the Department of Health regarding the legislation review of the *My Health Records Act 2012*
- the Australian Competition and Consumer Commission consultation on version 2 of the Competition and Consumer (Consumer Data Right) Rules 2020
- the NSW Inquiry into cyber security
- Australian Competition and Consumer Commission consultation on the *Digital advertising services inquiry interim report*
- the Australian Competition and Consumer Commission consultation on the energy rules framework for the application of the CDR to the energy sector
- the Select Committee on Financial and Regulatory Technology issues paper
- the PJCIS in relation to the Telecommunications Legislation Amendment (International Production Orders) Bill 2020
- the PJCIS in relation to the Surveillance Legislation Amendment (Identify and Disrupt) Bill 2020
- the Attorney-General's Department's Privacy Act review issues paper
- 2 consultations on the Online Safety Bill
- 2 consultations on the News Media and Digital Platforms Mandatory Bargaining Code
- 2 consultations on the Data Availability and Transparency Bill 2020
- 2 consultations on the Security Legislation Amendment (Critical Infrastructure) Bill 2020
- the Digital Transformation Agency in relation to the development of legislation on the Digital Identity system
- the AHRC discussion paper *Human rights and technology*.

Indicator 2.2: Respond to privacy and information access enquiries from the public



The OAIC provides a free public information service on privacy and FOI issues.

In 2020–21, we finalised 65% of written enquiries within 10 working days.

This result reflects the impact of the increased number of written enquiries received during the year, and changes to OAIC procedures as a result of the COVID-19 pandemic.

In March 2020, the OAIC's enquiries line changed from a call-in to a call-back service in response to the pandemic. While the number of phone enquiries fell by 35% in 2020–21, the number of written enquiries increased by 14%. The call-in service was reinstated in late 2020. Between 1 December 2020 and 30 June 2021, we finalised 91% of written enquiries within 10 days.

Privacy enquiries

During this reporting period, we experienced a 22% decrease in privacy enquiries from 2019–20. The OAIC answered 7,020 telephone calls and responded to 4,625 written enquiries. More than 62% of privacy-related phone enquiries were about the Australian Privacy Principles (APPs). The most frequently discussed issue was APP 6, followed by APP 12. We also continued to receive calls about credit reporting and the Notifiable Data Breaches scheme.

As a part of our MOU with the Australian Capital Territory (ACT) Government we continued to provide privacy services to ACT public sector agencies, including responding to enquiries from the public about the *Information Privacy Act 2014* (ACT) and its Territory Privacy Principles (TPPs). For more information see Appendix C.

Privacy enquiries by issue

During this reporting period the most common privacy enquiries we received were about privacy generally, followed by access to personal information (APP 12), collection of personal information (APP 3), and the use or disclosure of personal information (APP 6).

Table 2.2.1: Phone enquiries related to APPs

Issue raised in phone enquiry	Number
General enquiries	959
APP 12 – Access to personal information	735
APP 3 – Collection of solicited personal information	510
APP 6 – Use or disclosure of personal information	500
Exemptions	450
APP 11 – Security of personal information	373
APP 5 – Notification of the collection of personal information	180
APP 13 – Correction of personal information	66
APP 7 – Direct marketing	56
APP 1 – Open and transparent management of personal information	31
APP 10 – Quality of personal information	27
APP 8 – Cross-border disclosure of personal information	24
APP 2 – Anonymity and pseudonymity	7
APP 4 – Dealing with unsolicited personal information	4
APP 9 – Adoption, use or disclosure of government related identifiers	1

Note

There may be more than one issue handled in an enquiry.

We also handled questions about other privacy issues, reflecting the broad range of matters the OAIC regulates. Table 2.2.2 categorises these enquiries.

Table 2.2.2: Phone enquiries on other privacy matters

Issue raised in phone enquiry	Number
Credit reporting	221
Notifiable Data Breaches scheme	171
Data breach notification (voluntary)	78
Spent convictions	19
Tax file numbers	17
My Health Record	3
Consumer Data Right	4
Privacy codes	1
Healthcare Identifier	1

Note

There may be more than one issue handled in an enquiry.



Case Studies: Privacy enquiries

Case Study 2.2.1: Enquiry about the Notifiable Data Breaches scheme

The director of a childcare centre enquired about dealing with a data breach involving an email sent to families using the 'cc' rather than the 'bcc' address field. We referred the enquirer to guidance on the OAIC website about the Notifiable Data Breaches scheme and provided information on assessing whether the incident was an eligible data breach that required notification. We also provided the enquirer with the OAIC's *Guide to securing personal information* and *Guide to managing data breaches*.

Case Study 2.2.2: Enquiry about the APPs

We received an enquiry from an individual seeking to obtain photos from a private school where they had been a student several decades ago. We advised the individual that they were able to request access to any information the school held about them under APP 12. This would include the photos they sought, if the school still held them and the individual was identifiable from the photos. We also advised that the individual could make a privacy complaint to the OAIC if the school refused to provide access to any of their personal information that it still held.

Case Study 2.2.3: Enquiry about credit reporting

An enquirer had obtained a copy of a credit report that included inaccurate information and asked how to have the information corrected. We advised them to contact the credit reporting body that had provided the credit report to request correction of the information. We also advised that if the credit reporting body disagreed or refused to correct the information they could make a complaint to a recognised External Dispute Resolution scheme, and then to the OAIC.

FOI enquiries

During this reporting period, we experienced a 21% decrease in FOI enquiries from 2019–20. The OAIC answered 1,106 telephone calls and responded to 718 written enquiries about FOI. Most enquiries were about general processes for FOI applicants (37%), including how to make an FOI request or complaint, or seek review of an FOI decision. We also published guidance for the public on how to access Australian Government information, including on how to request official documents of a minister.

Table 2.2.3: FOI enquiries by issue

Issue	Number
OAIC's jurisdiction	761
General processes	666
Agency statistics	238
Processing by agency	135
Access to personal information	37
Access to general information	26
No other legislation (FOI)	16
Vexatious application	5
Information Publications Scheme	4
Amendment and annotation	3

Note

There may be more than one issue handled in an enquiry.

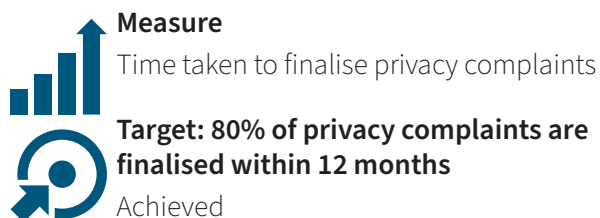


Case Study: FOI enquiry

Case Study 2.2.4: Enquiry about how to make an FOI request

An enquirer asked how to make an FOI request to a member of parliament (MP) who is a minister. They had been in contact with the MP's office and were told that it was not the correct avenue. We advised the individual that MPs are only subject to the FOI Act in their ministerial capacity, and to direct an FOI request for an 'official document of a minister' to the minister's department or agency. We also noted that documents relating to a minister's personal or electorate affairs, or party-political documents, would not be subject to FOI.

Indicator 2.3: Resolve privacy complaints



Under s 36 of the Privacy Act, complaints may be made to the Commissioner by individuals about an act or practice that may be an interference with their privacy. An interference with privacy may relate to the APPs or to the credit reporting provisions of the Privacy Act.

The APPs deal with the management, collection, use or disclosure, quality, security, access and correction of personal information held by an agency or organisation covered by the Privacy Act.

In 2020–21 the OAIC:

- received 2,474 privacy complaints, which is a 7% decrease compared to 2019–20. The decrease in privacy complaints over the 2019–20 and 2020–21 financial years is a reversal of the trend over the preceding 3 years, and is likely to reflect the impact of the COVID-19 pandemic
- closed 2,151 privacy complaints, which is a 36% decrease on the previous year – noting that in 2019–20 the OAIC conducted a project to address a backlog in privacy complaints, with additional funding and staff²
- finalised 94% of all privacy complaints within 12 months of receipt, with the average time taken to close a privacy complaint being 4.3 months
- closed 93% of complaints through early resolution and conciliation.

During the reporting period we introduced process improvements which resulted in reduced handling times for complaints referred for further investigation, including faster up-front assessments, streamlined investigation processes, and an increased focus on early resolution and conciliation.

Privacy complaints by issue

The majority of privacy complaints we received were about the handling of personal information under the APPs. The most common issues raised in these complaints were:

- use or disclosure of personal information (29%)
- security of personal information (28%)
- access to personal information (18%).

Privacy complaints by sector

During this reporting period, the largest number of privacy complaints were received against entities within the following 3 sectors: finance (including superannuation), Australian Government and health service providers. Finance has overtaken the Australian Government as the most complained about sector.

Table 2.3.1: Top 10 sectors by privacy complaints received

Sector	2020–21
Finance (including superannuation)	327
Australian Government	310
Health service providers	301
Retail	177
Online services	152
Credit reporting bodies	109
Real estate agents	102
Personal services (includes employment, childcare and vets)	97
Telecommunications	93
Property/construction/architects/surveyors	73

² In addition to the 2,151 privacy complaints closed in 2020–21, we resolved 1,746 matters through a representative complaint that was finalised in January 2021. As these complaints were resolved through an alternative process, they have not been included in the calculations against this performance measure.

External dispute resolution schemes

The Information Commissioner can recognise an external dispute resolution (EDR) scheme to handle particular privacy-related complaints (s 35A of the Privacy Act). The EDR schemes we recognise are:

- Australian Financial Complaints Authority
- Energy & Water Ombudsman NSW
- Energy & Water Ombudsman SA
- Energy and Water Ombudsman (Victoria)
- Energy & Water Ombudsman Queensland
- Energy and Water Ombudsman Western Australia
- Public Transport Ombudsman (Victoria)
- Telecommunications Industry Ombudsman
- Tolling Customer Ombudsman.

During the year, the OAIC worked towards an agreement with EDR schemes concerning the transfer of privacy complaints under s 50 of the Privacy Act, where EDR schemes could more appropriately deal with these complaints.

Resolving privacy complaints

The OAIC's complaint handling team (comprising the early resolution, conciliations, investigations and determinations areas) deal mostly with APP and credit reporting complaints. They also handle complaints about spent convictions, My Health Records, tax file numbers, the Territory Privacy Principles, data matching, Healthcare Identifiers and student identifiers.

They initially assess all complaints against the OAIC's jurisdiction and attempt resolution. Under s 40A of the Privacy Act, the Commissioner must attempt conciliation where it is reasonably possible that the complaint may be conciliated successfully. The OAIC publishes a selection of de-identified complaints to demonstrate the outcomes achieved with the assistance of the OAIC and to provide guidance to parties regarding potential outcomes.

In 2020–21, 93% of all complaints closed during the year were finalised through our early resolution and conciliation processes.³

Matters not resolved in conciliation or which are considered not able to be conciliated are referred for investigation under s 40 of the Privacy Act.

Under s 41 of the Privacy Act, the Commissioner may decline to investigate matters where, for example, no interference with privacy is detected, investigation is not warranted in the circumstances, or where the respondent is adequately dealing with the complaint.

Under s 52 of the Privacy Act, after investigating a complaint, the Commissioner may make a determination dismissing the complaint or finding the complaint is substantiated and making declaration concerning remedial actions, such as compensation.

Determinations

The Commissioner made 17 determinations in relation to privacy complaints during 2020–21 compared to 4 in the previous reporting period.

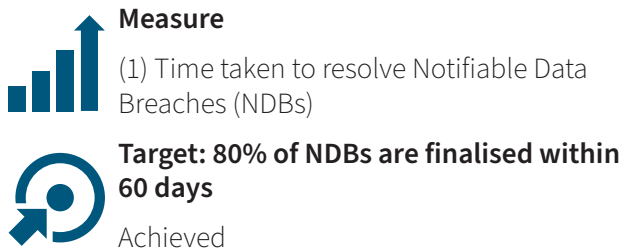
One of these was a representative complaint of 9,258 individuals who were affected by a data breach at Home Affairs. The determination required the respondent to assign a quantum of damages for class members consistent with categories set out in the determination.

Another 14 determinations addressed privacy breaches under the Privacy Act, while 2 dealt with spent and quashed conviction schemes under the *Crimes Act 1914*. The Commissioner found interferences with privacy in 10 determinations in relation to APPs 6, 10, 11, 12 and 13, and in relation to the 2 Crimes Act matters.

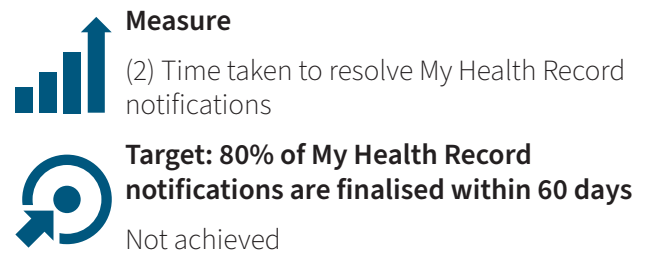
The Commissioner awarded compensation in 8 determinations ranging from \$1,000 to \$19,980. The Commissioner also made other types of declarations. In 5 determinations the respondents were required to conduct reviews or audits. Summary details of privacy determinations made in 2020–21 are available on the OAIC website.

³ In addition to the 2,151 privacy complaints closed in 2020–21, we resolved 1,746 matters through a representative complaint finalised in January 2021 which have not been included in this calculation.

Indicator 2.4: Ensure timely handling of data breach notifications



In 2020–21, the OAIC received 975 notifications under the NDB scheme and resolved 987. We finalised 80% of notification within 60 days.



We finalised 50% of My Health Record data breach notifications within 60 days. There were 2 notifications received during the reporting period and one was finalised within 60 days.

Notifiable Data Breaches scheme

Under the Notifiable Data Breaches (NDB) scheme, Australian Government agencies and private sector organisations with obligations under the Privacy Act must notify individuals who are likely to be at risk of serious harm as a result of a data breach. They must also notify the OAIC.

Our responsibilities under the NDB scheme include:

- receiving notifications of eligible data breaches
- encouraging compliance with the NDB scheme, including handling complaints and taking regulatory action in response to instances of non-compliance
- offering advice and guidance to regulated entities and informing the community about how the scheme operates
- responding to non-compliance.

The OAIC reviews every notice received under the NDB scheme to ensure the notifying entity has met its obligations. This includes considering whether the notifying entity has:

- taken steps to contain the breach
- assessed whether the breach is likely to result in serious harm to individuals whose personal information was exposed
- taken steps to mitigate the risk of serious harm resulting from the breach
- provided appropriate notification to the OAIC and to affected individuals on the details of the breach

and the steps that individuals can take to mitigate the risk of serious harm arising from the breach.

The Commissioner's powers under the NDB scheme include the discretion to direct an entity to notify individuals of eligible data breaches or declare that notification does not need to occur or can be delayed.

In 2020–21, the NDB scheme saw a 7% decrease in the number of data breach notifications compared to 2019–20. The average time taken to close NDBs was 62 days, down from 76 days in 2019–20.

Mandatory digital health data breach notifications

The OAIC administers a mandatory notification scheme for digital health data breaches. For more information see the *Annual report of the Australian Information Commissioner's activities in relation to digital health 2020–21* on the OAIC website.

Table 2.4.1: NDB scheme, mandatory My Health Record and voluntary data breach notifications received

	2018–19	2019–20	2020–21
Notifiable data breaches	950	1,050	975
Mandatory notifications (My Health Records Act)	35	1	3
Voluntary notifications	175	125	178
Total	1,160	1,176	1,156



Case Studies: Notifiable Data Breaches

Case Study 2.4.1: Ransomware attack

An organisation was subject to a ransomware attack which resulted in the encryption of its files. The organisation engaged a cybersecurity forensic firm to assist it with the data recovery process, however the firm could only recover a limited amount of the encrypted data. As the contact details of the clients were still encrypted, the organisation could not notify the affected individuals directly.

The organisation published a notification on the front page of its website where it could be easily located. The notification was made available in 4 different languages to reflect the needs of its clients. The notice provided a telephone hotline number that individuals could call to make direct inquiries about the data breach and have the opportunity to speak to a crisis counsellor. This was supplemented by a script read to clients about the data breach when clients made contact in person or by telephone. The organisation also drafted a written notification ready to be sent out in the event that their clients' contact details were able to be recovered.

Case Study 2.4.2: Social engineering

An impersonator obtained some personal information about an entity's customer through a phishing scam. The impersonator made contact with the entity over the telephone on several occasions, pretending to be the customer.

The impersonator was able to provide some personal information to the phone operator but did not pass the verification questions, however the phone operator allowed the interaction to proceed.

During the course of the telephone conversation, further personal information such as credit card numbers, account numbers and customer numbers were disclosed. Internet banking access was also changed, allowing the impersonator to transfer funds out of the customer's account.

On discovering the incident, the entity immediately stopped the customer's access cards, blocked internet banking access and changed the customer's verbal passwords. The entity notified and reimbursed the affected customer.

The entity took a range of steps to prevent a similar breach occurring in the future, including additional training for staff on authentication processes, implementation of regular staff discussions on this issue, strengthened quality assurances including call monitoring, and technical solutions such as SMS verification for telephone interactions.

Notifiable Data Breaches scheme reports

The OAIC published the Notifiable Data Breaches report January–June 2020 on 30 July 2020 and the Notifiable Data Breaches report July–December 2020 on 28 January 2021.

These reports provide government and industry with insights into trends in data breaches and assist in improving awareness and understanding of data breach risks and steps that entities can take to prevent them occurring.

The OAIC's data breach reports also highlight emerging issues and areas for ongoing attention by entities entrusted with protecting personal information.

Indicator 2.5: Strategic assessment and advice provided to the Commissioner in relation to all significant privacy risks



In October 2020, the OAIC established the Regulatory Action Committee (RAC). The RAC is a committee comprising OAIC Executive and senior staff who advise the Commissioner in relation to significant regulatory action. The RAC ensures that the OAIC responds appropriately to emerging and significant, or potentially significant, privacy risks.

The OAIC identifies matters to be submitted to the RAC through a range of sources, including domestic and international environmental scanning, information provided to the OAIC by a member of the public, complaints or enquiries, preliminary inquiries, assessments and data breach notifications.

The range of regulatory responses that the RAC may consider include:

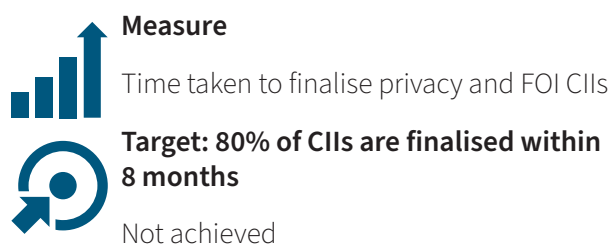
- undertaking an assessment or audit in relation to a particular entity or sector
- commencing a Commissioner-initiated investigation (CII) previously defined
- pursuing a particular regulatory action following a CII, such as a determination or civil penalty proceedings
- publishing guidance material.

When matters are submitted for consideration, the RAC:

- assesses the privacy risks against the OAIC's strategic objectives and regulatory priorities

- makes recommendations to the Commissioner on the appropriate regulatory response, in accordance with the OAIC's Privacy Regulatory Priorities and Privacy Regulatory Action Policy.

Indicator 2.6: Conduct Commissioner-initiated investigations



A CII is conducted in response to the identification of a significant risk. In this reporting period, the OAIC finalised 11 CIIs, with 2 of these finalised within the 8-month target (or 18%).

Ten of the CIIs related to privacy law, including the 2 CIIs finalised within 8 months. We also finalised one CII into FOI processes at Home Affairs.

Commissioner-initiated investigations (Privacy)

The Commissioner may investigate acts or practices that may be an interference with privacy on her own initiative, with a primary objective of improving the privacy practices of investigated entities and the regulated community generally and instilling public confidence in the protection of personal information. Subsection 40(2) of the Privacy Act allows the Commissioner to investigate, on the Commissioner's own initiative, an act or practice that may be an interference with privacy. Where an individual has suffered compensable loss or damage, they may make a complaint under s 36 of the Privacy Act.

During this reporting period, we opened 4 privacy CIIs. As at 30 June 2021, there were 8 ongoing privacy CIIs, including 2 from 2020–21.

The lower number of CIIs opened and closed this reporting period is reflective of our new practices in defining a CII. Previous reporting captured preliminary inquiries, which are inquiries that may lead up to, but do not include a CII. In this reporting period, we opened 49 preliminary

inquiries in relation to the APPs, which are no longer included in our CII reporting statistics.

In 2020–21 we closed 10 CIIs including one into the acts and practices of Uber Technologies Inc. and Uber B.V., with the Commissioner determining that they failed to appropriately protect the personal information of Australian customers and drivers accessed in a cyber attack in late 2016.

Following an earlier CII, the OAIC continued to pursue civil penalty proceedings in the Federal Court against Facebook Inc. and Facebook Ireland Limited in relation to allegations that the personal information of Australian Facebook users had been improperly collected by third-party applications.

Table 2.6.1: Commissioner-initiated investigations opened and closed (Privacy)

	2018–19	2019–20	2020–21
Number of CIIs opened	15	19	4
Number of CIIs closed	7	21	10



Case Study: CII – Flight Centre Travel Group Ltd

Case Study 2.6.1: Flight Centre – Failure to take reasonable steps to prevent accidental disclosure of Australians’ personal information

On 25 November 2020, the Commissioner determined that Flight Centre Travel Group Ltd had interfered with the privacy of almost 7,000 customers by disclosing their personal information to third parties without consent. The information, including individuals’ credit card and passport details, was released by Flight Centre during a

‘design jam’ in 2017. Participants in the product development event were given access to a dataset that included customers’ personal information, despite preliminary checks to de-identify or remove personal information. The error was only found after the information had been available for 36 hours.

The Commissioner found the company breached 3 APPs by:

- not taking reasonable steps to implement practices to ensure compliance with the APPs
- disclosing individuals’ personal information without consent
- failing to take reasonable steps to appropriately secure the personal information.

The Commissioner also found that general statements in Flight Centre’s privacy policy about disclosing personal information to improve and develop their product did not amount to valid consent to disclosing its customers’ information in the design jam. This is because the information provided was not sufficiently specific and bundled together different uses and disclosures of personal information. The Commissioner made clear that organisations should not rely on privacy policies to provide notice and obtain consent in relation to personal information handling.

The determination identified additional steps Flight Centre should have taken to build privacy by design into a new project involving personal information handling, particularly as it involved sharing a large dataset with third party suppliers for analysis. These included taking additional steps to identify and manage privacy risks, like undertaking a privacy impact assessment.

The determination noted that Flight Centre acted promptly when it became aware of the breach, by restricting access to the personal information, investigating the incident, and reviewing and implementing changes to relevant practices, procedures and systems. The Commissioner ordered Flight Centre not to repeat the activities. No further action was taken in the matter.



Case Study: CII – Facebook Inc. and Facebook Ireland

Case Study 2.6.2: Facebook – Disclosure of personal information to the ‘This Is Your Digital Life’ app

In March 2020, the Commissioner lodged proceedings against US-based Facebook Inc. and Facebook Ireland in the Federal Court of Australia, alleging the social media platform had committed serious and/or repeated interferences with privacy under s 13G of the Privacy Act, and applying for a civil penalty. The proceedings followed media reports that the developer of a third-party app, the ‘This Is Your Digital Life’ (TIYDL) app, had sold Facebook user data to Cambridge Analytica, a data analytics firm, for political campaigning purposes.

The Commissioner alleges in the proceedings that in the period 12 March 2014 to 1 May 2015, Facebook Inc. and Facebook Ireland disclosed the personal information of up to 311,127 Australian Facebook users to the TIYDL app, in breach of APP 6. This figure included individuals who had directly installed the TIYDL app and individuals whose data may have been shared by their Facebook friends. The Commissioner also alleges that both Facebook entities did not take reasonable steps during this period to protect their users’ personal information from unauthorised disclosure, in breach of APP 11.

On 22 April 2020, the Federal Court decided that the Commissioner could serve legal documents on US-based Facebook Inc. and Facebook Ireland outside Australia. Facebook Inc. applied to the Court to set this decision aside on the basis that the Commissioner did not have jurisdiction to serve the legal documents. On 14 September 2020, the Court dismissed Facebook Inc.’s application. Facebook Inc. appealed. On 7 May 2021, the full Federal Court heard Facebook Inc.’s appeal regarding jurisdiction to serve court documents and reserved its decision.

The proceedings are ongoing in 2021–22. The Federal Court can impose a civil penalty of up to \$1.7M for each serious and/or repeated interference with privacy (as per the penalty rate applicable in 2014–15).



Case Study: CII – Uber Technologies, Inc. and Uber B.V.

Case Study 2.6.3: Uber – Failure to take reasonable steps to secure Australians’ personal information

On 30 June 2021, the Commissioner determined that Uber Technologies, Inc. and Uber B.V. (Uber) interfered with the privacy of an estimated 1.2 million Australians.

In October and November 2016 Uber was subject to a cyber attack. The attackers accessed the personal information of Australian customers and drivers. Rather than disclosing the breach responsibly, Uber paid the attackers a reward through a bug bounty program for identifying security vulnerabilities. Uber did not conduct a full assessment of the personal information that may have been accessed until almost a year after the data breach, and did not publicly disclose the data breach until November 2017.

While Uber required the attackers to destroy the data and there was no evidence of further misuse, the OAIC investigation focused on whether Uber had preventative measures in place to protect Australians’ data. The Commissioner found that Uber breached the Privacy Act by not taking reasonable steps to protect Australians’ personal information from unauthorised access or to destroy or de-identify the data as required. Uber also failed to take reasonable steps to implement practices, procedures and systems to ensure compliance with the APPs.

The Commissioner’s determination followed detailed investigations into US-based Uber Technologies, Inc. and Uber B.V. based in the Netherlands, which involved significant jurisdictional matters and complex corporate arrangements and information flows. The matter raised issues around the application of the Privacy Act to overseas companies that outsource the handling of Australians’ personal information to other companies within their corporate group.

In this case, Australians' personal information had been directly transferred to servers in the United States under an outsourcing arrangement, and the US-based company argued it was not subject to the Privacy Act. The Commissioner held that both Uber companies were required to comply with the Privacy Act.

The Commissioner ordered Uber to:

- prepare, implement and maintain a data retention and destruction policy, information security program, and incident response plan that will ensure Uber complies with the APPs
- appoint an independent expert to review and report on these policies and programs and their implementation, submit the reports to the OAIC, and make any necessary changes recommended in the reports.

Commissioner-initiated investigations (FOI)

Under s 69(2) of the FOI Act, the Information Commissioner may, on their own initiative, commence an investigation into an action taken by an agency in performing functions or exercising powers under the FOI Act.

The investigation may look at a single agency decision or action, at a systemic problem or recurring pattern in an agency's practices and processes in handling FOI matters, or the Information Commissioner may conduct an investigation into a practice or problem occurring in more than one agency. The issue to be investigated may come to the attention of the Information Commissioner as a result of an IC review or a series of applications for IC review, or in some other way.

During 2020–21, the Information Commissioner finalised one investigation into Home Affairs' compliance with the statutory processing period in the FOI Act when processing FOI requests for non-personal information.



Case Study: CII – Department of Home Affairs

Case Study 2.6.4: Department of Home Affairs – Processing of FOI requests for non-personal information

The decision to commence a CII was the result of several factors, including the OAIC receiving a number of FOI complaints and IC review applications related to Home Affairs' compliance with statutory timeframes for processing requests for non-personal information.

The Information Commissioner also considered the statistics reported by Home Affairs for the financial years 2016–17, 2017–18 and 2018–19 and the period 1 July 2019 to 30 September 2019. In each of the financial years, over 50% of the FOI requests for non-personal information were processed outside of the statutory processing period.

The investigation found that the department did not have appropriate measures in place to ensure compliance with statutory timeframes for processing FOI requests for non-personal information, including the absence of adequate governance and systems of accountability. The investigation also noted that the issues identified had been the subject of previous reports, indicating the need for sustained rectification of issues of delay.

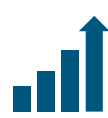
The Information Commissioner made a number of recommendations aimed at improving the policies, systems of governance and accountability, procedures and training of the department to ensure that it is able to meet the statutory processing periods specified under the FOI Act. These recommendations included:

1. The appointment of an Information Champion which may be supported by an information access governance board

2. The preparation and implementation of an operational manual for processing FOI requests for non-personal information
3. Providing both FOI section staff and other staff who process FOI requests with relevant training
4. Undertaking an audit of the processing of FOI requests for non-personal information to assess whether recommendations 2 and 3 had been implemented and operationalised and sufficiently addressed the issues identified in the investigation.

In response to these recommendations, Home Affairs accepted all recommendations and undertook to implement them in full. It will advise on the implementation of the recommendations which are due to be finalised in 2021–22.

Indicator 2.7: Provide merits review of FOI decisions made by agencies



Measure

Time taken to finalise Information Commissioner (IC) reviews



Target: 80% of IC reviews are completed within 12 months

Not achieved

We finalised 73% of IC reviews within 12 months. A significant increase in the number of IC review applications and our focus on reducing the number of cases over 12 months old prevented us from reaching our 80% target.

During this reporting period we recorded another significant increase in IC review applications, receiving 1,224 – a 15% increase compared to 2019–20 (when we received 1,066).

We finalised 1,018 IC reviews in 2020–21 – a 23% increase compared to 2019–20 (when we finalised 829).

We finalised 580 IC reviews (57%) within 120 days. The average time taken to finalise IC reviews was 251 days.

