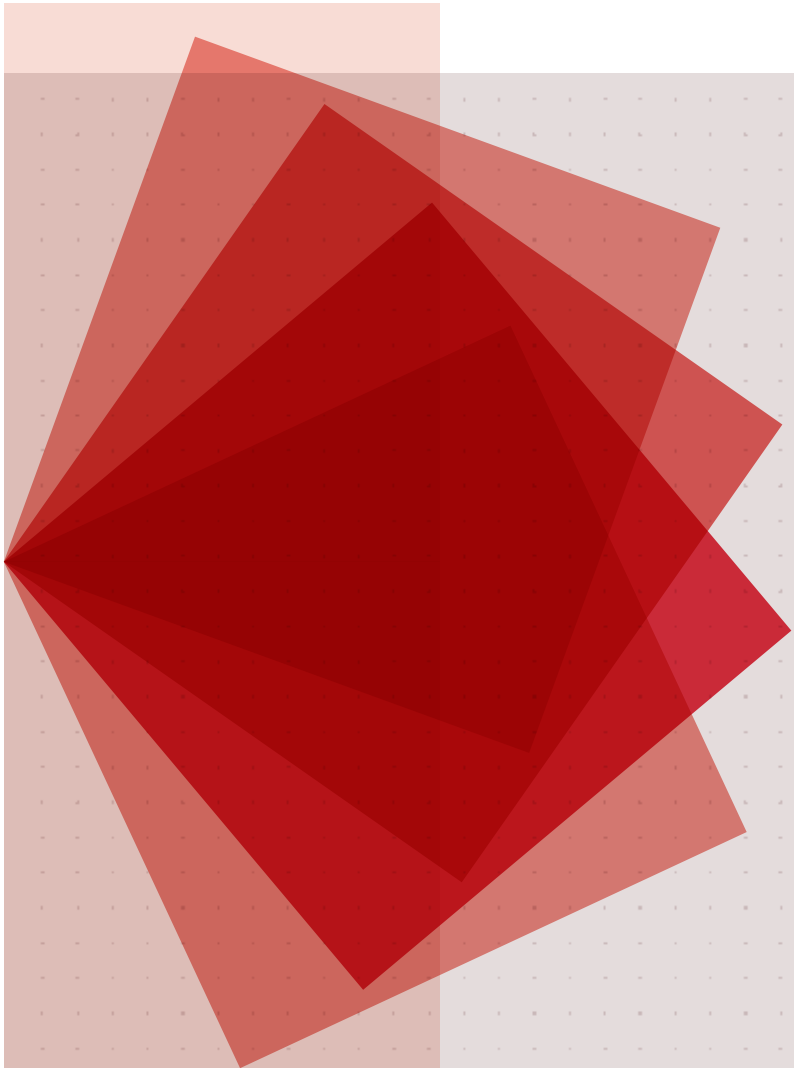
Australian Government

Office of the Australian Information Commissioner

Office of the Australian Information Commissioner

Annual Report 2016–2017



OAIC

Office of the Australian Information Commissioner

Annual Report 2016–2017

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Australian Government
Office of the Australian Information Commissioner

Senator the Hon George Brandis QC
Attorney-General
Parliament House
Canberra ACT 2600

Dear Attorney,

I am delighted to provide to you, for presentation to the Parliament, the Office of the Australian Information Commissioner's (OAIC's) Annual Report 2016–17 for the year ending 30 June 2017.

This report has been prepared for the purposes of section 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) requires the Information Commissioner to prepare an annual report – under aforementioned section 46 of the *Public Governance, Performance and Accountability Act 2013* – on the OAIC's operations, including a report on freedom of information matters (defined in section 31 of the AIC Act) and privacy matters (defined in section 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 accordance with the *Public Governance, Performance and Accountability Amendments (Non-corporate Commonwealth Entity Annual Reporting) Rule 2016*.

Yours sincerely

Timothy Pilgrim PSM
Australian Information Commissioner
Australian Privacy Commissioner

19 September 2017

Contents

Performance snapshot

1 **Challenge 1:** Promote, uphold and shape Australian information privacy rights

Key achievements in 2016–17 included:

- Received 17% more privacy complaints than last year, closed a higher percentage than last year, and shortened the time taken to do so
- 100% of OAIC recommendations to entities to ensure compliance with the Privacy Act, were accepted or planned for action
- Growth in privacy awareness with 49% increase in Privacy Awareness Week partners, increase in membership of the Privacy Professionals' Network (PPN) from 169 to 1235 members, and received 40% more media enquiries
- Conducted the 2017 Australian Community Attitudes to Privacy Survey (ACAPS).

Refer to page 39 for a detailed report of the OAIC's performance against Challenge 1.

2 **Challenge 2:** Promote and uphold Australian information access rights

Key achievements in 2016–17 included:

- Received 24% more Information Commissioner (IC) reviews than last year
- Finalised 13% more IC reviews than last year, with 80% of IC reviews finalised without a formal decision having to be made (in line with our aim of encouraging agreement between the parties where possible)
- All FOI complaints finalised during the year were completed within 12 months of receipt
- Reissued key parts of the Guidelines issued under s 93A of the FOI Act.

Refer to page 50 for a detailed report of the OAIC's performance against Challenge 2.

3 **Challenge 3:** Develop the personal information management capabilities of Australian businesses and government agencies

Key achievements in 2016–17 included:

- Initiated development of the Australian Public Service (APS) Privacy Governance Code
- Released the Privacy Impact Assessment (PIA) eLearning Program to improve skill and capability within Australian businesses and agencies.

Refer to page 54 for a detailed report of the OAIC's performance against Challenge 3.

Analysis of performance against our purpose

The 2016–17 year was a period of consolidation for the OAIC. In particular we worked hard to implement the Government's decision to return all functions under the FOI Act to the OAIC.

We were effective in the reporting year in achieving our purpose of promoting and protecting the right of individuals to access government-held information and understand how it is used for public purposes; and to exercise choice and control over their personal information.

This is demonstrated by:

Challenge 1: Promote, uphold and shape Australian information privacy rights

Out of the 20 performance criterion, the OAIC met 16 of the criterion targets.

Challenge 2: Promote and uphold Australian information access rights

Out of the seven performance criterion, the OAIC met six of the criterion targets.

Challenge 3: Develop the personal information management capabilities of Australian businesses and government agencies

Out of the two performance criterion, the OAIC met both of the criterion targets.

Out of a total of twenty-nine performance criterion (under our three main goals) we met the target for twenty-four of these criterion.

Further information is contained in the Performance statements on page 39.

About us

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

Our role is to the meet the needs of the Australian community when it comes to the regulation of **privacy and freedom of information**.

We do this by:

- Ensuring proper handling of personal information in accordance with the *Privacy Act 1988* (Privacy Act) and other legislation
- Protecting the public's right of access to documents under the *Freedom of Information Act 1982* (FOI Act).

The head of the agency is the Australian Information Commissioner.

As of 30 June 2017, we had 74.37 full-time equivalent (FTE) staff, including ongoing and non-ongoing employees.

Purpose

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

We are successful when we:

- **promote and uphold information privacy rights for individuals**
- **assist businesses and government agencies covered by the *Privacy Act 1988* to meet their privacy obligations while encouraging better privacy practice**
- **influence government policy makers to consider privacy and Freedom of Information (FOI) impacts when drafting legislation and new policy proposals**
- **undertake FOI regulatory functions under the *Freedom of Information Act 1982* in an efficient and timely manner**
- **assist businesses and government agencies improve their information management capabilities in relation to privacy and FOI.**

Objectives

The OAIC's objectives for 2016–17 were identified in our *Corporate Plan 2016–17*.

Vision

Our vision is an Australia where government information is managed as a national resource and personal information is respected and protected.

Stakeholders

We work proactively with government agencies, political and community leaders, researchers and academics, businesses and the Australian public to regulate and enforce Australia's privacy and freedom of information laws.

Values

- Independent: We make decisions and provide advice that is impartial and objective.
- Innovative: We value innovation, creativity and continuous improvement.
- Proactive: We tailor our work to the challenging environment in information management and policy.
- Collaborative: We work constructively with Parliament, government agencies, private entities, interest groups and the public.
- Practical: We make decisions and give advice that is sensible and operative.
- Expert: We provide respected insights and leadership in privacy, FOI, information management and policy.

Goals

- Promote, uphold and shape Australian information privacy rights
- Promote and uphold Australian information access rights
- Develop the personal information management capabilities of Australian businesses and government agencies.

1

Part 1
Overview

Commissioner's review

In last year's Annual Report I noted that after a period of reform, resulting in improved and more-efficient services, the OAIC was well placed to respond to the 2016–17 Budget announcement that we would continue as the national regulator of both the Privacy Act and FOI Act.

I expressed my belief that the OAIC would respond confidently and positively to this confirmation of our role in protecting and upholding these two important information rights for Australian communities — and I am delighted to report that this has indeed occurred.

In 2016–17 the OAIC moved into a new phase of the office's public role — adopting a more proactive and engaged approach to privacy and FOI regulation, ensuring that businesses and agencies are better placed to meet their responsibilities to communities.

Turning first to our privacy role; it's my observation that developments in technological, social, commercial and government service delivery environments continue to drive increasing community and professional interest in privacy and privacy governance.

In this year's Privacy Awareness Week the increase in community and business interest in privacy was evident. We had 369 businesses and agencies signing up to be Privacy Partners — a 49% increase on 2016 — and we had a more-than-tripling of mainstream media attention compared to 2016.

This shows just how privacy and data protection continue to be core, growing, consumer and community concerns.

Australians continue to be early-adopters of new technologies, many of which are reliant on personal information. But Australians also perceive greater risks in interacting with businesses online, and transparency is central to building their trust — as we found from the 2017 Australian Community Attitudes to Privacy Survey.

From the survey we learned that 83 per cent of Australians think that online environments are inherently more risky than offline, and 69 per cent of Australians said they are more concerned about their online privacy than they were five years ago. Significantly, 58 per cent of Australians have avoided a business because of privacy concerns and 44 per cent said they had chosen not to use a mobile app for the same reason.

These findings reinforce the view that a successful data-driven economy needs a strong foundation in privacy. That message is now as vital to the public sector as to private, as the Commonwealth seeks to build community trust for the future success of data, cyber and innovation agendas.

In this context, I am proud to have initiated the development of an Australian Public Service (APS) Privacy Governance Code, announced jointly with the Secretary of the Department of Prime Minister and Cabinet.

I, like many others, have long held the view that a single high standard for privacy governance across the APS is vital to gaining community support for important data sharing and innovation initiatives.

Australian Government agencies have a unique position in terms of their ability to collect and hold vast amounts of personal information, and so it is fair that they demonstrate the highest standards of personal information protection.

The Code, which comes into effect on 1 July 2018, will provide a clear outline to the Australian community on what they can expect from agencies handling their personal information. It will help build public trust and confidence in Government information-handling practices — by creating a clear, compulsory privacy standard across all of government.

In February this year, we saw the passage of the *Privacy Amendment (Notifiable Data Breaches) Act 2017*, establishing a Notifiable Data Breaches (NDB) scheme in Australia. The scheme, which comes into effect on 22 February 2018, reinforces organisational accountability for the valuable personal information they hold — ensuring individuals know when their personal information may have been disclosed, where this disclosure poses a risk to them.

I am pleased to note that the 2017 Community Attitudes Survey reveals 95%, or near universal, support for this proposition.

These two important measures — the Privacy Code and NDB Scheme — will jointly strengthen Australia's privacy governance in both public and private sectors — and represent the most significant updates to our national privacy regulation since 2014.

Accordingly, the OAIC has been taking a proactive approach to working with businesses and agencies to ensure confident and smooth implementations of both initiatives.

To reach professionals the OAIC has built the national Privacy Professionals' Network, rolling out a calendar of events that will include every Australian capital city; and actively engaging with the more than 1400 members from both the public and private sector throughout the year. Beyond the NDB scheme, we have also assisted businesses and agencies that will need to comply with the new European Union General Data Protection Regulation (GDPR) requirements.

To reach consumer and community interests, we have broadened the Consumer Privacy Network (CPN) to better reflect community needs — with groups representing the culturally and linguistically diverse (CALD) and young people.

Internationally, the OAIC was delighted to secure the 47th Asia Pacific Privacy Authorities (APPA) Forum, bringing together privacy authorities from the region.

Finally, as Australians understand privacy rights more and more they are increasingly likely to enforce them — so it is not surprising that complaints registered for resolution with our office have increased by 17% this year.

To help address this challenge within our resources the OAIC is trialling a new early resolution approach, using new processes for intake, referral and resolution of complaints. The first month of the trial saw a substantial increase in the number of matters successfully dealt with.

Next year marks 30 years since *The Privacy Act 1988* (Privacy Act) was passed. It is fair to say that the challenges of Australian privacy and data protection are vastly more complex than they were in 1988. But no matter how much our environment evolves, Australians' right to privacy remains as important as ever.

The same applies to their Freedom of Information rights, where Australian interest in the information that underpins government decisions continues to grow.

Consequently, the 2016–17 year was also a period of re-consolidation in respect of our FOI functions; as we worked to implement the Government's decision to return all functions under the FOI Act back to the OAIC.

During this same period, the Office experienced a 24% increase in Information Commissioner Review applications — resulting in the largest number of applications received by the Office since its establishment in November 2010.

We also improved our administration of FOI matters, increasing the number of reviews finalised by 13% compared to last year.

An observation I would like to offer here is that we continue to see that some 82% of FOI matters are dominated by requests from individuals to access their own information.

While I accept that in some cases there are complexities to these requests, many are straightforward, and involve individuals seeking their own personal information which they are also entitled to access under the Privacy Act in most cases.

So, it is in the interest, and the efficiency, of agencies to promote and support the right to access one's own personal information held by the agency and to handle these requests administratively where at all possible.

After all, in circumstances where access personal information held in the records of an agency is a right under both the Privacy Act and the FOI Act, we should be looking to reduce the workload on both our clients and our colleagues. I would also comment that we still have work to do in ensuring that the efficiency offered by default publication of uncontentious information requests is maximised. Accordingly, in line with our commitment to support government agencies in how they resolve FOI matters better, we have reviewed and reissued a number of FOI Guidelines about the operation of the Act and have commenced working on an FOI Regulatory action policy.

These actions are timely in light of the Government's release of Australia's first National Action Plan for the Open Government Partnership. The OAIC has long been an advocate for more open, accountable and responsive government. We welcome the opportunity to be part of Australia's participation in this global movement; and to our own role as a member of the Government's Open Government Forum, under the Action Plan.

It is therefore a busy time ahead for the OAIC on both the privacy and FOI fronts, and I would like to acknowledge the support of the OAIC's networks and stakeholders — including the many Commonwealth agencies that we advise and support to deliver whole-of-government initiatives.

I'd also like to thank the skilled and dedicated OAIC staff, who work hard to promote and uphold the privacy and information access rights of all Australians, and who support Australian businesses and agencies to do the same.

Timothy Pilgrim PSM
Australian Information and Privacy Commissioner

14 September 2017

Our year at a glance

Privacy highlights

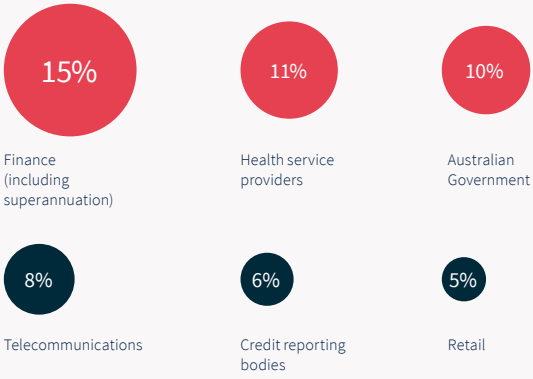
We received

17% more
privacy complaints

2016–17
2,494
Total

2015–16
2,128
Total

During the year, the majority of complaints came from the following sectors



We closed

22% more
privacy complaints

2016–17
2,485
Total

2015–16
2,038
Total

2016–17

Average time taken to close a complaint was

4.7 months

Compared to the time taken last year of

4.9 months

2015–16

2016–17

95%

of all privacy complaints were resolved within 12 months of receipt.

97%

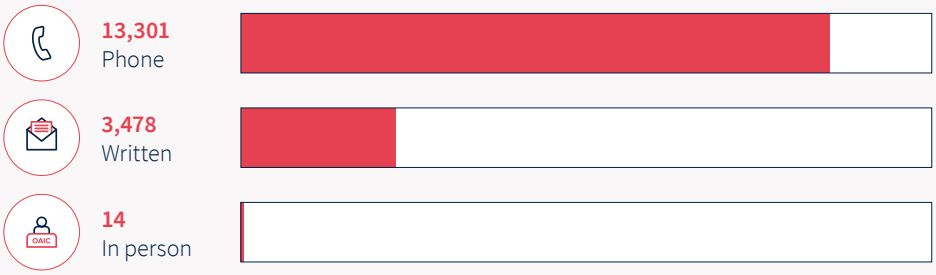
of all privacy complaints were resolved within 12 months of receipt.

2015–16

We handled

16,793

privacy enquiries which was a 12% decrease on last year.



We received

114

voluntary data breach notifications

7%

a 7% increase on last year when we received

107

Top five sectors

1. Australian Government
2. Finance (including superannuation)
3. Retail
4. Health service providers
5. Telecommunications

92%

of voluntary data breach notifications were closed within 60 days.

We managed

35

mandatory data breach notifications (a 119% increase on last year).

Partnered with

369 businesses and agencies

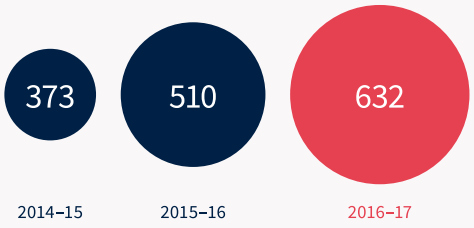
to promote Privacy Awareness Week 2017
(an increase from 246 in 2015–2016 and 237 in 2014–2015).

FOI highlights

We received

632

Information Commissioner reviews of FOI requests



We finalised

86% of applications

for an Information Commissioner review within 12 months of receipt

We finalised 515 Information Commissioner reviews
(a 13% increase compared to 2015–2016 when 454 were finalised)

100%

of FOI complaints finalised were completed within 12 months of receipt.

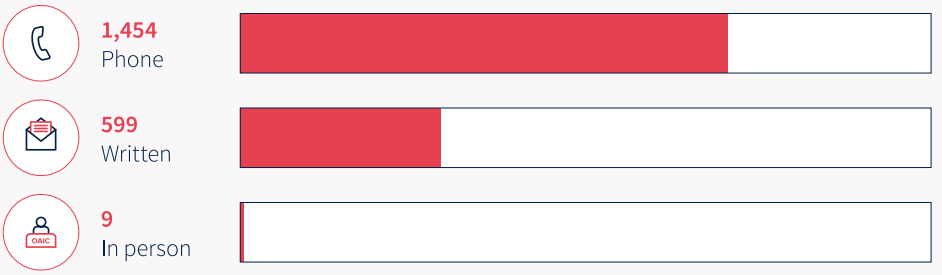
Average time taken to close FOI complaints was

3 months

We handled

2,062

FOI enquiries which was a decrease on last year



Our environment

The Australian economy is more information-driven than ever. Large and small companies are harnessing the power of 'big data' to discover even more detail about customer habits and trends. Technology has changed, and will continue to change, many of our everyday transactions.

This year Australia has seen a number of high profile privacy or cyber security incidents, which impact the public's perceptions of the ability of organisations to handle personal information properly.

Against this climate, the Australian community are increasingly exercising their personal information rights. The number of privacy complaints made to the OAIC each year has increased by almost 150% over the last decade.

Equally, the findings from the 2017 Australian Community Attitudes to Privacy Survey showed how privacy and data protection continue to be of concern to consumers and reinforce the view that a successful data-driven economy needs a strong foundation in privacy.

Privacy governance in the both the public and private sectors will significantly strengthen next year with the implementation of the Australian Public Service (APS) Privacy Governance Code and the Notifiable Data Breaches (NDB) scheme, the planning for which we have commenced.

In addition, as the independent regulator for the privacy aspects of the My Health Record system, we have continued to work with the health sector as it prepares for the system to become opt-out by the end of 2018.

Of equal importance in our information-driven economy is Freedom of information — a vital pillar of open government.

Next year we will develop and publish an FOI regulatory action policy that outlines our approach to undertaking IC reviews, FOI complaints and Commissioner-initiated investigations.

The OAIC is also supporting progress against Australia's Open Government National Action Plan 2016–2018. The Plan provides a road map for Australia's participation in the Open Government Partnership (OGP), an international forum for reformers committed to making their governments more open, accountable, and responsive to citizens. These activities also align with Australia's open data agenda, of which FOI is an integral part.

Who we are

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 *Australian Information Commissioner Act 2010* (AIC Act), and exercises powers under the FOI Act and Privacy Act.

The AIC Act provides for there to be a Privacy Commissioner and Freedom of Information Commissioner.

Timothy Pilgrim is the Australian Information Commissioner and Australian Privacy Commissioner. He reports to the Australian Parliament, through the Attorney-General.

As head of the agency, the Australian Information Commissioner is responsible for the strategic oversight and accountability for the agency's regulatory, strategic, advisory and dispute resolution functions, as well as its financial and governance reporting.

The Commissioner is supported by his principle adviser the Deputy Commissioner Angelene Falk who oversees the operation of the OAIC's services in both privacy protection and information access, and the corporate and communication functions.

Assistant Commissioner Andrew Solomon is responsible for the Dispute Resolution branch covering case management and resolution of privacy complaints and FOI reviews and complaints, Commissioner-initiated investigations; legal services and the public enquiries line.

Assistant Commissioner Melanie Drayton is responsible for the Regulation and Strategy branch which provides advice and guidance, examines and drafts submissions on proposed legislation, conducts assessments, and provides advice on inquiries and proposals that may have an impact on privacy.

Executive bios are on page 26

The OAIC staff are experts in their field. They share a deep commitment to ensuring the rights of Australians are protected when it comes to privacy and freedom of information.

Australian Information Commissioner and Australian Privacy Commissioner
Timoth Pilgrim PSM

Deputy Commissioner
Angelene Falk

Dispute Resolution Branch
Assistant Commissioner
Andrew Solomon

Regulation and Strategy Branch
Assistant Commissioner
Melanie Drayton

Timothy Pilgrim PSM

In October 2016, Timothy was formally appointed the Australian Information Commissioner along with his responsibilities as Australian Privacy Commissioner. Timothy has been Australian Privacy Commissioner since 2010 and was Acting Australian Information Commissioner from 2015. Prior to this, Timothy was the Deputy Privacy Commissioner from 1998 to 2010. Before joining the Office of the Privacy Commissioner, Timothy held senior management positions in a range of Australian Government agencies, including the Small Business Program within the Australian Taxation Office and the Child Support Agency.

Timothy has made a significant contribution to the field of privacy in Australia. His achievements include involvement in developing the private sector provisions of the *Privacy Act 1988*, which included widespread consultation with community, business and government organisations. He also played a key role in implementing the private sector provisions, which took effect on 21 December 2001. More recently, Timothy has led the implementation of the 2014 reforms to the Privacy Act, the most significant reforms to the Act since its commencement. In doing so he worked closely with businesses, consumer groups and Australian Government agencies to build awareness of privacy rights and obligations, and ensure compliance with the new requirements.

Timothy has also worked at the international level to ensure that Australia is equipped to deal with global privacy challenges. He has played an important role in the implementation of the Asia-Pacific Economic Co-operation (APEC) Privacy Framework, which aims to promote a consistent approach to information privacy protection across APEC member economies. Timothy has also been closely involved in developing a framework for privacy regulators around the world to cooperate on cross-border enforcement matters.

He has extensive experience in corporate management, covering fields such as human resource management, industrial relations and parliamentary liaison. More broadly, at the corporate level he has been responsible for providing high level advice on strategies for implementing large scale cultural change.

Awarded a Public Service Medal in the 2015 Australia Day Honours List for 'outstanding public service in the development and implementation of major reforms to the *Privacy Act 1988*', Timothy holds a Bachelor of Arts degree from the University of Sydney.

Angelene Falk

Prior to being appointed Deputy Commissioner, Angelene was the Assistant Commissioner of Regulation and Strategy at the OAIC. In this role she oversaw proactive privacy regulation including through Commissioner-initiated investigations, assessments of both public and private sector organisations and handled data breach notifications, many of which attract significant media attention.

Prior to her appointment to the former Office of the Privacy Commissioner in 2007, Angelene held positions with Boards and Commissions as lawyer, educator and policy adviser in the discrimination area. Protecting and promoting rights and responsibilities is an important priority for Angelene, one which she continues in her role today.

Andrew Solomon

Andrew has held senior management positions in two Australian Government regulatory agencies, firstly as the NSW State Manager for the National Native Title Tribunal for seven years and for the past 11 years with the OAIC (formerly the Office of the Privacy Commissioner) — dealing with all functions of the office during that time.

Melanie Drayton

Prior to being appointed Assistant Commissioner, Melanie held a variety of director level positions within the OAIC. Melanie's breadth of responsibilities has seen her work across privacy, freedom of information and information policy functions which included preparing guidance, drafting legislative instruments and promoting the requirements of the *Privacy Act 1988* and the *Freedom of Information Act 1982*. Prior to commencing her tenure at the OAIC, Melanie worked for the NSW government and community sector.

Left to right: Melanie Drayton, Timothy Pilgrim, Angelene Falk and Andrew Solomon.

Communication and collaboration

This year we used a variety of different channels to raise awareness about privacy and freedom of information, engaging with businesses and agencies and the Australian public.

This section contains highlights of some of these activities, with other activities outlined in Chapter 2.

Our networks

The OAIC hosts and participates in a number of domestic and international privacy networks which provide opportunities for organisations to meet, collaborate and share expertise.

Privacy Professionals' Network

This year there was a significant increase in public and private sector privacy professionals interested in joining the Privacy Professionals' Network (PPN) — membership increased from 169 to 1235 members. Approximately 70% of members are from the private sector, with the remainder from the public sector. Members have the opportunity to hear from experts, listen to case studies, and network with other members.

Consumer Privacy Network

The Consumer Privacy Network (CPN) assists the OAIC to further understand and respond to current privacy issues affecting consumers. Members are appointed for a two-year period. The full list of current members are:

- Australian Communications Consumer Action Network
- Australian Privacy Foundation
- Consumer Action Law Centre (CALC)
- Consumer Credit Law Centre SA (CCLCSA)
- Consumers Health Forum of Australia
- Electronic Frontiers Australia, Inc

- Financial Rights Legal Centre Inc (NSW)
- Internet Australia
- Legal Aid NSW
- Legal Aid Queensland
- The Foundation of Young Australians*
- National LGBTI Health Alliance*
- Federation of Communities' Councils of Australia*
- National Mental Health Consumer and Carer Forum.*

* Became members during 2017–18.

eNewsletters

We distributed 11 *OIACnet* eNewsletters to subscribers, 13 to PPN members and four to our Information Contact Officer Network (ICON) members — providing the latest news about our activities, publications and other relevant information.

External Dispute Resolution schemes

The Information Commissioner can recognise external dispute resolution (EDR) schemes to handle particular privacy-related complaints (s 35A of the *Privacy Act 1988*).

The EDR schemes currently recognised are:

- Credit and Investments Ombudsman (CIO)
- Energy & Water Ombudsman NSW (EWON)
- Energy + Water Ombudsman Queensland (EWOQ)
- Energy & Water Ombudsman SA (EWOSA)
- Energy and Water Ombudsman Victoria (EWOV)
- Energy and Water Ombudsman Western Australia (EWOWA)
- Financial Ombudsman Service (FOS)
- Public Transport Ombudsman Victoria (PTO)
- Telecommunications Industry Ombudsman (TIO)
- Tolling Customer Ombudsman (TCO).

External networks

Privacy Authorities Australia

Privacy Authorities Australia is a group of Australian privacy authorities that meet regularly to promote best practice and consistency of privacy policies and laws. Membership includes the OAIC and privacy representatives from all states and territories.

Asia Pacific Privacy Authorities

This is 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.

Global Privacy Enforcement Network

The network is designed to facilitate cross-border cooperation in the enforcement of privacy laws. It builds on the Organisation for Economic Co-operation and Development's (OECD) *Recommendation on Privacy Law Enforcement Cooperation* (the Recommendation) (2007), which recognised the need for greater cooperation between privacy enforcement authorities on cross-border privacy matters.

Asia-Pacific Economic Cooperation

The Asia-Pacific Economic Cooperation (APEC) administers a number of working groups including a working group focused on privacy, data transfers and digital interactions. We do not officially participate in any of APEC's working groups. However, we do monitor them regularly and assess the impacts on our operating landscape. We also regularly review opportunities to co-sponsor APEC projects and research.

We have also adopted and are participants in the APEC Cross-border Privacy Enforcement Arrangement (CPEA).

International Conference of Data Protection and Privacy Commissioners

The largest and oldest network for data protection and privacy authorities, it brings together organisations from around the world.

The Association of Access Information Commissioners

This Australian network is for information access authorities who administer FOI legislation.

Common Thread Network

This network brings together data protection and privacy authorities from across the Commonwealth of nations.