Information Commissioner reviews

An Information Commissioner (IC) review is a review of a decision made by an Australian Government agency or minister subject to the FOI Act, including a decision:

- refusing to grant access to a document wholly or in part, including when an agency has been taken to refuse access because it has not made a decision within the statutory timeframe
- that a requested a document does not exist or cannot be found
- granting access to a document where a third party has a right to object (for example, if a document contains their personal information)
- to impose a charge for access to a document, including a decision to refuse to waive or reduce a charge
- refusing to amend or annotate a record of personal information.

We achieved an increase in the number of finalised IC reviews in this reporting period through a consistent focus on early intervention or informal resolution where possible. We used our regulatory powers under the FOI Act to issue notices to agencies to provide an adequate statement of reasons (under s 55E), to produce information or documents (s 55R), to produce exempt documents (s 55T), and to produce national security, Cabinet or Parliamentary Budget Office documents (s 55U). We used various approaches to help resolve IC reviews, such as narrowing the scope of a review, providing an appraisal or preliminary view, and assisting parties to reach agreement. In 2020–21, we finalised 964 IC reviews without a formal decision being made under s 55K (95%).

We finalised 143 IC reviews (14%) after the applicant withdrew their application following action taken by the agency to resolve the issues in the IC review (such as issuing a decision and statement of reasons in a deemed access refusal case, or by making a revised decision under s 55G of the FOI Act to give the applicant access to further documents or material), or after receiving our appraisal of their application's merits.

We also finalised 14 IC reviews by written agreement between the parties under s 55F of the FOI Act.

The Information Commissioner made 54 IC review decisions under s 55K of the FOI Act (which are published on AustLII).

Of these:

- 22 decisions (41%) set aside and substituted the decision under review
- 7 decisions (13%) varied the decision under review
- 25 decisions (46%) affirmed the decision under review.⁴

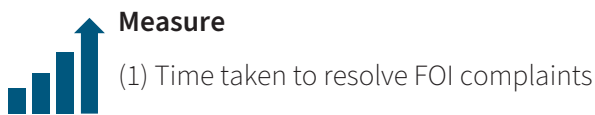
These decisions help agencies interpret the FOI Act and provide guidance on the exercise of their powers and functions by addressing novel issues and building on existing IC review decisions.

For more information about IC reviews see Appendix E.

Summary details of IC review decisions made in 2020–21 are available on the OAI website.

⁴ A number of decisions subject to IC review were finalised within 120 days. The average time taken to finalise IC reviews was 251 days.

Indicator 2.8: Improve agencies' processes for managing FOI requests



Achieved

During the reporting period, we finalised 174 FOI complaints, compared to 71 in 2019–20, an increase of 145%.

We finalised 82% of FOI complaints within 12 months, with 57% of all complaints (100) finalised within 120 days. The average time taken to finalise complaints was 207 days.

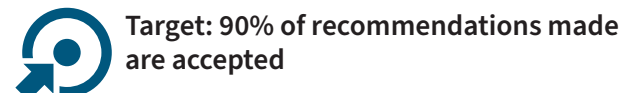
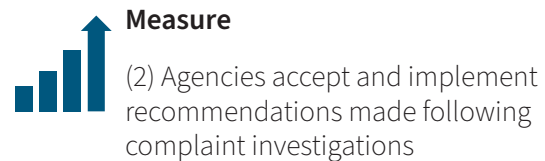
In 2020–21, the OAIC received 151 complaints about actions taken by agencies when handling FOI requests, an increase of 39% compared to 2019–20.

Included in the number of finalised complaints are 76 which were either conciliated or withdrawn. Another 3 were finalised under s 86 of the FOI Act. This includes 2 complaints where recommendations were made under s 88 of the FOI Act, which requires agencies to implement recommendations made by the Information Commissioner.⁵ The recommendations are published on the OAIC's website under Freedom of information investigation outcomes.

The most common complaints about the handling of FOI requests by agencies continue to be about delays in processing. Other complaints include:

- how agencies conduct consultation under practical refusal provisions
- how agencies conduct third-party consultations
- transfer of requests under s 16 of the FOI Act
- imposition of charges to process FOI requests
- agencies' compliance with the Information Publication Scheme (IPS) and disclosure logs
- not acknowledging FOI requests within 14 days.

⁵ A complaint may have a number of issues.



Achieved

All recommendations made at the conclusion of investigations during the 2020–21 reporting period have been accepted and have been or are being implemented by the relevant respondent agencies.

A summary of the implementation of the recommendations made by the Information Commissioner is published on the OAIC's website under Freedom of information investigation outcomes.

Right to review

Under s 69 of the FOI Act, the Information Commissioner has power to investigate agency actions about the handling of FOI matters. Part 11 of the FOI Guidelines explains that where IC review is available, it is the Information Commissioner's view that making an FOI complaint is not the appropriate mechanism to resolve the matter, unless there is a special reason to undertake an investigation.

In 2020–21, 27 complaints were declined on the basis that the complainant has or had a right to have the action reviewed by the agency, a court or a tribunal, or by the Information Commissioner which they had not exercised when it would be reasonable to do so (s 73(b)).

Extensions of time

The FOI Act sets out timeframes within which agencies and ministers must process FOI requests. When an agency or minister is unable to process an FOI request within the statutory processing period, they may apply for an extension of time from the FOI applicant or the Information Commissioner.

If the applicant agrees to an extension of time in writing, the agency or minister must advise the Information Commissioner of the agreement to extend the statutory processing time as soon as practicable.

An agency or minister can apply to the Information Commissioner for an extension of the processing period if they can demonstrate that processing the FOI request will take longer than the statutory timeframe because it is voluminous or complex in nature (s 15AB of the FOI Act).

An agency or minister can also apply to the Information Commissioner for an extension of the processing period where they have been unable to process the request within the statutory timeframe, and are deemed to have made a decision refusing the FOI request (ss 15AC, 51DA and 54D of the FOI Act). See Table 2.8.1. The OAIC aims to respond to these applications within 10 calendar days.

Overall, we received 13% fewer notifications and applications for extensions of time during this financial year when compared with 2019–20. In relation to extension of time applications requiring a decision of the Information Commissioner's delegates (ss 15AB, 15AC, 51DA and 54D of the FOI Act), there was a 29% decrease in the number of applications received during this financial year compared to 2019–20. See Table 2.8.2.

Table 2.8.2: FOI extension of time (EOT) notifications and requests received and closed

Year	2018–19	2019–20	2020–21
Received	3,784	4,244	3,692
Closed	3,779	3,844	4,102

During this reporting period, when applying for extensions of time, agencies continued to provide reasons relating to the COVID-19 pandemic as a cause for delay in processing FOI requests, particularly during the various lockdown periods experienced across Australia. Reasons included redeployment of staff to frontline services and an inability to access hardcopy files at offsite storage facilities.

Table 2.8.1: FOI extensions of time (EOT) notifications and requests closed, by type

Request type	2018–19	2019–20	2020–21
Section 15AA (notification of EOT agreements between agency and applicant)	2,959	2,393	3,029
Section 15AB (request to OAIC by agency where voluminous or complex)	562	786	507
Section 15AC (request to OAIC by agency where deemed refusal decision)	178	492	405
Section 51DA (request to OAIC by agency for EOT for dealing with amendment/annotation request)	1	5	2
Section 54D (request to OAIC by agency for EOT where deemed affirmation on internal review)	37	80	57
Section 54T (request to OAIC for EOT for person to apply for IC review)	41	88	102
Total	3,778	3,844	4,102

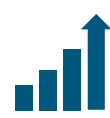
Vexatious applicant declarations

The Information Commissioner has the power to declare a person to be a vexatious applicant if they are satisfied that the grounds in s 89L of the FOI Act exist.

In 2020–21, the OAIC received one application from an agency under s 89K of the FOI Act seeking to have a person declared a vexatious applicant. During 2020–21, the Information Commissioner finalised 3 applications, making 2 declarations under s 89K of the FOI Act and declining one application.⁶

Declarations are available in the Australian Information Commissioner (AICmr) database published on AustLII.

Indicator 2.9: The OAIC promotes awareness of privacy and access to information



Measure

The OAIC leads campaigns such as International Access to Information Day and Privacy Awareness Week



Target: Qualitatively demonstrated

Achieved

International Access to Information Day 2020

The OAIC's International Access to Information Day 2020 campaign ran from 26 August to 6 October 2020, raising awareness about information access through a campaign website and digital promotion. The website hosted promotional materials, FOI videos, infographics with tips for applicants and agencies, and links to useful resources. The OAIC sent 9 alerts to Information Contact Officers Network (ICON) members and Australian Government agencies, and distributed a supporter toolkit to them to mark International Access to Information Day.

Originally scheduled to coincide with the International Access to Information Day campaign, a virtual ICON information session was delayed until 4 November 2020 due to a global Microsoft outage. The webinar was well attended, with presentations from Australian Information Commissioner and Privacy Commissioner Angelene Falk, Deputy Commissioner Elizabeth Hampton and subject matters experts from the OAIC.



⁶ One vexatious applicant declaration decision is awaiting publication.

Privacy Awareness Week 2021

Privacy Awareness Week (PAW) is an annual initiative of the OAIC that highlights the importance of protecting personal information and promotes good privacy practice. The event is held in partnership with state and territory regulators and the OAIC.

PAW 2021 ran from 3 to 9 May, promoting the theme 'Make privacy a priority'. We achieved the highest number of PAW supporters to date – 629 – an increase of 15% compared to 2020 (549 supporters). We sent 7 supporter newsletters and our supporter toolkit, containing digital promotional materials, was downloaded 1,692 times. The OAIC campaign website recorded more than 24,000 page views, an 87% increase on the 2020 campaign site.

The 'Make Privacy a Priority' hashtag trended on Twitter in Australia twice during the week-long campaign, with total social media reach of over 527,000 users through OAIC-owned channels, a threefold increase from the previous year. The OAIC took part in 12 external events for public and private sector organisations as part of the campaign.



Social media

The OAIC has grown its presence on social media in 2020–21 which has continued to be an important communication channel during the COVID-19 pandemic. We actively promoted awareness of privacy and information access rights through our social media channels, resulting in increased followers, page likes and post impressions across Twitter, Facebook and LinkedIn.

Twitter

Growth has been steady throughout the year, with 6,340 followers at 30 June 2021. This is an increase of 9%. During the reporting period, we achieved nearly one million impressions.

Facebook

Growth has been steady with 4,050 followers at 30 June 2021. This is an increase of 23%.

LinkedIn

Our followers have grown rapidly on LinkedIn, increasing 39% to 4,988 at 30 June 2021.

Information Matters

Our monthly Information Matters newsletter goes to more than 8,000 subscribers, an increase of 5% on 2019–20. It provides news about the latest guidance and resources published by the OAIC, information about consultations and other engagements, and links to decisions and submissions.

e-learning programs

Privacy in Practice course

Our e-learning course Privacy in Practice, launched in April 2020, was developed to help Australian Government staff understand the importance of privacy in their agency and how to meet their privacy obligations in their day-to-day work. In 2020–21 the course was completed by 8,696 people.

Undertaking a Privacy Impact Assessment course

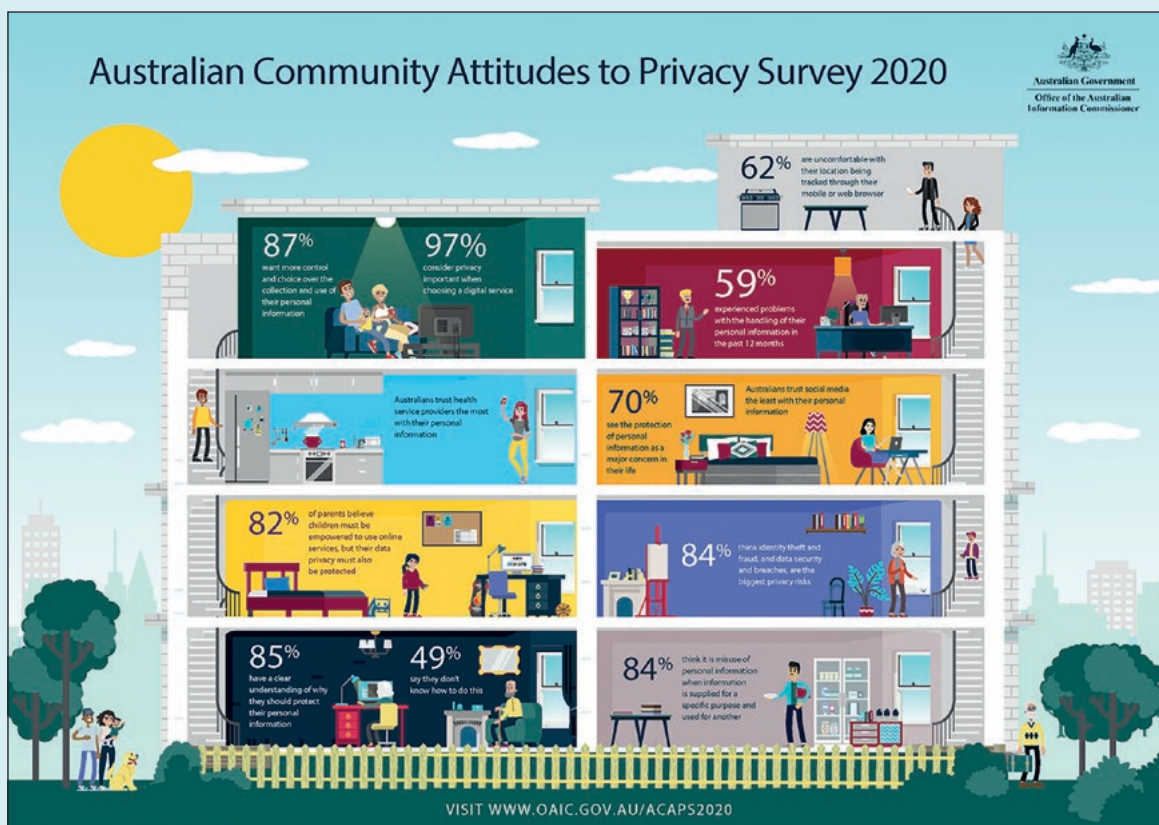
Our e-learning course Undertaking a Privacy Impact Assessment, launched in May 2017, provides information on conducting a PIA in easy-to-understand language. PIAs are an important component in the protection of privacy, and should be part of the overall risk management and planning processes of organisations and Australian Government agencies. In 2020–21 the course was completed by 1,060 people.

Australian Community Attitudes to Privacy Survey 2020

The OAIC launched our Australian Community Attitudes to Privacy Survey on 24 September 2020. The findings provide a detailed picture of community views about the protection of personal information. Nearly 2,700 people took part in the survey, which examined attitudes on topics such as data practices, privacy reform, children's privacy and COVID-19.

Among the key findings:

- Community concerns about privacy are based on experience: 59% of Australians had a problem with how their data was used over the previous year, such as unwanted marketing communications or information being collected when it was not required.
- Australians are increasingly questioning data practices where the purpose for collecting personal information is unclear: 81% consider it a misuse for an organisation to ask for information that doesn't seem relevant to the purpose of the transaction, up 7% since 2017.
- Privacy is the leading consideration when choosing an app or program to download, ahead of quality, convenience and price, and 84% consider privacy extremely or very important when choosing a digital service.
- Australians trust health service providers the most when it comes to handling personal information, followed by government, and they trust social media the least.
- Parents are more concerned about their children's privacy than their own: 82% believe children must be empowered to use online services, but their data privacy must be protected.
- The community wants more information and clearer privacy policies to help them manage their privacy: 85% have a clear understanding of why they should protect their personal information but 49% say they don't know how.



Australian Government Privacy Officer training

In 2020–21, the OAIC pivoted from face-to-face to online training due to the COVID-19 pandemic. We developed a 2-hour webinar course, which is a condensed version of our full-day training course we had traditionally run in Canberra.

We ran 3 webinars which were all fully booked, engaging with 65 participants from 37 Australian Public Service agencies. The evaluation survey conducted following each webinar received positive feedback:

- 79% of participants rated the webinar 8 or above out of 10
- 91% of participants would recommend the webinar to others
- 76% of participants said their knowledge of privacy had increased as a result of the webinar.

Participants found the explanation of the role of the Privacy Officer under the Australian Government Agencies Privacy Code helpful, as well as content on conducting privacy impact assessments (PIAs), maintaining a PIA register and writing collection notices. Following this successful rollout, we are continuing to offer the webinar in 2021–22.

Events

The OAIC participated in 40 speaking engagements in 2020–21, significantly more than the previous year when we participated in 25 events. Among the external events we participated in were:

- Law Council of Australia Business Law Section Privacy Law Seminar
- Council of Europe Data Privacy Day 2021: Asia Pacific Region event
- Association of Corporate Counsels GC100 meeting
- Tax Practitioners Board Preventing data breaches webinar
- Deloitte Australian Privacy Index 2020 launch webinar
- Australian Government Solicitor FOI and Privacy Forum.

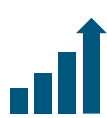
Media enquiries

We received 147 media enquiries which is a 32% decrease compared to 2019–20.

Table 2.9.1: Media enquiries

Month	2019–20	2020–21
July	20	10
August	20	17
September	17	25
October	28	12
November	9	13
December	9	3
January	18	14
February	10	5
March	26	6
April	29	18
May	18	12
June	13	12
Total	217	147

Indicator 2.10: The OAIC promotes awareness of CDR privacy rights



Measure

Education and awareness materials are developed and promoted



Target: Qualitatively and quantitatively demonstrated

Achieved

Since the launch of the Consumer Data Right in the banking sector on 1 July 2020, the OAIC has continued to develop and promote educational and awareness materials to ensure both consumers and regulated entities understand Consumer Data Right rights and obligations.

We have developed additional resources for consumers to consider whether it may be appropriate for them to make a complaint to the OAIC if they consider an entity has mishandled their data, and published new resources for participants on their key privacy obligations under the Consumer Data Right regulatory framework. Consumer Data Right privacy information for consumers was also translated into 10 community languages.

We featured Consumer Data Right resources in 8 issues of our Information Matters newsletter and 20 social media posts during 2020–21.

Consumer Data Right resources for participants and consumers

During the reporting period, the OAIC worked closely with our co-regulator, the ACCC, to assess all contacts received via the CDR website. This includes 35 contacts which were referred to the ACCC, and 26 which were referred to the OAIC. A number of these contacts were found to relate to general privacy issues, not the Consumer Data Right. In total, the OAIC handled 16 CDR enquiries and one CDR complaint over the course of the year.

To assist consumers to understand whether the OAIC can investigate their CDR complaint, we developed a step-by-step guide which is available on our website. It complements information that sets out how to make a complaint to a CDR provider, what consumers can make a complaint about, and how we will investigate and resolve complaints.

The OAIC also published 2 updated versions of the Consumer Data Right Privacy Safeguard Guidelines. These provide guidance to participants in understanding and interpreting the 13 privacy safeguards under the Consumer Data Right. The first round of updates in July 2020 reflected minor amendments made to the CDR Rules. The second round of updates released in June 2021 reflected more substantial amendments to the *Competition and Consumer Act 2010* and the CDR Rules, including in relation to allowing amended consent, and transfer of CDR data between accredited persons.

We also published a *Guide to privacy for data holders* which outlines key privacy obligations for data holders in the CDR system, including obligations under the privacy safeguards and the CDR Rules.

Education and awareness materials were promoted through a dedicated section on the OAIC website, media releases, our monthly Information Matters newsletter and social media channels.

Indicator 2.11: Australians are confident about the system of oversight of privacy and security of the COVIDSafe app



Measure

(1) Assessment program identifies any privacy risks

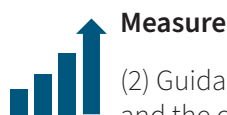


Target: Assessment program conducted and outcomes published

Achieved

In May 2020, the *Privacy Amendment (Public Health Contact Information) Act 2020* expanded the OAIC's assessment powers under s 33C of the Privacy Act. The OAIC was given the power to conduct an assessment of whether the acts or practices of an entity or a state or territory authority comply with Part VIIIA of the Privacy Act in relation to COVID app data.

In June 2020, we commenced the COVIDSafe Assessment Program which involves 5 assessments examining compliance and risk throughout the information lifecycle of COVID app data. In 2020–21, we finalised and published the report for Assessment 1 which examines access controls applied to the National COVIDSafe Data Store by the Data Store Administrator. Fieldwork has been undertaken for 3 of the 4 remaining assessments and these reports will be published in 2021–22. The final assessment examines compliance of the Data Store Administrator with the deletion and notification requirements in Part VIIIA which relate to the end of the pandemic.



Measure

(2) Guidance to government, businesses and the community regarding COVIDSafe-related privacy law



Target: Guidance material prepared and published

Achieved

During the reporting period, the OAIC developed and promoted COVIDSafe guidance to increase awareness

and understanding of the system's privacy protections and entities' obligations under the Privacy Act.

In December 2020, we published guidance for state and territory health authorities regarding COVIDSafe and COVID app data.

The OAIC has continued to provide advice and guidance to the Australian Government on the development and implementation of COVIDSafe privacy protections. This includes ongoing advice to the Department of Health regarding its updated privacy impact assessment for COVIDSafe, and we have continued to monitor implementation of the recommendations made in the department's original COVIDSafe privacy impact assessment.

We also respond to enquiries about COVIDSafe obligations via our email and telephone enquiry service.



Measure

(3) Effective enquiry, complaint and data breach notification systems



Target: Enquiry, complaint and data breach systems utilised

Achieved

Enquiries received during 2020–21 generally raised cross-jurisdictional issues relating to the use of QR code check-in apps issued by state and territory governments, the application of section 94H of the Privacy Act or the handling of COVID app data. Where appropriate, the OAIC provided general information to individuals about how the Privacy Act regulates the COVIDSafe app, and advice on lodging a complaint about a direction to use or download the COVIDSafe app. Information gathered from enquiries informed the development of guidance material.

During the reporting period the OAIC did not receive any privacy complaints about the COVIDSafe app.

Breaches of any of the COVIDSafe app-related provisions of the Privacy Act by the National COVIDSafe Data Store Administrator or a state or territory health authority are considered an 'eligible data breach' for the purposes of the NDB scheme.

While the OAIC did not receive any data breach notifications related to the COVIDSafe app in 2020–21, the OAIC has implemented systems and processes to ensure that any data breach

notifications that are received will be effectively and expediently registered, assessed, and – if warranted – referred for regulatory action.

COVID-19 advice and guidance

The OAIC published and promoted a range of guidance and information relating to the COVID-19 pandemic during 2020–21. This includes 2 COVIDSafe reports, covering the periods from

May to November 2020, and November 2020 to May 2021, in accordance with s 94ZB of the Privacy Act which requires the OAIC to report on the performance of the Commissioner's functions and the exercise of the Commissioner's powers under or in relation to Part VIIIA of the Privacy Act.

Table 2.11.1: COVID-19 related publications

Title	Publication date
Draft guidance for digital check-in providers collecting personal information for contact tracing	28 August 2020
The COVIDSafe app and my privacy rights in 10 community languages	30 September 2020
Draft guidelines: Requirements to collect personal information for contact tracing purposes	20 November 2020
COVIDSafe report May–November 2020	23 November 2020
Guidance for state and territory health authorities regarding COVIDSafe and COVID app data	23 December 2020
Coronavirus (COVID-19) Vaccinations: Understanding your privacy obligations to your staff	23 February 2021
COVID-19: Vaccinations and my privacy rights as an employee	1 April 2021
COVIDSafe report November 2020–May 2021	21 June 2021

COVIDSafe Assessment Program

The OAIC's COVIDSafe Assessment Program is examining:

1. Access controls applied to the National COVIDSafe Data Store by the Data Store Administrator.
2. Access controls applied to the use of COVID app data by state or territory health authorities.
3. The functionality of the COVIDSafe app against specified privacy protections set out under the COVIDSafe privacy policy and collection notices, and against the requirements of Part VIIIA of the Privacy Act.
4. The compliance of the Data Store Administrator with the data handling and deletion requirements under Part VIIIA.
5. The compliance of the Data Store Administrator with the deletion and notification requirements in Part VIIIA which relate to the end of the pandemic.



Case Study: COVIDSafe Assessment 1

Case Study 2.11.1: Assessment of COVIDSafe app, National COVIDSafe Data Store and Health Official Portal

This assessment identified 4 medium-level privacy risks and 2 low-level privacy risks associated with the COVIDSafe app, the National COVIDSafe Data Store and the Health Official Portal. These privacy risks relate to:

- documentation of key governance systems and practices
- documentation and delivery of training in relation to the handling of COVID app data
- access security – in particular, documentation relating to logical access controls applied to the National COVIDSafe Data Store.

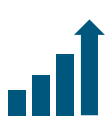
The OAIC made 4 recommendations and 2 suggestions in the report to address these privacy risks. The Department of Health, as the policy owner of the COVIDSafe System, and the Digital Transformation Agency, as the Data Store Administrator, were the targets of this assessment. All of our recommendations and suggestions were accepted in full.

Strategic Priority 3

Encourage and support proactive release of government-held information

The OAIC champions making government-held information available for use as a national resource by developing initiatives that support the proactive release of government-held information. Proactive release of government-held information supports public trust and engagement in government decision making and innovation and may reduce FOI requests.

Indicator 3.1: More government-held information is published proactively



Measure

(1) The OAIC actively promotes proactive publication through agency engagement



Target: The OAIC uses the Information Contact Officers Network to promote the benefits of proactive publication of government-held information

Achieved

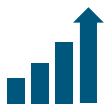
The Information Contact Officers Network (ICON) is for Australian Government FOI practitioners. During the reporting period ICON grew by 20% from 573 to 685 members.

We held 2 virtual ICON information sessions in 2020–21, which reached more FOI practitioners from around Australia than in-person events held in previous years. The first session held on 4 November 2020 had 67 participants and the second session held on 22 April 2021 had more than 100 staff from government agencies.

The ICON sessions covered a range of topics including:

- updates on recent developments and trends from the Information Commissioner
- insights from IC reviews and investigations
- managing applications for extensions of time
- new information access resources
- agency FOI statistics.

We sent 11 Information Matters newsletters and 9 alerts to ICON members during the year. We also marked International Access to Information Day on 28 September 2020 by issuing a joint statement with members of the Association of Information Access Commissioners (AIAC) from Australia and New Zealand on the importance of public access to information and the proactive publication of information as governments respond to the COVID-19 pandemic and other emergencies. The OAIC's International Access to Information Day campaign ran from 26 August to 6 October 2020, raising awareness about information access through a campaign website and digital promotion (see page 46).



Measure

(2) The OAIC actively promotes proactive publication through development of resources and guidance



Target: The OAIC develops resources to help agencies make more information available to the public

Achieved

The OAIC launched FOI Essentials, a digital toolkit for FOI decision makers in Australian Government agencies and ministers' offices, in September 2020. The toolkit helps FOI decision makers to:

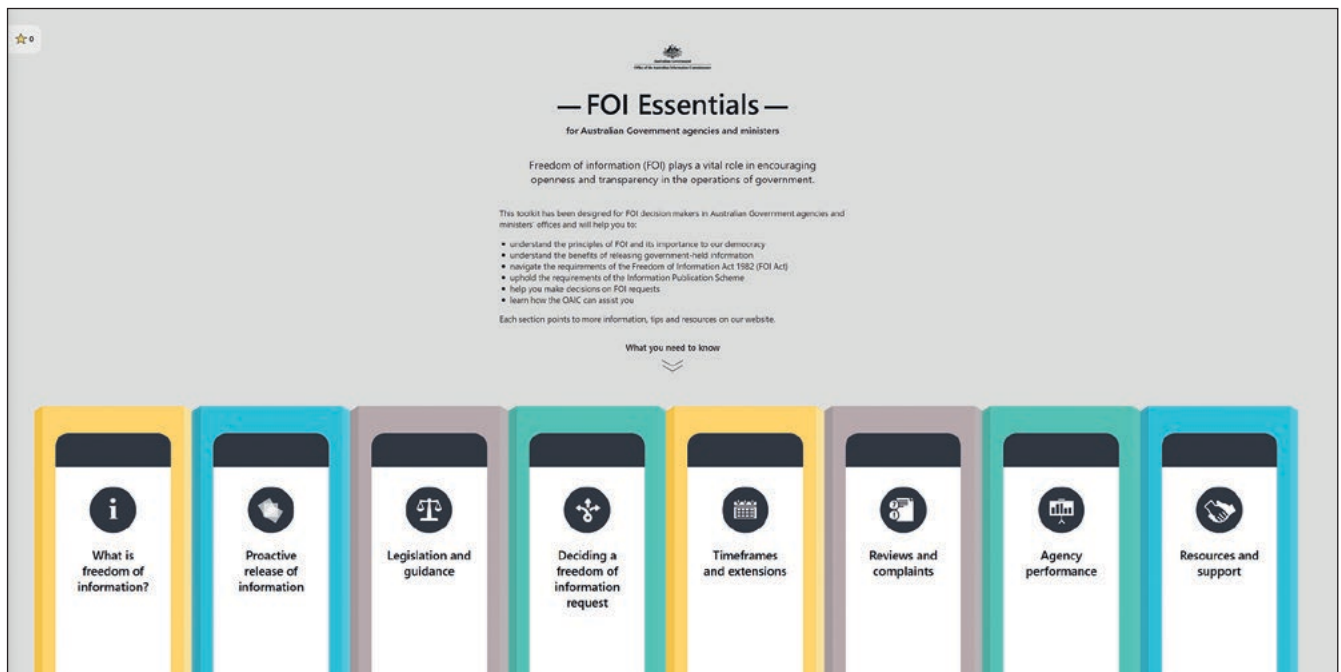
- understand the principles of FOI and its importance to our democracy
- understand the benefits of releasing government-held information
- navigate the requirements of the FOI Act

- uphold the requirements of the IPS
- make decisions on FOI requests
- understand how the OAIC can assist.

We published information for individuals on requesting official documents held by a minister and how to access Australian Government information.

In 2020–21, we updated sections of the FOI Guidelines including Part 4 (Charges for providing access), Part 10 (Review by the Information Commissioner) and Part 11 (Investigations and complaints). We also published a consultation draft on revisions to Part 9 (Internal review).

In August 2020, we published a position paper on disclosure of public servants' names and contact details, which identifies some of the issues agencies should consider when deciding whether to exempt the names and contact details of public servants in response to FOI requests.



FOI statistics received from Australian Government agencies and ministers

Agencies and ministers must report FOI processing statistics to the OAIC every 3 months and at the end of the financial year.

These reports show the number of FOI requests received across Australian Government agencies decreased by 16% from 41,333 in 2019–20 to 34,797 in 2020–21. Requests for personal information were 20% lower than 2019–20. However, requests for other (non-personal) information were 4% higher than 2019–20.

In 2020–21, 26,715 or 77% of all FOI requests were for documents containing personal information. This is a lower proportion than in previous years when between 81% (2019–20) and 87% (2015–16) of all requests were for personal information.

In 2020–21, the Department of Home Affairs, Services Australia and the Department of Veterans' Affairs together continued to receive the majority of FOI requests (68% of the total). Of these, 89% were requests for access to personal information.

The percentage of FOI requests processed within the applicable statutory time period decreased from 79% in 2019–20 to 77% in 2020–21. There has been a decrease in timeliness of decision making over the past 3 years from 2018–19 when 83% of all decisions were decided within the applicable statutory time period.

The percentage of FOI requests granted in full decreased from 47% of all requests in 2019–20 to 41% in 2020–21; the percentage granted in part increased from 38% in 2019–20 to 41%; and the

percentage of requests refused increased from 15% of all FOI requests in 2019–20 to 18% in 2020–21.

The personal privacy exemption in s 47F of the FOI Act remains the most claimed exemption (38% of all exemptions claimed – the same as in 2019–20).

Agencies and ministers issued 3,143 notices advising of an intention to refuse a request for a practical refusal reason in 2020–21. This is a 17% decrease on the number issued in 2019–20. Of these requests, 48% were subsequently refused or withdrawn; that proportion was 57% in 2019–20.

There was a 7% decrease in the total charges notified in 2020–21 (\$247,572) and an 8% decrease in the total charges collected by agencies (\$81,353).

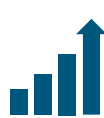
The total reported costs attributable to processing FOI requests in 2020–21 were \$61.48 million, a 4% decrease on 2019–20 (\$63.9 million).

The total number of entries added to agency website disclosure logs in 2020–21 (2,480) is 27% higher than 2019–20, when 1,949 new entries were added.

There was a 9% increase in internal review applications in 2020–21. Of the 968 internal review decisions, 492 (51%) affirmed the original decision, 135 (14%) set aside the original decision and granted access in full, 261 (27%) granted access in part, 7 (1%) granted access in another form, 14 (1%) resulted in lesser access and applicants withdrew 40 applications (4%) without concession by the agency. Agencies reduced the charges levied as a result of internal review in 19 reviews (2%).

For more information on FOI statistics received from Australian Government agencies and ministers see Appendix E.

Indicator 3.2: Increase community awareness and understanding of information access rights



Measure

The OAIC will develop resources to help the community understand the right to access information



Target: Publish practice direction to assist members of the public better understand the IC review process

Achieved

In 2020–21 we published a direction on procedures to be followed by applicants in IC reviews, for consultation. The final procedure direction and a summary guide for applicants will be published in the first quarter of 2021–22, along with relevant updates to the FOI Guidelines.

Disclosure logs

During 2020–21, the OAIC continued its desktop longitudinal review of agency compliance with the disclosure log requirements in s 11C of the FOI Act. The results of this review, along with relevant updates to the FOI Guidelines, are being finalised and will be published in 2021–22.

Information Publication Scheme

Proactively making more information available to the public supports the object of the FOI Act to make information available easily, quickly and at the lowest cost. It also has the potential to reduce the number of FOI requests made to Australian Government agencies.

The OAIC continues to promote the Information Publication Scheme (IPS) to agencies to encourage the publication of a wide range of corporate information on agency websites. Our focus this year has been on emphasising that the IPS does not limit the information that can be published to only the information required to be published under s 8(2) of the FOI Act, but authorises the publication of any other information (see s 8(4) of the FOI Act).

The Information Commissioner also participated in the Office of the Victorian Information Commissioner's *Proactive and informal release of information in the Victorian public sector* discussion paper.

The OAIC has an ongoing role in Australia's Open Government Partnership, as a member of the working group for the third National Action Plan. The third National Action Plan includes an 'Open by Design' commitment to develop a nationally consistent approach to the proactive release of information.

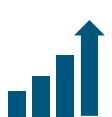
Strategic Priority 4

Contemporary approach to regulation

The OAIC takes a contemporary approach to our regulatory role in promoting and upholding Australia's privacy and freedom of information laws. This means we engage with, and are responsive to, the community's expectations of its regulatory bodies.

The OAIC is committed to developing a capable, multidisciplinary workforce with a breadth of technical skills to provide guidance and advice and to take regulatory action.

Indicator 4.1: The OAIC takes appropriate regulatory action in relation to strategic privacy and access to information risks



Measure

The OAIC utilises the range of regulatory powers and outcomes provided by the Privacy and FOI Acts



Target: Qualitatively and quantitatively demonstrated

Achieved

Privacy regulatory action policy

Privacy complaints which cannot be finalised through early resolution and conciliation processes may be referred for further investigation. In appropriate matters, whether arising from a complaint or a CII, the Commissioner will decide to take further regulatory action. For instance, the Commissioner may issue a determination under s 52 of the Privacy Act, commence civil penalty proceedings, or accept an enforceable undertaking.

This discretion to select matters that warrant privacy regulatory action, and to decide what action to take, involves a consideration of the risk that the acts or practices in question pose to privacy, any harm caused, and the opportunity that taking action

presents. Where appropriate the OAIC may issue guidance to respond to a regulatory concern.

This approach allows the Commissioner to have regard to remedying individuals' grievances, deterring entities from future breaches and educating the privacy community and APP entities in relation to their information handling practices, including where the application of privacy law requires clarification.

In October 2020, the OAIC established the RAC to provide strategic, consistent and organisation-wide advice to the Commissioner in relation to the exercise of her regulatory discretion in significant privacy investigations. For more detail on how the RAC operates and recommends the most appropriate regulatory response to the Commissioner, see Indicator 2.5 on page 38. Following advice from the RAC, the Commissioner has approved the issuing of requests to entities to make submissions regarding proposed directions to notify under the NDB scheme and opened a number of CIIs.

FOI regulatory action policy

By using the range of powers available under the FOI Act, the OAIC ensures that the regulatory action is appropriate and the powers under the FOI Act are exercised to the extent for the benefit of the community.

The Information Commissioner draws upon sources of information to assist in the assessment of risk

when considering whether to exercise regulatory powers. These include monitoring of agencies' reportable statistics on the processing of FOI requests, and information gathered through the extension of time, IC review and FOI complaints functions.

The Information Commissioner exercises powers under Part VIIB of the FOI Act to investigate complaints made about agencies in the performance of or exercising functions under the FOI Act. This power includes the ability to investigate complaints made by individuals under s 70 of the FOI Act as well as the ability to commence investigations on her own initiative (CII) (s 69(2)). In 2020–21 the Information Commissioner finalised 3 investigations of FOI complaints under s 86 of the FOI Act and finalised one CII into Home Affairs' compliance with statutory processing periods for processing FOI requests for non-personal information. In order to drive better practice and increase transparency, the OAIC publishes outcomes and recommendations on our website, allowing all agencies to draw upon the finding to improve their own practices and policies and meet their obligations under the FOI Act.

The Information Commissioner exercises powers under Part VII of the FOI Act to review decisions made by agencies and ministers. During the reporting period the Information Commissioner issued 54 IC review decisions under s 55K of the FOI Act. The decisions assist agencies and ministers to interpret the FOI Act and provide guidance on the exercise of their powers and functions. The decisions are published on the OAIC website. The OAIC also published a consultation draft of the Direction as to certain procedures to be followed by applicants in Information Commissioner reviews.

To assist the regulated community to further comply with their obligations under the FOI Act, the Information Commissioner issues Guidelines under s 93A of the FOI Act which agencies and ministers must have regard to when performing a function or exercising a power under the FOI Act. In 2020–21, the OAIC updated sections of the FOI Guidelines including Part 4 (Charges for providing access), Part 10 (Review by the Information Commissioner) and Part 11 (Investigations and complaints). The

OAIC also published a consultation draft on revisions to Part 9 (Internal review).

Privacy assessments

During this reporting period, the OAIC assessed privacy practices in the government, telecommunications and health sectors, with 25 individual entities assessed and 7 assessments closed in 2020–21.

In 2020–21 we commenced assessments that examined a large cohort of entities, including all Australian Government agencies covered by the Privacy Act and a selection in the digital health sector. Our assessments ranged in scope from obligations under APP 1 (open and transparent management of personal information), APP 5 (notification of the collection of personal information) and APP 11 (security of personal information) to compliance with Part VIIIA of the Privacy Act and record keeping obligations under the *Telecommunications Act 1997*.

We used a range of methods to conduct our assessments such as desktop reviews, comprehensive reviews of policy documents, in person and remote interviews with staff and site inspections. In response to logistical challenges to fieldwork caused by the COVID-19 pandemic such as lockdowns, travel restrictions, border closures and social distancing, we adapted our approach to assessment fieldwork. Where assessment scope and methodology permitted, fieldwork interviews were conducted remotely using audio and video conferencing.

The businesses and government agencies we assessed accepted all our recommendations, except for 3 recommendations which were accepted in part.

COVIDSafe Assessment Program

In May 2020, in response to the COVID-19 pandemic, the *Privacy Amendment (Public Health Contact Information) Act 2020* expanded the OAIC's assessment powers to include the power to conduct

an assessment of whether the acts or practices of an entity or a state or territory health authority comply with Part VIIIA of the Privacy Act in relation to COVID app data. In 2019–20, we began the COVIDSafe Assessment Program in relation to the COVIDSafe app. Four assessments were commenced and one was completed in 2020–21.

Government

ACT Government

Under our Memorandum of Understanding (MOU) with the ACT Government we finalised our assessment of Access Canberra and published the report in April 2021. In 2020–21 we commenced an assessment of Housing ACT which we will finalise in 2021–22. For more information see Appendix C.

Australian Government PIA register assessment

In May 2021, we commenced an assessment of Australian Government agencies' compliance with the requirement to publish a PIA register under s 15.1 of the Australian Government Agencies Privacy Code. A PIA is a systematic assessment of a project that identifies privacy impacts and sets out recommendations for managing, minimising or eliminating that impact. PIAs are an important component in the protection of privacy and should be part of an agency's risk management and planning processes. The assessment will involve a desktop review of most agency websites which will examine compliance with the PIA register requirements of the Code. We will publish our findings on our website by portfolio throughout 2021–22.

Digital health assessments

Health information is considered particularly sensitive. This sensitivity has been recognised in the *My Health Records Act 2012* and the *Healthcare Identifiers Act 2010*, which regulate the collection, use and disclosure of personal information, and give the Information Commissioner a range of enforcement powers. This sensitivity is also recognised in the Privacy Act which treats health information as 'sensitive information'.

In 2020–21, we finalised 2 assessments relating to the My Health Record system that began in 2019–20 and finalised one assessment which began in 2018–19. We commenced one assessment in 2020–21 which will be finalised in 2021–22. For more information see the *Annual report of the Australian Information Commissioner's activities in relation to digital health 2019–20* on the OAIC website.

Passenger name record data

The transfer of European Union (EU) passenger name record (PNR) data by air carriers to Home Affairs is governed by an agreement between Australia and the EU. Home Affairs receives EU PNR data from air carriers when information necessary for processing or controlling a passenger's air travel reservation for a flight to, from or through Australia is processed in the EU. During the reporting period, the OAIC completed one assessment commenced in 2019–20 in relation to Home Affairs' handling of PNR data and will commence another assessment of Home Affairs that will be completed in 2021–22.

Section 309 of the Telecommunications Act

In 2020–21, the OAIC commenced inspections of carriers and carriage service providers compliance with Part 13, Division 5 of the *Telecommunications Act 1997*. This Part requires carriers and carriage service providers to make records of certain disclosures of personal information, including disclosures of telecommunications data collected and retained under the data retention scheme, to law enforcement agencies. We will finalise these inspections and publish a summary report in 2021–22.

Consumer Data Right

As the regulator for the privacy aspects of the Consumer Data Right, s 56ER of the *Competition and Consumer Act 2010* authorises the OAIC to conduct assessments on Consumer Data Right participants to ensure they are handling CDR data in accordance with the privacy safeguards, or privacy or confidentiality related CDR Rules. In December 2020, following the launch of the Consumer Data

Right in the banking sector, the OAIC commenced our first Consumer Data Right assessment that considers 4 data holders' compliance with Privacy Safeguard 1, which relates to the open and transparent management of CDR data. We will finalise this assessment in 2021–22.



Case Study: My Health Record assessments

Case Study 4.1.1: Privacy assessment of Chamonix and Telstra Health mobile applications

These assessments were conducted pursuant to the MOU between the OAIC and the Australian Digital Health Agency which requires the OAIC to conduct assessments in relation to the My Health Record system and the Healthcare Identifiers Service.

The scope of the assessments considered the handling of personal information in relation to the My Health Record system by Chamonix and Telstra Health and their respective mobile applications Healthi and HealthNow. The assessments considered compliance with APP 1.2 (open and transparent management of personal information) and APP 5 (notification of the collection of personal information).

We reviewed relevant policies and procedures provided by Chamonix and Telstra Health and interviewed key members of staff through videoconferencing platforms in September to October 2020.

Telstra Health's HealthNow app provides a range of eHealth services to users, including the facilitation of 'view-only' access to a user's My Health Record information. Chamonix's Healthi app only provides 'read-only' access to a user's My Health Record and does not have any other functionality.

The OAIC found that Telstra Health is taking reasonable steps to document and implement practices, procedures and systems to ensure compliance with the APPs, and to enable the effective handling of privacy inquiries and complaints in relation to the HealthNow app.

We also found that Telstra Health is taking reasonable steps to notify users of the HealthNow app of APP 5 matters, and ensure users understand APP 5 matters in relation to the collection of personal information by the app.

We made one recommendation that Telstra Health revise the HealthNow Privacy Statement and in-app notifications to clearly delineate between the collection, use and disclosure of My Health Record data, and the collection, use and disclosure of other types of personal information collected by the app. Telstra Health accepted the recommendation.

We found that Chamonix has taken reasonable steps to document its information handling policies, practices and procedures, as well as notify individuals of the collection of personal information. However, we also identified medium-level privacy risks associated with the handling of personal information through its Healthi app. The OAIC made 4 recommendations and some suggestions to address these privacy risks. These included that Chamonix:

- regularly evaluate its internal policies and procedures
- implement regular and mandatory privacy refresher training
- include an APP 5 collection notice in relation to personal information collected via the Healthi webform or via email
- ensure that the Healthi APP 5 collection notice covers all APP 5 matters.

Chamonix accepted the recommendations.

Data matching

We perform several functions to help government agencies understand their privacy requirements and adopt best privacy practice when undertaking data-matching activities.

Data matching is the process of bringing together data sets from different sources and comparing those data sets with the intention of producing a match. Several government agencies use data matching to detect non-compliance, identify instances of fraud and recover debts owed to the Australian Government. For example, to identify individuals or businesses that may be under-reporting income or turnover, the Australian Taxation Office (ATO) may match tax return data with the data provided by banks.

Government agencies that carry out data-matching activities must comply with the Privacy Act. The *Data-matching Program (Assistance and Tax) Act 1990* (Data-matching Act) authorises the use of tax file numbers in data-matching activities undertaken by specific agencies. Data matching raises privacy risks because it involves analysing personal information about large numbers of people, the majority of whom are not under suspicion of non-compliance.

Statutory data matching

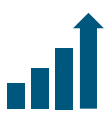
The Information Commissioner has statutory responsibilities under the Data-matching Act. The Data-matching Act authorises the use of tax file numbers in data-matching activities by the Department of Human Services (DHS), Veterans' Affairs and the ATO.

In previous financial years, we have inspected DHS's data-matching records to make sure they comply with the requirements of the Data-matching Act. Agencies continue to rely less on data matching using tax file numbers. In 2020–21, we focused on providing advice and oversight of data-matching activities outside the Data-matching Act.

Data matching under voluntary guidelines

We administer the Guidelines on data matching in Australian Government Administration, which are voluntary guidelines to help government agencies adopt appropriate privacy practices when undertaking data-matching activities not covered by the Data-matching Act. In this financial year we reviewed 10 data-matching program protocols submitted by agencies including Services Australia and the ATO. We also provided advice on 3 occasions regarding protocols generally to the Fair Work Ombudsman and Services Australia.

Indicator 4.2: The OAIC engages with domestic and international counterparts on regulatory policy and practice



Measure

The OAIC collaborates on policy development, shares intelligence and participates in forums



Target: Qualitatively demonstrated

Achieved

Engagement with domestic networks

The OAIC is a member of Privacy Authorities Australia (PAA) which seeks to increase jurisdictional cooperation and address policy challenges that cross borders or involve complex systems and technologies. The Information Commissioner and OAIC staff attended 2 PAA meetings during 2020–21, including a virtual meeting hosted by the Information and Privacy Commission of New South Wales in June 2021. The OAIC also participated in the PAA Privacy Policy Group and Privacy Complaints and Enforcement Group, and acted as the secretariat for the newly formed PAA Communications Working Group.

The OAIC met regularly with representatives from the ACCC, the Australian Communications and Media Authority and the Office of the eSafety Commissioner to share information about policy and enforcement matters of mutual interest. We also worked with the ACCC, eSafety and Australian Cyber Security Centre on issues related to security, privacy, safety and preventing scams.

The ACCC and the OAIC are co-regulators in relation to the Consumer Data Right. The OAIC worked closely with the ACCC and the Treasury during the reporting period to implement the Consumer Data Right in the banking sector.

Domestic networks

Privacy Authorities Australia

Privacy Authorities Australia (PAA) is a group of Australian privacy authorities who meet regularly to promote best practice and consistency of privacy policies and laws. PAA also collaborates on Privacy Awareness Week, held in May each year, to raise awareness of privacy rights and the protection of personal information. See Privacy Awareness Week 2021 on page 47.

National COVID-19 Privacy Team

In March 2020, the OAIC convened a National COVID-19 Privacy Team, consisting of the OAIC and state and territory privacy regulators, to respond to personal information handling proposals with national privacy implications. The National COVID-19 Privacy Team continues to meet regularly to consider and provide advice to government on new and emerging privacy risks associated with the pandemic.

OAIC networks

The OAIC convenes local networks for privacy and FOI practitioners to engage with us and stay up to date with regulatory developments.

Privacy Professionals Network

The Privacy Professionals Network (PPN) is for public and private sector privacy professionals. Its membership grew during this reporting period by 20% from 3,865 to 4,140 members. We sent a monthly newsletter to all PPN members and one targeted alert during the reporting period.

Information Contact Officers Network

The Information Contact Officers Network (ICON) is for Australian Government FOI practitioners. At the end of this reporting period there were 687 ICON members.

We held 2 virtual ICON information sessions during the reporting period. The first session held on 4 November 2020 had 67 participants and the second session held on 22 April 2021 had more than 100 staff from government agencies.

Engagement with international networks

The OAIC continued engagement with key counterparts under our existing MOUs with the UK ICO, the Data Protection Commissioner of Ireland and the Personal Data Protection Commission of the Republic of Singapore.

During the reporting period, the OAIC participated in the 42nd GPA conference from 12 to 14 October 2020. Commissioner Angelene Falk led the adoption of 2 resolutions at the conference. The first seeks to maximise the voice of the GPA on emerging global issues and the second focuses on the development and use of facial recognition technology.

The Commissioner was a signatory to a statement by the Executive Committee of the GPA on the importance of privacy by design in the sharing of health data for domestic or international travel

requirements during the COVID-19 pandemic. See Global Privacy Assembly on page 27.

We also attended 2 APPA forums. In June 2021, the OAIC attended the 55th APPA forum hosted by the PIPC of the Republic of Korea, engaging in discussions on the new normal in a post-COVID-19 world, artificial intelligence and formulating global standards in privacy. In December 2020, we attended the 54th APPA forum hosted by the Office of the Victorian Information Commissioner where we presented on the findings from the Australian Community Attitudes to Privacy Survey (see page 48). See Asia Pacific Privacy Authorities on page 27.

In June 2021, the Commissioner led the adoption of a resolution at the International Conference of Information Commissioners (ICIC) 12th annual conference hosted by the Brazilian Office of the Comptroller General. The resolution called for the proactive publication of information relating to the COVID-19 pandemic and was adopted unanimously. A joint statement on proactive publication was also published on the ICIC's website.

The OAIC works with other members of the AIAC to identify trends and issues affecting information access rights in Australia and New Zealand. During 2020–21, AIAC members issued a joint statement to mark International Access to Information Day on 28 September, acknowledging the importance of public access to information and proactive publication of government information in building community trust in times of crisis and beyond.

The OAIC also engages with a broad range of international stakeholders to promote and uphold privacy and information access, including civil society organisations, the international business community and overseas government organisations. Many nations and regions adopting new privacy or information access laws or creating privacy and information access regulatory regimes seek assistance and information about best practice regulatory approaches from jurisdictions with established laws and frameworks. From time to time, we are also contacted by regulators from jurisdictions with established laws and frameworks seeking our views on specific issues.

Access to information networks

International Conference of Information Commissioners

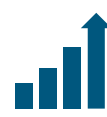
The International Conference of Information Commissioners (ICIC) is a global forum which connects information commissioners, ombudsmen and other bodies charged with overseeing the implementation of access to information legislation. Members work together to foster the protection and promotion of access to public information as a fundamental pillar to social, economic and democratic engagement.

The ICIC's mission is to share knowledge and best practices, build capacity, and help identify what is needed for global progress. The ICIC seeks to act as a collective voice to improve people's right to public information and their ability to hold to account bodies that provide public functions.

Association of Information Access Commissioners

The Association of Information Access Commissioners (AIAC) is an Australian and New Zealand network comprising information access authorities who administer FOI legislation. The aim of the network is to exchange information and promote best practice in information access policies and laws.

Indicator 4.3: Improved employee engagement



Measure

Positive rates against APS Employee Census (Strive, Stay, Say index)



Target: Improvement on previous year (positive variance)

Achieved

The OAIC's 2020 Australian Public Service Employee Census results demonstrate our staff feel highly engaged and committed to the OAIC's goals and strongly believe in our organisational purpose and objectives. We achieved a 79% response rate which was a 14% increase on the previous year. There was improvement across a number of areas, including internal communications and management.

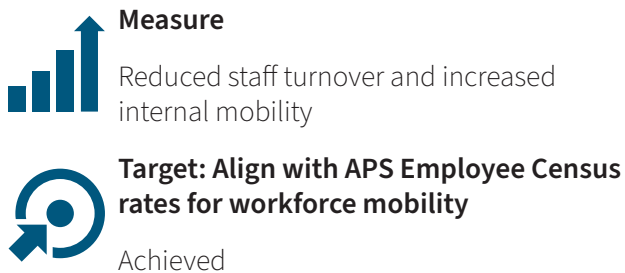
Highlights of the survey included:

- 75% overall employee engagement score (4% increase)
- 91% believe strongly in the purpose and objectives of OAIC (up 7%)
- 96% are happy to 'go the extra mile' (up 3%).

The delayed release of the 2020 census due to the COVID-19 pandemic meant there was a shorter period than normal in 2020–21 for the OAIC to identify and implement remedial strategies to address issues arising.

While there was a 15% improvement in satisfaction with the way Senior Executive Service (SES) communicate with employees (53%) and 10% improvement in perceptions that the SES lead and manage change (58%), both these measures remain below the APS average. In response, the OAIC implemented and continues to run a leadership development program.

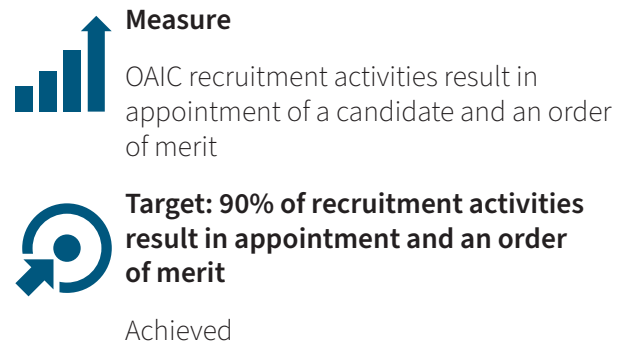
Indicator 4.4: Increased staff retention



In the 2020–21 reporting period, the retention of our talent remained steady with an overall attrition rate of 18%, which was slightly higher than the small agency average of 16.7% according to the Australian Public Service Employment Database figures for 2020.

In 2020–21, our People and Culture function supported a structured approach to building a cohesive workforce to deliver our strategic priorities and regulatory functions. Mobility across the OAIC also continued with intra-team and intra-agency temporary and permanent transfers. Over the year, there were almost 20 mobility moves consisting of internal branch transitions and transfers from other APS agencies. These moves provided opportunities for career development and enhanced knowledge and skills across branches and other agencies.

Indicator 4.5: Attracting high-quality applicants



Throughout 2020–21, the OAIC undertook 21 recruitment processes and onboarded 30 ongoing staff. The OAIC also used recruitment processes to establish merit pools of suitable candidates to fill future vacancies.

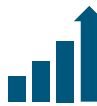
Indicator 4.6: Staff capability map supports the full range of OAIC functions


Measure
 The OAIC uses staff capability map to support delivery of full range of functions

Target: Recruitment and training aligned to staff capability map
 Not achieved

The OAIC continues to build internal capability across several areas including investigation and enforcement, leadership and governance, and information management. Over the course of 2020–21, resourcing challenges prevented the implementation of a formalised approach to capability investment through the development of a staff capability map. The OAIC aims to develop a revised capability approach in 2021–22 to ensure our needs for recruitment and training in areas of emerging technical capability requirements are met into the future.

Indicator 4.7: Mature the OAIC data management capability to understand and address emerging privacy and enterprise risks

Measure
 Timely, accurate and reliable data supports core business

Target: Data management complies with OAIC data strategy
 Achieved

In 2020–21, the OAIC continued to increase its reporting capability. Automated quarterly reports measuring performance against the OAIC Portfolio Budget Statement (PBS) targets are provided to the OAIC Executive and Audit Committee.

During 2020–21, we improved our reporting processes by replacing manual with automated reports. A total of 37 reports were created using data from the OAIC's case management system. This initiative enabled us to leverage our system and improve our performance, providing greater and more granular visibility of our performance against key deliverables across the organisation. Together, these reports provide managers with timely information and enable them to identify and manage emerging issues and risks and continue to improve efficiency.



Part 3

Management and accountability

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Corporate governance

Setting strategic direction, implementing effective policies and processes, and monitoring progress are key elements of our corporate governance framework.

Enabling legislation

The Office of the Australian Information Commissioner (OAIC) was established in November 2010 as an independent statutory agency under the *Australian Information Commissioner Act 2010* (AIC Act). We are responsible for privacy functions conferred by the *Privacy Act 1988* and other laws.

We have freedom of information (FOI) functions, including the oversight of the operation of the *Freedom of Information Act 1982* (FOI Act) and review of decisions made by agencies and ministers under that Act.

We are accountable as a non-corporate Commonwealth entity under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). Our annual reporting responsibilities are under s 46 of the PGPA Act and s 30 of the AIC Act. We also have a range of reporting and other responsibilities under legislation generally applicable to Australian Government authorities.

Portfolio structure and responsible minister

The OAIC is a statutory authority within the Attorney-General's portfolio. The minister responsible is Senator the Hon Michaelia Cash.

Executive

During this reporting period, our Executive team met fortnightly and oversaw all aspects of our business covering corporate management and performance, finance, human resources, governance, risk management, external engagement and business planning.

Risk management

Our Risk Management Framework and Guide helps staff to assess risks, make informed decisions and confidently engage with risk.

Our Executive team regularly considered and reviewed the risks the agency faced and reports on risk were received by the Audit Committee.

The OAIC continued our comprehensive review of our risk management approach in the 2020–21 financial year, including the development of a new Risk Management Policy. The risk management review made 11 recommendations and proposed 5 key activities to progress implementation.