The International Conference of Information Commissioners

The international conference provides an opportunity for commissioners, practitioners and advocates to exchange ideas for the advancement of access to information.

Events

As part of Privacy Awareness Week 2017, 132 privacy professionals attended the main industry event and over 50 people registered to attend the 'Growing up digital' event held in conjunction with the eSafety Commissioner.

We also held a number of PPN events this year across Australia, including a free public lecture in Perth on the modern day interactions between privacy governance, technology and trust and a Queensland University of Technology event to discuss the Mandatory Data Breach Notification Bill and EU General Data Protection Regulation (GDPR) scheme.

An additional focus for this year was a series of 'grass roots' community engagement events. For example we participated in Sydney Gay and Lesbian Mardi Gras Fair Day, promoting positive privacy practices to around 70,000 people.

This year, OAIC Executives gave a number of speeches to audiences from the public, private, community, health and education sectors, as well as an event targeting start-up businesses. We also spoke at international events for privacy professionals.

Privacy Awareness Week 2017

Privacy Awareness Week (PAW) is an annual initiative of the Asia Pacific Privacy Authorities forum. It is held every year to promote and raise awareness of privacy issues and the importance of protecting personal information.

It's encouraging to see that Australians are alert to privacy risks. But we need to convert awareness into action, and use the options already available to us to protect our personal information.

Timothy Pilgrim PSM, Australian Information and Privacy Commissioner, in Media Release *Commissioner calls for action as privacy concerns grow* 15 May 2017

In 2017, the theme was '*trust and transparency*', highlighting the consumer and community trust that flows to organisations who handle personal information transparently, and with care, throughout the information life cycle.

The community interest in privacy was high.

- 49 per cent increase in PAW partners — 369 compared to 246 in 2016
- Over 250 mainstream media mentions compared and 20+ broadcast media interviews — equating to 31 hours of airtime that was equal to $250,000 worth of paid media content.

While 61 per cent of us check website security, … over 65 per cent of Australians do not read privacy policies, and half do not regularly adjust privacy settings on social media, or clear their browsing history…For businesses, these results show there is still work to do to make privacy easy for customers to manage. Those long-winded privacy notices and complex settings need to be replaced by clear language and point-in-time notifications.

Timothy Pilgrim PSM, Australian Information and Privacy Commissioner, in Media Release *Commissioner calls for action as privacy concerns grow* 15 May 2017

Australian Community Attitudes to Privacy Survey 2017

The OAIC's Australian Community Attitudes to Privacy Survey (ACAPS) is a longitudinal study into public awareness of, and concern about, privacy. The survey has been conducted in various forms since 1990 and was last undertaken in 2013.

Given the technological, social and consumer landscape in which our personal information is used, it is not surprising that the survey showed that Australians are increasingly concerned about the privacy risks that have evolved in tandem with new technology and new ways of connecting socially.

The survey revealed that 69 per cent of Australians say they feel more concerned about their online privacy than they did five years ago, and 83 per cent believe privacy risks are greater online than offline. Around one-in-four regret social media activity and a similar percentage knowing a victim of identity theft.

A striking message for the OAIC is that while privacy is increasingly of interest to Australian consumers and communities, many of us are not converting that interest into using basic privacy protections that are already available to us.

The full survey findings are on the OAIC website.

'… our survey shows the majority of Australians have decided not to deal with a business due to privacy concerns.'

Timothy Pilgrim PSM, Australian Information and Privacy Commissioner, in Media Release *Commissioner calls for action as privacy concerns grow* 15 May 2017

Media

This year has seen a significant increase in community and media attention around our work, privacy and FOI. As seen in the ACAPS study, privacy is increasingly of interest from Australian consumers and communities, and several high profile privacy incidents have prompted Australians to reflect on how their information is protected.

In 2016–17 we adopted a strategic and proactive approach to disseminating information and raising awareness, resulting in a strong media presence across a variety of channels.

Media enquiries increased by 40 per cent (255 in 2016–17 compared to 181 in 2015–16). These have been from a mixture of mainstream, business and community publications.

Social media

Twitter

10% increase

in followers

LinkedIn

28% increase

in followers

Facebook

9.5% increase

in page likes

2

Part 2
Performance

Our performance statement

Introduction

I, Timothy Pilgrim, as the accountable authority of the Office of the Australian Information Commissioner, present the 2016–17 annual performance statements of the Office of the Australian Information Commissioner, as required under paragraph 39(1)(a) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). In my opinion, these annual performance statements are based on properly maintained records, accurately reflect the performance of the entity, and comply with subsection 39(2) of the PGPA Act.

Results

Challenge 1: Promote, uphold and shape Australian information privacy rights

Activity 1: Handle privacy complaints

PERFORMANCE CRITERION
80% of privacy complaints finalised within 12 months. Ensure the timeliness and quality of complaint resolution.
Criterion source
Portfolio Budget Statements 2016–17: Program 1.1 Corporate Plan 2016–17
Result against performance criterion

Target met:

- 95% of privacy complaints were finalised within 12 months of their receipt
- 22% increase in the number of complaints closed in 2016–17, compared to 2015–16 (2485 cf. 2038)
- Average time taken to close privacy complaints was 4.7 months

The OAIC ensured the quality of complaint resolution by:

- Handling privacy complaints in line with our *Privacy regulatory action policy* and *Guide to privacy regulatory action*
- Undertaking regular staff training including, in 2016–17, providing training with the assistance of external trainers on mental health and resilience, report and letter writing, conciliation, administrative law, investigations and interviewing techniques. Key staff also undertook Resolution Institute mediation training
- Encouraging staff to participate in complaints-handling networks and events, including the Complaint Handlers Information Sharing and Liaison seminars, the International Association of Privacy Professionals (iappANZ) conference, Privacy Awareness Week activities, investigations symposium, and the Australian Government Leadership Network conference
- Meeting regularly with staff to discuss matters of significance across the teams, and to ensure consistency of decision making.

The ‘Resolving complaints’ section on page 63 provides case studies that demonstrate the quality of our complaint resolution, and information about the initiatives we put in place in 2016–17 to ensure the continued timeliness of our complaints resolution.

PERFORMANCE CRITERION

Resolve the majority of complaints by conciliation with both parties.

Criterion source

Corporate Plan 2016–17

Result against performance criterion

Target not met:

- 36% of complaints were closed on the basis that the respondent had adequately dealt with the matter.

The number of complaints resolved as 'adequately dealt with' reflects our aim of resolving privacy complaints through conciliation wherever possible. We encourage both parties involved in a complaint to play an active role in discussions and negotiations to try and reach a mutual agreement or outcome.

Where the OAIC considers it is reasonably possible that a complaint may be conciliated successfully, the *Privacy Act 1988* requires that there must be a reasonable attempt to conciliate (s40A(1)).

In 2016–17, all privacy staff in the OAIC's Dispute Resolution branch received conciliation training. A number of staff also attended mediation training and are working towards accreditation as mediators with the Resolution Institute.

The 'Resolving complaints' section on page 63 contains more information about our approach to complaint resolution, including conciliation and other potential outcomes to complaints.

PERFORMANCE CRITERION

Raise awareness about our complaints handling function.

Criterion source

Corporate Plan 2016–17

Result against performance criterion

Target met:

- Engaged with the media and the community on social media about the right to make a privacy complaint. Over 189 media and 242 social media mentions were achieved throughout the year
- Reached out to the community at public events, including Seniors' Day at the Sydney Royal Easter Show, and at OAIC organised events held in Brisbane, Melbourne and Hobart
- Information provided to stakeholders who contacted our Enquiries Line
- Our *'How do I make a privacy complaint?'* webpage was viewed 31% more times in 2016–17, compared to 2015–16.

The 'Communication and collaboration' (page 27), 'Community and sector engagement' (page 66) and 'Reaching our audiences' (page 81) sections provides more information about our work in this area.

Activity 2: Conduct privacy assessments

PERFORMANCE CRITERION
The median time for the completion of assessments is within 6 months.
Criterion source
Portfolio Budget Statements 2016–17: Program 1.1 Corporate Plan 2016–17
Result against performance criterion
Target not met: ▪ Median time taken to complete privacy assessments in 2016–17 was 7.1 months In 2016–17, the OAIC focused its privacy assessments on open and transparent management of personal information and security of personal information. All of these assessments required a comprehensive and in-depth review of policy documents, interviews with staff and site inspection. As a result, the time taken to complete assessments in 2016–17 was longer than the planned performance target of six months, which generally anticipates a range of assessment complexity.

PERFORMANCE CRITERION
Provide a professional, independent and systematic appraisal of how well government agencies and businesses comply with the Privacy Act.
Criterion source
Corporate Plan 2016–17
Result against performance criterion
Target met: The OAIC undertook professional, independent and systematic assessments in line with our *Privacy regulatory action policy* and *Guide to privacy regulatory action*. We took a risk-based and proportionate approach to selecting assessment targets. Assessment staff collaborated, via regular meetings, training and information sharing, to ensure that assessment processes were consistent and predictable. Lessons learned from assessments and feedback from assessment targets were communicated back to the team to continually improve assessment processes in the future. The 'Assessments' section on page 71 provides more detailed information about the outcomes of the OAIC's 2016–17 assessment program.

PERFORMANCE CRITERION

Entities change practices to ensure compliance with the Privacy Act.

Criterion source

Corporate Plan 2016–17

Result against performance criterion

Target met:

- 100% of recommendations were accepted or planned for action by assessment targets

Examples of how our assessments changed the practices of entities can be found in the 'Assessments' section on page 71.

PERFORMANCE CRITERION

Key learnings from assessments are incorporated into our guidance and educational materials.

Criterion source

Corporate Plan 2016–17

Result against performance criterion

Target met:

Assessment findings were communicated to stakeholders, including OAIC staff, through assessment reports. Where appropriate, these were also referenced in media releases published on the OAIC's website, and in speeches and presentations by OAIC Executive and staff.

Findings from assessments have been incorporated into our guidance materials where relevant.

Activity 3: Conduct Commissioner-initiated investigations and handle voluntary and mandatory data breach notifications

PERFORMANCE CRITERIA
80% of Commissioner-initiated investigations (CIIs) are finalised within 8 months.
Criteria source
Portfolio Budget Statements 2016–17: Program 1.1 Corporate Plan 2016–17
Result against performance criteria
Target met: ▪ 84% of CIIs were finalised within 8 months Despite the 70% increase in CII case numbers from the 2015–2016 financial year, the OAIC met its target, reflecting the OAIC's commitment to working with respondents to resolve issues of non-compliance and improve privacy practices. More information about CIIs is on page 70.

PERFORMANCE CRITERIA
80% of voluntary data breach notifications are processed or escalated to CII within 60 days.
Criteria source
Portfolio Budget Statements 2016–17: Program 1.1 Corporate Plan 2016–17
Result against performance criteria
Target met: ▪ 92% of voluntary data breach notifications were closed within 60 days Despite the increase in voluntary data breach notifications from the 2015–2016 financial year, the OAIC met its target, reflecting the OAIC's focus on providing timely guidance to agencies and businesses that have experienced a data breach incident. More information about data breach notifications is available on page 68.

PERFORMANCE CRITERIA

80% of mandatory digital health data breach notifications are processed or escalated to CII within 60 days.

Criteria source

Portfolio Budget Statements 2016–17: Program 1.1

Corporate Plan 2016–17

Result against performance criteria

Target not met:

- 54% of mandatory digital health data breach notifications were closed within 60 days.

All data breach notifications were risk-assessed upon receipt.

In 2016–17, there was a 118% increase in mandatory digital health data breach notifications received by the OAIC, compared to 2015–16. The OAIC, in consultation with the Australian Digital Health Agency and the Department of Human Services, has identified new methods for managing this increase.

PERFORMANCE CRITERIA

Increase awareness about the voluntary data breach notification scheme with the OAIC.

Criteria source

Corporate Plan 2016–17

Result against performance criteria

Target met:

The number of reported voluntary data breaches increased 17% on the previous year.

The OAIC informed stakeholders about the voluntary data breach notification scheme through media releases and media statements, social media and information provided by our Enquiries line.

The OAIC's *Data breach notification — A guide to handling personal information security breaches* was viewed on our website 29% more times in 2016–17, compared to 2015–16.

The OAIC is now focusing its efforts on raising awareness of the new mandatory Notifiable Data Breaches scheme, which will commence on 22 February 2018.

See the 'Data breach notifications' section on page 68 for more information on these schemes.

PERFORMANCE CRITERIA
Key learnings are incorporated into our guidance and educational materials.
Criteria source
Corporate Plan 2016–17
Result against performance criteria
Target met: CII findings were communicated to stakeholders, including OAIC staff, through CII reports, enforceable undertakings and media releases published on the OAIC's website, and in speeches and presentations by OAIC Executive and staff.

PERFORMANCE CRITERIA
Entities change practices and implement recommendations from enforceable undertakings and determinations.
Criteria source
Corporate Plan 2016–17
Result against performance criteria
Target met: One CII respondent offered an enforceable undertaking in 2016–17. The enforceable undertaking set out steps that the respondent agreed to take to address the concerns raised by the OAIC in its CII. Implementation of these steps by the respondent led to changes in practices relating to information retention and an improvement in privacy policies and procedures. The Information Commissioner did not make any CII determinations in 2016–17. See the 'Commissioner-initiated investigations' section on page 70 for more information on the CII powers under the Privacy Act and the outcomes of the CIIs that the OAIC conducted in 2016–17.

Activity 4: Provide a public information service

PERFORMANCE CRITERION
90% of written enquiries are finalised within 10 working days.

Criterion source

Portfolio Budget Statements 2016–17: Program 1.1

Corporate Plan 2016–17

Result against performance criterion

Target not met:

- 78% of written enquiries were finalised within 10 working days.

While this represents an improvement on the 2015–16 response rate of 70% finalised within 10 working days, staff turnover and a change in procedures affected our ability to meet this target in 2016–17.

See the 'Enquiries' section on page 57 for more information.

Note: The published Portfolio Budget Statements 2016–17 noted 100% as the criteria but this was an oversight and revised in the Corporate Plan 2016–17.

PERFORMANCE CRITERION
Raise public awareness about our information services for privacy related matters.

Criterion source

Corporate Plan 2016–17

Result against performance criterion

Target met:

The OAIC promoted its information services for privacy related matters through outreach activities and community events, social media, in media statements and on our website. In 2016–17, this included attending Sydney Gay and Lesbian Mardi Gras Fair Day, Seniors' Day at the Sydney Royal Easter Show, Multicultural Expo at Erina, NSW and anti-poverty week.

Our privacy information services achieved over 2,156 media mentions and 552 social media mentions throughout the year.