Throughout 2020–21, significant progress has been made to implement these recommendations and the OAIC undertook activities to:

- build domain risk profiles to provide greater clarity and a stronger shared view on risk and uncertainty in the domains where the OAIC has a leading interest
- develop a Risk Appetite Statement that articulates the OAIC's risk appetite and tolerance for the different nature of risk
- develop an updated OAIC enterprise level risk profile and reporting arrangements
- review and refresh the risk management document suite and templates
- enhance the OAIC's risk management capability by providing training to all EL1 and EL2 staff.

Fraud

During 2020–21, the OAIC's Fraud Policy and Guidelines and Fraud Control Plan were redrafted to reflect evolving policy requirements and contemporary practice. A fraud risk assessment was undertaken utilising the refreshed Risk Management Framework and Guide and risk register templates.

Corporate services

The OAIC re-signed a Memorandum of Understanding (MOU) with the Australian Human Rights Commission (AHRC) in November 2019. The MOU sets out the provision of some corporate services including financial, information and communications technology and some human resources services. The OAIC also subleases a portion of our premises in Sydney from the AHRC under this arrangement.

For more information on the MOU with the AHRC see Appendix C.

Audit Committee

Our Audit Committee assisted the Commissioner to discharge her responsibilities in relation to the OAIC's finances and performance, risk oversight and management, and system of internal control. The Audit Committee oversaw the work of our internal auditors, ensured the annual work program was adhered to and ensured appropriate coverage of our strategic and operational risks. The Audit Committee Charter is available at oaic.gov.au/oaic-audit-committee.

Arrangements were made to appoint a new independent Audit Committee chair and replace outgoing Audit Committee members with new members who are appropriately skilled independent people drawn from outside the Australian Public Service (APS).

Through the 2020–21 financial year, the Audit Committee comprised 3 independent members. For more information see Table 3.1 on page 72.

Representatives from the Australian National Audit Office attend meetings of the Audit Committee as observers.

External scrutiny

During the reporting period, there were no judicial decisions or decisions of administrative tribunals that had a significant impact on our operations.

There were no reports on our operations by the Auditor-General, a parliamentary committee or the Commonwealth Ombudsman.

Table 3.1: Audit Committee

Member name	Qualifications, knowledge, skills or experience (include formal and informal as relevant)	Number of meetings attended	Total annual remuneration
Rachel Holt	Ms Holt holds the position of Senior Executive, Investigation and Conciliation Service at Australian Human Rights Commission. She has broad senior executive management experience within the public sector. Ms Holt resigned from the Committee in November 2020.	3	–
Anita Taylor	Ms Taylor holds the position of Chief Financial Officer, University of New England, and has experience as a chartered accountant in public practice and as a member on various boards. Ms Taylor is an experienced audit committee member including as Chair of the Board Audit and Risk Committee at the Civil Aviation Safety Authority. She has relevant experience within the aviation, sports administration, primary production and education sectors.	5	\$4,750
Josephine Schumann	Ms Schumann is a former senior public servant with experience as the Corporate Executive General Manager at the Australian Competition and Consumer Commission. She has extensive experience at the senior executive level in leadership roles within various Commonwealth agencies and currently chairs audit committees for several Commonwealth agencies. Ms Schumann has strong public sector and regulatory experience, with her skillset including risk and organisational performance.	5	\$5,250
Peter Woods	Mr Woods is a consultant in information and communication technology and corporate management. He has worked in a range of roles in government agencies including as Chief Information Officer at the Australian Competition and Consumer Commission. He has also held roles in the Australian Government Environment portfolio, including as Chief Information Officer and Head of the Corporate Services Division, Department of Agriculture, Water and the Environment. He has extensive experience in the executive management of major ICT business solutions and procurement projects, and he serves on multiple boards.	1	\$1,045

People and Culture

In 2020–21, we provided opportunities to our people so that they could continuously build on their subject-matter expertise to meet the demands for privacy and information management for the Australian public, government agencies and the wider industry.

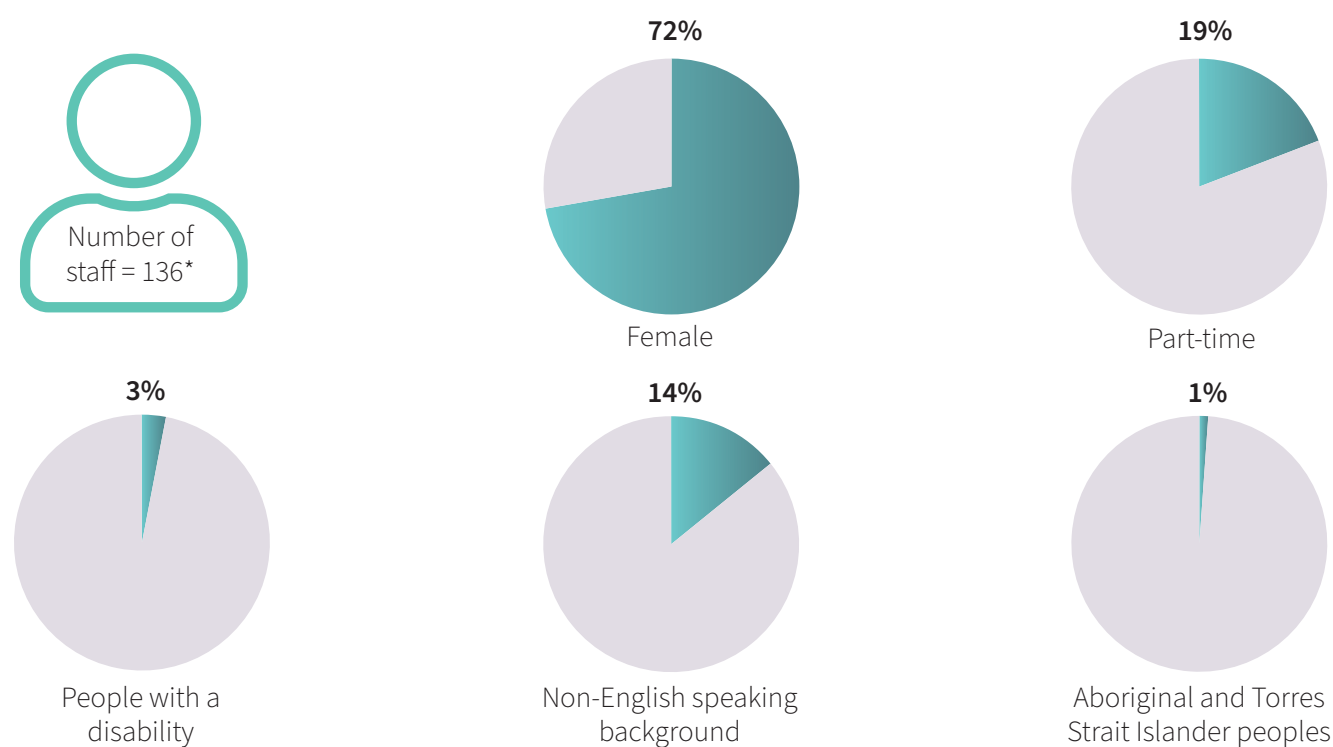
Our people

Throughout 2020–21, the People and Culture function continued to support a more structured and strategic approach to building a workforce with the capabilities needed to deliver on our purpose.

During this reporting period, we had an average staffing level of 119.7. Our staff turnover was approximately 18% for ongoing staff. This involved 21 ongoing staff resigning, retiring or transferring to other Australian Government agencies. We conducted 21 recruitment processes and had 30 ongoing staff join us during 2020–21.

As of 30 June 2021, we had 122.4 full-time equivalent (FTE) staff, including ongoing and non-ongoing employees.

Figure 3.1: OAIC workforce



* This reflects total head count and does not equate to FTE total which is 122.4.

Table 3.2: Staffing profile as at 30 June 2021

Classification	Male	Female	Full-time	Part-time	Ongoing	Non-ongoing	Total
Statutory Office Holder	–	1	1	–	–	1	1
SES Band 2	–	1	1	–	1	–	1
SES Band 1	2	1	3	–	1	2	3
Executive Level 2 (\$125,218–\$142,904)	4	18	14	8	20	2	22
Executive Level 1 (\$107,804–\$115,318)	16	25	35	6	34	7	41
APS 6 (\$85,541–\$94,197)	9	29	30	8	34	4	38
APS 5 (\$77,575–\$82,011)	6	20	24	2	22	4	26
APS 4 (\$69,583–\$73,935)	1	1	2	–	1	1	2
APS 2 (\$54,584–\$58,911)	–	2	–	2	–	2	2
Total	38	98	110	26	113	23	136

Learning and development

The OAIC supports the skill and capability development of our employees to ensure we are ready to deal with complexity effectively and meet workflow demands. We align with the APS's 70:20:10 approach as a key development principle which supports learning in the workplace where it is most effective.

Internal capability remains a key focus for the OAIC in the areas of leadership and management, regulatory governance, cyber security and information management. The formalisation of our approach to capability and strategic workforce planning over the coming year will further support targeted development, job design, recruitment practices and performance management.

Talking about performance

OAIC staff members participate in the performance management framework known as Talking about performance (TAP). The TAP framework is intended to strengthen and support the OAIC in performing our functions by providing regular and formal assessment of staff members' work performance and identify learning and development needs. Employees and their supervisors set out performance expectations at the start of the cycle, and engage in mid-cycle and end-of-cycle reviews throughout the year.

Professional skills development

Throughout 2020–21, the OAIC faced challenges in implementing some planned learning and development initiatives. Face-to-face learning was not possible due to the COVID-19 pandemic, and many virtual learning opportunities were under development as training providers quickly recalibrated to the online learning environment. The People and Culture team worked in partnership with the Australian Public Service Commission and other partner agencies to provide opportunities for online training through specialised modules and courses covering leadership and management, finance essentials and other specialist, technical training. We also recognised that remaining positive and resilient during the pandemic was essential to productivity and wellbeing. The OAIC

engaged the Positivity Institute to deliver a suite of webinars to assist staff in developing strategies surrounding mental toughness, positive mindsets and sustainable routines.

Enhancing our regulatory craft and administrative law technical skills was another major feature of the 2020–21 learning calendar. A regulatory expert from the Harvard Kennedy School was engaged to deliver online workshops for OAIC staff including the Executive team. We also engaged an administrative law expert to deliver online training to almost 100 of our staff.

Study and professional membership assistance

The OAIC has a highly engaged and expert workforce and encourages staff to undertake study to develop their knowledge and skills in relevant areas. Throughout 2020–21, we supported our staff in meeting their learning and development needs through our study assistance program. We are proud of all those who committed to undertaking self-directed study towards higher education doctorates, masters degrees or diploma level qualifications.

Workplace relations

As a result of the previous year's freeze on general salary increases for 6 months, OAIC employees received their deferred general salary increase in November 2020 and again in May 2021. The OAIC's Public Service (Office of the Australian Information Commissioner Non-SES Employees) Determination 2019 is due to expire in May 2022. No staff received performance pay in 2020–21. There were 9 staff who had an individual flexibility arrangement in place.

Statutory office holder and SES remuneration

The Remuneration Tribunal determined the terms and conditions of our statutory office holder. Remuneration for SES officers is governed by determinations made by the Commissioner under s 24(1) of the *Public Service Act 1999*.

During the reporting period, a Commonwealth-wide wage freeze for all SES employees was announced, which included freezing the application of general 2% wage increases as well as any remuneration increases through performance progression mechanisms within existing salary structures.

For more information on executive remuneration see Appendix B.

Benefits

We offer our people the following non-salary related benefits:

- flexible working arrangements including home-based work where appropriate
- employee assistance program
- extended purchased leave
- maternity and adoption leave
- parental leave
- leave for compelling personal reasons and exceptional circumstances
- access to paid leave at half pay
- Flextime (APS staff) and time off in lieu (EL staff)
- study assistance
- support for professional and personal development
- healthy lifestyle reimbursement
- screen-based eyesight testing and screen-based prescription glasses reimbursements
- influenza vaccinations
- paid leave for COVID-19 vaccinations.

OAIC Consultation Forum

The OAIC Consultation Forum (OCF) is a platform for consultation between the OAIC and its employees. The OCF meets twice a year and considers issues relating to the implementation of the Enterprise Agreement, policies and guidelines relating to working arrangements, and other matters that affect the working arrangements of OAIC staff.

Workplace diversity

The OAIC is committed to creating a working environment that values and utilises the contribution of employees from diverse backgrounds and experiences. We celebrate the diversity of our staff as one of our greatest assets in meeting our organisational objectives. The OAIC's Diversity Committee is led by the Assistant Commissioner, Corporate and includes representatives from all OAIC branches.

During the reporting period, the OAIC marked International Day for the Elimination of Violence against Women, NAIDOC week, R U OK? Day, Harmony Day, International Women's Day, IDAHOBIT and Pride month.

Work health and safety

During the reporting period, the OAIC formally established our own Health, Safety and Wellbeing Committee (HSWC) and held the first committee meeting in April 2021. Work health and safety (WHS) matters had previously been managed under a shared services agreement with the AHRC. The purpose of the HSWC is to bring together workers and management to assist in the development and review of health and safety policies and procedures for the workplace.

All new staff are provided with WHS information on commencement. There were no significant incidents reported by staff during this reporting period.

Procurement

During this reporting period, we complied with the Australian Government's procurement policy framework. We encouraged competition, value for money, transparency and accountability.

All procurement was conducted in line with the Commonwealth Procurement Rules to ensure the efficient, effective, economical and ethical use of Australian Government resources.

During this reporting period, no contracts were exempt from reporting on AusTender on the basis that publishing contract details would disclose exempt matters under the FOI Act. All awarded contracts valued at \$100,000 (GST inclusive) or greater contained standard clauses granting the Auditor-General access to contractors' premises.

Consultants

Consultancy and non-consultancy contract expenditure reporting

During 2020–21, 9 new reportable consultancy contracts were entered into involving total actual expenditure of \$972,042. In addition, 3 ongoing reportable consultancy contracts were active during the reporting period, involving total actual expenditure of \$57,678.

During 2020–21, 16 new reportable non-consultancy contracts were entered into involving total actual expenditure of \$455,691. In addition, 2 ongoing reportable non-consultancy contracts were active during the reporting period, involving total actual expenditure of \$50,717.

This report contains information about actual expenditure on reportable consultancy contracts, and reportable non-consultancy contracts. Information on the value of such contracts is available on the AusTender website.

Decisions to engage consultants during 2020–21 were made in accordance with the PGPA Act and related regulations including the Commonwealth Procurement Rules and relevant internal policies.

The OAIC selects consultants through panel arrangements or by making limited and open approaches to market.

We engaged consultants where we lacked specialist expertise or when independent research, review or assessment was required. Typically, we engaged consultants to:

- investigate or diagnose a defined issue or problem
- carry out defined reviews or evaluations
- provide independent advice, information or creative solutions to assist with our decision making.

Small business

We supported small business participation in the Commonwealth Government procurement market and engaged with small businesses wherever appropriate during our work. Small and medium enterprises and small enterprise participation statistics are available on the Department of Finance's website. We also recognised the importance of ensuring that small businesses were paid on time. Our statistics are available in the Survey of Australian Government Payments to Small Business, which is available on the Treasury's website.

Table 3.3: Expenditure on reportable consultancy contracts

Reportable consultancy contracts 2020–21	Number	Expenditure \$
New contracts entered into during the reporting period	9	972,042
Ongoing contracts entered into during a previous reporting period	3	57,678
Total	12	1,029,720
Organisations receiving a share of reportable consultancy contract expenditure 2020–21		Expenditure \$
PricewaterhouseCoopers		660,772
Crafted Solutions Pty Ltd		96,126
Monash University		51,700
Liquid Interactive		41,360
Ruth Mackay and Associates		38,599
Total		888,557

Table 3.4: Expenditure on reportable non-consultancy contracts

Reportable non-consultancy contracts 2020–21	Number	Expenditure \$
New contracts entered into during the reporting period	16	455,691
Ongoing contracts entered into during a previous reporting period	2	50,717
Total	18	506,408
Organisations receiving a share of reportable non-consultancy contract expenditure 2020–21		Expenditure \$
Cypha Interactive		212,475
Fiona McKenzie t/a Australian Law in Practice		58,860
Clayton Utz		47,091
archTIS Limited		44,412
Today Strategic Design Pty Ltd		43,552
Total		406,390

Other requirements

Advertising and market research

During the 2020–21 reporting period, the OAIC conducted the following advertising campaign:

Paid Facebook promotion of 2 new consumer privacy resources available on the OAIC website explaining how to protect personal information online.

Further information on the advertising campaign is available at oaic.gov.au/advertising.

During the 2020–21 reporting period, the OAIC conducted the following market research:

Completion of the report on the 2020 Australian Community Attitudes to Privacy Survey undertaken by Lonergan Research Pty Ltd in 2019–20, including publication of the report in September 2020. The total expenditure on market research in 2020–21 was \$51,785.09 (GST exclusive).

Further information on the survey is available at oaic.gov.au/acaps2020.

Grant programs

No grant programs took place in 2020–21.

Memorandums of understanding

We received funding for specific services under a range of memorandums of understanding. For more information see Appendix C.

Ecologically sustainable development and environment performance

Section 516A of the *Environment Protection and Biodiversity Conservation Act 1999* requires us

to report on how our activities accord with the principles of ecologically sustainable development. Our role and activities do not directly link with the principles of ecologically sustainable development or impact on the environment, other than through our business operations regarding the consumption of resources required to sustain our operations. We use energy saving methods in the OAIC's operation and endeavour to make the best use of resources.

Disability reporting

As at 30 June 2021, 3% of the OAIC workforce identified as a person with a disability.

The OAIC is committed to reducing barriers for current and future employees with disability to participate in the workplace. The OAIC supports the National Disability Strategy 2010–2020, which is a national policy framework to improve the lives of people with a disability, promote participation and create a more inclusive society.

Disability reporting is included the Australian Public Service Commission's State of the Service reports and the APS Statistical Bulletin. These reports are available at apsc.gov.au.

Information Publication Scheme

As required by the FOI Act, we have an Information Publication Scheme (IPS) entry on our website that provides information on our structure, functions, appointments, annual reports, consultation arrangements and FOI officer, information we routinely release following FOI requests and information we routinely provide to the Australian Parliament. This can be accessed at oaic.gov.au/our-information-publication-scheme.



Part 4

Financial statements

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INDEPENDENT AUDITOR'S REPORT

To the Attorney-General

Opinion

In my opinion, the financial statements of the Office of the Australian Information Commissioner (the Entity) for the year ended 30 June 2021:

- (a) comply with Australian Accounting Standards – Reduced Disclosure Requirements and the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*; and
- (b) present fairly the financial position of the Entity as at 30 June 2021 and its financial performance and cash flows for the year then ended.

The financial statements of the Entity, which I have audited, comprise the following as at 30 June 2021 and for the year then ended:

- Statement by the Accountable Authority and Chief Financial Officer;
- Statement of Comprehensive Income;
- Statement of Financial Position;
- Statement of Changes in Equity;
- Cash Flow Statement; and
- Notes to the financial statements, comprising a summary of significant accounting policies and other explanatory information.

Basis for opinion

I conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. My responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of my report. I am independent of the Entity in accordance with the relevant ethical requirements for financial statement audits conducted by the Auditor-General and his delegates. These include the relevant independence requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* (the Code) to the extent that they are not in conflict with the *Auditor-General Act 1997*. I have also fulfilled my other responsibilities in accordance with the Code. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Accountable Authority's responsibility for the financial statements

As the Accountable Authority of the Entity, the Australian Information Commissioner is responsible under the *Public Governance, Performance and Accountability Act 2013* (the Act) for the preparation and fair presentation of annual financial statements that comply with Australian Accounting Standards – Reduced Disclosure Requirements and the rules made under the Act. The Australian Information Commissioner is also responsible for such internal control as the Australian Information Commissioner determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Australian Information Commissioner is responsible for assessing the ability of the Entity to continue as a going concern, taking into account whether the Entity's operations will cease as a result of an administrative restructure or for any other reason. The Australian Information Commissioner is also responsible for disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the assessment indicates that it is not appropriate.

Auditor's responsibilities for the audit of the financial statements

My objective is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the Australian National Audit Office Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

As part of an audit in accordance with the Australian National Audit Office Auditing Standards, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control;
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Entity's internal control;
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Accountable Authority;
- conclude on the appropriateness of the Accountable Authority's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Entity's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Entity to cease to continue as a going concern; and
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with the Accountable Authority regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

Australian National Audit Office



Sally Bond

Executive Director

Delegate of the Auditor-General

Canberra

7 October 2021

STATEMENT BY THE ACCOUNTABLE AUTHORITY AND CHIEF FINANCIAL OFFICER

In our opinion, the attached financial statements for the year ended 30 June 2021 comply with subsection 42(2) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), and are based on properly maintained financial records as per subsection 41(2) of the PGPA Act.

In our opinion, at the date of this statement, there are reasonable grounds to believe that the Office of the Australian Information Commissioner will be able to pay its debts as and when they fall due.



Angelene Falk
Australian Information Commissioner

6 October 2021



Brenton Attard
Chief Financial Officer

6 October 2021

Statement of comprehensive income

for the period ended 30 June 2021

	Notes	2021 \$'000	2020 \$'000	Original budget \$'000
NET COST OF SERVICES				
Expenses				
Employee benefits	1.1A	16,982	15,334	14,809
Suppliers	1.1B	6,799	5,763	6,927
Depreciation and amortisation	2.2A	2,650	2,234	1,827
Finance costs	1.1C	9	24	2
Total expenses		26,439	23,355	23,565
Own-source income				
Own-source revenue				
Revenue from contracts with customers	1.2A	2,323	2,257	2,323
Other revenue	1.2B	36	36	–
Total own-source revenue		2,359	2,293	2,323
Gains				
Other gains	1.2C	4	1	33
Total gains		4	1	33
Total own-source income		2,363	2,294	2,356
Net (cost of)/contribution by services		(24,076)	(21,061)	(21,209)
Revenue from government	1.2D	20,948	20,941	20,948
Surplus/(Deficit) attributable to the Australian Government		(3,128)	(120)	(261)

	Notes	2021 \$'000	2020 \$'000	Original budget \$'000
OTHER COMPREHENSIVE INCOME				
Items not subject to subsequent reclassification to net cost of services				
Changes in asset revaluation reserve		298	35	–
Total other comprehensive income		298	35	–

The above statement should be read in conjunction with the accompanying notes.

Budget variances commentary

The variances primarily relate to the suppliers, employee benefits, and depreciation and amortisation.

Supplier variances relate to essential COVID-19 regulatory work, preparation to transition corporate service providers and higher than anticipated legal expenditure.

During the reporting period the OAIC incurred higher than anticipated employee benefits costs. The increased costs relate to various recruitment activities to support workload requirements, including by way of short-term contractors.

The variance in depreciation and amortisation relates to two AASB 16 leases. One lease concluded and another commenced during the reporting period. Additionally, the OAIC acquired assets which incurred further depreciation.

Statement of financial position

as at 30 June 2021

	Notes	2021 \$'000	2020 \$'000	Original budget \$'000
ASSETS				
Financial assets				
Cash and cash equivalents	2.1A	1,839	3,590	1,492
Trade and other receivables	2.1B	2,998	4,406	1,788
Total financial assets		4,837	7,996	3,280
Non-financial assets¹				
Property lease	2.2A	4,440	1,551	–
Infrastructure, plant and equipment	2.2A	1,545	1,573	2,980
Intangibles	2.2A	621	696	497
Other non-financial assets	2.2B	172	526	483
Total non-financial assets		6,778	4,346	3,960
Total assets		11,615	12,342	7,240
LIABILITIES				
Payables				
Suppliers	2.3A	1,351	2,656	680
Other payables	2.3B	926	822	1,151
Total payables		2,277	3,478	1,831
Interest bearing liabilities				
Leases	2.4A	4,456	1,615	–
Total interest bearing liabilities		4,456	1,615	–

	Notes	2021 \$'000	2020 \$'000	Original budget \$'000
Provisions				
Employee provisions	4.1A	3,412	2,949	2,303
Total provisions		3,412	2,949	2,303
Total liabilities		10,145	8,042	4,134
Net assets		1,470	4,300	3,106
EQUITY				
Contributed equity		4,873	4,873	4,173
Reserves		506	208	172
Accumulated results		(3,909)	(782)	(1,239)
Total equity		1,470	4,300	3,106

The above statement should be read in conjunction with the accompanying notes.

¹ Right-of-use assets are included in the property lease line item.

Budget variances commentary

Assets

Total assets were higher than budgeted due to increases in the amount of cash held at 30 June and a new lease that was not known at the time of the budget. This cash position is mainly due to a timing difference.

Liabilities

Total liabilities were higher than budgeted due to a higher payables balance at 30 June than anticipated, and also due to the application of a new AASB 16 Lease. Payables are within normal terms and sufficient cash is available to pay them when they fall due in the next reporting period.

Equity

Equity is in line with expectations and the variance is due to the net effect of the variances in assets and liabilities above.

Statement of changes in equity

for the period ended 30 June 2021

	Notes	2021 \$'000	2020 \$'000	Original budget \$'000
CONTRIBUTED EQUITY				
Opening balance				
Balance carried forward from previous period		4,873	2,873	4,173
Contributions by owners				
Equity injection – Appropriations		–	2,000	–
Total transactions with owners		–	2,000	–
Closing balance as at 30 June		4,873	4,873	4,173
RETAINED EARNINGS				
Opening balance				
Balance carried forward from previous period		(782)	(1,400)	(978)
Adjustment on initial application of AASB 16		–	739	–
Adjusted opening balance		(782)	(661)	(978)
Comprehensive income				
Surplus/(Deficit) for the period		(3,128)	(120)	(261)
Closing balance as at 30 June		(3,910)	(782)	(1,239)
ASSET REVALUATION RESERVE				
Opening balance				
Balance carried forward from previous period		208	173	172
Comprehensive income				
Other comprehensive income		298	35	–
Closing balance as at 30 June		506	208	172

	Notes	2021 \$'000	2020 \$'000	Original budget \$'000
TOTAL EQUITY				
Opening balance				
Balance carried forward from previous period		4,299	1,646	3,367
Adjustment for errors		–	–	–
Adjustment for changes in accounting policies		–	739	–
Adjusted opening balance		4,299	2,385	3,367
Comprehensive income				
Surplus/(Deficit) for the period		(3,128)	(120)	(261)
Other comprehensive income		298	35	–
Total comprehensive income		(2,830)	(85)	(261)
Transactions with owners				
Contributions by owners				
Equity injection – Appropriations		–	2,000	–
Total transactions with owners		–	2,000	–
Closing balance as at 30 June		1,470	4,300	3,106

The above statement should be read in conjunction with the accompanying notes.

Accounting policy

Equity injections

Amounts appropriated which are designated as 'equity injections' for a year (less any formal reductions) and Departmental Capital Budgets (DCBs) are recognised directly in contributed equity in that year.

Budget variances commentary

Equity has decreased due to the operating result for the reporting period.

As a non-corporate Commonwealth entity and in accordance with net cash appropriation arrangements the OAIC budgets for a break-even operating result, adjusted for depreciation and amortisation expense. During the reporting period a combination of factors as outlined in the commentary on the Statement of Comprehensive Income resulted in an operating deficit.

Cash flow statement

for the period ended 30 June 2021

	Notes	2021 \$'000	2020 \$'000	Original budget \$'000
OPERATING ACTIVITIES				
Cash received				
Appropriations		24,073	23,747	22,311
Sale of goods and rendering of services		1,949	2,111	2,323
GST received		849	1,000	250
Total cash received		26,871	26,858	24,884
Cash used				
Employees		(16,466)	(14,555)	(14,809)
Suppliers		(7,428)	(5,020)	(6,875)
Interest payments on lease liabilities		(9)	(24)	(2)
GST paid		–	–	(250)
Section 74 receipts transferred to OPA		(2,423)	(3,145)	–
Total cash used		(26,326)	(22,744)	(21,936)
Net cash from/(used by) operating activities		545	4,114	2,948
INVESTING ACTIVITIES				
Cash used				
Purchase of property, plant and equipment		(372)	(1,263)	(1,280)
Purchase of intangibles		(128)	(200)	–
Total cash used		(500)	(1,463)	(1,280)
Net cash from/(used by) investing activities		(500)	(1,463)	(1,280)

	Notes	2021 \$'000	2020 \$'000	Original budget \$'000
FINANCING ACTIVITIES				
Cash received				
Contributed equity		–	1,950	–
Total cash received		–	1,950	–
Cash used				
Principal payments of lease liabilities		(1,796)	(1,612)	(1,566)
Total cash used		(1,796)	(1,612)	(1,566)
Net cash from/(used by) financing activities		(1,796)	338	(1,566)
Net increase/(decrease) in cash held		(1,751)	2,989	102
Cash and cash equivalents at the beginning of the reporting period		3,590	601	1,390
Cash and cash equivalents at the end of the reporting period	2.1A	1,839	3,590	1,492

The above statement should be read in conjunction with the accompanying notes.

Budget variances commentary

The major variances in the cash flow statement includes cash received and used for operating activities and cash used for investing activities.

During the reporting period the OAIC ensured delivery of its program outcomes which impacted cash utilisation on operating and investing activities. There was a decrease in cash used for purchases of property, plant and equipment due to a deferral of those activities compared to budget.

Overview

Objectives of the Office of the Australian Information Commissioner

The Office of the Australian Information Commissioner (OAIC) is an Australian Government controlled entity established under the *Australian Information Commissioner Act 2010*.

The OAIC budgeted for a break-even result, adjusted for depreciation and amortisation of \$901,000. During the reporting period there were a number of factors which were not anticipated that impacted on the result.