Activity 5: Assist businesses and agencies to improve their understanding of privacy compliance and promote privacy best practice

PERFORMANCE CRITERIA
Key privacy resources are identified, developed and promoted for business, government and the community.
Consultations are undertaken with stakeholders on significant privacy resources.
Criteria source
Portfolio Budget Statements 2016–17: Program 1.1
Corporate Plan 2016–17
Result against performance criteria
Target met:
In 2016–17, the OAIC developed seven privacy resources for business and government, including a *What is personal information* guide, a Privacy Impact Assessment eLearning program and two videos highlighting the importance of privacy for start-up businesses. The OAIC consulted with stakeholders on these resources.
These resources were promoted through our Privacy Professionals' Network, the OAIC website and during Privacy Awareness Week.
See the 'Resources' section on page 78 for more information about these resources.

PERFORMANCE CRITERIA
Proposed enactments and government programs are monitored for privacy impacts.
Advice is provided to government agencies and guidance to business on emerging privacy issues.
Criteria source
Portfolio Budget Statements 2016–17: Program 1.1
Corporate Plan 2016–17
Result against performance criteria
Target met:
The OAIC completed 15 submissions and issued 144 pieces of advice on privacy related topics.
See the 'Advice for businesses and agencies' section on page 76 for more information about these submissions and advices.

Activity 6: Promote awareness and understanding of privacy rights in the community

PERFORMANCE CRITERIA
Privacy Awareness Week campaign is held, with an increase in the number of participating private and public sector entities and an increase in wider community engagement.
Criteria source
Portfolio Budget Statements 2016–17: Program 1.1 Corporate Plan 2016–17
Result against performance criteria
Target met: Privacy Awareness Week (PAW) was held from 14–20 May 2017. The number of PAW partners increased by 49% from 2016, with 369 private and public sector organisations signing up as partners. There were over 250 media mentions including 20 broadcast media interviews, which equated to 31 hours of airtime. See the 'Awareness' section on page 81 for more information about the OAIC's PAW activities.

PERFORMANCE CRITERIA
Understand and respond to the needs of culturally and linguistically diverse (CALD) communities so we can assist and educate all Australians about their privacy rights.
Criteria source
Corporate Plan 2016–17
Result against performance criteria
Target met: The OAIC continued to ensure a high quality of service for individuals from CALD communities. The OAIC engaged in outreach activities that targeted CALD communities, including a multicultural expo and anti-poverty week where we distributed resources, interacted with CALD communities, and developed relationships with other organisations and agencies that deliver services to CALD communities. We translated five of our resources and information materials into 11 languages for our website, and distributed these at our outreach events. The OAIC welcomed the Federation of Ethnic Communities' Councils of Australia as a member of the Consumer Privacy Network in September 2016. The OAIC established a Diversity Committee which oversees the development and delivery actions against the Multicultural Access and Equity Plan. The needs of CALD communities are considered at regular meetings of the OAIC's Publications Forum.

Activity 7: Develop legislative instruments

PERFORMANCE CRITERIA
Applications for Public Interest Determinations and Australian Privacy Principle codes are considered.
Legislative instruments are appropriate and up-to-date.
Criteria source
Portfolio Budget Statements 2016–17: Program 1.1
Corporate Plan 2016–17
Result against performance criteria
Target met:
No applications for Public Interest Determinations or APP codes were received in 2016–17. General advice was provided on these processes.
On 18 May 2017, the Information Commissioner announced that the OAIC would develop an Australian Public Service (APS) Privacy Governance Code, in collaboration with the Department of Prime Minister & Cabinet. The Privacy Code will play a key role in building public trust in the APS, supporting the Australian Government's public data agenda and enhance privacy governance and capability.
Developing the Privacy Code and supporting materials for agencies will be a major project for the OAIC in 2017–18 in preparation for it coming into effect on 1 July 2018.

Challenge two: Promote and uphold Australian information access rights

Activity 1: Provide a timely and effective Information Commissioner review function

PERFORMANCE CRITERION
80% of Information Commissioner reviews are completed within 12 months.
Reduction of the number of matters over 12 months old.
Increase the number of matters finalised by informal resolution without proceeding to a decision.
Build on the existing jurisprudence which shapes the FOI jurisdiction.
Criterion source
Portfolio Budget Statements 2016–17: Program 1.1
Corporate Plan 2016–17
Result against performance criterion
Two of the three targets were met: ▪ 86% of applications for an Information Commissioner review were finalised within 12 months of receipt. (Target met) ▪ The matters over 12 months old increased from 14 to 18. This happened in the context of the significant increase in number of IC reviews received (632 applications in 2016–17 which is a 24% increase from 2015–16) (Target not met) ▪ There was an Increase in the number of matters finalised by informal resolution without proceeding to decision: 185 in 2015–16 and 238 in 2016–17. (Target met). ▪ Decisions by the Commissioner under s 55K of the FOI Act are published on the OAIC's website, referenced in Guidelines issued under s 93A of the FOI Act and publicised in our OAICnet and OAICicon newsletters.
See the 'Information Commissioner reviews section on page 85 for more information.

Activity 2: Provide promotion and information to the Australian community on information access rights

PERFORMANCE CRITERION
90% of written enquiries are finalised within 10 working days.
Criterion source
Portfolio Budget Statements 2016–17: Program 1.1 Corporate Plan 2016–17
Result against performance criterion
Target not met: ▪ 88% of written enquiries were finalised within 10 working days. Enquirers were notified of any delay at the time. While this represents an improvement on the 2015–16 response rate of 85% finalised within 10 working days, staff turnover and a change in procedures affected our ability to meet this target in 2016–17. Note: The published Portfolio Budget Statements 2016–17 noted 100% as the criteria but this was an oversight and revised in the Corporate Plan 2016–17.

PERFORMANCE CRITERION
Raise public awareness about FOI rights and our information service.
Criterion source
Corporate Plan 2016–17
Result against performance criterion
Target met: The OAIC raised awareness about FOI rights and our information service through outreach activities and community events such as Seniors Day at the Royal Easter Show, social media, in media statements and on our website. In 2016–17, this resulted in over 622 media mentions and 77 social media mentions of the OAIC's FOI information service. See the 'Enquiries' section on page 85 for more information.

Activity 3: Assist government agencies and ministers with FOI advice and maintain guidelines and resources to promote best practices

PERFORMANCE CRITERION
Key resources and guidelines under the FOI Act revised where necessary. Consultations are undertaken with stakeholders where relevant. Engage with government agencies and the public on FOI matters.
Criterion source
Corporate Plan 2016–17
Result against performance criterion
Target met: In 2016–17, we met with various government agencies on a regular basis, and our Executive team delivered presentations at a number of conferences and meetings throughout the year. The Information Commissioner reissued Parts 1, 2, 4–6 and 10–12 of the 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 (FOI Guidelines). See the 'Awareness' section on page 92 for more information about these activities.

PERFORMANCE CRITERION
Understand and respond to the needs of CALD communities so we can assist and educate all Australians about their FOI rights.
Criterion source
Corporate Plan 2016–17
Result against performance criterion
Target met: The OAIC continued to ensure a high quality of service for individuals from CALD communities. The OAIC engaged in outreach activities that targeted CALD communities, including a multicultural expo and anti-poverty week where we distributed resources, interacted with CALD communities, and developed relationships with other organisations and agencies that deliver services to CALD communities. We translated four of our resources and information materials into 11 languages for the website and distributed these at our outreach events. The OAIC established a Diversity Committee which oversees the development and delivery actions against the Multicultural Access and Equity Plan. The needs of CALD communities are considered at regular meetings of the OAIC's Publications Forum.

Activity 4: Handle FOI complaints and investigations

PERFORMANCE CRITERION
80% of FOI complaints finalised within 12 months. Ensure the timeliness and quality of complaint resolutions.
Criterion source
Portfolio Budget Statements 2016–17: Program 1.1 Corporate Plan 2016–17
Result against performance criterion
Target met: ▪ 100% of FOI complaints finalised during the year were completed within 12 months of receipt ▪ Average time taken to close FOI complaints was 3 months. The OAIC ensured the quality of complaint resolution by: ▪ Handling FOI complaints in line with Part 11 of our FOI Guidelines ▪ Undertaking regular staff training including, in 2016–17, a managing unreasonable complainant behaviours course ▪ Encouraging staff to participate in complaints-handling networks and events, including the Complaint Handlers Information Sharing and Liaison seminars.

PERFORMANCE CRITERION
Uphold the effectiveness of FOI processing within agencies.
Criterion source
Corporate Plan 2016–17
Result against performance criterion
Target met: When we conduct IC reviews, investigate complaints and process extension of time applications we gain valuable insights into how agencies are processing FOI requests. As part of our functions, in particular, our complaint function, we provide advice and guidance to agencies about best practice FOI processing. Part 3 of our *FOI Guidelines* assists agencies to effectively process FOI requests. We also provide ad hoc advice to agencies when contacted (agencies often approach case officers directly, rather than through enquiries. In 2016–17, we did not undertake any Commissioner-initiated investigations.

Challenge three: Develop the personal information management capabilities of Australian businesses and government agencies

Activity 1: Promote the relationship between strong privacy governance and improved business effectiveness

PERFORMANCE CRITERION
Develop advice, guidance and promotion on the business and government agency advantages of proactive privacy-by-design management approaches.
Criterion source
Corporate Plan 2016–17
Result against performance criterion
Target met: The OAIC released a Privacy Impact Assessment (PIA) eLearning program during Privacy Awareness Week in May 2017. Undertaking a PIA for a new project or policy is a central part of ensuring a privacy-by-design approach. As of 30 June 2017, the course had been completed 167 times. On 18 May 2017, the Australian Information and Privacy Commissioner announced that the OAIC would develop an Australian Public Service (APS) Privacy Governance Code. A key requirement of the Privacy Code is for Australian Government agencies to undertake a PIA for high risk projects. The OAIC will be developing guidance on this requirement in 2017–18. The OAIC's Executive team delivered speeches at 22 privacy engagements aimed at businesses and government agencies.

Activity 2: Assess education and training capacity and market demand

PERFORMANCE CRITERION
Assess current gaps and risks in public and private sector knowledge of privacy management. Develop business case analysis for the OAIC's engagement and service delivery to address known gaps or opportunities, including on a fee basis. Determine forward programs for projects.
Criterion source
Corporate Plan 2016–17
Result against performance criterion
Target met: In the second half of 2016–17, the OAIC focused on building the privacy management capability of the Australian Public Service. This included the announcement that the OAIC will develop an Australian Public Service (APS) Privacy Governance Code, for implementation on 1 July 2018. As part of the OAIC's work to assist agencies to prepare for the Privacy Code, we surveyed learning and development professionals in agencies to determine what privacy training is currently undertaken by staff, and what further support and resources are required. The OAIC has fed this feedback into its forward program of work for 2017–18.

Analysis

As outlined in the Performance Statements, the OAIC had a total of twenty-nine performance criterion under our three main goals. We met the target for twenty-four of these criterion.

Overall, the OAIC achieved what we set out to do.

- We promoted, upheld and shaped Australian information privacy rights.
- We promoted and upheld Australian information access rights.
- We developed the personal information management capabilities of Australian businesses and government agencies.

We have provided a detailed analysis of our performance throughout the remainder of this chapter.

Privacy

The *Privacy Act 1988* (Privacy Act) requires government agencies and private sector organisations to follow a set of rules when collecting, using and storing individuals' personal information.

Personal information is any information that is about an individual. The most obvious example is a name. Other examples include address, date of birth, photo of their face or even a record of opinion and views. Anything that is about an identifiable individual is personal information.

Whether it's filling in a form or using a digital device, government agencies and private sector organisations have to respect personal information.

The Privacy Act includes 13 Australian Privacy Principles (APPs) which set out standards for businesses and government agencies managing personal information.

Australian Privacy Principles

APP 1 — Open and transparent management of personal information

APP 2 — Anonymity and pseudonymity

APP 3 — Collection of solicited personal information

APP 4 — Dealing with unsolicited personal information

APP 5 — Notification of the collection of personal information

APP 6 — Use or disclosure of personal information

APP 7 — Direct marketing

APP 8 — Cross-border disclosure of personal information

APP 9 — Adoption, use or disclosure of government related identifiers

APP 10 — Quality of personal information

APP 11 — Security of personal information

APP 12 — Access to personal information

APP 13 — Correction of personal information

Enquiries

We provide information about privacy issues and privacy law to the public.

This year there was a 12% decrease in enquiries on the previous year. We answered 13,301 telephone calls and saw written enquiries decrease by 11% (3,478 in total). We assisted 14 in–person enquiries.

While enquiries have decreased, privacy complaints have increased by 17% (see page 59).

In the past the OAIC received a broad range of enquiries. This year, increased community awareness about privacy has meant the office is receiving less enquiries in total but they are now more specific to privacy and what is covered under the Privacy Act. In addition, in line with increased awareness, individuals are increasingly more comfortable with exercising their right to lodge a complaint.

Note: As a part of our MOU with the ACT Government we continued to provide privacy services to ACT public sector agencies including handling privacy complaints in relation to the Information Privacy Act 2014 and its Territory Privacy Principles (TPPs).

Case study: Permitted health situations in relation to the disclosure of health information

An individual sought advice regarding their request to a private hospital for the release of information about their son, who was being treated for depression and has since gone missing.

The hospital refused to disclose that information to the individual on the grounds that it would be an interference with the son's privacy. The parents were not able to request access as they were not authorised to step into the shoes of the individual and exercise their privacy rights on their behalf (they did not hold any power of attorney).

We discussed the use or disclosure of personal information (APP 6) in the circumstances, and referred to s 16B which outlines the permitted health situations in relation to the disclosure of health information i.e. the disclosure of health information would be made to a responsible person (in this case, a parent) for the individual. We noted that s 16B would provide the hospital with the circumstances for when such a disclosure would be permitted.

We also advised the caller that they may wish to provide the OAIC's phone number to the hospital, should it wish to discuss APP 6 with us directly.

Issues

In 2016–17 the most common privacy enquiries to our office were about the use and disclosure of someone's personal information (APP 6) followed by access (APP 12) and data security (APP 11).

Table 1: Phone enquiries about the APPs

ISSUES	NUMBER
APP 1 — Open and Transparent Management	76
APP 2 — Anonymity and Pseudonymity	27
APP 3 — Collection	1182
APP 4 — Unsolicited Personal Information	7
APP 5 — Notification of Collection	538
APP 6 — Use or Disclosure	1765
APP 7 — Direct Marketing	299
APP 8 — Cross–border Disclosure	88
APP 9 — Government Identifiers	6
APP 10 — Quality of Personal Information	108
APP 11 — Security of Personal Information	1214
APP 12 — Access to Personal Information	1362
APP 13 — Correction	153
APPs — Exemptions	960
APPs generally	1009

We also received a number of questions related to other privacy issues.

The table below categorises these enquiries.