Significant factors included COVID-19 pandemic related regulatory work, OAIC's preparations to change corporate service providers and higher than anticipated legal expenditure.

A further impact included 2 leases and the associated impact of AASB 16 lease on depreciation and amortisation expense. One lease concluded and another commenced during the reporting period.

The OAIC is structured to meet the following outcome:

Provision of public access to Commonwealth Government information, protection of individuals' personal information, and performance of Information Commissioner, freedom of information and privacy functions.

The OAIC activities contributing toward this outcome are classified as departmental. Departmental activities involve the use of assets, liabilities, income and expenses controlled or incurred by the OAIC in its own right.

The basis of preparation

The financial statements are general purpose financial statements and are required by s 42 of the *Public Governance, Performance and Accountability Act 2013*.

The financial statements have been prepared in accordance with:

- a) Public Governance, Performance and Accountability (Financial Reporting) Rule 2015 (FRR)
- b) Australian Accounting Standards and Interpretations – Reduced Disclosure Requirements issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial statements have been prepared on an accrual basis and in accordance with the historical cost convention, except for certain assets and liabilities at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position. The financial statements are presented in Australian dollars.

Going concern basis of accounting

The financial statements have been prepared on a going concern basis which assumes that the OAIC will have adequate cash to fund its operations for at least 12 months from the date of signing these financial statements.

The OAIC made an operating loss of \$3.128 million for the year ended 30 June 2021 (2019–20: loss of \$0.12 million). As at 30 June 2021, the OAIC has accumulated losses of \$3.909 million (2019–20: \$0.782 million), net assets of \$1.47 million (2019–20: \$4.3 million) and net current assets of \$1.228 million (2019–20: \$2.723 million). The balance of cash and

equivalents as at 30 June 2021 was \$1.839 million (2019–20: \$3.59 million).

The OAIC has prepared cashflow forecasts which indicate that the OAIC will have adequate cash to fund its operations for at least 12 months from the date of signing these financial statements.

The OAIC has implemented measures to mitigate the likelihood of unforeseen or inflated expenditure for at least 12 months from signing. This includes allocation of contingency funds within the internal budget, managed staff numbers, review of leases and enhanced budget reporting controls. The OAIC is also in discussions with government for additional appropriation funding.

Based on the above, the Accountable Authority and Chief Financial Officer are of the view that the OAIC

will be able to continue as a going concern and will therefore realise its assets and settle its liabilities in the normal course of business at the amounts stated in the financial statements.

New accounting standards

Adoption of new Australian accounting standard requirements

No accounting standard has been adopted earlier than the application date as stated in the standard.

The following new standards were issued prior to the signing of the statement by the accountable authority and chief financial officer, were applicable to the current reporting period and had no material effect on OAIC financial statements:

Standard/ Interpretation	Nature of change in accounting policy, transitional provisions, ¹ and adjustment to financial statements
AASB 1059 Service Concession Arrangements: Grantors	<p>AASB 1059 became effective from 1 July 2020.</p> <p>The new standard addresses the accounting for a service concession arrangement by a grantor that is a public sector entity by prescribing the accounting for the arrangement from a grantor's perspective.</p> <p>Prior to the issuance of AASB 1059, there was no definitive accounting guidance in Australia for service concession arrangements, which include a number of public private partnerships (PPP) arrangements. The AASB issued the new standard to address the lack of specific accounting guidance and based the content thereof broadly on its international equivalent: International Public Sector Accounting Standard 32: Service Concession Arrangements: Grantor.</p>

¹ The details of the changes in accounting policies, transitional provisions and adjustments are disclosed below and in the relevant notes to the financial statements.

AASB 1059 Service Concession Arrangements: Grantors

AASB 1059 Service Concession Arrangements: Grantors had no impact on the OAIC.

Events after the reporting period

There are no known events after the reporting period that could have a material impact on the financial statements.

Taxation

The entity is exempt from all forms of taxation except Fringe Benefits Tax (FBT) and the Goods and Services Tax (GST).

Financial performance

This section analyses the financial performance of the OAIC for the year ended 2021.

1.1 Expenses

	2021 \$'000	2020 \$'000
1.1A: Employee benefits		
Wages and salaries	13,208	11,958
Superannuation		
Defined contribution plans	1,645	1,292
Defined benefit plans	445	436
Leave and other entitlements	1,558	1,293
Separation and redundancies	–	306
Other employee expenses	126	49
Total employee benefits	16,982	15,334

Accounting policy

Accounting policies for employee related expenses are contained in the People and relationships section.

	2021 \$'000	2020 \$'000
1.1B: Suppliers		
Goods and services supplied or rendered		
Insurance	–	22
Office consumables	51	64
Official travel	69	203
Printing and publications	4	51
Property outgoing	561	415
Professional services and fees	5,156	3,425
Reference materials, subscriptions and licenses	236	252
Staff training	213	190
Telecommunications	49	56
Other	230	269
Total goods and services supplied or rendered	6,570	4,948
Goods supplied	55	367
Services rendered	6,515	4,581
Total goods and services supplied or rendered	6,570	4,948
Other suppliers		
Workers compensation expenses	59	35
Short-term leases	15	667
Low value leases	155	113
Total other suppliers	229	815
Total suppliers	6,799	5,763

The OAIC has short-term lease commitments of \$1.210 million as at 30 June 2021 for 2 leases: Level 2, 175 Pitt St, Sydney NSW 2000 for the period of 1 July 2021 to 30 June 2022 and Ground Floor, 4 National Circuit, Barton ACT 2600 which is on a monthly basis.

Accounting policy

Short-term leases and leases of low-value assets

The OAIC has elected not to recognise right-of-use assets and lease liabilities for short-term leases of assets that have a lease term of 12 months or less and leases of low-value assets (less than \$10,000). The entity recognises payments associated with these leases as an expense on a straight-line basis over the lease term.

	2021 \$'000	2020 \$'000
1.1C: Finance costs		
Interest on property lease liabilities	9	24
Total finance costs	9	24

The above lease disclosures should be read in conjunction with the accompanying notes 1.1B, 1.1H, 1.2E, 1.2I, 3.2 and 3.4B.

Accounting policy

All borrowing costs are expensed as incurred.

1.2 Own-source revenue and gains

	2021 \$'000	2020 \$'000
Own-source revenue		
1.2A: Revenue from contracts with customers		
Rendering of services	2,323	2,257
Total revenue from contracts with customers	2,323	2,257
Disaggregation of revenue from contracts with customers		
Major product/service line:		
Regulatory services	2,323	2,257
	2,323	2,257
Type of customer:		
Australian Government entities (related parties)	2,139	2,079
State and territory governments	184	178
	2,323	2,257
Timing of transfer of goods and services:		
Over time	2,323	2,257
	2,323	2,257

Accounting policy

Revenue from rendering of services is recognised by reference to the stage of completion of contracts at the reporting date.

The stage of completion of contracts at the reporting date is determined by reference to the proportion that costs incurred to date bear to the estimated total costs of the transaction. Receivables for goods and services, which have 30-day terms, are recognised at the nominal amounts due less any impairment allowance account. Collectability of debts is reviewed at end of the reporting period. Allowances are made when collectability of the debt is no longer probable.

	2021 \$'000	2020 \$'000
1.2B: Other revenue		
Resources received free of charge		
Remuneration of auditors	36	36
Total other revenue	36	36

Accounting policy*Resources received free of charge*

Resources received free of charge are recognised as revenue when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense. Resources received free of charge are recorded as either revenue or gains depending on their nature.

	2021 \$'000	2020 \$'000
Gains		
1.2C: Other gains		
Sale of assets	4	1
Total other gains	4	1

Accounting policy

Sale of assets

Gains from disposal of assets are recognised when control of the asset has passed to the buyer.

	2021 \$'000	2020 \$'000
1.2D: Revenue from government		
Appropriations		
Departmental appropriations	20,948	20,941
Total revenue from government	20,948	20,941

Accounting policy

Revenue from government

Amounts appropriated for departmental appropriations for the year (adjusted for any formal additions and reductions) are recognised as revenue from government when the entity gains control of the appropriation, except for certain amounts that relate to activities that are reciprocal in nature, in which case revenue is recognised only when it has been earned. Appropriations receivable are recognised at their nominal amounts.

Financial position

This section analyses the OAIC assets used to conduct its operations and the operating liabilities incurred as a result.

Employee related information is disclosed in the People and relationships section.

2.1 Financial assets

	2021 \$'000	2020 \$'000
2.1A: Cash and cash equivalents		
Cash on hand and at bank	1,839	3,590
Total cash and cash equivalents	1,839	3,590

Accounting policy

Cash is recognised at its nominal amount. Cash and cash equivalents includes cash on hand.

	2021 \$'000	2020 \$'000
2.1B: Trade and other receivables		
Goods and services receivables		
Goods and services	62	163
Total goods and services receivables	62	163
Appropriation receivables		
Appropriation receivable	2,795	4,126
Total appropriation receivables	2,795	4,126
Other receivables		
GST receivable from the Australian Taxation Office	141	117
Total other receivables	141	117
Total trade and other receivables (gross)	2,998	4,406
Less impairment loss allowance	–	–
Total trade and other receivables (net)	2,998	4,406
Trade and other receivables (net) expected to be recovered		
More than 12 months	2,998	4,406
Total trade and other receivables (net)	2,998	4,406

Accounting policy

Receivables

Receivables are measured at amortised cost using the effective interest method less impairment.

2.2 Non-financial assets

2.2A: Reconciliation of the opening and closing balances of property lease, infrastructure, plant and equipment and intangibles

Reconciliation of the opening and closing balances of property lease, infrastructure, plant and equipment and intangibles for 2021

	Property lease \$'000	Lease improvements \$'000	Lease improvements work in progress \$'000	Computer, plant and equipment \$'000	Computer, plant and equipment work in progress \$'000	Intangibles work in progress \$'000	Total \$'000
As at 1 July 2020							
Gross book value	3,227	1,498	42	33	-	158	7,988
Accumulated depreciation, amortisation and impairment	(1,676)	-	-	-	-	-	(4,168)
Total as at 1 July 2020	1,551	1,498	42	33	-	158	3,820
Adjusted total as at 1 July 2020	1,551	1,498	42	33	-	158	3,820
Additions							
Purchase	-	-	341	-	31	128	500
Work in progress transfer	-	383	(383)	-	-	(230)	-
Right-of-use assets	4,672	-	-	-	-	-	4,672
Revaluations and impairments recognised in other comprehensive income	-	285	-	13	-	-	298
Depreciation and amortisation	-	(676)	-	(22)	-	-	(901)
Depreciation on right-of-use assets	(1,748)	-	-	-	-	-	(1,748)

	Property lease \$'000	Lease improvements \$'000	Lease improvements work in progress \$'000	Computer, plant and equipment \$'000	Computer, plant and equipment work in progress \$'000	Intangibles \$'000	Intangibles work in progress \$'000	Total \$'000
Other movements of right-of-use assets	(35)	-	-	-	-	-	-	(35)
Total as at 30 June 2021	4,440	1,490	-	24	31	565	56	6,605
Total as at 30 June 2021 represented by								
Gross book value	7,864	1,490	-	24	31	3,260	56	12,725
Accumulated depreciation, amortisation and impairment	(3,424)	-	-	-	-	(2,695)	-	(6,119)
Total as at 30 June 2021	4,440	1,490	-	24	31	565	56	6,605
Carrying amount of right-of-use assets	4,440	-	-	-	-	-	-	4,440
No indicators of impairment were found for infrastructure, plant and equipment and intangibles.								
No infrastructure, plant and equipment and intangibles are expected to be sold or disposed of within the next 12 months.								
Revaluations of non-financial assets								
All revaluations were conducted in accordance with the revaluation policy stated at Note 2.2. On 30 June 2021, an independent valuer conducted the revaluations.								

Reconciliation of the opening and closing balances of infrastructure, plant and equipment and intangibles for 2020

	Property lease \$'000	Lease improvements \$'000	Lease improvements work in progress \$'000	Computer, plant and equipment \$'000	Intangibles \$'000	Intangibles work in progress \$'000	Total
As at 1 July 2019							
Gross book value	-	953	-	23	2,987	-	3,963
Accumulated depreciation, amortisation and impairment	-	(318)	-	(15)	(2,303)	-	(2,636)
Total as at 1 July 2019	-	635	-	8	684	-	1,327
Recognition of right-of-use asset on initial application of AASB 16	3,227	-	-	-	-	-	3,227
Adjusted total as at 1 July 2019	3,227	635	-	8	684	-	4,554
Additions		1,189	42	33	43	158	1,465
Revaluations and impairments recognised in other comprehensive income	-	31	-	4	-	-	35
Depreciation and amortisation		(357)	-	(12)	(189)	-	(558)
Depreciation on right-of-use assets	(1,676)	-	-	-	-	-	(1,676)
Total as at 30 June 2020	1,551	1,498	42	33	538	158	3,820
Total as at 30 June 2020 represented by							
Gross book value	3,227	1,498	42	33	3,030	158	7,988
Accumulated depreciation, amortisation and impairment	(1,676)	-	-	-	(2,492)	-	(4,168)
Total as at 30 June 2020 represented by	1,551	1,498	42	33	538	158	3,820
Carrying amount of right-of-use assets	1,551	-	-	-	-	-	1,551

Accounting policy

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. Financial assets are initially measured at their fair value plus transaction costs where appropriate.

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and income at their fair value at the date of acquisition, unless acquired as a consequence of restructuring of administrative arrangements. In the latter case, assets are initially recognised as contributions by owners at the amounts at which they were recognised in the transferor's accounts immediately prior to the restructuring.

Asset recognition threshold

Purchases of property, plant and equipment are recognised initially at cost in the statement of financial position, except for purchases costing less than \$5,000, which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it is located. This is particularly relevant to 'make good' provisions in property leases taken up by the entity where there exists an obligation to restore the property to its original condition. These costs are included in the value of the OAIC's leasehold improvements with a corresponding provision for the 'make good' recognised.

Lease Right-of-Use (ROU) assets

Leased ROU assets are capitalised at the commencement date of the lease and comprise of the initial lease liability amount, initial direct costs incurred when entering into the lease less any lease incentives received. These assets are accounted for by Commonwealth lessees as separate asset classes to corresponding assets owned outright, but included in the same column as where the corresponding underlying assets would be presented if they were owned.

On initial adoption of AASB 16 the OAIC has adjusted the ROU assets at the date of initial application by the amount of any provision for onerous leases recognised immediately before the date of initial application. Following initial application, an impairment review is undertaken for any right-of-use lease asset that shows indicators of impairment and an impairment loss is recognised against any right-of-use lease asset that is impaired. Lease ROU assets continue to be measured at cost after initial recognition in Commonwealth agency, GGS and Whole of Government financial statements.

Revaluations

Following initial recognition at cost, property, plant and equipment (**excluding ROU assets**) are carried at fair value (or an amount not materially different from fair value) less subsequent accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets did not differ materially from the assets' fair values as at the reporting date. The regularity of independent valuations depended upon the volatility of movements in market values for the relevant assets.

Revaluation adjustments are made on a class basis. Any revaluation increment is credited to equity under the heading of asset revaluation reserve except to the extent that it reversed a previous revaluation decrement of the same asset class that was previously recognised in the surplus/deficit.

Revaluation decrements for a class of assets are recognised directly in the surplus/deficit except to the extent that they reversed a previous revaluation increment for that class.

Any accumulated depreciation as at the revaluation date is eliminated against the gross carrying amount of the asset and the asset restated to the revalued amount.

Depreciation

Depreciable property, plant and equipment assets are written-off to their estimated residual values over their estimated useful lives to the entity using, in all cases, the straight-line method of depreciation.

Depreciation rates (useful lives), residual values and methods are reviewed at each reporting date and necessary adjustments are recognised in the current, or current and future reporting periods, as appropriate.

Depreciation rates applying to each class of depreciable asset are based on the following useful lives:

	2021	2020
Leasehold improvements	lease term	lease term
Computer, plant and equipment	4 to 10 years	4 to 10 years

The depreciation rates for ROU assets are based on the commencement date to the earlier of the end of the useful life of the ROU asset or the end of the lease term.

Impairment

All assets were assessed for impairment at 30 June 2021. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

The recoverable amount of an asset is the higher of its fair value less costs of disposal and its value in use. Value in use is the present value of the future cash flows expected to be derived from the asset. Where the future economic benefit of an asset is not primarily dependent on the asset's ability to generate future cash flows, and the asset would be replaced if the entity were deprived of the asset, its value in use is taken to be its depreciated replacement cost.

Derecognition

An item of property, plant and equipment is derecognised upon disposal or when no further future economic benefits are expected from its use or disposal.

Intangibles

The entity's intangibles comprise internally developed software for internal use. These assets are carried at cost less accumulated amortisation and accumulated impairment losses.

Software is amortised on a straight-line basis over its anticipated useful life. The useful lives of the OAIC's software are 2 to 5 years (2020: 2 to 5 years).

All software assets were assessed for indications of impairment as at 30 June 2021.

Accounting judgements and estimates

The fair value of infrastructure, plant and equipment has been taken to be the market value of similar assets as determined by an independent valuer.

	2021 \$'000	2020 \$'000
2.2B: Other non-financial assets		
Prepayments	172	526
Total other non-financial assets	172	526
Other non-financial assets expected to be recovered		
No more than 12 months	172	526
Total other non-financial assets	172	526

No indicators of impairment were found for other non-financial assets.

2.3 Payables

	2021 \$'000	2020 \$'000
2.3A: Suppliers		
Trade creditors and accruals	1,351	2,656
Total suppliers	1,351	2,656
Suppliers expected to be settled		
No more than 12 months	1,351	2,656
Total suppliers	1,351	2,656
2.3B: Other payables		
Salaries and wages	254	170
Superannuation	45	30
Other employee expenses	3	6
GST payable to the Australian Taxation Office	7	–
Revenue received in advance	616	616
Total other payables	926	822
Other payables to be settled		
More than 12 months	926	822
Total other payables	926	822

2.4 Interest bearing liabilities

	2021 \$'000	2020 \$'000
2.4A: Leases		
Lease liabilities	4,456	1,615
Total leases	4,456	1,615

Total cash outflow for leases for the year ended 30 June 2021 was \$1.805m (2020: \$1.636m).

Maturity analysis - contractual undiscounted cash flows		
Within 1 year	882	1,586
Between 1 to 5 years	3,632	–
More than 5 years	–	–
Total leases	4,514	1,586

Accounting policy

Leases

For all new contracts entered into, the Office of the Australian Information Commissioner considers whether the contract is, or contains a lease. A lease is defined as 'a contract, or part of a contract, that conveys the right to use an asset (the underlying asset) for a period of time in exchange for consideration'.

Once it has been determined that a contract is, or contains a lease, the lease liability is initially measured at the present value of the lease payments unpaid at the commencement date, discounted using the interest rate implicit in the lease, if that rate is readily determinable, or the department's incremental borrowing rate.

Subsequent to initial measurement, the liability will be reduced for payments made and increased for interest. It is remeasured to reflect any reassessment or modification to the lease. When the lease liability is remeasured, the corresponding adjustment is reflected in the right-of-use asset or profit and loss depending on the nature of the reassessment or modification.

Funding

This section identifies the OAIC funding structure.

3.1 Appropriations

3.1A: Annual appropriations ('recoverable GST exclusive')

Annual appropriations for 2021

	Annual appropriation \$'000	Adjustments to appropriation ¹ \$'000	Total appropriation \$'000	Appropriation applied in 2021 (current and prior years) \$'000	Variance ² \$'000
Departmental					
Ordinary annual services	20,948	2,423	23,371	(23,565)	(194)
Total departmental	20,948	2,423	23,371	(23,565)	(194)

¹ Adjustments including for PGPA Act, s 74 receipts.

² Variance represents the application of current and previous years appropriation and own-source revenue.

Annual appropriations for 2020

	Annual appropriation ¹ \$'000	Adjustments to appropriation ² \$'000	Total appropriation \$'000	Appropriation applied in 2020 \$'000	Variance \$'000
Departmental					
Ordinary annual services	21,270	3,589	24,859	(20,037)	4,822
Other services					
Equity injections	2,000	–	2,000	(1,250)	750
Total departmental	23,270	3,589	26,859	(21,287)	5,572

¹ Adjustments including for PGPA Act s 74 receipts.

² Variance represents the application of current and previous years appropriation and own-source revenue.

3.1B: Unspent annual appropriations ('recoverable GST exclusive')

	2021 \$'000	2020 \$'000
Departmental		
Appropriation Act (No. 1) 2020–2021	3,415	–
Supply Act (No. 1) 2020–2021	1,097	–
Appropriation Act (No. 1) 2019–2020	–	5,074
Supply Act (No. 1) 2019–2020	–	601
Appropriation Act (No. 2) 2019–2020	122	750
Total departmental	4,634	6,425

3.2 Net cash appropriation arrangements

	2021 \$'000	2020 \$'000
Total comprehensive income/(loss) – as per the statement of comprehensive income	(2,830)	472
<i>Plus:</i> depreciation/amortisation of assets funded through appropriations (departmental capital budget funding and/or equity injections)	901	(558)
<i>Plus:</i> depreciation of right-of-use assets	1,748	(1,676)
<i>Less:</i> lease principal repayments	(1,796)	1,612
Net cash operating surplus/(Deficit)	(1,977)	(150)

People and relationships

This section describes a range of employment and post-employment benefits provided to our people and our relationships with other key people.

4.1 Employee provisions

	2021 \$'000	2020 \$'000
4.1A: Employee provisions		
Leave	3,412	2,949
Total employee provisions	3,412	2,949
Employee provisions expected to be settled		
No more than 12 months	1,505	2,257
More than 12 months	1,907	692
Total employee provisions	3,412	2,949

Accounting policy

Liabilities for short-term employee benefits and termination benefits expected within 12 months of the end of reporting period are measured at their nominal amounts.

Leave

The liability for employee benefits includes provision for annual leave and long service leave.

The leave liabilities are calculated on the basis of employees' remuneration at the estimated salary rates that will be applied at the time the leave is taken, including the OAIC's employer superannuation contribution rates to the extent that the leave is likely to be taken during service rather than paid out on termination.

The liability for long service leave has been determined by reference to the work of an actuary performed for the Department of Finance (DoF) and summarised in the Standard Parameters for use in 2020–21 Financial Statements published on the DoF website. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

Separation and redundancy

Provision is made for separation and redundancy benefit payments. The entity recognises a provision for termination when it has developed a detailed formal plan for the terminations and has informed those employees affected that it will carry out the terminations.

Superannuation

The OAIC's staff are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS), or the PSS accumulation plan (PSSap), or other superannuation funds held outside the Australian Government.

The CSS and PSS are defined benefit schemes for the Australian Government. The PSSap is a defined contribution scheme.

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported in DoF's schedules and notes.

The OAIC makes employer contributions to the employees' defined benefit superannuation scheme at rates determined by an actuary to be sufficient to meet the current cost to the Government. The OAIC accounts for the contributions as if they were contributions to defined contribution plans.

The liability for superannuation recognised as at 30 June represents outstanding contributions for the final fortnight of the financial year.

Accounting judgements and estimates

The long service leave has been estimated in accordance with the FRR taking into account expected salary growth, attrition and future discounting using the government bond rate.

4.2 Key management personnel remuneration

Key management personnel are those persons having authority and responsibility for planning, directing and controlling the activities of the OAIC. The OAIC has determined the key management personnel to be the Information Commissioner and Deputy Commissioner.

	2021 \$'000	2020 \$'000
Short-term employee benefits	717	724
Post-employment benefits	86	84
Other long-term employee benefits	17	22
Termination benefits	–	–
Total key management personnel remuneration expenses¹	820	830

The total number of key management personnel that are included in the above table is 2 (2020: 2).

¹ The above key management personnel remuneration excludes the remuneration and other benefits of the Portfolio Minister. The Portfolio Minister's remuneration and other benefits are set by the Remuneration Tribunal and are not paid by the entity.

4.3 Related party disclosures

Related party relationships

The OAIC is an Australian Government controlled entity. Related parties to this entity are key management personnel including the Portfolio Minister and Executive, and other Australian Government entities.

Transactions with related parties

Given the breadth of government activities, related parties may transact with the government sector in the same capacity as ordinary citizens. Such transactions include the payment or refund of taxes, receipt of a Medicare rebate or higher education loans. These transactions have not been separately disclosed in this note.

Significant transactions with related parties can include:

- the payments of grants or loans
- purchases of goods and services
- asset purchases, sales transfers or leases
- debts forgiven
- guarantees.

Giving consideration to relationships with related entities, and transactions entered into during the reporting period by the entity, it has been determined that there are no related party transactions to be separately disclosed.

Managing uncertainties

This section analyses how the OAIC manages financial risks within our operating environment.

5.1 Contingent assets and liabilities

Quantifiable contingencies

At the time signing these financial statements, the OAIC had no quantifiable contingent liabilities.

Unquantifiable contingencies

As at 30 June 2021 the Australian Information Commissioner (the Commissioner) is a respondent to 5 proceedings in the Federal Court of Australia (FCA) and a respondent to 1 matter in the Federal Circuit Court (FCC).

Five (5) of the proceedings before the federal courts in which the Commissioner is a respondent party

concern reviews under the *Administrative Decisions (Judicial Review) Act 1977* (ADJR) of Commissioner decisions made under the *Privacy Act 1988*. In the sixth proceeding the Commissioner is a respondent party to an application for leave to appeal against the FCA's interlocutory decision in civil penalty proceedings commenced by the Commissioner.

Although the federal courts may award costs, the Commissioner's exposure to a costs order is highly unlikely in those matters where she appears as a respondent party, based on current legal advice. It is not possible to estimate the amounts of payment(s) that may be required in relation to the matters where a costs order may materialise at the conclusion of the proceeding.

The Commissioner is also a respondent to 2 proceedings in the Administrative Appeals Tribunal (AAT). However, as the AAT is a 'no costs' jurisdiction consideration of contingent liabilities is not necessary in these matters.

Accounting policy

Contingent liabilities and contingent assets are not recognised in the statement of financial position but are reported in the notes. They may arise from uncertainty as to the existence of a liability or asset or represent an asset or liability in respect of which the amount cannot be reliably measured. Contingent assets are disclosed when settlement is probable but not virtually certain and contingent liabilities are disclosed when settlement is greater than remote.

5.2 Financial instruments

	2021 \$'000	2020 \$'000
5.2A: Categories of financial instruments		
Financial assets at amortised cost		
Cash on hand and at bank	1,839	3,590
Trade and other receivables	62	163
Total financial assets at amortised cost	1,901	3,753
Total financial assets	1,901	3,753
Financial liabilities		
Financial liabilities measured at amortised cost		
Trade creditors and accruals	1,351	2,656
Total financial liabilities measured at amortised cost	1,351	2,656
Total financial liabilities	1,351	2,656

Accounting policy

Financial assets

In accordance with AASB 9 *Financial Instruments*, the entity classifies its financial assets in the following categories:

- a) financial assets at fair value through profit or loss;
- b) financial assets at fair value through other comprehensive income; and
- c) financial assets measured at amortised cost.

The classification depends on both the entity's business model for managing the financial assets and contractual cash flow characteristics at the time of initial recognition. Financial assets are recognised when the entity becomes a party to the contract and, as a consequence, has a legal right to receive or a legal obligation to pay cash and derecognised when the contractual rights to the cash flows from the financial asset expire or are transferred upon trade date. Comparatives have not been restated on initial application.

Financial assets at amortised cost

Financial assets included in this category need to meet two criteria:

- 1. the financial asset is held in order to collect the contractual cash flows; and
- 2. the cash flows are solely payments of principal and interest (SPPI) on the principal outstanding amount.

Amortised cost is determined using the effective interest method.

Effective interest method

Income is recognised on an effective interest rate basis for financial assets that are recognised at amortised cost.

Impairment of financial assets

Financial assets are assessed for impairment at the end of each reporting period based on expected credit losses, using the general approach which measures the loss allowance based on an amount equal to *lifetime expected credit losses* where risk has significantly increased, or an amount equal to *12-month expected credit losses* if risk has not increased.

The simplified approach for trade, contract and lease receivables is used. This approach always measures the loss allowance as the amount equal to the lifetime expected credit losses.

A write-off constitutes a derecognition event where the write-off directly reduces the gross carrying amount of the financial asset.

Financial liabilities

Financial liabilities are classified as either financial liabilities 'at fair value through profit or loss' or other financial liabilities. Financial liabilities are recognised and derecognised upon 'trade date'.

Financial liabilities at amortised cost

Financial liabilities, including borrowings, are initially measured at fair value, net of transaction costs. These liabilities are subsequently measured at amortised cost using the effective interest method, with interest expense recognised on an effective interest basis.

Supplier and other payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

5.3 Fair value measurement

The following tables provide an analysis of assets and liabilities that are measured at fair value. The remaining assets and liabilities disclosed in the statement of financial position do not apply the fair value hierarchy.

The different levels of the fair value hierarchy are defined below.

Level 1: Quoted prices (unadjusted) in active markets for identical assets or liabilities that the entity can access at measurement date.

Level 2: Inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly.

Level 3: Unobservable inputs for the asset or liability.

Accounting policy

The OAIC considers the fair value hierarchy levels at the end of the reporting period. There were no transfers in or out of any levels during the reporting period.