Table 2: Other privacy phone enquiries

ISSUES	NUMBER OF CALLS
Credit reporting	889
Data breach notification	138
Data–matching	7
Healthcare Identifier	1
Information Privacy Principles	4
My Health Records (digital health)	5
National Privacy Principles	8
PPS Register	1
Privacy codes	1
Spent convictions	172
Tax file numbers	46
Territory Privacy Principles	30

Complaints

In 2016–2017 we continued to provide an efficient complaints service, investigating complaints about acts or practices that may be an interference with an individual's privacy, as defined in the Privacy Act.

Generally, the OAIC receives complaints from individuals who are concerned an entity has mishandled their personal information. We aim to resolve complaints between the parties wherever possible, and continue to see strong outcomes for the parties from this process.

We investigate privacy complaints under the APPs, as well as matters relating to consumer credit reporting and registered APP codes. We also investigate the handling of other information such as tax file numbers, spent convictions, healthcare identifiers, student identifiers, and information used for data-matching.

In 2016–17, we received 2,494 privacy complaints, an increase of 17% on the previous year. This increase indicates a growing awareness of privacy issues and the role of the OAIC within the community.

Despite the increase in complaints, the OAIC closed 2,485 complaints during the period, an overall improvement of 22% from 2015–16 when we closed 2,038 complaints.

Note: As a part of our MOU with the ACT Government we continued to provide privacy services to ACT public sector agencies including handling privacy complaints in relation to the Information Privacy Act 2014 and its Territory Privacy Principles (TPPs).

The last decade

Over the last ten years we have seen a steady increase in the number of complaints received (see Figure 1). We expect this trend to continue, particularly with the introduction of the notifiable data breach scheme in 2018.

Figure 1: Complaints received per month — July 2007 to present

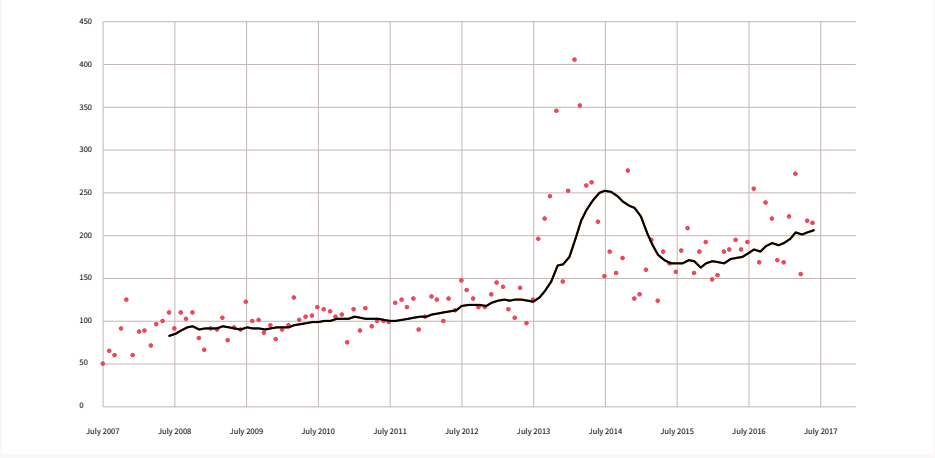
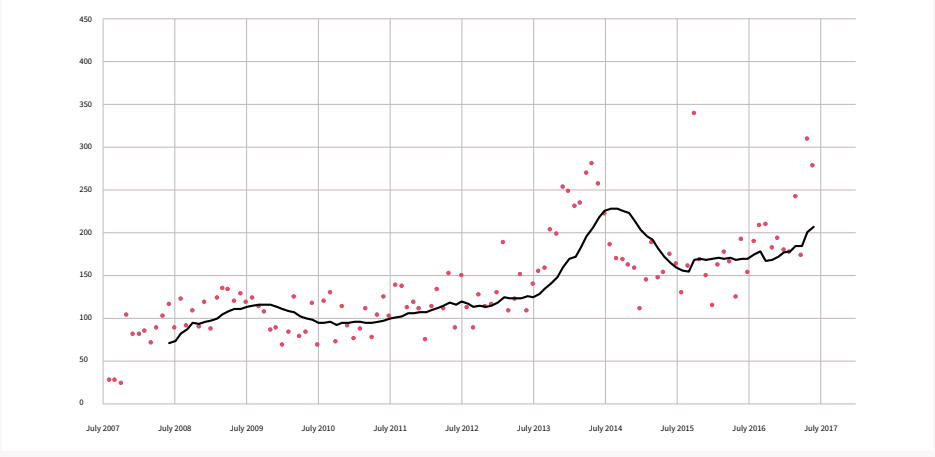


Figure 2: Complaints closed per month - January 2007 to present



* Note that two large class complaints have been excluded from these graphs

Issues

The overwhelming majority of privacy complaints we receive, 70.5%, are about the handling of personal information under the APPs.

The most common issues raised in complaints about the APPs were:

1. use and disclosure of personal information
2. security of personal information
3. access to personal information
4. collection of personal information
5. quality of personal information

In 2016–17, 16% of the complaints we received were about credit reporting. This is the lowest percentage of complaints about credit reporting since significant changes were made to the credit reporting provisions in the Privacy Act in 2014. This reflects the increased role of external dispute resolution schemes in resolving credit reporting complaints.

The trend of growing complaint numbers is no longer associated with a rise in credit related complaints, the reform of the Act, or an influx of larger multiple or class complaints. Rather, it indicates a growing trend of individuals being aware of their privacy rights, and exercising these rights.

More information is available in Appendix C.

Sectors

Privacy complaints cover a broad range of sectors. In 2016–17, the top six sectors we received complaints about were:

1. Finance
2. Health service providers
3. Australian Government
4. Telecommunications
5. Credit reporting bodies
6. Retail

The table below shows the most commonly complained about sectors:

SECTOR	NUMBER OF COMPLAINTS
Finance (incl superannuation)	364
Health service providers	278
Australian Government	253
Telecommunications	204
Credit Reporting Bodies	147
Retail	129
Utilities	114
Online services	107
Insurance	94
Business/Professional Associations	88

Case study: Disclosure by an insurance company

The complainant was involved in a car accident. The other driver engaged the respondent for insurance purposes.

The respondent attempted to contact the complainant about the accident. The complainant's mother answered the phone. The respondent disclosed the specifics of the accident to the complainant's mother, despite the respondent being aware that it was not speaking with the complainant.

The matter resolved by the complainant and the respondent entering into a deed of release, and the respondent paying $1,500 compensation.

Resolving complaints

In 2016–17, we improved the average time taken to close a complaint from 4.9 months in 2015–16, to 4.7 months in 2016–2017. During 2016–2017, 95% of all privacy complaints were resolved within 12 months of receipt. This is consistent with our result in 2015–2016 when 97% of our privacy complaints were resolved within 12 months.

The majority of privacy complaints continue to be closed on the basis that the respondent has not interfered with the individual's privacy, or the respondent has adequately dealt with the matter. Complaints resolved as 'adequately dealt with' are indicative of our overall aim to resolve complaints through conciliation.

We also have other grounds on which we may decline a complaint, including that there is no reasonable likelihood the complaint will be resolved by conciliation, and that no further investigation is warranted in the circumstances. These decline powers were introduced in 2014 to assist the OAIC in the exercise of its powers under the Act.

We continue to assist the parties to resolve matters, and provide staff with on-going training in conciliation and facilitated negotiation, so they can help guide both parties through our conciliation process. We encourage parties to play an active role in conciliation and to participate in joint discussions to try and reach a mutual agreement, which can result in greater satisfaction with our process for both parties.

More information is available in Appendix C.

Case study: Improper collection of credit information

The complainant discovered that his former employer, the respondent, had accessed his credit file despite the complainant having no credit relationship with the respondent. The complainant was engaged in a legal dispute with the respondent at this time, and was concerned as to how the information obtained from his credit file might impact the dispute.

The respondent acknowledged that it did obtain information from the complainant's credit file for the purpose of dealing with the dispute, and that it should have obtained the information through other channels. The respondent had initially offered to apologise and change its procedures, but the complainant was not satisfied.

The complaint resolved through conciliation. The respondent agreed to provide $1,000 in financial compensation and a written explanation of the events that occurred.

In 2016–17, we experienced a 17% increase in the number of privacy complaints we received. The OAIC team has explored creative solutions for reducing its response and processing times, in order to meet the challenge of rising complaint numbers.

For example, in the latter months of the reporting period, our privacy investigations team commenced piloting an early resolution scheme, which aims to bring the parties together at the early stages of our process, before party positions become entrenched.

This trial has reduced our initial response times and contributed to the increase in the number of privacy complaints closed, allowing us to meet the increase in the number of complaints received.

Outcomes achieved through conciliation often have a broader impact, delivering positive outcomes for not only the individual who brought the complaint to us, but for other individuals dealing with the same business or agency.

Case study: Disclosure of TFN information

The complainant's accountant disclosed tax returns, including the complainant's tax file number (TFN) to the complainant's former partner. While the OAIC did not have jurisdiction over the respondent for the APP issues, we investigated the TFN matter, and found the respondent did not have appropriate steps in place to protect the complainant's TFN information.

The OAIC conciliated the complaint, and the parties agreed to settle the matter on the basis the respondent took specific steps to ensure the security of the complainant's personal information and provided $5,000 compensation.

Case study: Disclosure of information by a health service provider

The complainant attended group counselling sessions run by the respondent. The complainant alleged the respondent inappropriately collected their personal information during these group sessions, without the complainant's knowledge, and then disclosed this information to their former partner. The complaint resolved by conciliation. The respondent agreed to provide an apology, compensation of approximately $5,000 and a refund of fees to resolve the matter. The respondent also made substantial changes to its practices in relation to the notification it provided to participants in such sessions.

Case study: Access to personal information — medical records

The complainant requested access to their medical records held by the respondent, a medical centre. Six months elapsed between the complainant making this request and receiving the medical records. When the complainant received these records, they noted they were incomplete, and also appeared to include records of other individuals.

The OAIC made inquiries with the respondent, and it explained that at the time the complainant's request was made, it was transitioning to a new practice manager. The respondent apologised for its handling of the request, and provided further education and training to the staff involved about their privacy obligations. The respondent also implemented measures to ensure personal information is not inadvertently disclosed to the wrong patients. The OAIC provided the respondent with additional information about access to personal information (APP 12) to assist it to improve its practices.
The complainant was satisfied with this outcome, and that the respondent had made changes to its processes to prevent an issue like this recurring.

Community and sector engagement

An important part of our role is interacting with key industry and community stakeholders, including other Commonwealth and state government bodies and external dispute resolution schemes, about recurring or significant issues arising in complaints. In 2016–17 we attended a number of community outreach events promoting awareness of the privacy complaint functions of our office, and the ways in which individuals can access or protect their personal information.

We also worked on improving lines of communication with key respondents, particularly in the early resolution phase. We have successfully established a direct referral process with some key respondents. As a result, we have seen a number of matters resolving between the parties with minimal intervention by the OAIC. We will continue to expand these efforts in 2017–2018.

During the year we also increased media and social media coverage about our complaints handling function with targeted messaging around the complaints process.

Determinations

Under section 52 of the Privacy Act, the Commissioner can make determinations on privacy complaints where conciliation during the complaints process had not resolved the matter. The Commissioner can also make determinations in relation to Commissioner-initiated investigations (CII).

This year, the Commissioner made nine determinations under the Privacy Act, two more than in any previous year. These determinations will have educational and precedent value for government agencies, business, the community and other key stakeholders.

For example, *'LS' and 'LT' (Privacy)* was the first determination about access to personal information since amendments to the Privacy Act commenced on 12 March 2014. This determination clarifies obligations under APP 12, access to personal information, and is of particular use to health service providers and individuals seeking access to medical records.

The first determination about fairness and lawfulness of the means of collection was made in *'LP' and The Westin Sydney (Privacy)* concerning APP 3.5.

Financial Rights Legal Centre Inc. & Others and Veda Advantage Information Services and Solutions Ltd, and *'KB' and Veda Advantage Information Services and Solutions Ltd*, are useful examples of the application of credit reporting reforms of 2014, including the *Privacy (Credit Reporting) Code 2014*.

Other determinations made in 2016–17, such as *'LB' and Comcare (Privacy)*, relate to the unauthorised disclosure of personal information and failure to take reasonable steps to protect personal information. The awards reflect the significant impact the mishandling of personal information can have on an individual in some circumstances.

A list of the OAIC's 2016–17 determinations are below. Links to the decisions are available on www.oaic.gov.au/privacy-law/determinations.

- *'LU' and Department of Defence (Privacy) [2017] AICmr 61 (26 June 2017)*
- *'LS' and 'LT' (Privacy) [2017] AICmr 60 (26 June 2017)*
- *'LP' and The Westin Sydney (Privacy) [2017] AICmr 53 (7 June 2017)*
- *'LB' and Comcare (Privacy) [2017] AICmr 28 (24 March 2017)*
- *'LA' and Department of Defence (Privacy) [2017] AICmr 25 (17 March 2017)*
- *Financial Rights Legal Centre Inc. & Others and Veda Advantage Information Services and Solutions Ltd [2016] AICmr 88 (9 December 2016)*
- *'KB' and Veda Advantage Information Services and Solutions Ltd [2016] AICmr 81 (25 November 2016)*
- *'KA' and Commonwealth Bank of Australia Limited [2016] AICmr 80 (25 November 2016)*
- *'JO' and Comcare [2016] AICmr 64 (21 September 2016)*

Data breach notifications

In February 2017 the passing of the *Privacy Amendment (Notifiable Data Breaches) Act 2017* established a mandatory Notifiable Data Breaches (NDB) scheme that applies to agencies and businesses covered by the Privacy Act.

The NDB scheme reflects developments in the European Union, North America and the Asia Pacific, where privacy protections in many countries and provinces currently include, or propose to include mandatory data breach notification, so that individuals can take protective action in the event of a serious data breach.

From 22 February 2018, organisations covered by the Privacy Act will be required to notify individuals who are likely to be at risk of serious harm. The OAIC must also be notified. Our responsibilities under the NDB scheme include:

- Receiving notifications about data breaches.
- Promoting compliance with the scheme, including taking regulatory action in response to instances of non-compliance.
- Raising awareness about the NDB scheme among stakeholders and the broader community, about how the scheme strengthens the protection of personal information.

In May 2017 we commenced targeted consultation with key industry representatives (including the telecommunications, financial, insurance and health sectors) and Australian government agencies, to help develop our guidance about the NDB scheme. In June we released draft guidance for public consultation covering:

- Entities covered by the NDB scheme
- Identifying eligible data breaches
- Notifying individuals about an eligible data breach
- Australian Information Commissioner's role in the NDB scheme.

In the coming financial year we will develop further resources ahead of the scheme commencing on 22 February 2018.