5.3A: Fair value measurement

Fair value measurements at the end of the reporting period				
	2021 \$'000	2020 \$'000	Category (Level 1, 2 or 3)	Valuation technique(s) and inputs used
Non-financial assets¹				
Infrastructure, plant and equipment	1,545	1,573	2	Market approach. Market replacement cost less estimate of written down value of asset used.

¹ There were no non-financial assets where the highest and best use differed from its current use during the reporting period.

Other information

6.1 Current/non-current distinction for assets and liabilities

6.1A: Current/non-current distinction for assets and liabilities

	2021 \$'000	2020 \$'000
Assets expected to be recovered in:		
No more than 12 months		
Cash and cash equivalents	1,839	3,590
Good and services	62	163
Appropriation receivables	2,795	4,126
GST Receivables	141	117
Prepayments	172	526
Property Lease	–	1,551
Total no more than 12 months	5,009	10,073
More than 12 months		
Property Lease	4,440	–
Infrastructure, Plant and Equipment	1,545	1,573
Intangibles	621	696
Total more than 12 months	6,605	2,269
Total assets	11,615	12,342
Liabilities expected to be settled in:		
No more than 12 months		
Suppliers	1,351	2,656
Salaries and wages	254	170
Superannuation	45	30
Other employee expenses	3	6
GST Payable to the Australian Taxation Office	7	–
Revenue received in advance	616	616
Leases	–	1,615
Employee provisions	1,505	2,257
Total no more than 12 months	3,782	7,350
More than 12 months		
Leases	4,456	–
Employee provisions	1,907	692
Total more than 12 months	6,363	692
Total liabilities	10,145	8,042



Part 5

Appendices

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Appendix A

Agency resource statement and resources for outcomes

Table A.1: OAIC resource statement 2020–21

		Actual available appropriation for 2020–21 \$'000 (a)	Payments made 2020–21 \$'000 (b)	Balance remaining for 2020–21 \$'000 (a) – (b)
Ordinary annual services*				
Departmental appropriation		28,946	24,434	4,512
Total		28,946	24,434	4,512
Administered expenses				
Total ordinary annual services	A	28,946	24,434	
Other services				
Administered expenses		–	–	
Departmental non-operating		–	–	
Equity injections†		750	628	122
Administered non-operating		–	–	
Total other services	B	750	628	122
Total available annual appropriations and payments		29,696	25,062	4,634
Special appropriations				
Total special appropriations	C			
Special accounts				
Total special accounts	D			
Total resourcing and payments A + B + C + D		29,696	25,062	
Less appropriations drawn from annual or special appropriations above and credited to special accounts		–	–	
And/or payments to corporate entities through annual appropriations		–	–	
Total net resourcing and payments for the OAIC		29,696	25,062	

Note

All figures are GST exclusive.

* Appropriation Act (No. 1) 2020–2021 and Supply Act (No. 1) 2020–2021. Includes Public Governance, Performance and Accountability Act 2013 (PGPA Act) and s 74 retained revenue receipts.

† Appropriation Act (No. 2) 2020–2021.

Table A.2: Expenses for Outcome 1

	Budget 2020-21 \$'000 (a)	Actual expenses 2020-21 \$'000 (b)	Variation 2020-21 \$'000 (a) - (b)
Outcome 1			
Provision of public access to Commonwealth Government information, protection of individuals' personal information, and performance of Information Commissioner, freedom of information and privacy functions			
Program 1.1			
Complaint handling, compliance and monitoring, and education and promotion			
Administered expenses	-	-	-
Departmental expenses			
Departmental appropriation*	24,121	23,790	331
Special appropriations	-	-	-
Special accounts	-	-	-
Expenses not requiring appropriation in the Budget year	315	901	(586)
Total for program 1.1	24,436	24,691	(255)
Outcome 1 totals by appropriation type			
Administered expenses	-	-	-
Departmental expenses			
Departmental appropriation*	24,121	23,790	331
Special appropriations	-	-	-
Special accounts	-	-	-
Expenses not requiring appropriation in the Budget year	315	901	(586)
Total expenses for outcome 1	24,436	24,691	(255)
	2020-21	2020-21	
Average staffing level (number)	120	120	-

* Departmental appropriation combines ordinary annual services (*Appropriation Act (No. 1) 2020-2021* and *Supply Act (No. 1) 2020-2021*) and PGPA Act, s 74 retained revenue receipts.

Appendix B

Executive remuneration

Key management personnel

The OAIC has determined that our key management personnel (KMP) are the Australian Information Commissioner and the Deputy Commissioner. Angelene Falk held the position of Australian Information Commissioner for the duration of the reporting period. Elizabeth Hampton held the position of Deputy Commissioner for the duration of the reporting period.

Details of KMP remuneration are in Note 4.2 of the financial statements. Disaggregated information is shown in Table B.1 and is prepared in accordance with the Public Governance, Performance and Accountability Rule 2014 (PGPA Rule) and Commonwealth Entities Executive Remuneration Reporting Guide for Annual Reports, Resource Management Guide No. 138 (RMG 138).

Senior Executive Service

The OAIC has 3 permanent and 1 temporary substantive SES positions including the Deputy Commissioner; the Assistant Commissioner, Dispute Resolution; the Assistant Commissioner, Regulation and Strategy; and the Assistant Commissioner, Corporate.

Remuneration policies and practices

In accordance with s 17 of the *Australian Information Commissioner Act 2010*, the Australian Information Commissioner’s remuneration is set by the Remuneration Tribunal. The Remuneration Tribunal also determine increases to remuneration or allowances.

The OAIC’s SES remuneration is determined by the Australian Information Commissioner under s 24(1) of the *Public Service Act 1999*. When determining SES remuneration, the Australian Information Commissioner has regard to the Australian Public Service Commission’s Australian Public Service Remuneration Report and comparable agencies.

SES determinations set out the salary on commencement and provide for increments in salary, in line with any percentage up to 5% set by the Remuneration Tribunal for the Australian Information Commissioner.

To be eligible for an increase in salary an SES officer must obtain an annual performance rating of effective or above. The OAIC’s performance management framework, Talking about performance, enables SES officers’ performance agreements. Agreement objectives are directly linked to the SES officer’s business line responsibilities of the *OAIC Corporate Plan*.

The Australian Information Commissioner sets and reviews the Deputy Commissioner’s performance agreement. The Deputy Commissioner sets and reviews Assistant Commissioners’ performance agreements.

Remuneration governance arrangements

As a small agency, the Australian Information Commissioner is responsible for setting and monitoring remuneration for the OAIC’s SES officers.

Table B.1: KMP remuneration

Name	Position title	Short-term benefits			Post-employment benefits	Other long-term benefits		Termination benefits	Total remuneration
		Base salary	Bonuses	Other benefits and allowances		Long service leave	Other long-term benefits		
Angelene Falk	Australian Information Commissioner	\$434,439	–	–	\$35,167	\$10,781	–	–	\$480,387
Elizabeth Hampton	Deputy Commissioner	\$282,158	–	–	\$50,605	\$6,656	–	–	\$339,418
Total		\$716,597	–	–	\$85,772	\$17,436	–	–	\$819,805

Table B.2: Average SES remuneration

Remuneration band	Number of senior executives	Short-term benefits			Post-employment benefits	Other long-term benefits		Termination benefits	Total remuneration
		Average base salary	Average bonuses	Average other benefits and allowances		Average long service leave	Average other long-term benefits		
\$0–\$220,000	3	\$87,501	–	–	\$13,769	\$1,101	–	–	\$102,371
\$220,001–\$245,000	1	\$193,034	–	–	\$29,260	\$4,684	–	–	\$226,978
\$245,001–\$270,000	1	\$219,877	–	–	\$38,375	\$5,291	–	–	\$263,543

Appendix C

Memorandums of understanding

Australian Capital Territory Government

Under our Memorandum of Understanding (MOU) with the Australian Capital Territory (ACT) Government we continue to provide privacy services to ACT public sector agencies in relation to the *Information Privacy Act 2014* (ACT). These services include:

- responding to privacy complaints and enquiries about ACT public sector agencies
- providing policy and legislation advice and guidance
- providing advice on data breach notifications, where applicable
- carrying out privacy assessments.

For these services, the OAIC received \$177,500 (GST exclusive) from the ACT Government in 2020–21.

For further information on our activities under this MOU, see the *Memorandum of Understanding with the Australian Capital Territory for the provision of privacy services: Annual Report 2020–21* on the OAIC website.

Australian Digital Health Agency

Under our MOU with the Australian Digital Health Agency, the OAIC continued to provide support and assistance on privacy matters relating to both the My Health Record system and the Healthcare Identifiers (HI) Service. These services included:

- responding to enquiries and complaints relating to the privacy aspects of the My Health Record system and HI Service
- investigating acts and practices that may have been a misuse of Healthcare Identifiers or a contravention of the My Health Record system, if required
- receiving data breach notifications and providing advice
- investigating failures to notify My Health Record system data breaches
- conducting privacy assessments
- developing guidance material for individuals and participants in the My Health Record system and HI Service
- liaising and coordinating on privacy-related matters and activities with key stakeholders
- preparing relevant communication materials
- providing policy and legislation advice relating to the privacy aspects of the My Health Record system and the HI Service
- monitoring and participating in digital health developments.

During this reporting period, the OAIC received \$2,070,000 (GST exclusive).

For further information on our activities under this MOU, see the *Annual report of the Australian Information Commissioner’s activities in relation to digital health 2020–21* on the OAIC website.

Australian Human Rights Commission

The OAIC continued the MOU with the Australian Human Rights Commission (AHRC) for the provision of corporate services.

Under this MOU, the AHRC provides a number of corporate services to the OAIC, including financial, information technology and human resource related tasks. We also sublet premises in Sydney from the AHRC.

We paid \$1,846,066 (GST exclusive) for corporate services and \$1,200,940 (GST exclusive) for premises (including outgoings) to the AHRC.

Department of Home Affairs – NFBMC

In November 2017, the Attorney-General’s Department and the OAIC signed an MOU for the provision of privacy assessments in relation to the National Facial Biometric Matching Capability (NFBMC).

On 20 December 2017, the Department of Home Affairs assumed responsibility for the NFBMC as part of Machinery of Government changes and subsequently assumed responsibility for the roles and responsibilities under the MOU.

In February 2018, the Identity-matching Services Bill 2018 was introduced into Parliament but was not passed, so our privacy assessments have been deferred to later financial years. In May 2019 and June 2020, we signed variations to the MOU to defer commencing privacy assessments and associated payments to later years. In June 2021, the OAIC and Home Affairs agreed to terminate the MOU. The Department and the OAIC intend to negotiate a new MOU ahead of the passage of the Identity-matching Services Bill.

Department of Home Affairs – passenger name record data assessment

Under a Letter of Exchange with the Department of Home Affairs, the OAIC will provide a passenger name record (PNR) data-related assessment in 2020–21 and 2021–22, examining whether personal information is being maintained and handled in accordance with the Australian Privacy Principles.

In September 2019, the OAIC and the Department of Home Affairs deferred this privacy assessment to the 2020–21 financial year. Assessment fieldwork was undertaken in November 2020 over 3 days in Sydney. The assessment report was finalised on 30 June 2021. A summary of this assessment is on page 60.

During this reporting period, the Office of the Australian Information Commissioner received \$75,000 (GST inclusive).

Note

The agreement between Australia and the European Union (EU) on the processing and transfer of PNR data states that ‘The Australian Customs and Border Protection Service has arrangements in place under the Privacy Act for the Information Commissioner to undertake regular formal audits of all aspects of Australian Customs and Border Protection Service’s EU-sourced PNR data use, handling and access policies and procedures’.

Appendix D

Privacy statistics

Privacy complaints

Table D.1: Australian Privacy Principles issues in privacy complaints in 2020–21

APP issue*	Number of complaints	% of total
Use or disclosure of personal information (APP 6)	724	29.3
Security of personal information (APP 11)	698	28.2
Access to personal information (APP 12)	444	17.9
Collection of solicited personal information (APP 3)	316	12.8
Quality of personal information (APP 10)	253	10.2
Direct marketing (APP 7)	96	3.9
Notification of the collection of personal information (APP 5)	94	3.8
Correction of personal information (APP 13)	48	1.9
Open and transparent management of personal information (APP 1)	10	0.4
Anonymity and pseudonymity (APP 2)	5	0.2
Dealing with unsolicited personal information (APP 4)	5	0.2
Cross-border disclosure of personal information (APP 8)	3	0.1
Adoption, use or disclosure of government related identifiers (APP 9)	2	0.1
Total	2,698	

Note

A complaint may cover more than one issue.

Table D.2: Main remedies agreed in conciliated privacy complaints in 2020–21

Remedy*	Jurisdiction					Total
	Privacy Principles [†]	Credit reporting	Spent convictions & TFN	My Health Record	NDB scheme	
Compensation	68	2	1	–	–	71
Record amended	112	24	4	1	–	141
Apology	113	2	4	–	–	119
Access provided	103	3	–	–	–	106
Other & confidential	83	1	6	–	–	90
Changed procedures	65	2	2	–	1	70
Staff training or counselling	35	–	–	–	1	36
Total	579	34	17	1	2	633

* A resolved complaint may involve more than one type of remedy.

† Includes APPs, National Privacy Principles and the ACT's Territory Privacy Principles.

Table D.3: Compensation amounts in closed privacy complaints in 2020–21

Compensation	Total
Up to \$1,000	32
\$1,000 to \$5,000	24
\$5,001 to \$10,000	4
Over \$10,001	11
Total	71

* Only includes APP complaints.

Table D.4: Privacy assessments in 2020–21

Privacy assessment subject		Number of entities assessed	Year opened	Date closed
1	Access Canberra (ACT MOU)	1	2019–20	23 Apr 2021
2	Department of Home Affairs – passenger name record data	1	2019–20	30 Jun 2021
3	COVIDSafe Assessment 1 – Access Controls National Data Store	2	2019–20	10 Jun 2021
4	COVIDSafe Assessment 2 – state and territory health authorities access controls	8	2020–21	Ongoing
5	COVIDSafe Assessment 3 – COVIDSafe application functionality, privacy policy and collection notices	1	2020–21	Ongoing
6	COVIDSafe Assessment 4 – retention and deletion of COVID app data	1	2020–21	Ongoing
7	ACT Government – follow up assessment of Housing ACT	1	2020–21	Ongoing
8	Section 309 inspections (Telecommunications Act), ss 306 and 306A obligations – Telstra	1	2020–21	Ongoing
9	Section 309 inspections (Telecommunications Act), ss 306 and 306A obligations – Optus	1	2020–21	Ongoing
10	Section 309 inspections (Telecommunications Act), ss 306 and 306A obligations – TPG	1	2020–21	Ongoing
11	Section 309 inspections (Telecommunications Act), ss 306 and 306A obligations – Vodafone	1	2020–21	Ongoing
12	Privacy Impact Assessment register/s 15.1 Privacy Code compliance	169*	2020–21	Ongoing
13	Consumer Data Right Assessment 1 (compliance of data holders with Privacy Safeguard 1)	4	2020–21	Ongoing

* Number of entities is an estimate based on all Australian Government agencies covered by the Privacy Act.

Table D.5: Digital health assessments in 2020–21

Privacy assessment subject	Number of entities assessed	Year opened	Date closed
Assessment of pathology and diagnostic imaging services – APPs 1.2 and 11 and Rule 42 of the My Health Record Rules	8	2018–19	4 Sep 2020
Assessment of Chamonix mobile health application that accesses My Health Records – APPs 1.2 and 5	1	2020–21	23 Apr 2021
Assessment of Telstra mobile health application that accesses My Health Records – APPs 1.2 and 5	1	2020–21	23 Apr 2021
Assessment of general practice clinics – APPs 1.2 and 11 and Rule 42 My Health Records Rule	300	2020–21	Ongoing

Table D.6: Enhanced welfare payment integrity (data matching) assessments in 2020–21

Privacy assessment subject	Number of entities assessed	Year opened	Date closed
Department of Human Services – information security for the Non-Employment Income Data Matching (NEIDM) and Pay-As-You-Go (PAYG) programs	1	2017–18	17 Jul 2021
Department of Veterans' Affairs – APP 1.2 assessment	1	2019–20	30 Jun 2021
Department of Human Services – Annual investment income report (AIIR) data matching program	1	2019–20	19 Oct 2020

Appendix E

FOI statistics

This appendix contains information regarding:

- requests for access to documents
- applications for amendment of personal records
- charges
- disclosure logs
- review of freedom of information (FOI) decisions
- complaints about agency FOI actions
- the impact of FOI on agency resources
- the impact of Information Publication Scheme (IPS) on agency resources.

It has been prepared using data collected from Australian Government agencies and ministers subject to the *Freedom of Information Act 1982* (FOI Act), and separately from the Administrative Appeals Tribunal (AAT) and records of the OAIC. Australian Government agencies and ministers are required to provide, among other details, information about:

- the number of FOI requests made to them
- the number of decisions they made granting, partially granting or refusing access, and the number and outcome of applications for internal review
- the number and outcome of requests to them to amend personal records
- charges collected by them.¹

The data given by ministers and agencies for the preparation of this appendix is published on data.gov.au.²

Requests for access to documents

Types of FOI requests

The term ‘FOI request’ means a request for access to documents made under s 15 of the FOI Act. Applications for amendment or annotation of personal records under s 48 are dealt with separately below.

A request for personal information means a request for documents that contain information about a person who can be identified (usually the applicant, although not necessarily). A request for ‘other’ information means a request for all other documents, such as documents concerning policy development or government decision making.

The FOI Act requires that agencies and ministers provide access to documents in response to requests that meet the requirements of s 15 of the FOI Act. The statistics in this report do not take account of requests that did not satisfy those requirements.

The Governor-General authorised one Administrative Arrangements Order (AAO) in 2020–21 on 18 March 2021. This AAO changed the functions and administrative responsibilities of some departments and agencies and resulted in changes to the number and composition of FOI requests received by the affected agencies during the year.

¹ Australian Government ministers and agencies, and Norfolk Island authorities, are required by s 93 of the FOI Act and reg 8 of the Freedom of Information (Prescribed Authorities, Principal Officers and Annual Report) Regulations 2017 to submit statistical returns to the OAIC every quarter and provide a separate annual report on FOI and IPS costs.

² The data reported in this appendix has been rounded to whole numbers with the exception of staff hours. In some cases this means that numbers will not add to 100%.

Number of FOI requests received

Table E.1 compares the number of FOI requests received in each of the past 6 reporting years, including the percentage increase or decrease from the previous financial year.

The number of FOI requests made to Australian Government agencies decreased by 16% in 2020–21 to 34,797, which was 6,536 fewer than the previous financial year.

As can be seen from Table E.2 (page 133), the decrease in the number of FOI requests has principally been the result of decreases in requests made to the 20 agencies that receive the highest number of FOI requests, in particular the Department of Home Affairs, Services Australia, the Department of Veterans' Affairs and the National Disability Insurance Agency (NDIA).

While some agencies have attributed decreases in the number of FOI requests received during 2020–21 to the impact of the COVID-19 pandemic, the decrease in total FOI requests (6,536 fewer than in 2019–20) is largely the result of a decrease in requests for personal information experienced by Home Affairs, Services Australia, Veterans' Affairs and the NDIA.

Number of FOI requests received by an agency or minister

In 2020–21, Home Affairs, Services Australia and Veterans' Affairs together continued to receive the majority of FOI requests received by Australian Government agencies (68% of the total). Nearly all of these requests (89%) were from individuals seeking access to personal information.

The 20 agencies that received the largest number of requests in 2020–21 are shown in Table E.2, with a

comparison to the number of requests received by those agencies in 2019–20.

The agencies that experienced significant increases in FOI requests in 2020–21 compared with 2019–20 include the Department of Industry, Science, Energy and Resources, or DISER (up from 128 to 310, a 142% increase), the Department of Foreign Affairs and Trade, or DFAT (up from 195 to 277, a 42% increase) and the Department of Infrastructure, Transport, Regional Development and Communications, or DITRDC (up from 160 to 220, a 38% increase).

DITRDC has attributed its large increase in FOI requests to factors including its expansion following machinery of government changes and a heightened public interest in policies and programs administered by the department through the COVID-19 pandemic. DISER has advised that it received a significant number of applications relating to a particular grant program, which account for approximately 60% of the applications made in 2020–21.

Other agencies, however, experienced significant decreases in FOI requests in 2020–21 compared with 2019–20. Some agencies have attributed the decrease in FOI requests to the use of administrative information access schemes which give individuals access to their personal information without the requirement for a request under the FOI Act.

For example, the NDIA received 40% fewer requests in 2020–21 compared with 2019–20. The NDIA has said that on 1 June 2020, it made changes to improve National Disability Insurance Scheme participants' access to their personal information through a Participant Information Access scheme, which gives participants administrative access to their personal information outside the FOI process. Veterans' Affairs also received 21% fewer requests

Table E.1: FOI requests received over the past 6 years

	2015–16	2016–17	2017–18	2018–19	2019–20	2020–21
Number of FOI requests received	37,966	39,519	34,438	38,879	41,333	34,797
% change from previous financial year	+7	+4	–13	+13	+6	–16

in 2020–21 compared to 2019–20, stating it has processed more requests for personal information under administrative access schemes, which has seen a decrease in FOI requests.

Services Australia experienced a 38% decrease in requests. It also advises that, where possible, it continues to process access to documents administratively. It also experienced a surge in FOI requests from a specific cohort of applicants during the second half of 2019–20, accounting for unusually high numbers in that year. These matters were subsequently resolved in a separate process, which led to a reduction in requests in 2020–21.

Similarly, the Department of the Prime Minister and Cabinet (PM&C) experienced a 47% decrease in FOI requests in 2020–21, following large spike in FOI requests in 2019–20 due to a number of requests from one applicant.

Requests for personal and ‘other’ documents

In 2020–21, 26,715 FOI requests (or 77% of all requests received) were for documents containing personal information. This is a lower proportion than in previous years; in 2019–20, 81% of all requests were for predominantly personal information, in 2018–19 it was 83%, in 2017–18 it was 82%, in 2016–17 it was 82% and in 2015–16 it was 87%.

The decrease in the proportion of personal FOI requests may be the result of agencies increasingly making documents available to the public using online portals such as myGov and those provided by the Australian Taxation Office, and through other administrative access schemes, such as those implemented by the NDIA, Veterans’ Affairs and Services Australia.

In 2020–21, there were 8,082 FOI requests (or 23% of all requests) for ‘other’ (non-personal) information. This is a higher proportion than in 2019–20, when 19% of all requests were for other information. In 2018–19 the proportion was 17%, in 2017–18, 18%, in 2016–17, 18%, in 2015–16, 13% and in 2014–15, 15%.

However, there was also considerable variance across government in the number and proportion of personal and ‘other’ information FOI requests in 2020–21.

Home Affairs experienced a 10% decrease in total FOI requests in 2020–21 (down by 1,736). It received 13% fewer personal FOI requests, but 14% more requests for access to other information.

While the NDIA experienced a 40% decline in total FOI requests in 2020–21 including a 51% decline in requests for personal information, requests for access to ‘other’ information increased by 148% to 201 (up from 81 in 2019–20). Similarly, Veterans’ Affairs experienced a 21% decrease in total FOI request numbers, but had a 95% increase in requests for ‘other’ information (117, up from 60 in 2019–20).

FOI requests finalised

Agencies and ministers commenced 2020–21 with significantly more FOI requests on hand requiring a decision than the previous financial year (23% more than at the beginning of 2019–20).

In 2020–21 there was:

- a decrease in FOI requests received (16% fewer than in 2019–20)
- a slight reduction in the number of requests decided (9% fewer than in 2019–20)
- fewer requests transferred between agencies (41% less than in 2019–20)
- 15% more requests on hand at the end of the year (6,659) than at the beginning of the financial year (5,814)
- a decrease in the number of FOI requests withdrawn by applicants (32% fewer than in 2019–20).

Reasons for fewer requests being withdrawn during this reporting period may include:

- fewer FOI requests overall for personal information (20% fewer in 2020–21 than in 2019–20), due to the increased use of administrative access schemes to provide individuals access to their personal documents outside the FOI Act
- fewer FOI requests transferred from an agency or minister (41% fewer in 2020–21 than in 2019–20)

Table E.2: Agencies by number of FOI requests received

Agency	2019–20					2020–21					
	Rank*	Personal	Other	Total	% of all FOI requests	Rank	Personal	Other	Total	% of all FOI requests	Change in total
Department of Home Affairs	1	15,666	1,895	17,561	42	1	13,667	2,158	15,825	46	–1,736
Services Australia	2	8,570	312	8,882	21	2	5,254	230	5,484	16	–3,398
Department of Veterans' Affairs	3	2,393	60	2,453	6	3	1,810	117	1,927	6	–526
Administrative Appeals Tribunal	4	1,550	14	1,564	4	4	1,568	32	1,600	5	36
National Disability Insurance Agency	6	1,439	81	1,520	4	5	709	201	910	3	–610
Australian Taxation Office	5	805	160	965	2	6	728	177	905	3	–60
Australian Federal Police	7	648	179	827	2	7	619	135	754	2	–73
Department of Health	9	71	486	557	1	8	119	514	633	2	76
Department of Defence	8	287	332	619	1	9	228	336	564	2	–55
Australian Transaction Reports and Analysis Centre	10	232	238	470	1	10	221	153	374	1	–96
Immigration Assessment Authority	11	378	3	381	1	11	312	5	317	1	–64
Department of Industry, Science, Energy and Resources†	N/A	1	127	128	N/A	12	–	310	310	1	182
Australian Securities and Investments Commission	13	73	189	262	1	13	67	214	281	1	19

Agency	2019–20					2020–21				
	Rank*	Personal	Other	Total	% of all FOI requests	Rank	Personal	Other	Total	% of all FOI requests
Department of Foreign Affairs and Trade	18	69	126	195	1	14	90	187	277	1
Department of Agriculture, Water and the Environment	16	6	216	222	1	15	5	243	248	1
Attorney-General's Department	15	57	173	230	1	16	70	151	221	1
Department of Infrastructure, Transport, Regional Development and Communications†	N/A	–	160	160	N/A	17	–	220	220	1
Department of Education, Skills and Employment	20	80	108	188	1	18	87	132	219	1
Department of the Treasury	17	5	192	197	1	19	9	187	196	1
Office of the Australian Information Commissioner	14	142	90	232	1	20	122	71	193	1
Total top 20	–	32,602	5,256	37,858	94		25,685	5,773	31,458	96
Remaining agencies	–	982	2,493	3,475	8		1,030	2,309	3,339	10
Total	–	33,584	7,749	41,333	102		26,715	8,082	34,797	106

Note

Figures may not add to 100% due to rounding.

* The Department of the Prime Minister and Cabinet appeared as a top 20 agency in 2019–20 but not in 2020–21.

† Denotes an agency not in the top 20 agencies in 2019–20.

- decreased use of the practical refusal provisions in s 24 of the FOI Act (if an applicant does not respond to a practical refusal notice issued

under s 24AB of the FOI Act they are deemed to have withdrawn their FOI request – see s 24AB(7)).

Table E.3: Overview of FOI requests received and finalised

FOI request processing	2019–20	2020–21	% change
On hand at the beginning of the year	4,713 [§]	5,814	23
Received during the year	41,333	34,797	–16
Requiring decision*	46,046	40,611	–12
Withdrawn	10,000	6,834	–32
Transferred	747	438	–41
Decided†	29,358	26,680	–9
Finalised‡	40,105	33,952	–15
On hand at the end of the year	5,941	6,659	12

* Total of FOI requests on hand at the beginning of this reporting period and requests received during this reporting period.

† Covers access granted in full, part or refused.

‡ The sum of requests withdrawn, transferred and decided.

§ Agencies can ask the OAIC to change the number of FOI requests on hand at the beginning of a reporting period if the number carried over from the previous reporting period is incorrect.

The proportion of FOI requests granted in full in 2020–21 was 41%, down from 47% in 2019–20. The proportion granted in full in 2018–19 was 52% and in 2017–18 it was 50%.

The proportion of FOI requests granted in part increased to 41% in 2020–21, up from 38% in 2019–20.

The number of FOI requests refused in 2020–21 (including requests refused because the documents sought do not exist or could not be found, or a

practical refusal reason exists, as well as when exemptions have been applied) increased to 18%, compared with 15% in 2019–20.

As noted above, there was an increase in the number of ‘other’ (non-personal) FOI requests made to agencies in 2020–21. Requests for ‘other’ information are generally more complex than requests for access to personal information and may be more likely to be subject to a wider range of exemptions under the FOI Act.

Table E.4: Outcomes of FOI requests decided

Decision	Personal 2019–20	Other 2019–20	Total 2019–20	%	Personal 2020–21	Other 2020–21	Total 2020–21	%
Granted in full*	12,296	1,431	13,727	47	9,419	1,559	10,978	41
Granted in part†	9,350	1,871	11,221	38	8,968	2,016	10,984	41
Refused	2,136	2,274	4,410	15	2,337	2,381	4,718	18
Total	23,782	5,576	29,358	100	20,724	5,956	26,680	100

* The release of all documents within the scope of the request, as interpreted by the agency or minister.

† A document is granted in part when a part, or parts, of a document have been redacted to remove any irrelevant, exempt or conditionally exempt matter.

Table E.5 lists the top 20 agencies by the number of FOI decisions made in 2020–21, and shows differences in the outcome of FOI requests compared to other agencies.