We continued to administer a voluntary data breach notification scheme that allows businesses and agencies to self-report possible privacy breaches to the OAIC. We also administer a mandatory scheme for digital health data breaches. Further information on that scheme can be found in the digital health section of this report.

After receiving notifications, where appropriate, we consider each incident and provide best practice privacy advice to the organisation, encourage notifying affected individuals and provide assistance to individuals.

We assist organisations affected by a data breach to:

1. contain the data breach
2. reduce the impact of the data breach on affected individuals
3. minimise the risk of a similar incident happening again.

Table 3: Voluntary data breach notifications and mandatory digital health data breach notifications

YEAR	2014–15	2015–16	2016–17
Voluntary notifications	110	107	114
Mandatory notifications (digital health data)	7	16	35
Total	**117**	**123**	**149**

In 2016–2017, the number of reported data breaches continued to grow, with voluntary notifications up 29% on the previous year.

The increase in voluntary notifications can be explained, at least in part, by the OAIC raising awareness this year on the voluntary data breach notification scheme which encourages voluntary notification of affected individuals by entities that have experienced a data breach, and provides guidance on how to notify the OAIC of the issue.

Case study: Personal information sent to third party

In 2016 we received a voluntary data breach notification from the National Australia Bank (NAB) advising that, due to a coding error in its systems, emails containing individuals' personal information were accidentally sent to a third party. The individuals affected had been dealing with NAB's Migrant Banking team, and the recipient of the emails was a website hosted offshore.

The OAIC worked with the UK Information Commissioner's Office in examining this matter.

In response to this incident, NAB corrected its systems to contain the breach and prevent recurrence. It also notified affected individuals.

Commissioner-initiated investigations

Section 40(2) of the Privacy Act enables an investigation of an incident that may be an interference with privacy to take place on the Commissioner's own initiative. This power is used to investigate possible privacy breaches that have come to our attention other than by way of an individual privacy complaint.

Commissioner-initiated investigations (CIIs) are often conducted in response to significant community concern or discussion, formal referrals from other government agencies, or in response to notifications from third parties about potentially serious privacy problems. Our key objective in undertaking a CII is improving the privacy practices of investigated entities.

This year saw another increase in CII activity compared to previous years. We commenced an investigation or conducted preliminary inquiries in relation to 26 incidents. In some incidents, more than one respondent was identified which is reflected in the number of CIIs.

In considering a respondent's information handling practices, procedures and systems that may have affected the likelihood and extent of a data breach, the Commissioner may decide to discontinue an investigation where he is satisfied that no breach has occurred, or if the breach has been adequately dealt with by the respondent and that no further regulatory action is warranted in the circumstances.

Table 4: CIIs

YEAR	NUMBER OF CIIS
2014–15	4
2015–16	17
2016–17	29

Despite the 70% increase in CII case numbers from the 2015–2016 financial year, the OAIC met its target (finalising 84% of CIIs within eight months) reflecting the OAIC's commitment to working with respondents to resolve issues of non-compliance and improve privacy practices.

Case study: Disclosure of membership list

The OAIC investigated allegations concerning the disclosure of the Maritime Union of Australia's (MUA) membership list to the Glen Lazarus Team. The investigation found that a MUA employee accidently left an extract of a membership list, limited to one or two hard copy pages of information, behind at the Glen Lazarus Team political party premises. In response to the incident, MUA committed to a number of actions to ensure the protection of its membership list in the future, and its overall management of personal information. Given the amount of personal information disclosed, the steps MUA took at a state and national level to prevent a similar incident from recurring, the Commissioner considered that the matter was adequately dealt with by the MUA.

The Privacy Act also provides the Commissioner with the power to accept an 'enforceable undertaking' offered by a respondent to resolve the matter. One enforceable undertaking was offered in 2015–2016 following a CII.

Case study: Online dating data breach

Ashley Madison, an online dating website headquartered in Canada, suffered one of the world's most reported data breaches in 2015 when information about millions of its customers was posted online. Following a joint investigation with the Office of the Privacy Commissioner of Canada, the company behind Ashley Madison, Avid Life Media, agreed to an enforceable undertaking to cease its practice of retaining indefinitely personal information of users, establish a retention schedule, improve privacy policies and procedures in consultation with the OAIC, and roll out an enhanced privacy training program for their employees.

Assessments

This year we assessed a range of sectors including loyalty programs, identity verification, telecommunications, education and government. We also conducted assessments in the digital health sector. For more information on our digital health assessments, see page 79.

Each of these assessments required a comprehensive and in-depth review of policy documents, interviews with staff and site inspection. The complexity of this year's assessment program was higher than previous years. Consequently, the median time for the completion of assessments was in excess of the six month target.

However, we did meet the target of 100% of the OAIC's recommendations being accepted or planned for action by assessment targets.

Loyalty programs

Following the completion of two assessments which looked into the loyalty programs of Australia's two largest supermarket retailers, Coles and Woolworths, this year we commenced two new assessments of loyalty programs in Australia. These assessments examine how personal information is managed in accordance with APP 1. The assessments also look at whether sufficient notification to individuals is provided regarding the collection of their personal information in accordance with APP 5. Fieldwork for both assessments has been completed and the assessments will be finalised, and made public, during the 2017–18 financial year.

Identity verification

Following the completion of two assessments of Document Verification Service (DVS) business users, Nimble and DirectMoney, this year we commenced two new assessments of Gateway Service Providers (GSPs) to the DVS. The assessments examine how personal information collected through the DVS arrangement is handled by GSPs in accordance with APP 3, APP 5, and APP 11. Both assessments will be finalised during the 2017–18 financial year.

Telecommunications

Records of disclosure under the *Telecommunications Act 1997*

Last year, we undertook inspections of the top four telecommunications organisations across Australia (Telstra, Optus, Vodafone and iiNet) to assess their compliance with their record keeping obligations under the *Telecommunications Act 1997* (Telecommunications Act). We issued Vodafone, Optus and iiNet with a number of recommendations, which were accepted by each organisation.

This year we followed up the implementation of our recommendations. Vodafone and Optus informed us that they had implemented our recommendations. Due to concerns identified last year in relation to iiNet's maintenance of these records, we conducted a follow-up inspection of iiNet's record-keeping activities in November 2016. Our inspection found that iiNet has now taken steps to ensure that it is meeting its record keeping obligations for records of disclosures under the Telecommunications Act. This inspection was finalised in February 2017.

Handling of personal information disclosed under the *Telecommunications (Interception and Access) Act 1979*

After completing the above assessment on records of disclosure, we commenced a second assessment on Telstra, Vodafone, Optus and iiNet. This assessment examined whether the organisations take reasonable steps to protect the personal information held by them when responding to requests for access by law enforcement agencies, as required under the Telecommunications (Interception and Access) Act 1979 (TIA Act) and in accordance with APP 11. We have finalised our assessment of Telstra, Vodafone and Optus. Our assessment of iiNet will be completed in 2017–18.

Government

Passenger Name Record

Under our memorandum of understanding with the Department of Immigration and Border Protection (DIBP) we commenced a Passenger Name Record (PNR) data related assessment which followed up the implementation of recommendations made in a previous assessment undertaken in 2015. The 2015 assessment looked at the new administrative arrangements for the handling of PNR data by DIBP and considered how well the requirements of APP 6 and APP 11 were met by DIBP. The 2015 assessment made four recommendations associated with the arrangements for the use, disclosure and security of PNR data. DIBP accepted these recommendations. This year's assessment also includes consideration of DIBP's practices concerning the destruction and de-identification of PNR data. We have completed the fieldwork for this year's assessment and it will be finalised during the 2017–18 financial year.

Contractual arrangements in relation to regional processing centres

Last year, we commenced an assessment on DIBP's privacy arrangements for Regional Processing Centres, including:

- general governance and privacy frameworks under APP 1
- how DIBP meets its security obligations under APP 11, including through the use of contractual measures as required under s 95B of the Privacy Act.

We have completed the fieldwork for this assessment. The assessment will be finalised during the 2017–18 financial year.

Counter-Terrorism Legislation Amendment (Foreign Fighters) Act 2014

We completed assessments on Schedule 5 and Schedule 6 of the *Counter-Terrorism Legislation Amendment (Foreign Fighters) Act 2014* (Foreign Fighters Act) during the 2016–17 financial year. These assessments considered how personal information is handled through border clearance processes at Australian international airports, including biometric information collected by SmartGates (Schedule 5) and the Advanced Passenger Processing (AdPP) data exchanged between airlines and DIBP (Schedule 6).

We made six recommendations to DIBP as part of the assessment on Schedule 5, and four recommendations as part of the assessment on Schedule 6. DIBP accepted all of these recommendations.

We commenced three further assessments that considered how personal information was being handled by DIBP under the Foreign Fighters Act which will be finalised during the 2017–18 financial year.

- An assessment of the security arrangements that are in place to protect personal information after its collection by SmartGates (Schedule 5).
- An assessment of the steps that a third party provider to DIBP is taking to secure personal information collected through AdPP (schedule 6). This assessment will be finalised during the 2017–18 financial year.

- An assessment of the procedures DIBP has in place to respond to an individual's request for access to their personal information that was collected by SmartGates, in accordance with APP 12 (Schedule 5).

Comcare

Last year, we undertook an assessment on Comcare to see how it collects and handles personal and sensitive information from claimants and providers through workers' compensation claims under the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act).

We focused on Comcare's collection of personal information (APP 3), the notifications provided to individuals around the time of collection (APP 5) and the general governance and privacy framework put in place by Comcare (APP 1). The final report was issued in September 2016. We made two recommendations and Comcare is taking steps to implement these recommendations.

Tax file numbers

Under the *Privacy (Tax File Number) Rule 2015* which regulates the collection, storage, use, disclosure, security and disposal of individuals' Tax File Number (TFN) information, six specified Australian Government agencies (Commissioner of Taxation/Australian Taxation Office, Australian Prudential Regulation Authority, Department of Human Services, Department of Education and Training, Department of Veterans' Affairs and the Department of Social Services) have obligations to make a range of information publicly available in relation to how TFN information is to be handled. This year we commenced an assessment which looked at how well the agencies meet their obligations. The assessment was conducted through a desktop review of each agency's website and a targeted survey questionnaire sent to each agency. The assessment will be finalised during the 2017–18 financial year.

Universal Student Identifier

Under our memorandum of understanding with the Department of Education and Training, acting through the Student Identifiers Registrar (the Registrar), we undertook an assessment of the Registrar's maintenance and handling of student identifiers and associated personal information in accordance with the *Student Identifiers Act 2014* and the Privacy Act. The assessment looked at how the Registrar is managing personal information in accordance with APP 1 and APP 5. We made four recommendations which were all agreed to by the Registrar.

ACT Government

Access Canberra

Under our memorandum of understanding with the ACT Government, we commenced an assessment to examine Access Canberra's handling of personal information against the requirements of Territory Privacy Principles (TPP) 1 and 5. We have completed the fieldwork for this assessment and it will be finalised during the 2017–18 financial year.

Data-matching

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

Government agencies that carry out data-matching activities must comply with the Privacy Act. Data-matching raises privacy risks because it involves analysing personal information about large numbers of people, the majority of whom are not under suspicion.

Statutory data-matching

The Commissioner has statutory responsibilities under the *Data-matching Program (Assistance and Tax) Act 1990* (Data-matching Act). The Data-matching Act authorises the use of tax file numbers in data-matching activities undertaken by the Department of Human Services (DHS), the Department of Veterans' Affairs and the ATO. In previous years, we have conducted inspections of DHS' data-matching records to ensure compliance with the requirements of the Data-matching Act. Agencies have relied less on matching using the tax file number, consequently this year we focused on providing advice and planning oversight of the data-matching activities outside of the Data-matching Act.

Enhanced Welfare Payment Integrity

The Enhanced Welfare Payment Integrity — non-employment income data-matching measure was announced in the 2015–16 Mid-Year Economic and Fiscal Outlook (MYEFO). It increases DHS' capability to conduct data-matching to identify non-compliance by welfare recipients. We received additional funding under this measure to provide regulatory oversight of these new data-matching activities.

We have been working with DHS to design and implement an effective oversight regime to provide assurance to the public and the Australian Government that privacy risks are being addressed. We gave advice on a range of privacy matters, including providing feedback on privacy impact assessments and assisting DHS in ensuring they have an appropriate privacy management framework in place to support the new initiative.

Data-matching under the voluntary guidelines

We administer the *Guidelines on Data-matching in Australian Government Administration (Guidelines)*, which are voluntary guidelines to assist government agencies with adopting appropriate privacy practices when undertaking data-matching activities that are not covered by the Data-matching Act. This year we reviewed ten data-matching program protocols submitted by matching agencies including the ATO, DHS and the Australian Transaction Reports and Analysis Centre (AUSTRAC).

The Commissioner approved four requests for exemption from certain requirements of the Guidelines. A list of the exemptions that we approved can be found on www.oaic.gov.au.

Advice for businesses and agencies

Our teams provide advice for businesses and government agencies on their obligations under the Privacy Act. We also assist businesses and agencies achieve best practice in their approach to privacy management.

This year we issued advice on a variety of issues including:

- adoption, use and disclosure of government related identifiers
- Australian Public Service (APS) Privacy Governance Code
- credit reporting
- data breach notification requirements
- de-identification and re-identification
- digital identity systems
- direct marketing
- External Dispute Resolution schemes
- family safety initiatives
- Government data matching
- higher education proposals affecting handling of information about students
- law enforcement and national security (Anti-Money Laundering and Counter-Terrorism Financing Act 2006 regulation)
- new and emerging technologies
- online communications and privacy
- privacy and big data
- privacy and international agreements
- telecommunications (including telecommunications sector security reforms).

We also drafted submissions on issues such as:

- the National Digital Health Strategy
- Data Availability and Use
- Elder Abuse
- genomics
- inquiry into the 2016 Census
- the National Cancer Screening Register
- criminal justice
- consent and privacy
- telecommunications, including
  - access to retained telecommunications data in civil proceedings
  - access to customer information in the Integrated Public Number Database (IPND)
  - identity checks for prepaid mobile phones
- drones and privacy
- automated vehicles
- the Anti-Money Laundering and Counter-Terrorism Financing regulatory framework review
- the Telecommunications Sector Security Review.

Case study: The National Cancer Screening Register

In the lead up to the implementation of the National Cancer Screening Register, the OAIC was involved in a number of aspects of this initiative. The OAIC engaged with the Department of Health on the Privacy Impact Assessment undertaken during the early stages of policy development and reviewed draft legislation relating to the Register.

The OAIC also made a submission to, and appeared before, the Senate Community Affairs Legislation Committee Inquiry. Recommendations made by the OAIC were adopted and implemented. In particular, given the nature of the Register and the sensitive health information it would contain, this included added privacy protections through data breach requirements.