The percentage of FOI requests granted in full is much higher for the agencies in the top 20 (43%) than it is for other agencies (20%). This is because the 5 agencies which receive the most FOI requests (Table E.2) – accounting for 76% of all FOI requests received by the Australian Government – receive predominantly personal FOI requests which are more likely to be granted in full than ‘other’ FOI requests (Table E.4).

Agencies processing higher proportions of FOI requests for personal information generally have higher rates of FOI requests granted in full than the 2020–21 average of 41%, with the exception of Services Australia.

However, 14 of the top 20 agencies refused access to documents at levels higher than the average across all agencies (18%). Several agencies had refusal rates of over 50%, including the Department of Health, DISER, the Attorney-General’s Department, DFAT, PM&C and the Australian Postal Corporation. These agencies process proportionally higher numbers of FOI requests for ‘other’ information. In some circumstances, the proactive publication of ‘other’ information can reduce the

need for requests for this type of information to be made under the FOI Act.

Use of exemptions

Table E.6 shows how Australian Government agencies and ministers claimed exemptions under the FOI Act when processing FOI requests in 2020–21. More than one exemption may be applied in processing an FOI request.

Exemptions were not claimed or were not relevant in relation to 16,020 FOI requests decided in 2020–21, or 60% of all FOI requests decided (compared to 64% in 2019–20). The decrease may relate to the overall decrease in the number of FOI requests granted in full.

Overall, there was very little change in the application of exemptions in 2020–21, when compared with previous years. The personal privacy exemption (s 47F) remains the most claimed exemption. It was applied in 38% of all FOI requests in which an exemption was claimed in 2020–21, the same percentage as 2019–20 and 2018–19.

The next most claimed exemptions were:

- s 47E (certain operations of agencies: 21%, slightly up from 20% in 2019–20)
- s 47C (deliberative processes: 10%, up from 8% in 2019–20)

Table E.5: Top 20 agencies by numbers of FOI requests decided in 2020–21

Agency	Granted in full	%	Granted in part	%	Refused	%	Total
Department of Home Affairs	6,676	48	5,621	41	1,561	11	13,858
Services Australia	548	23	1,403	59	411	17	2,362
Department of Veterans' Affairs	1,336	78	296	17	80	5	1,712
Administrative Appeals Tribunal	714	57	498	40	32	3	1,244
National Disability Insurance Agency	410	54	254	34	89	12	753
Australian Federal Police	22	3	438	71	160	26	620
Australian Taxation Office	115	19	296	49	199	33	610
Department of Health	72	17	76	18	283	66	431
Department of Defence	85	20	209	50	126	30	420
Australian Transaction Reports and Analysis Centre	33	9	227	63	103	28	363
Immigration Assessment Authority	261	85	42	14	4	1	307
Australian Securities and Investments Commission	34	15	92	39	109	46	235
Department of Industry, Science, Energy and Resources	16	7	94	43	111	50	221
Attorney-General's Department	15	8	54	29	115	63	184
Department of Foreign Affairs and Trade	14	8	68	41	86	51	168
Department of Infrastructure, Transport, Regional Development and Communications	23	14	79	49	58	36	160
Department of Agriculture, Water and the Environment	28	18	86	56	40	26	154
Department of the Prime Minister and Cabinet	16	11	56	37	79	52	151
Australian Postal Corporation	15	11	14	10	113	80	142
Office of the Australian Information Commissioner	52	38	45	33	39	29	136
Top 20	10,485	43	9,948	41	3,798	16	24,231
Remaining agencies	493	20	1,036	42	920	38	2,449
Total	10,978	41	10,984	41	4,718	18	26,680

- s 37 (documents affecting enforcement of law and protection of public safety: 8%, a decrease compared to 2019–20 and 2018–19 when it accounted for 10% of all exemptions applied)
- s 38 (documents to which secrecy provisions apply: 6%, the same as 2019–20 and 2018–19) and s 33 (documents affecting national security, defence or international relations: 4%, the same as 2019–20).

Table E.6: Use of exemptions in FOI decisions in 2020–21

FOI Act reference	Exemption	Personal	Other	Total	% of all exemptions applied
s 33	Documents affecting national security, defence or international relations	513	233	746	4
s 34	Cabinet documents	2	137	139	1
s 37	Documents affecting enforcement of law and protection of public safety	1,173	185	1,358	8
s 38	Documents to which secrecy provisions of enactments apply	870	118	988	6
s 42	Documents subject to legal professional privilege	236	195	431	3
s 45	Documents containing material obtained in confidence	43	171	214	1
s 45A	Parliamentary Budget Office documents	–	1	1	0*
s 46	Documents disclosure of which would be contempt of Parliament or contempt of court	24	7	31	0*
s 47	Documents disclosing trade secrets or commercially valuable information	36	191	227	1
s 47A	Electoral rolls and related documents	4	–	4	0*
s 47B	Commonwealth-state relations	127	77	204	1
s 47C	Deliberative processes	1,281	415	1,696	10
s 47D	Financial or property interests of the Commonwealth	207	23	230	1
s 47E	Certain operations of agencies	2,709	822	3,531	21
s 47F	Personal privacy	5,494	1,055	6,549	38
s 47G	Business	290	460	750	4
s 47H	Research	1	3	4	0*
s 47J	The economy	1	5	6	0*

* Denotes a figure of less than 1%.

Use of practical refusal

Section 24AB of the FOI Act sets out that a 'request consultation process' must be undertaken if a 'practical refusal reason' exists (s 24AA). A practical refusal reason exists if the work involved in processing the FOI request would substantially and unreasonably divert the agency's resources from its other operations, or if the FOI request does not adequately identify the documents sought.

The request consultation process involves the agency sending a written notice to the FOI applicant advising them that the agency intends to refuse the request and providing details of how the FOI applicant can consult the agency. The FOI Act imposes an obligation on the agency to take reasonable steps to help the FOI applicant revise their request so that the practical refusal reason no longer exists.

Table E.7 provides information about how agencies and ministers engaged in request consultation processes under s 24AB of the FOI Act in 2020–21 and the outcome of those processes.

Agencies sent 17% fewer notices of an intention to refuse an FOI request for a practical refusal reason in 2020–21, than in 2019–20, when 3,803 notices were sent. The reason for this decrease was a decrease in the number of practical refusal notices issued by Home Affairs (2,007 notices in 2020–21, compared to 2,713 in 2019–20). Home Affairs issued practical refusal notices for 13% of all the FOI requests it

received during 2020–21 (Home Affairs received 15,825 FOI requests).

In 2020–21, 48% of the FOI requests subject to a notice of intention to refuse a request were subsequently refused or withdrawn. This is a decrease compared to the proportions in 2019–20 (57%)³ and 2018–19 (77%).

Lower proportions of FOI requests subsequently refused or withdrawn after a practical refusal notice is issued suggests agencies have been better at assisting applicants to revise the scope of their requests so they can be processed. This signals an improvement in the effectiveness of agency consultations under s 24AB of the FOI Act in 2020–21 when compared with previous years.

Home Affairs issued 64% of all notices of an intention to refuse a request for a practical refusal reason in 2020–21 (2,007). It subsequently processed 1,218 of these requests – or 61% – an improvement on 2019–20 when it processed 46% of FOI requests after issuing a notice of intention to refuse a request for a practical refusal reason.⁴

For all other agencies the percentage of practical refusal matters subsequently processed was 36%, which is slightly less than 2019–20 when it was 40%. This low rate indicates agencies' consultation with applicants has not always been successful in removing the practical refusal reason. For example, the Department of Defence issued 101 notices of intention to refuse a request for a practical refusal

Table E.7: Use of practical refusal in 2020–21

Practical refusal processing step	Personal	Other	Total	%*
Notified in writing of intention to refuse request	2,256	887	3,143	N/A
Request was subsequently refused or withdrawn	969	551	1,520	48
Request was subsequently processed	1,287	336	1,623	52

* Percentage of the total number of notices advising of an intention to refuse a request for a practical refusal reason.

³ Based on revised figures provided by the Department of Home Affairs – see erratum notice at Appendix G.

⁴ Based on revised figures provided by the Department of Home Affairs – see erratum notice at Appendix G.

reason and subsequently processed only 18 FOI requests (18%).

Time taken to respond to FOI requests

Agencies and ministers have 30 days to make a decision under the FOI Act. The FOI Act allows for the timeframe to be extended in certain circumstances.⁵

If a decision is not made on an FOI request within the statutory timeframe (including any extension period) then s 15AC of the FOI Act provides that a decision refusing access is deemed to have been made. Nonetheless, agencies should continue to process a request that has been deemed to be refused.

In 2020–21, 77% of all FOI requests determined were processed within the applicable statutory time period: 76% of all personal information requests and 84% of all non-personal requests. This represents a reduction in the timeliness of decision making from 2019–20, when 79% of all FOI requests were decided within time, and from 2018–19, when 83% of all FOI requests were decided within time.

The COVID-19 pandemic affected the ability of some Australian Government agencies to respond to FOI requests within the statutory timeframes in 2020–21. In some agencies, FOI staff were redeployed to work in frontline customer service roles, while the internal redeployment of other staff to meet service delivery needs made it difficult to obtain documents to satisfy FOI requests and to engage with decision makers, many of whom assumed additional responsibilities as part of their agency's response to the pandemic. Some agencies were impacted by reduced staff numbers, voluntary redundancies, difficulties in searching and retrieving documents in a remote working environment, and challenges in remotely onboarding and training new FOI staff. Other agencies were impacted by the complexity of

some requests, particularly requests relating to the government's response to the COVID-19 pandemic.

Some agencies decided fewer than 50% of FOI requests within the statutory timeframes in 2020–21. This includes the Norfolk Island Regional Council and the Office of the Prime Minister.

Because of the large number of FOI requests received by Home Affairs, it is worth noting that its compliance with statutory timeframes was 62% in 2020–21, which is below the average of 77%. This represents a decrease in timeliness compared to 2019–20 (when it was 66%) and 2018–19 (when it was 74%). Home Affairs decided only 61% of personal FOI requests within statutory timeframes, a decline in timeliness from 2019–20, when it was 69%. In 2020–21, it decided 65% of 'other' (non-personal) within the statutory timeframes, which represents a significant improvement on 2019–20, when it was 37%.

Home Affairs has advised that in 2020–21 it made a range of improvements to the way FOI requests are handled, with a particular focus on non-personal requests. These align with recommendations made in the Information Commissioner's investigation report.⁶ Home Affairs also worked to finalise older personal access requests, which can be more complex and time-consuming to process than new requests. Home Affairs advises it finalised more cases older than 90 days in 2020–21 than in 2019–20.

During the reporting period, there was an increase in the number of FOI requests decided more than 90 days over the applicable statutory time period compared to previous years; 12% of all requests decided in 2020–21 were decided more than 90 days after the expiry of the statutory processing period. This percentage was 10% in 2019–20 and 2% in 2018–19.

⁵ An agency may extend the period of time to make a decision by agreement with the applicant (s 15AA), or to undertake consultation with a third party (ss 15(6)–(8)). An agency can also apply to the Information Commissioner for more time to process a request when the request is complex or voluminous (s 15AB), or when access has been deemed to have been refused (ss 15AC and 51DA) or deemed to have been affirmed on internal review (s 54D). These extension provisions acknowledge there are circumstances when it is appropriate for an agency to take more than 30 days to process a request. When an agency has obtained an extension of time to deal with an FOI request and finalises the request within the extended time, the request is recorded as having been determined within the statutory time period.

⁶ During 2020–21, the Information Commissioner finalised an investigation into the Department of Home Affairs' compliance with the statutory processing period in the FOI Act when processing FOI requests for non-personal information.

Table E.8: FOI request response time 2019–20 and 2020–21

Response time	2019–20				2020–21			
	Personal	Other	Total	%	Personal	Other	Total	%
Within applicable statutory time period	19,002	4,083	23,085	79	15,661	5,002	20,663	77
Up to 30 days over applicable statutory time period	1,315	791	2,106	7	1,005	532	1,537	6
31–60 days over applicable statutory time period	420	281	701	2	414	190	604	2
61–90 days over applicable statutory time period	380	156	536	2	474	90	564	2
More than 90 days over applicable statutory time period	2,665	265	2,930	10	3,170	142	3,312	12
Total	23,782	5,576	29,358	100	20,724	5,956	26,680	99

Note

Figures may not add to 100% due to rounding.

A number of agencies that process large numbers of FOI requests (more than 50) decided them all within the statutory time period in 2020–21. These agencies include the Immigration Assessment Authority (307), the Department of Agriculture, Water and the Environment (154), Comcare (115), the Civil Aviation Safety Authority (120) and the Fair Work Commission (51).

Applications for amendment of personal records

Section 48 of the FOI Act confers a right on a person to apply to an agency or to a minister to amend a document to which lawful access has been granted, when the document contains personal information about the applicant:

- that is incomplete, incorrect, out of date or misleading, and
- that has been used, is being used, or is available for use by the agency or minister for an administrative purpose.

In 2020–21, 9 agencies received 820 amendment applications (no applications were received by ministers). This is a 14% increase in applications from 2019–20, when 717 applications were received. This follows a 7% increase in applications in 2019–20 compared with 2018–19, when 673 amendment applications were made.

The increase in amendment applications is largely due to increases in applications received by Home Affairs (up 16% in 2020–21 compared with 2019–20). Some agencies also received amendment applications when they did not receive them the previous year, such as the Australian Federal Police, Commonwealth Ombudsman, the Department of Education, Skills and Employment and the Fair Work Commission.

Table E.10 compares the decision making for amendment applications during the reporting period with 2019–20. In 2020–21, a decision was made to amend or annotate a person's personal record in 88% of all decided applications, the same

Table E.9: Response times greater than 90 days after expiry of applicable statutory period in 2020–21

Agency	Total requests decided	Requests decided more than 90 days after statutory period	% FOI requests received by agency or minister
Australian Institute of Aboriginal and Torres Strait Islander Studies	2	1	50
Treasurer	4	1	25
Norfolk Island Regional Council	38	9	24
Department of Home Affairs	13,858	3,248	23
Attorney-General	9	2	22
Sport Integrity Australia	7	1	14
Australian Broadcasting Corporation	52	6	12
Department of Foreign Affairs and Trade	168	13	8
National Archives of Australia	13	1	8
Australian Federal Police	620	19	3
Office of the Prime Minister	36	1	3
Australian Criminal Intelligence Commission	48	1	2
Administrative Appeals Tribunal	1,244	1	1
Attorney-General's Department	184	1	1
Australian Postal Corporation	142	1	1
Australian Transaction Reports and Analysis Centre (AUSTRAC)	363	1	1
Department of Veterans' Affairs	1,712	2	1
Department of Infrastructure, Transport, Regional Development and Communications	160	1	1
Services Australia	2,362	2	1

Table E.10: Decisions on amendment applications

Decision	2019–20	% of total	2020–21	% of total	% change*
Applications granted: amend record	515	78	598	77	–1
Applications granted: annotate record	68	10	83	11	1
Applications granted: amend and annotate record	–	–	–	–	–
Applications refused	79	12	93	12	–
Total decided	662	100	774	100	–

* Percentage increase or decrease over 2019–20.

as in 2019–20. As Home Affairs accounted for 92% of all amendment applications received, overall trends in amendment decision making are largely determined by decisions made by Home Affairs.

Time taken to respond to amendment applications

An agency is required to notify an applicant of a decision on their application to amend personal records as soon as practicable, but in any case, not later than 30 days after the day the request is received, or a longer period as extended under the FOI Act.

In 2020–21, 90% of all amendment applications were decided within the applicable statutory timeframe, the same percentage as for 2019–20.

Internal review of amendment decisions

In 2020–21, 19 applications for internal review of amendment decisions were made (12 more than in 2019–20, when 7 applications were made). Of these, 11 applications were made to Home Affairs, 6 to Defence and 2 to Services Australia. Twenty internal review decisions were made during the reporting period, compared to 6 in 2019–20. Of these, 6 decisions granted the requested amendment or annotation, and 14 decisions were made refusing the requested alteration. In 2019–20, the original decision was affirmed in one review and 5 were set aside.

Charges

Section 29 of the FOI Act provides that an agency or minister may impose charges in respect of FOI requests, except requests for personal information, and sets out the process by which charges are assessed, notified and adjusted. There is no charge for giving access to an individual's own personal information. Charges can only be imposed for requests relating to 'other' information.

Table E.11 shows the amounts collected by the 20 agencies that collected the most in charges under the FOI Act in 2020–21. These top 20 agencies are responsible for 89% of all charges collected by agencies and ministers under the FOI Act during the reporting period.

In 2020–21, agencies notified a total of \$247,572 in charges with respect to 738 FOI requests, but collected only \$81,353 (33% of the total notified). This difference is due to agencies exercising their discretion under s 29 of the FOI Act not to impose the whole charge, or applicants withdrawing their FOI request and not paying the notified charge. Two agencies notified total charges of over \$20,000 – the Department of Agriculture, Water and the Environment (\$26,404 notified) and Health (\$48,453 notified).

Agencies notified and collected less in charges in 2020–21 than in 2019–20. Charges notified in 2020–21 were 7% less than in 2019–20, when

Table E.11: Top 20 agencies by charges collected in 2020–21

Agency	Requests received	Requests where charges notified	Total charges notified \$	Total charges collected \$
Department of Agriculture, Water and the Environment	248	108	26,404	14,517
Department of Health	633	126	48,453	13,092
Department of Industry, Science, Energy and Resources	306	53	12,899	10,225
Department of Education, Skills and Employment	219	51	15,162	5,131
Department of Infrastructure, Transport, Regional Development and Communications	220	22	8,124	3,592
Civil Aviation Safety Authority	130	20	4,000	2,792
Australian Securities and Investments Commission	281	8	4,421	2,626
National Indigenous Australians Agency	30	10	4,550	2,260
National Capital Authority	11	5	3,126	2,090
Department of the Treasury	196	17	5,745	2,048
Comcare	163	19	4,394	1,844
Australian Communications and Media Authority	25	5	2,677	1,675
Tertiary Education Quality and Standards Agency	10	4	2,585	1,522
Australian Competition and Consumer Commission	58	16	5,302	1,315
Australian Pesticides and Veterinary Medicines Authority	18	2	3,200	2,051
Department of Defence	564	25	1,768	1,170
Department of Foreign Affairs and Trade	277	48	2,693	1,147
Services Australia	5,484	59	11,843	1,099
Australian Maritime Safety Authority	92	1	1,000	1,000
Minister for Energy and Emissions Reduction	23	7	1,051	963
Top 20	8,988	606	169,397	72,159
Remaining agencies	25,804	132	78,175	9,194
Total	34,792	738	247,572	81,353

\$267,069 was notified. In 2020–21, agencies collected \$81,353, 8% less than in 2019–20 when \$88,090 was collected. Total charges notified and total charges collected have declined year on year since 2013–14, when \$734,762 was notified and \$239,628 was collected.

Disclosure logs

All Australian Government agencies and ministers subject to the FOI Act are required to maintain an FOI disclosure log on a website. The disclosure log lists information that has been released to FOI applicants, subject to some exceptions (such as personal or business information). Information about agency and ministerial compliance with disclosure log requirements has been collected since 2012–13.

Australian Government agencies reported 2,480 new entries on disclosure logs during 2020–21, including documents available for download directly from the agency or minister's website in relation to 2,056 requests, documents available from another website in relation to 54 requests, and 370 entries in which the documents are available by another means (usually upon request).

The total number of new entries published on disclosure logs in 2020–21 is 27% higher than 2019–20, when 1,949 new entries were added. This increase is significant, given the overall reduction in the number of FOI requests.

There has also been an increase in the proportion of new documents which members of the public can access directly from agency websites: 83% in 2020–21 compared to 75% in 2019–20. As explained in the FOI Guidelines, publication of documents directly through the disclosure log, rather than providing a description of the documents and how they can be obtained on request from the agency or minister, is consistent with the FOI Act object of facilitating public access to government information.⁷

In 2020–21, agencies and ministers reported a total of 52,989 unique visits to disclosure logs and 610,187 page views, which represents an 30% increase in unique visits since 2019–20, and a 269% increase in total page views compared with 2019–20. This

increase is largely due to a large increase in page views reported by DITRDC, with 333,885 in 2020–21 compared to 17,139 in 2019–20. It should be noted that in some instances, abnormally high page views can be caused by non-human ('bot') traffic.

Review of FOI decisions

Under the FOI Act, an applicant who is dissatisfied with the decision of an agency or minister on their initial FOI request has a number of avenues of review. The applicant can seek internal review with the agency or minister or external merits review by the Information Commissioner (IC review). Information Commissioner decisions under s 55K are reviewable by the AAT. AAT decisions may be appealed on a question of law to the Federal Court. In addition, an applicant can complain at any time to the Information Commissioner about an agency's actions under the FOI Act.

Third parties who have been consulted in the FOI process also have review rights if an agency or minister decides to release documents contrary to their submissions. Consultation requirements apply for state governments (s 26A), commercial organisations (s 27) and private individuals (s 27A).

Internal review

Although there is no obligation to do so, the Information Commissioner recommends and encourages FOI applicants to apply for an internal review before applying for IC review.

In 2020–21, 1,026 applications were made for an internal review of FOI decisions, 9% more than in 2019–20 (when 942 internal review applications were made). In 2020–21, 4% of all FOI requests determined led to applications for internal review, similar to 2019–20 when it was 3%.

Of the 1,026 applications for an internal review, 494 (48%) were for review of decisions made in response to requests for personal information and 532 (52%) were for review of decisions on other information requests. On the basis that 77% of all FOI decisions in 2020–21 related to requests for access to personal information, this indicates that FOI applicants seeking access to personal information are less likely

⁷ FOI Guidelines [14.32].

to seek internal review than those seeking to access ‘other’ (non-personal) information.

Agencies finalised 968 decisions on internal review in 2020–21, 9% more than in 2019–20 (890). Of these:

- 492 (51%) affirmed the original decision
- 135 (14%) set aside the original decision and granted access in full
- 261 (27%) granted access in part
- 7 (1%) granted access in another form
- 14 (1%) resulted in lesser access
- 40 (4%) were withdrawn by applicants without concession by the agency
- 19 (2%) reduced the charges levied.

IC review applications

Table E.12 provides a breakdown by agency and minister of IC review applications received in 2020–21, where the agency or minister was the subject of more than one IC review. In total, there were 1,224 applications for IC review (up 15% from 1,066 in 2019–20).

In general, the agencies that receive the most FOI requests have the most IC review applications lodged against their decisions. In 2020–21, this applied to 16 of the top 20 agencies to receive FOI requests.

However, some agencies that do not receive large numbers of FOI requests are the subject of a comparatively large number of IC review applications given their case load. In 2020–21, the agencies with a large number of IC reviews lodged, expressed as a proportion of the total number of FOI requests received, include PM&C (15%), the Office of the Prime Minister (20%) and DFAT (14%).

There was a 23% increase in the number of IC reviews finalised by the Oaic in 2020–21 (1,018), compared with 2019–20 (when 829 were finalised).

In 2020–21, 964 IC reviews (95% of the total) were finalised without a formal decision being made

under s 55K of the FOI Act. This is a slightly higher percentage than in 2019–20 (94%) and 2018–19 (91%).

In 2020–21, 117 IC reviews were declined under s 54W(a) (lacking in substance, failure to cooperate, or lost contact) compared to 82 in 2019–20. There were 139 IC reviews declined under s 54W(b) (refer to AAT) compared with 83 in 2019–20. The total number of IC review applications declined under s 54W⁸ of the FOI Act fell as a percentage of total IC reviews finalised: in 2020–21, 256 IC reviews were declined under s 54W (25% of the total) compared to 31% in 2019–20 and 30% in 2018–19.

Of the 1,018 IC review applications finalised, 6% were declined under s 54W(a)(i) (frivolous, vexatious, misconceived, lacking in substance, or not made in good faith), 5% were declined under s 54W(a)(ii) (failure to cooperate), 5% were finalised under s 54W(a)(iii) (lost contact) and 14% under s 54W(b) (allow to go direct to the AAT).

In 2020–21, the Information Commissioner made 54 decisions under s 55K of the FOI Act: 25 affirmed the decision under review (46%), 22 set aside the reviewable decision (41%) and 7 decisions were varied (13%). Of the 25 decisions that affirmed the decision under review, 24 (96%) were access refusals and one matter was an access grant. Of the 22 decisions set aside by the Information Commissioner, one decision related to an application for amendment under s 48 of the FOI Act. In 2019–20, the Information Commissioner affirmed 48% of decisions, set aside 38% and varied 14%.

Five of the decisions affirmed by the Information Commissioner (20%) had been revised by the agency or minister under s 55G of the FOI Act during the IC review, giving greater access to the documents sought. This was also the case with 8 of the 22 decisions the Information Commissioner set aside (36%) and 2 of the 7 decisions that were varied (28%).

The percentage of applications received by the Oaic which were out of jurisdiction or invalid increased from 19% in 2019–20 to 28% in 2020–21.

⁸ Section 54W of the FOI Act contains a number of grounds under which the Information Commissioner may decide not to undertake an IC review or not to continue to undertake an IC review.

Table E.12: Information Commissioner review – top 20 by review applications received

Agency/minister	FOI requests received	Access grant decisions	Access refusal decisions	To be determined*	Total IC reviews	% of FOI requests
Department of Home Affairs	15,825	–	436	–	436	3
Services Australia	5,484	–	82	–	82	1
Australian Federal Police	754	–	75	–	75	10
Department of Health	633	3	54	–	57	9
Department of Foreign Affairs and Trade	277	–	39	–	39	14
Australian Taxation Office	905	–	28	–	28	3
Department of the Prime Minister and Cabinet	181	–	28	–	28	15
Department of Defence	564	–	28	–	28	5
Department of Veterans' Affairs	1,927	–	23	–	23	1
Department of Agriculture, Water and the Environment	248	3	19	–	22	9
Attorney-General's Department	221	–	22	–	22	10
National Disability Insurance Agency	910	–	21	–	21	2
Department of Industry, Science, Energy and Resources	310	–	17	–	17	5
Department of Education, Skills and Employment	219	2	14	–	16	7
Australian Securities and Investments Commission	281	1	15	–	16	6
Comcare	163	–	15	–	15	9
Commonwealth Ombudsman	134	–	14	–	14	10
Department of Infrastructure, Transport, Regional Development and Communications	220	–	13	–	13	6
Office of the Prime Minister of Australia	61	–	12	–	12	20
Office of the Australian Information Commissioner	193	2	7	1	10	5
Subtotal	29,510	11	962	1	974	3
Remaining agencies/ ministers	5,287	8	242	1	250	5
Total	34,797	19	1,204	2	1,224	4

* Matter deregistered after 1 July 2021.

Table E.13: Information Commissioner review outcomes

Information Commissioner decisions	2019–20	% of 2019–20 total	2020–21	% of 2020–21 total
Section 54N – out of jurisdiction or invalid	161	19	285	28
Section 54R – withdrawn	180	22	266	26
Section 54R – withdrawn/conciliated	154	19	143	14
Section 54W(a)(i) – frivolous, vexatious, misconceived, lacking in substance, or not in good faith	90	11	61	6
Section 54W(a)(ii) – failure to cooperate	76	9	51	5
Section 54W(a)(iii) – lost contact	6	1	5	0*
Section 54W(b) – refer AAT	83	10	139	14
Section 54W(c) – failure to comply	–	–	–	–
Section 55F – set aside by agreement	12	1	1	0*
Section 55F – varied by agreement	17	2	13	1
Section 55F – affirmed by agreement	–	–	–	–
Section 55G – substituted	–	–	–	–
Section 55K – affirmed by Information Commissioner	24	3	25	3
Section 55K – set aside by Information Commissioner	19	2	22	2
Section 55K – varied by Information Commissioner	7	1	7	1
Total	829	100	1,018	100

* Denotes a figure of less than 1%.

Administrative Appeals Tribunal review

An application can be made to the AAT for review of the following FOI decisions:

- a decision of the Information Commissioner under s 55K
- an IC reviewable decision (that is, an original decision or an internal review decision), but only if the Information Commissioner decides, under s 54W(b), that the interests of the administration

of the FOI Act make it desirable that the IC reviewable decision be considered by the AAT directly.

In 2020–21, 72 applications for review of FOI decisions were made to the AAT. This is a 38% increase from 2019–20, when 52 applications were made to the AAT.

Table E.14 provides a breakdown, by agency, of applications to the AAT in relation to FOI decisions in 2019–20. This data has been provided by the AAT.

Table E.14: AAT review by agency (respondent)

Respondent	Applications
Australian Securities and Investments Commission	12
Department of Home Affairs	10
Attorney General's Department	7
Australian Federal Police	4
Office of the Commonwealth Director of Public Prosecutions	4
Services Australia	4
Commonwealth Ombudsman	3
Office of the Australian Information Commissioner	3
Department of Agriculture, Water and the Environment	2
Department of the Prime Minister and Cabinet	2
Minister for Employment, Workforce, Skills, Small and Family Business	2
National Disability Insurance Agency	2
Department of the Treasury	2
Attorney General's Department	1
Australian Criminal Intelligence Commission	1
Australian Nuclear Science and Technology Organisation	1
Australian Taxation Office	1
Commonwealth Superannuation Corporation	1
Department of Defence	1
Department of Veterans' Affairs	1
Family Court of Australia	1
Minister for Energy and Emissions Reduction	1
Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs	1
Minister for the Environment	1
Sport Integrity Australia	1
Other (appeals by agencies against IC review decisions)	3
Total	72

In 2020–21, 2 agencies sought review in the AAT of decisions made by the Information Commissioner under s 55K of the FOI Act – Services Australia (1 application) and Defence (2).