Case study: The Australian Law Reform Commission's inquiry into elder abuse

In early 2016, the Australian Government announced an Inquiry for the Australian Law Reform Commission (ALRC) on 'Protecting the Rights of Older Australians from Abuse.' The OAIC engaged in this Inquiry by making two submissions to the ALRC over the course of the year. Our submissions recommended ways in which proposed initiatives to address elder abuse could best balance the privacy rights of older Australians with the important objective of safeguarding older Australians from certain forms of abuse.

The ALRC's final report, published in June 2017, referred to and endorsed a number of the OAIC's recommendations and comments, highlighting the OAIC's role in shaping Australian privacy rights across a wide range of significant policy issues. We also liaised with the Age Discrimination Commissioner on this issue.

Submissions can be read in full on the OAIC website.

Resources

We published a number of new resources, guides and fact sheets in 2016–17.

In preparation for the implementation of the European Union's General Data Protection Regulation (GDPR) and Notifiable Data Breaches (NDB) scheme we published guidance to assist Australian businesses to understand the new requirements.

We provided a self-assessment checklist to assist service providers in considering their privacy obligations under the Data Retention Scheme.

We published *Privacy business resource 19: Direct Marketing* outlining how the requirements in the *Do Not Call Register Act 2006* (DNCR Act) and the *Spam Act 2003* (Spam Act) apply when an organisation direct markets to an individual.

Promoting a key message that understanding good privacy practices is vital to a successful business, we created videos and guidance for start-up businesses.

For individuals we published two fact sheets on health information: *Privacy fact sheet 49: Health information and your privacy* and *Privacy fact sheet 50: Accessing and correcting your health information.*

We also commenced work on developing a series of multimedia resources for healthcare providers to help them understand their privacy obligations and the mandatory data breach notification requirements under the My Health Records Act.

eLearning course on conducting a privacy impact assessment (PIA)

This year, the OAIC launched a new eLearning course on conducting a privacy impact assessment (PIA). Based on the OAIC's *Guide to undertaking privacy impact assessments*, the course is interactive taking the user through a variety of activities to help them understand the privacy impact assessment process.

Launched during Privacy Awareness Week 2017, there were 67 course completions by the end of the first week. There has been extremely positive feedback with a rating of 9.4 out of 10 by users and 100 per cent commenting that they would recommend it. As of 30 June 2017, the course had been completed 167 times.

Very simple process - I had thought that a PIA was this overly complicated process but this course broke it down very simply. …Thanks - this was immensely useful.

PIA eLearning user

Digital health

Many Australians view their health information as being particularly sensitive. This sensitivity has been recognised in the *My Health Records Act 2012* (My Health Records Act) and HI Act, which regulate the collection, use and disclosure of information, and give the Australian Information Commissioner a range of enforcement powers. This sensitivity is also recognised in the Privacy Act which treats health information as 'sensitive information'.

Assessments

We conducted three assessments during the reporting period, two of which commenced in the previous financial year.

An assessment was made of the My Health Record System Operator's implementation of recommendations made by the OAIC in its previous audit of the System Operator against Information Privacy Principle 4. The previous audit examined how the System Operator protected personal information held on the National Repositories Service. We made three recommendations, all of which were agreed to by the System Operator.

We conducted an assessment into the handling of personal information by the Australian Health Practitioner Regulation Agency (AHPRA) in its role as the national registration authority for healthcare practitioners. The assessment focused on AHPRA's handling of healthcare identifiers and associated identifying information under APPs 10 (data quality) and 11 (security). We made four recommendations, all of which were agreed to by AHPRA.

We also conducted an assessment of the Department of Human Services as a contractor to the My Health Record System Operator for services related to the My Health Record system. In particular, the assessment focused on DHS's privacy management and governance arrangements under APP 1.2. Fieldwork was conducted in late March 2016 and the assessment will be finalised in the 2017–18 financial year.

Mandatory data breach notifications

We are responsible for mandatory data breach notifications under s 75 of the My Health Records Act.

This year we received six data breach notifications from the My Health Record System Operator. These notifications related to unauthorised My Health Record access by a third party.

We also received 29 notifications from the Chief Executive of Medicare in their capacity as a registered repository operator under s 38 of the My Health Records Act.

- Nine of these notifications involved separate breaches related to intertwined Medicare records of individuals with similar demographic information. This resulted in Medicare providing data to the incorrect individual's My Health Record.
- Twenty notifications, involving 123 separate breaches, resulted from findings under the Medicare compliance program. In these instances, certain Medicare claims made in the name of a healthcare recipient but not by that healthcare recipient were uploaded to their My Health Record.

For further information, refer to the *Annual Report of the Australian Information Commissioner's activities in relation to digital health 2016–17*.

Legislative instruments

Under the Privacy Act, the Commissioner has powers to make certain legislative instruments. These legislative instruments must comply with the requirements of the *Legislation Act 2003*. They are publicly available on the Federal Register of Legislative Instruments.

No legislative instruments were made during this reporting period.

The Commissioner has specific obligations under section 17 and paragraph 28A(1)(d) of the Privacy Act, to issue rules concerning the collection, storage, use, and security of tax file number information, and to monitor compliance with these rules. In July 2016 we commenced targeted assessments of selected agencies' compliance with the *Privacy (Tax File Number) Rule 2015* (TFN Rule). We anticipate finalising our TFN Rule assessments in the 2017–18 financial year.

We also administer the *Privacy (Credit Reporting) Code 2014* (CR Code), which regulates the handling of consumer credit reporting information in Australia. In April 2017, the Commissioner initiated an independent review of the operation of the CR Code, as required by paragraph 24.3 of the CR Code. We then commenced a tender process to engage a consultant to undertake the review. The review will be conducted and finalised in the 2017–18 financial year.

At the end 2016–17, the Commissioner announced the development of a new Australian Public Service (APS) Privacy Code. For more information on the APS Code, please see page 96.

Awareness

This year we continued to raise awareness about privacy rights for individuals, and also helped Australian businesses and government agencies understand their privacy obligations.

> *Privacy…is about transparency, security, and choice. It's about organisations being up-front about their personal information handling practices so that individuals can make informed choices about how they share their information. And it's about respecting customer trust by maintaining strong security and information handling practices throughout the life cycle of personal data.*
>
> Timothy Pilgrim PSM, Australian Information and Privacy Commissioner, in *Welcome to Privacy Awareness Week*. A message from the Commissioner 15 May 2017

Reaching our audiences

This year we focused significant effort on assisting Australian businesses to understand the new requirements for the European Union's General Data Protection Regulation (GDPR) and Notifiable Data Breaches (NDB) scheme both of which come into effect in 2018.

We also promoted the importance of good privacy practice to start-up businesses.

Reaching the community was also a focus for the OAIC this year — through targeted events and social media activity.

Privacy Awareness Week

Privacy Awareness Week (PAW) is the OAIC's flagship event, the core purpose of which is to promote and raise awareness of privacy issues and the importance of protecting personal information.

This year's event was the most successful ever:

- 49 per cent increase in PAW partners, 369 compared to 246 in 2016
- Over 250 mainstream media mentions (compared to 68 in 2016)
- Over 2,000 social mentions with 21.0K impressions of the OAIC's tweets during the week
- 457 people signed up to use the Privacy Impact Assessment (PIA) eLearning resource which was released during PAW
- 132 privacy professionals registered to attend the ACAPS industry debrief event
- More than 50 people registered to attend the 'Growing up digital' event which featured the eSafety Commissioner.

Speaking engagements

This year we participated in 22 speaking engagements aimed at privacy professionals.

Media

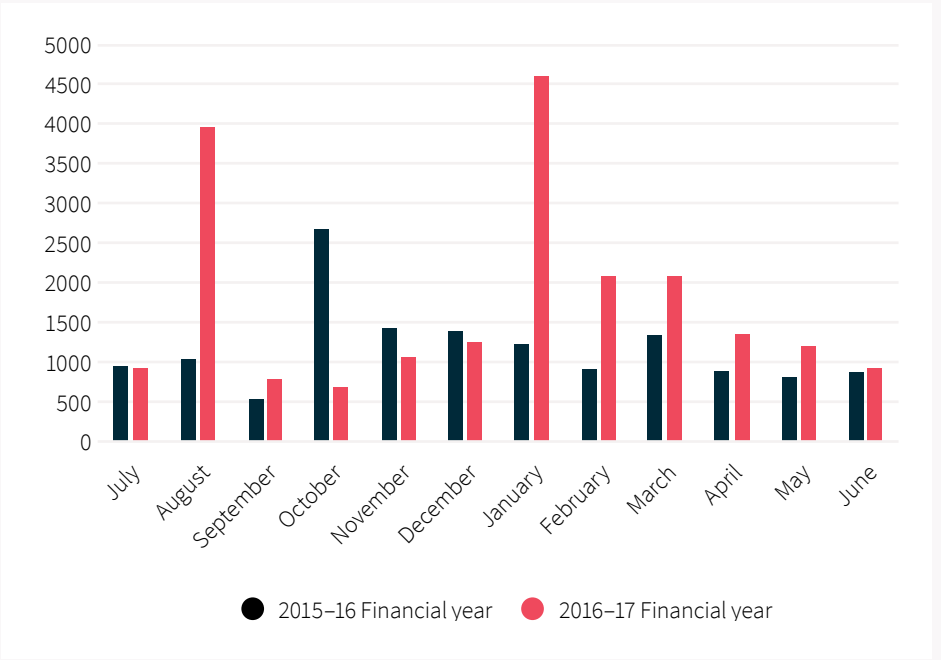
One of our aims this year was to increase media coverage about the public's awareness of privacy.

We achieved this as demonstrated by the below:

- 40% more media enquiries than 2015–16
- Over 250 mainstream media mentions during PAW (compared to 68 in 2016)
- Over 20 broadcast media interviews with the Commissioner during PAW.

The below graph shows the increase in reporting of privacy, and the spike when issues of community concern are covered.

Graph 1: General privacy — media exposure



Digital

The top six pages viewed on the OAIC website reflected the growing awareness of privacy amongst the community, Australian government agencies and businesses.

- Privacy Impact Assessment (PIA) eLearning Program
- Definition of 'personal information'
- Notifiable Data Breach scheme
- Direct marketing - APP 7 for businesses
- Start-ups and privacy
- Data retention self-assessment checklist.

FOI

Provides a legally enforceable right of access to government documents.

It applies to Australian Government ministers and most agencies, although the obligations of agencies and ministers are different.

Individuals have rights under the FOI Act to request access to government documents. The FOI Act also requires government agencies to publish specified categories of information, it also allows them to proactively release other information.

Enquiries

We respond to enquiries from the public on FOI issues and our Information Commissioner review function. This year we saw a slight decrease in these enquiries from 2015–16, with the total for 2016–17 being 2,062. We answered 1,454 phone calls, 599 emails and nine in–person enquiries.

Approximately 48% of all enquiries about FOI matters related to general processes for FOI applicants, including how to make an FOI request or complaint, or seek review of an FOI decision.

The OAIC experienced a significant increase in IC reviews — a 24% increase over 2015–16.

Table 5: Top FOI enquiry by issues*

ISSUE	NUMBER*
General processes	989
Jurisdiction	865
Processing by agency	135
Agency statistics	133
Access to general information	20
Access to personal information	17
Amendment and annotation	6
Vexatious application	5
Information Publication Scheme	3

*There may be more than one issue in each enquiry

Information Commissioner reviews

In an Information Commissioner review (IC review), the Information Commissioner is able to review decisions made by Australian government agencies and ministers, including decisions:

- refusing to grant access to documents wholly or in part
- that requested documents do not exist or cannot be found
- granting access to documents, where a third party has a right to object (for example, if a document contains their personal information)
- to impose charges for access to documents, including decisions refusing to waive or reduce charges
- refusing to amend or annotate records of personal information.

This year we experienced a significant increase in IC reviews, receiving 632 applications for review — a 24% increase over 2015–16 (when the number of applications received was 37% higher than the previous year).

Despite the significant increase in the number of applications, the OAIC was able to finalise 515 IC reviews (a 13% increase compared to 2015–16 when 454 reviews were finalised). Of the 515 IC reviews finalised in 2016–17, 86% were finalised within 12 months, exceeding the intended outcome of 80% completed within 12 months.

The OAIC encourages resolution of IC reviews by agreement between the parties where possible. In 2016–17, 411 IC reviews were finalised without a formal decision being made (80% of all IC reviews finalised).

In 2016–17, 13 IC review were finalised by agreement under s 55F (by way of written agreement between the parties to the IC review), a 40% increase over 2015–16. Two hundred and twenty-four IC reviews were finalised after the applicant withdrew their request for IC review following action taken by the agency to resolve the applicant's concerns (such as by releasing information informally) or following an appraisal by the OAIC of the merits of their case.

The Information Commissioner made 104 formal decisions under s 55K of the FOI Act during 2016–17 (20% of all IC reviews finalised). Although 63% of these decisions (65 decisions) affirmed the decision under review, 26% of those (17 decisions) had been revised under s 55G of the FOI Act during the IC review, giving greater access to the documents sought. The Information Commissioner set aside 22% (23 decisions) and varied 15% (16 decisions) of the reviewable decisions.

The decisions published by the Information Commissioner are an important feature of the OAIC's work. They help agencies interpret the FOI Act and provide guidance on the exercise of their powers and functions. The OAIC adopts a practical approach to its decision making and to its role in helping agencies meet their obligations under the FOI Act.

All decisions are published on the AustLII website as part of the Australian Information Commissioner (AICmr) series.

Some Information Commissioner decisions made during 2016–17 are highlighted below.

'LI' and Department of Education and Training (Freedom of information) [2017] AICmr 41 (10 May 2017)

The applicant sought access to documents relating to the Building Education Revolution program relating to a primary school in Yarraville. The Department granted partial access to the documents sought. However in his review application, the applicant contended the Department held, or should hold, further documents.

The Information Commissioner affirmed the Department's decision, finding that the Department had taken all reasonable steps to find the requested documents. The Information Commissioner also found that documents stored by a third party, the Block Grant Authority (the BGA), were not 'documents of an agency' under s 4(1) of the FOI Act or documents in the Department's constructive possession.

With regard to the nature and timing of the relationship between the Department and the BGA, the Information Commissioner found that the Department was not obliged to take contractual measures to enable access to documents stored by the BGA in accordance with s 6C of the FOI Act. The evidence indicated there was a funding agreement between the Department and the BGA which commenced in 2009. Section 6C only applies to *contracts* entered into *on or after* 1 November 2010.

Tristan Masterson and the Murray-Darling Basin Authority (Freedom of information) [2017] AICmr 57 (22 June 2017)

The applicant sought access to documents containing information about aircraft wreckage in and around Lake Victoria (NSW), including the location of aircraft wreckage.