At the end of 2020–21, 103 applications remained outstanding with the AAT. This is an 81% increase on the number of applications outstanding at the end of 2019–20 (57).

Table E.15 shows the outcome of the 46 FOI reviews finalised by the AAT in 2020–21. The AAT provided this data.

Of the 46 FOI reviews finalised by the AAT, 9 (20%) resulted in published decisions in 2020–21. The AAT affirmed the Information Commissioner's decision in 3 of those 9 published decisions, while 34 reviews (74%) were withdrawn or dismissed.

Six of the 46 reviews finalised by the AAT in 2020–21 involved applications made by agencies following decisions made by the Information Commissioner under s 55K of the FOI Act. Three applications were varied or set aside (by decision), and one was varied or set aside by consent.

Federal Court

In 2020–21 there were 2 matters that were the subject of judicial review. The first matter related to decisions made under s 54W(a) to decline to undertake an IC review. The second related to claimed delay in processing an IC review decision. Both applications were dismissed by the Federal Court.

Table E.15: Outcomes of FOI reviews finalised by the AAT

AAT outcomes	Number in 2019–20	% of total 2019–20	Number in 2020–21	% of total 2020–21
Affirmed by consent	–	–	–	–
Varied/set aside/remitted by consent	2	7	3	7
Dismissed by consent	–	–	2	4
Withdrawn by applicant	4	13	21	46
Decision affirmed	9	30	3	7
Decision varied/set aside	3	10	6	13
Dismissed by AAT – frivolous or vexatious/fail to comply with direction	2	7	–	–
Dismissed – no application fee paid	–	–	–	–
Dismissed – non-reviewable decision	10	33	11	24
Total	30	100	46	101

Note

Figures may not add to 100% due to rounding.

Impact of FOI on agency resources

To assess the impact on agency resources of their compliance with the FOI Act, agencies are asked to estimate the hours staff spent on FOI matters and the non-labour costs directly attributable to FOI, such as legal and specific FOI training costs. Agencies submit these estimates annually. Agency estimates may also include FOI processing work undertaken on behalf of a minister's office.

Agencies are also asked to report their costs of compliance with the IPS. To facilitate comparison with information in previous annual reports, IPS costs are not included in this analysis of the cost of agency compliance with the FOI Act, but are discussed separately below.

The total reported cost attributable to processing FOI requests in 2020–21 was \$61.48 million, a 4% decrease over the previous financial year's total of \$63.9 million. This is different to trends in previous years where there have been increases in costs. In 2019–20, there was a 7% increase over the previous financial year's total of \$59.9 million.

The reason for the decrease in the overall cost of FOI activity is a 4% decrease in the total staff hours devoted to FOI in 2020–21 and an 11% decrease in requests determined compared with 2019–20. The total number of staff hours in 2019–20 was 893,564, decreasing to 855,498 hours in 2020–21. Total requests determined fell from 29,358 in 2019–20 to 26,680 in 2020–21.

Despite this, the average cost of each FOI request determined during this reporting period rose to \$2,305 (up 8% from \$2,177 in 2019–20) as agencies spent longer on processing each request. The overall average number of staff days to process an FOI request in 2020–21 was 3.3 days, which was higher than the average of 2.9 days the previous financial year.

Table E.16 sets out the average cost per FOI request determined (granted in full, in part or refused) compared to the last two financial years.

Table E.16: Average cost per request determined

	Requests determined	Total cost \$	Average cost per request determined \$
2020–21	26,680	61,484,795	2,305
2019–20	29,358	63,906,111	2,177
2018–19	30,144	59,844,953	1,985
2017–18	31,674	52,186,179	1,648

Staff costs (FOI)

All agencies are asked to supply information about staff resources allocated to FOI.

Table E.17: Total FOI staffing across all Australian Government agencies

Staffing	2018–19	2019–20	2020–21	% change*
Total staff hours	840,803	893,564	855,498	–4
Total staff years	420.4	446.8	427.75	–4

* Percentage change from 2020–21 to 2019–20.

Agencies provide estimates of the number of staff hours spent on FOI to enable the calculation of salary costs (and additional 60% related costs, which cover overheads such as computers, electricity and stationery) directly attributable to FOI request processing.

A summary of staff costs is provided in Table E.18, based on information provided by agencies and ministers and calculated using the following median base annual salaries from Australian Public Service Commission public information:⁹

⁹ Because salary levels differ between agencies, median salary levels have been used. These were published by the Australian Public Service Commission in its APS Remuneration Report 2020. These median levels are as at 31 December 2020.

Table E.18: Estimated staff costs of FOI compared to last financial year

Type of staff	Staff years 2019–20	Total staff costs 2019–20 \$	Staff years 2020–21	Total staff costs 2020–21 \$	Total staff costs % change
FOI contact officers	326.5	41,202,750	318.4	40,616,061	–1
SES	16.5	5,353,577	13.7	4,453,306	–17
APS Level 6 and EL 1–2	53.2	9,780,761	43.3	8,018,880	–18
APS Levels 1–5	47.5	4,923,532	50.9	5,315,641	8
Minister and advisers	1.1	256,145	1.0	225,714	–12
Minister's support staff	2.0	210,519	0.5	47,621	–77
Total	446.8	61,727,284	427.8	58,677,223	–5

- FOI contact officer (officers whose duties included FOI work) \$79,725¹⁰
- other officers involved in processing requests:
 - Senior Executive Service (SES) officers (or equivalent) \$202,910¹¹
 - APS Level 6 and Executive Levels (EL) 1–2 \$115,762¹²
 - Australian Public Service (APS) Levels 1–5 \$65,270¹³
- Minister's office:
 - Minister and advisers \$144,837¹⁴
 - Minister's support staff \$65,270.¹⁵

Total estimated staff costs in 2020–21 were \$58.7 million, 5% less than the previous financial year. In 2019–20, total estimated staff costs rose by 8% over the previous financial year, while in 2018–19, they rose by 15% over the previous financial year. The decreasing staff costs in 2020–21

were partly attributable to a 77% decrease in staff costs for Ministers' support staff.

Non-labour costs

Non-labour costs directly attributable to FOI are summarised in Table E.19, including the percentage change from the previous financial year. The total non-labour costs in 2020–21 were \$2.8 million, a 29% increase compared with the previous financial year (\$2.2 million).

The most significant increases in non-labour costs in 2020–21 were in relation to litigation costs, total legal costs, training and 'other' costs.

The higher litigation costs are primarily for the High Court of Australia (\$256,180, up from nil in 2019–20), Commonwealth Ombudsman (\$89,780, up from nil in 2019–20), the Australian Securities and Investment Commission (\$57,106, up from \$5,853), and PM&C (\$104,797, up from \$76,253). The High Court and the PM&C have advised their high litigation costs related to complex AAT matters.

¹⁰ APS Level 5 base salary median.

¹¹ SES Band 1 base salary median.

¹² Executive Level 1 base salary median.

¹³ APS Level 3 base salary median.

¹⁴ Executive Level 2 base salary median.

¹⁵ APS Level 3 base salary median.

The other agencies did not provide an explanation in their annual returns as to how these costs were incurred or why these costs were much higher than in 2019–20. However, it is apparent from the data provided by the AAT (Table E.14) that these agencies' costs were partly due to new applications relating to FOI decisions in 2020–21.

Training costs reflect training provided to new FOI staff as well as ongoing training for existing staff. Training costs were 64% higher than in 2019–20, which may be the result of agencies taking advantage of virtual FOI training opportunities and an increase in training following a substantial decline in 2019–20 (when training costs decreased by 56%).

There was also a 16% increase in non-labour costs in 2020–21 in relation to general legal advice costs. Some agencies reported engaging external legal advice for complex matters.

As can be seen from Table E.19, there was a 31% decrease in 'other' general administrative costs, such as printing and postage. This may reflect a general decline in the number of people requiring documents to be printed and sent to them, increased efficiencies in the use of digital technology, and the greater use of digital

communication due to movement restrictions imposed by the COVID-19 pandemic.

Average cost per FOI request

As stated above, the overall average number of staff days to process an FOI request in 2020–21 was 3.3 days, which was higher than the average of 2.9 days in 2019–20. As in previous years, the average staff days per FOI request differed significantly across agencies, from 0.3 days (Commonwealth Superannuation Corporation) to 19 days (Defence).

The average cost per request received also differed significantly across agencies, from \$64 to \$67,292. The overall average cost per request received was \$1,766, a 14% increase on the previous financial year's average of \$1,546.

As a general rule, the agencies with the highest average cost per request are small agencies that do not receive many FOI requests. As a result, they do not have the opportunity to develop the processing efficiencies that agencies with higher volumes of FOI requests do.

However, Defence (which received 564 FOI requests) had a high average cost per request, attributable in part to its high average staff days of 19 days per request.

Table E.19: Identified non-labour costs of FOI

Costs	2018–19 \$	2019–20 \$	2020–21 \$	% change*
General legal advice costs	1,517,125	719,718	834,454	16
Litigation costs	414,635	911,551	1,254,301	38
Sub-total (legal costs)	1,931,760	1,631,269	2,088,755	28
General administrative costs	144,140	136,634	94,678	–31
Training	385,745	168,339	276,042	64
Other	263,206	242,585	348,097	43
Total	2,724,851	2,178,827	2,807,572	29

* Percentage change from 2020–21 to 2019–20.

Table E.20: Agencies with average cost per FOI request greater than \$10,000

Agency	Requests received	Average cost per request \$
High Court of Australia	4	67,292
Professional Services Review	4	26,751
Australian Institute of Health and Welfare	4	23,921
Australian Building and Construction Commission	9	18,174
Indigenous Business Australia	4	17,705
Australian Institute of Marine Science	1	14,744
Northern Australia Infrastructure Facility	2	13,256
Department of Defence	564	11,484
Australian National Maritime Museum	2	11,425
Cancer Australia	7	11,122
Australian Transport Safety Bureau	22	10,115
National Skills Commission	1	10,505

Impact of the Information Publication Scheme on agency resources

Agencies are required to provide information about the costs of meeting their obligations under the IPS.

The total reported cost attributable to compliance with the IPS in 2020–21 was \$990,278, 20% less than in 2019–20 (\$1,242,976).

Staff costs (IPS)

Table E.21 shows the total reported IPS staffing across Australian Government agencies compared to last year.

Non-labour IPS costs

Reported IPS non-labour costs for all agencies totalled \$3,973 in 2020–21, a 136% increase when compared with 2019–20, when it was \$1,680. Only 3 agencies (of the more than 250 agencies required to maintain an IPS entry) reported any expenditure on IPS during 2020–21.

Two agencies reported a total of \$165 on general administrative costs, one agency reported spending \$2,048 on general legal advice associated with its IPS, and one agency reported spending \$1,760 on IPS training. No agencies reported expenditure on IPS litigation or 'other' IPS expenses.

Table E.21: Total IPS staffing

Staffing	2019–20	2020–21	% change
Staff numbers: 75–100% time on IPS matters	8	5	–38
Staff numbers: less than 75% time on IPS matters	295	223	–24
Total staff hours	19,084	14,879	–22
Total staff years	9.5	7.4	–22

Table E.22: Estimated staff costs in relation to the IPS in 2020–21

Type of staff*	Staff years	Salary costs \$	General administrative costs \$	Total staff costs \$
IPS contact officers	6.8	350,586	525,879	876,465
SES	0.1	12,207	18,311	30,518
APS Level 6 and EL 1–2	0.4	27,301	40,952	68,253
APS Levels 1–5	0.1	4,428	6,642	11,070
Total	7.4	394,522	591,784	986,306

* IPS contact officers are officers whose usual duties include IPS work. The other rows cover other officers involved in IPS work.

Appendix F

Acronyms and shortened forms

Acronym or abbreviation	Expanded term
AAO	Administrative Arrangements Order
AASB	Australian Accounting Standards Board
AAT	Administrative Appeals Tribunal
ACCC	Australian Competition and Consumer Commission
ACT	Australian Capital Territory
AHRC	Australian Human Rights Commission
AIAC	Association of Information Access Commissioners
AIC Act	<i>Australian Information Commissioner Act 2010</i>
AICmr	Australian Information Commissioner database published on AustLII
APP	Australian Privacy Principle
APPA	Asia Pacific Privacy Authorities
APS	Australian Public Service
ATO	Australian Taxation Office
AustLII	Australasian Legal Information Institute
CDR	Consumer Data Right
CII	Commissioner-initiated investigation
CPEA	APEC Cross-border Privacy Enforcement Arrangement
CSS	Commonwealth Superannuation Scheme
Data-matching Act	<i>Data-matching Program (Assistance and Tax) Act 1990</i>
Defence	Department of Defence
DFAT	Department of Foreign Affairs and Trade
DHS	Department of Human Services
DISER	Department of Industry, Science, Energy and Resources
DITRDC	Department of Infrastructure, Transport, Regional Development and Communications

Acronym or abbreviation	Expanded term
EDR scheme	External Dispute Resolution scheme
EOT	extension of time
EU	European Union
FCA	Federal Court of Australia
FCC	Federal Circuit Court
FFR	Public Governance, Performance and Accountability (Financial Reporting) Rule 2015
FOI	freedom of information
FOI Act	<i>Freedom of Information Act 1982</i>
FTE	full-time equivalent
GCBECA	Global Cross Border Enforcement Cooperation Arrangement
GPA	Global Privacy Assembly
GPEN	Global Privacy Enforcement Network
GST	Goods and Services Tax
HI Service	Healthcare Identifiers Service
Home Affairs	Department of Home Affairs
HSWC	Health, Safety and Wellbeing Committee
IC	Information Commissioner
ICIC	International Conference of Information Commissioners
ICO	UK Information Commissioner's Office
ICON	Information Contact Officers Network
IEWG	International Enforcement Working Group
Information Commissioner	Australian Information Commissioner, within the meaning of the <i>Australian Information Commissioner Act 2010</i>
IPS	Information Publication Scheme
KMP	key management personnel
MOU	Memorandum of understanding
MP	member of parliament
NDB scheme	Notifiable Data Breaches scheme
NDIA	National Disability Insurance Agency

Acronym or abbreviation	Expanded term
NFBMC	National Facial Biometric Matching Capability
OAIC	Office of the Australian Information Commissioner
OCF	OAIC Consultation Forum
PAA	Privacy Authorities Australia
PAW	Privacy Awareness Week
PGPA Act	<i>Public Governance, Performance and Accountability Act 2013</i>
PGPA Rule	Public Governance, Performance and Accountability Rule 2014
PIA	privacy impact assessment
PIPC	Personal Information Protection Commission of the Republic of Korea
PM&C	Prime Minister and Cabinet
PNR	passenger name record
PPN	Privacy Professionals Network
Privacy Act	<i>Privacy Act 1988</i>
PSS	Public Sector Superannuation Scheme
PSSap	PSS accumulation plan
RAC	Regulatory Action Committee
SES	Senior Executive Service
TAP	Talking about performance
TFN	tax file number
TIYDL	This Is Your Digital Life
TPP	Territory Privacy Principle
Veterans' Affairs	Department of Veterans' Affairs
WHS	work health and safety

Appendix G

Correction of material errors

The errors to be corrected in the *Office of the Australian Information Commissioner Annual Report 2019–20* are listed below.

1. On page 10, at paragraph 4, the number ‘828’ is replaced by ‘829’.
2. On page 10, at paragraph 5, the percentage ‘71%’ is replaced by ‘72%’.
3. On page 15, IC reviews graphic where the number of IC reviews is provided, the figure ‘828’ is replaced with ‘829’. The figure ‘71%’ is replaced with ‘72%’.
4. On page 86, under Advertising and market research, the words ‘More information on the survey is available on the OAIC website’ are replaced with ‘Further information on the advertising campaign and survey is available at oaic.gov.au’.
5. On page 146, in the second column at paragraph 4, the percentage ‘71%’ is replaced by ‘72%’.
6. On page 146, in the second column at paragraph 4, the number ‘2,713’ (being the number of practical refusal notices issued by the Department of Home Affairs) is replaced by ‘2,728’.
7. On page 146, in the second column at paragraph 4, ‘15%’ is replaced by ‘16%’.
8. On page 146, in the second column at paragraph 5, ‘88%’ is replaced by ‘56%’ and the sentence that commences ‘This increase in subsequent refusals or withdrawals ...’ is deleted.

9. The data in Table E.7 on page 147 is replaced as follows:

Table E.7: Use of practical refusal in 2019–20

Practical refusal processing step	Personal	Other	Total
Notified in writing of intention to refuse request	3,081	737	3,818
Request was subsequently refused or withdrawn	1,664	460	2,124
Request was subsequently processed	1,417	277	1,694

10. On page 147, adjacent to Table E.7, in the second column, paragraph 1 is deleted.
11. On page 147, adjacent to Table E.7, in the second column at paragraph 2, the number ‘2,713’ is replaced by ‘2,728’, the phrase ‘only 6’ is replaced by ‘1,259’ and ‘1%’ replaced by ‘46%’. The sentence beginning ‘The low rate of FOI requests ...’ is replaced by ‘The lower rate of FOI request ...’ and the word ‘particularly’ is deleted.
12. On page 148, in the second column at paragraph 3, ‘the Australian Sports Commission’ is deleted.

Appendix H

List of requirements

PGPA Rule reference	Description	Requirement	Part of report
17AD(g)	Letter of transmittal		
17AI	A copy of the letter of transmittal signed and dated by accountable authority on date final text approved, with statement that the report has been prepared in accordance with s 46 of the Act and any enabling legislation that specifies additional requirements in relation to the annual report.	Mandatory	1
17AD(h)	Aids to access		
17AJ(a)	Table of contents.	Mandatory	2
17AJ(b)	Alphabetical index.	Mandatory	167
17AJ(c)	Glossary of abbreviations and acronyms.	Mandatory	156
17AJ(d)	List of requirements.	Mandatory	160
17AJ(e)	Details of contact officer.	Mandatory	Copyright page
17AJ(f)	Entity's website address.	Mandatory	Copyright page
17AJ(g)	Electronic address of report.	Mandatory	Copyright page
17AD(a)	Review by accountable authority		
17AD(a)	A review by the accountable authority of the entity.	Mandatory	8–9
17AD(b)	Overview of the entity		
17AE(1)(a)(i)	A description of the role and functions of the entity.	Mandatory	6
17AE(1)(a)(ii)	A description of the organisational structure of the entity.	Mandatory	14–16
17AE(1)(a)(iii)	A description of the outcomes and programmes administered by the entity.	Mandatory	6
17AE(1)(a)(iv)	A description of the purposes of the entity as included in corporate plan.	Mandatory	7
17AE(1)(aa)(i)	Name of the accountable authority or each member of the accountable authority.	Mandatory	14

PGPA Rule reference	Description	Requirement	Part of report
17AE(1)(aa)(ii)	Position of the accountable authority or each member of the accountable authority.	Mandatory	14
17AE(1)(aa)(iii)	Period as the accountable authority or member of the accountable authority within the reporting period.	Mandatory	14
17AE(1)(b)	An outline of the structure of the portfolio of the entity.	Portfolio departments – mandatory	14–15 70
17AE(2)	Where the outcomes and programs administered by the entity differ from any Portfolio Budget Statement, Portfolio Additional Estimates Statement or other portfolio estimates statement that was prepared for the entity for the period, include details of variation and reasons for change.	If applicable, mandatory	N/A
17AD(c)	Report on the performance of the entity		
	<i>Annual performance statement</i>		
17AD(c)(i); 16F	Annual performance statement in accordance with para 39(1)(b) of the Act and s 16F of the Rule.	Mandatory	17–67
17AD(c)(ii)	<i>Report on financial performance</i>		
17AF(1)(a)	A discussion and analysis of the entity's financial performance.	Mandatory	81–117
17AF(1)(b)	A table summarising the total resources and total payments of the entity.	Mandatory	120–121
17AF(2)	If there may be significant changes in the financial results during or after the previous or current reporting period, information on those changes, including: the cause of any operating loss of the entity; how the entity has responded to the loss and the actions that have been taken in relation to the loss; and any matter or circumstances that it can reasonably be anticipated will have a significant impact on the entity's future operation or financial results.	If applicable, mandatory	81–117 120–121
17AD(d)	Management and accountability		
	<i>Corporate governance</i>		
17AG(2)(a)	Information on compliance with s 10 (fraud systems).	Mandatory	71
17AG(2)(b)(i)	A certification by accountable authority that fraud risk assessments and fraud control plans have been prepared.	Mandatory	1
17AG(2)(b)(ii)	A certification by accountable authority that appropriate mechanisms for preventing, detecting incidents of, investigating or otherwise dealing with, and recording or reporting fraud that meet the specific needs of the entity are in place.	Mandatory	1

PGPA Rule reference	Description	Requirement	Part of report
17AG(2)(b)(iii)	A certification by accountable authority that all reasonable measures have been taken to deal appropriately with fraud relating to the entity.	Mandatory	1
17AG(2)(c)	An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance.	Mandatory	70
17AG(2)(d) – (e)	A statement of significant issues reported to Minister under para 19(1)(e) of the Act that relates to non-compliance with Finance law and action taken to remedy non-compliance.	If applicable, mandatory	N/A
<i>Audit Committee</i>			
17AG(2A)(a)	A direct electronic address of the charter determining the functions of the entity's audit committee.	Mandatory	71
17AG(2A)(b)	The name of each member of the entity's audit committee.	Mandatory	72
17AG(2A)(c)	The qualifications, knowledge, skills or experience of each member of the entity's audit committee.	Mandatory	72
17AG(2A)(d)	Information about the attendance of each member of the entity's audit committee at committee meetings.	Mandatory	72
17AG(2A)(e)	The remuneration of each member of the entity's audit committee.	Mandatory	72
<i>External scrutiny</i>			
17AG(3)	Information on the most significant developments in external scrutiny and the entity's response to the scrutiny.	Mandatory	N/A
17AG(3)(a)	Information on judicial decisions and decisions of administrative tribunals and by the Australian Information Commissioner that may have a significant effect on the operations of the entity.	If applicable, mandatory	N/A
17AG(3)(b)	Information on any reports on operations of the entity by the Auditor-General (other than report under s 43 of the Act), a Parliamentary Committee, or the Commonwealth Ombudsman.	If applicable, mandatory	N/A
17AG(3)(c)	Information on any capability reviews on the entity that were released during the period.	If applicable, mandatory	N/A
<i>Management of human resources</i>			
17AG(4)(a)	An assessment of the entity's effectiveness in managing and developing employees to achieve entity objectives.	Mandatory	73–76

PGPA Rule reference	Description	Requirement	Part of report
17AG(4)(aa)	Statistics on the entity's employees on an ongoing and non-ongoing basis, including the following: (a) statistics on full-time employees (b) statistics on part-time employees (c) statistics on gender (d) statistics on staff location.	Mandatory	74
17AG(4)(b)	Statistics on the entity's APS employees on an ongoing and non-ongoing basis; including the following: • statistics on staffing classification level • statistics on full-time employees • statistics on part-time employees • statistics on gender • statistics on staff location • statistics on employees who identify as Indigenous.	Mandatory	74
17AG(4)(c)	Information on any enterprise agreements, individual flexibility arrangements, Australian workplace agreements, common law contracts and determinations under subs 24(1) of the <i>Public Service Act 1999</i> .	Mandatory	75
17AG(4)(c)(i)	Information on the number of SES and non-SES employees covered by agreements etc identified in para 17AG(4)(c).	Mandatory	75
17AG(4)(c)(ii)	The salary ranges available for APS employees by classification level.	Mandatory	74
17AG(4)(c)(iii)	A description of non-salary benefits provided to employees.	Mandatory	76
17AG(4)(d)(i)	Information on the number of employees at each classification level who received performance pay.	If applicable, mandatory	N/A
17AG(4)(d)(ii)	Information on aggregate amounts of performance pay at each classification level.	If applicable, mandatory	N/A
17AG(4)(d)(iii)	Information on the average amount of performance payment, and range of such payments, at each classification level.	If applicable, mandatory	N/A
17AG(4)(d)(iv)	Information on aggregate amount of performance payments.	If applicable, mandatory	N/A

PGPA Rule reference	Description	Requirement	Part of report
<i>Assets management</i>			
17AG(5)	An assessment of effectiveness of assets management where asset management is a significant part of the entity's activities.	If applicable, mandatory	N/A
<i>Purchasing</i>			
17AG(6)	An assessment of entity performance against the <i>Commonwealth Procurement Rules</i> .	Mandatory	77
<i>Reportable consultancy contracts</i>			
17AG(7)(a)	A summary statement detailing the number of new contracts engaging consultants entered into during the period; the total actual expenditure on all new consultancy contracts entered into during the period (inclusive of GST); the number of ongoing consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting year on the ongoing consultancy contracts (inclusive of GST).	Mandatory	77
17AG(7)(b)	A statement that <i>"During [reporting period], [specified number] new reportable consultancy contracts were entered into involving total actual expenditure of \$[specified million]. In addition, [specified number] ongoing reportable consultancy contracts were active during the period, involving total actual expenditure of \$[specified million]"</i> .	Mandatory	77
17AG(7)(c)	A summary of the policies and procedures for selecting and engaging consultants and the main categories of purposes for which consultants were selected and engaged.	Mandatory	77
17AG(7)(d)	A statement that <i>"Annual reports contain information about actual expenditure on reportable consultancy contracts. Information on the value of reportable consultancy contracts is available on the AusTender website."</i>	Mandatory	77
<i>Reportable non-consultancy contracts</i>			
17AG(7A)(a)	A summary statement detailing the number of new reportable non-consultancy contracts entered into during the period; the total actual expenditure on such contracts (inclusive of GST); the number of ongoing reportable non-consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting period on those ongoing contracts (inclusive of GST).	Mandatory	77

PGPA Rule reference	Description	Requirement	Part of report
17AG(7A)(b)	A statement that <i>“Annual reports contain information about actual expenditure on reportable non-consultancy contracts. Information on the value of reportable non-consultancy contracts is available on the AusTender website.”</i>	Mandatory	77
17AD(daa)	<i>Additional information about organisations receiving amounts under reportable consultancy contracts or reportable non-consultancy contracts</i>		
17AGA	Additional information, in accordance with s 17AGA, about organisations receiving amounts under reportable consultancy contracts or reportable non-consultancy contracts. <i>Australian National Audit Office access clauses</i>	Mandatory	77
17AG(8)	If an entity entered into a contract with a value of more than \$100,000 (inclusive of GST) and the contract did not provide the Auditor-General with access to the contractor’s premises, the report must include the name of the contractor, purpose and value of the contract, and the reason why a clause allowing access was not included in the contract. <i>Exempt contracts</i>	If applicable, mandatory	N/A
17AG(9)	If an entity entered into a contract or there is a standing offer with a value greater than \$10,000 (inclusive of GST) which has been exempted from being published in AusTender because it would disclose exempt matters under the FOI Act, the annual report must include a statement that the contract or standing offer has been exempted, and the value of the contract or standing offer, to the extent that doing so does not disclose the exempt matters. <i>Small business</i>	If applicable, mandatory	N/A
17AG(10)(a)	A statement that <i>“[Name of entity] supports small business participation in the Commonwealth Government procurement market. Small and Medium Enterprises (SME) and Small Enterprise participation statistics are available on the Department of Finance’s website.”</i>	Mandatory	77
17AG(10)(b)	An outline of the ways in which the procurement practices of the entity support small and medium enterprises.	Mandatory	77
17AG(10)(c)	If the entity is considered by the Department administered by the Finance Minister as material in nature—a statement that <i>“[Name of entity] recognises the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on the Treasury’s website.”</i>	If applicable, mandatory	77

PGPA Rule reference	Description	Requirement	Part of report
17AD(e)	Inclusion of the annual financial statements in accordance with subs 43(4) of the Act.	Mandatory	81–117
	<i>Executive remuneration</i>		
17AD(da)	Information about executive remuneration in accordance with Subdivision C of Division 3A of Part 2-3 of the Rule.	Mandatory	122–123
17AD(f)	<i>Other mandatory information</i>		
17AH(1)(a)(i)	If the entity conducted advertising campaigns, a statement that <i>“During [reporting period], the [name of entity] conducted the following advertising campaigns: [name of advertising campaigns undertaken]. Further information on those advertising campaigns is available at [address of entity’s website] and in the reports on Australian Government advertising prepared by the Department of Finance. Those reports are available on the Department of Finance’s website.”</i>	If applicable, mandatory	79
17AH(1)(a)(ii)	If the entity did not conduct advertising campaigns, a statement to that effect.	If applicable, mandatory	N/A
17AH(1)(b)	A statement that <i>“Information on grants awarded by [name of entity] during [reporting period] is available at [address of entity’s website].”</i>	If applicable, mandatory	N/A
17AH(1)(c)	Outline of mechanisms of disability reporting, including reference to website for further information.	Mandatory	79
17AH(1)(d)	Website reference to where the entity’s Information Publication Scheme statement pursuant to Part II of FOI Act can be found.	Mandatory	79
17AH(1)(e)	Correction of material errors in previous annual report.	If applicable, mandatory	159
17AH(2)	Information required by other legislation.	Mandatory	126–155

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**Office of the Australian
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