The Information Commissioner considered whether disclosing an extract from a database containing information about Aboriginal cultural heritage items and locations would or could be reasonably expected to have a substantial adverse impact on the proper and efficient conduct of the Murray-Darling Basin Authority's (the MDBA) operations in Lake Victoria for the purposes of s 47E(d) of the FOI Act and, if so, whether giving Mr Masterson access to the documents, would, on balance, be contrary to the public interest.

The Information Commissioner considered whether the predicted effect of disclosure could reasonably be expected to occur with regard to the particulars of the predicted effect detailed by the MBDA in its reasons for decision and submissions.

The Information Commissioner was satisfied that disclosure of the database extract would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the MDBA's operations and that the public interest factors against disclosure outweighed the factors in favour of disclosure.

Sea Shepherd Australia and Department of Immigration and Border Protection (Freedom of information) [2017] AICmr 48 (23 May 2017)

The Information Commissioner set aside a decision of the Department of Immigration and Border Protection which found that audio-visual footage of whaling activities taken from an Australian government vessel was exempt from disclosure on the basis that disclosure would, or could reasonably be expected to, damage the Commonwealth's international relations (s 33(a)(iii) of the FOI Act).

Noting the Australian government's publicly available submission to the International Court of Justice in the *Whaling in the Antarctic* proceedings, the Commissioner was satisfied that information was available in the public domain about the subject matter of the documents and the issue of whaling generally. In addition, the Commissioner considered the passage of time since the records came into existence in early 2008 to be significant.

Complaints

Under s 69 of the FOI Act the Information Commissioner has power to investigate agency actions relating to the handling of FOI matters.

Following the Australian Government's decision to disband the OAIC as announced in the 2014–15 budget, the FOI complaints handling function was transferred to the Commonwealth Ombudsman between 1 November 2014 and 30 June 2016. The OAIC resumed investigating FOI complaints from 1 July 2016 following the Government's announcement that all functions would remain with the OAIC.

In 2016–17, the OAIC received 36 FOI complaints and closed 18. Delay is one of the most complained about aspects of agency handling of FOI matters. When an agency exceeds the statutory timeframe to process an FOI request, they are 'deemed' to have refused the request for access. This gives rise to a right to seek IC review of the access refusal decision.

The OAIC is of the view that making an FOI complaint is not the appropriate mechanism when IC review is available, unless there is a special reason for undertaking an investigation and the matter can be dealt with more appropriately and effectively as a complaint. As a result, after consulting the applicant, the OAIC generally treats complaints about agency delay as an application for IC review of a deemed refusal because it allows the Information Commissioner to review the decision the agency ultimately makes without the applicant needing to make a new IC review application. This approach accounts for the relatively small number of FOI complaints in 2016–17.

Extensions of time

The FOI Act sets out timeframes within which agencies and ministers must process FOI requests.

If a decision on a request is not made within the statutory timeframe, the agency or minister is deemed to have made a decision refusing the request and the FOI applicant can apply for IC review of that deemed decision.

The Information Commissioner can grant an extension of time to enable government agencies or ministers to process a complex or voluminous FOI request, or when there was a deemed decision to refuse a request for documents or to amend or annotate a personal record. An extension granted after a deemed decision can provide a supervised timeframe for an agency or minister to finalise the request.

Table 6: Overview of FOI extensions of time notifications and requests received

YEAR	2013–14	2014–15	2015–16	2016–17
Received	2,437	4,393	5,605	4,412
Closed	2,456	4,384	5,602	4,420

We endeavour to respond to extension of time applications from agencies and ministers within five working days. This year we finalised 94% of extension of time applications within five working days.

Table 7: Notifications and extension of time requests finalised

REQUEST TYPE	2013–14	2014–15	2015–16	2016–17
s 15AA	1,898	3,900	5,171	3,808
s 15AB	362	249	283	453
s 15AC	132	177	102	112
s 54B	1	0	0	0
s 54D	31	33	30	29
s 54T	32	25	16	18
Total	**2,457**	**4,384**	**5,602**	**4,420**

s 15AA — notification of agreement between agency and applicant to extend time

s 15AB — extension of time for complex or voluminous request

s 15AC — extension of time where deemed refusal of FOI request

s 54B — extension of time for internal review request

s 54D — extension of time where deemed affirmation of original decision on internal review

s 54T — extension of time for person to apply for IC review.

The extension of time provisions are an important feature of the FOI Act. They encourage less formal and more interactive engagement between agencies and applicants about the scope of FOI requests and the expected processing times. The notification process required under s 15AA ensures agencies have generally given realistic consideration to the reasons for delay before seeking an extension of time.

In deciding whether to grant an extension of time, the OAIC considers the impact this might have on an applicant. However, while this is a relevant consideration, it is not determinative.

Vexatious applicant declarations

The Information Commissioner has the power to declare a person to be a vexatious applicant if he is satisfied that the grounds set out in s 89L of the FOI Act exist. Making a vexatious applicant declaration is not something the Information Commissioner undertakes lightly, but its use may be appropriate at times. A declaration by the Information Commissioner can be reviewed by the AAT.

During 2016–17, the Information Commissioner received seven applications from agencies under s 89K seeking to have a person declared a vexatious applicant. Seven applications were finalised in 2016–17, with two declarations being made, four refused and one found to be invalid. These declarations are also published on the AustLII website as part of the Australian Information Commissioner (AICmr) series.

Department of Employment and 'JI' [2016] AICmr 56 (31 August 2016)

Over nearly two years, the respondent engaged in 67 separate FOI access actions with the Department of Employment.

The respondent's justifications for repeatedly engaging in access actions were her assertions that fraudulent records had been created and held by various organisations and Government agencies and she felt 'an enormous inaccuracy in the record system.' As further justification, the respondent explained she has been trying to 'correct' the records for almost 25 years and that the process is not yet complete for her.

In determining the respondent to be a vexatious applicant, the Commissioner considered the number, frequency and nature of her access actions, and the fact that she has not made reasonable attempts to moderate her behaviour, or limit the administrative impact that her access actions are having on the Department

In balancing the respondent's rights under the FOI Act, against the principle that those rights should not be abused, the Commissioner imposed a declaration on the respondent restricting her ability to make requests under the FOI Act to the Department for a period of 12 months.

The respondent then sought review of the Commissioner's declaration in the Administrative Appeals Tribunal (AAT) (see *Morris and Australian Information Commissioner (Freedom of information*) [2017] AATA 363 (22 March 2017)).

In affirming the Commissioner's declaration, the AAT found that some of the applicant's access actions were an abuse of process in and of themselves, because a number revisited matters that had previously been decided without offering further evidence or a reasonable explanation why the request should be reconsidered.

The AAT considered the terms of the Commissioner's declaration 'entirely appropriate and well founded' given the various factors in the case; including that the Commissioner's declaration balanced rights under the FOI Act, with the proper and efficient functioning of the Departments use of its resources.

Awareness

Guidelines

In December 2016, the Information Commissioner issued revised guidelines under s 93A of the FOI Act, which Australian Government ministers and agencies must have regard to when performing a function or exercising a power under the FOI Act. The revised parts include:

- Part 1 — Introduction to the Freedom of Information Act 1982
- Part 2 — Scope of application of the Freedom of Information Act
- Part 4 — Charges for providing access
- Part 5 — Exemptions
- Part 6 — Conditional exemptions
- Part 10 — Review by the Information Commissioner
- Part 11 — Complaints and investigations
- Part 12 — Vexatious applicant declarations

Events

The OAIC participated in various activities throughout the year to raise awareness about accessing government information and the role of the OAIC and its processes. We delivered presentations to stakeholders on the OAIC's IC review and FOI complaints process and participated in the Australian Government Solicitor's FOI Practitioners' Forums.

Media

The Information Commissioner issued a joint media release with the Australian Information Access Commissioners regarding International Right to Know Day on 28 September 2016 and the 25th anniversary of freedom of information 2 December 2016.

Access to information and participation in government processes contributes to the transparency of government – promoting better decision making, accountability, and greater public trust. This is the key contribution freedom of information makes to our modern demogratic governments.

Joint Media Statement — 250th Anniversary of Global Freedom of Information — 2 December 2016

FOI processing statistics received from agencies and Ministers

More statistical tables related to agencies and Ministers FOI processing are available in Appendix D to this report. The full dataset for 2016–17 is published at: http://data.gov.au/dataset/freedom-of-information-statistics

Numbers of FOI requests received

The number of FOI requests received by agencies and Ministers increased by just over 4% in 2016–17 compared to 2015–16. This rate of increase was slower than between 2015–16 and the previous year.

Table 8: Total FOI requests received 2010–11 to 2016–17 and the percentage increase from the previous year

2010–11	2011–12	2012–13	2013–14	2014–15	2015–16	2016–17
23,605	24,764	24,944	28,463	35,550	37,996	39,519
	4.91%	0.73%	14.11%	24.90%	6.88%	4.01%

Numbers of FOI requests received by different agencies

In 2016–17, the Department of Immigration and Border Protection (DIBP), the Department of Human Services (DHS) and the Department of Veterans' Affairs continued to receive the majority of FOI requests (73% of requests received by all agencies and Ministers). The vast majority of the requests to these three agencies are from individuals seeking access to documents containing their own personal information (97% of the requests received by these agencies).

In 2016–17, three agencies moved into the top 20 ranking by numbers of FOI requests received, namely; the Northern Australian Infrastructure Facility (NAIF), established on 1 July 2016, the Immigration Assessment Authority (IAA) and the Commonwealth Ombudsman.

The three agencies that were in the top 20 list in 2015–16 that did not make the 2016–17 list were Australia Post, which saw a 56.3% reduction in requests and the Trade Marks Office and Comcare, despite those two agencies receiving increases in requests of 11% and 8% respectively.

Of the agencies that continued to be in the top 20 in 2016–17, the Department of Health (DOH) and the Australian Transaction Reports and Analysis Centre (AUSTRAC) experienced an increase in the total number of requests received since the previous year, by 24% and 19% respectively. The Australian Securities and Investments Commission (ASIC) and the Department of the Prime Minister and Cabinet (DPMC) saw a reduction in the total number of requests received, by 20% and 14% respectively.

Requests for personal information and for other information

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

In 2016–17, 32,383 requests (82% of all requests) were for documents containing personal information. This represents a slight decrease in comparison to the proportion of requests for personal information last year, which accounted for 87% of all requests received by agencies.

FOI requests finalised

Despite seeing an increase in the total number of requests received in 2016–17, the number of matters finalised by agencies and Ministers increased by 4.1%.

Table 9: Overview of FOI requests received and dealt with between 2014–15 and 2016–17

FOI REQUESTS PROCESSING BY ALL AGENCIES	2014–15	2015–16	2016–17	% +/–
On hand at the beginning of the year	2,397	4,505	5,395	+ 19.8
Received during the year	35,550	37,996	39,519	+ 4.0
Total requiring determination [1]	37,947	42,501	44,914	+ 5.7
Withdrawn	3,641	3,203	3,844	+ 20
Transferred	729	731	763	+ 4.4
Determined [2]	29,000	33,173	34,029	+ 2.6
Finalised [3]	33,370	37,107	38,636	+ 4.1
On hand at the end of the year	4,577	5,394	6,278	+ 16.4

[1] Addition of on hand at the beginning of the year and received during the year.

[2] Covers access granted in full, part or refused.

[3] The sum of withdrawn, transferred and determined.

Table 10: FOI requests determined

	2015–16			2016–17		
DECISION	PERSONAL	OTHER	TOTAL	PERSONAL	OTHER	TOTAL
Granted in full	17,764	790	18,554	18,040	837	18,877
Granted in part	9,848	1,458	11,306	10,180	1,587	11,767
Refused	1,835	1,478	3,313	1,899	1,486	3,385
Total	**29,447**	**3,726**	**33,173**	**30,119**	**3,910**	**34,029**

Use of exemptions in FOI decisions

The personal privacy exemption (s 47F) of the FOI Act remains the most commonly used exemption in FOI decisions (47.9% of all exemptions claimed).

Reliance on the 'certain operations of agencies' exemption (s 47E) of the FOI Act increased significantly from 2014–15 to 2015–16, from 13.9% to 19.8% but has declined slightly in 2016–17, to 18.5%.

Reliance on the documents affecting enforcement of law and protection of public safety exemption (s 37) of the FOI Act continued to decrease, from 12.2% in 2014–15 to 8.8% in 2015–16, and to 6.6% in 2016–17.

Agency costs in processing FOI requests

The total reported cost attributable to processing FOI requests in 2016–17 was $44.787 million, an increase of 8.8% on the previous year's total of $41.152 million. This increase outstrips the increase of 2.6% in requests determined in 2016–17, however the average cost per request determined, which rose by 6% to $1,316, is the second lowest since 2008–09.

Develop the personal information management capabilities of Australian businesses and government agencies

Our third challenge for 2016–17 was to continue to develop the personal information management capabilities of Australian businesses and government agencies.

This year our activities focused on promoting the relationship between strong privacy governance and improved business effectiveness; and taking steps to build the privacy management capability of the Australian Public Service.

Australian Public Service (APS) Privacy Governance Code

This year, the OAIC initiated the development of an Australian Public Service (APS) Privacy Governance Code, which was announced jointly in May 2017 with the Secretary of the Department of Prime Minister and Cabinet.

The Privacy Code will apply to all Australian Government agencies and will support the Australian Government's data innovation agenda by strengthening the existing privacy capability of agencies and enhancing privacy governance across the APS.

Australian Government agencies are now operating in a complex personal information management environment. Data is acquired compulsorily from individuals in many cases, and there is a growing emphasis on maximising the utility of government data and ensuring that it can be shared efficiently and consistently with the community's expectations.

It is in this context that the Privacy Code is being developed to help build public trust and confidence in the Australian Government's information-handling practices and proposed new uses of data.

The Privacy Code will require all agencies to:

- have a privacy management plan
- appoint a designated privacy officer
- appoint a senior official as a 'Privacy Champion' to provide cultural leadership and promote the value of personal information
- undertake a written Privacy Impact Assessment for all 'high risk' projects or initiatives that involve personal information
- take steps to enhance internal privacy capability, including by undertaking any necessary training and conducting regular internal audits of personal information-handling practices.

The requirements of the Privacy Code will be flexible and scalable, and take account of the agency's size, and the sensitivity and amount of personal information it handles.

The OAIC has been collaborating with agencies, and developing a range of resources and training tools to support agencies when the Privacy Code comes into effect on 1 July 2018. This includes the release of the Privacy Impact Assessment (PIA) eLearning program during Privacy Awareness Week.

We have also surveyed learning and development professionals in agencies to determine what privacy training is currently undertaken by staff, and what further support and resources are required. The findings will form part of the OAIC's program of work for 2017–18.

Building capability

Many of the general privacy activities the OAIC undertakes (as outlined in the Privacy section of this report) are focused on developing personal information capabilities of Australian businesses, government agencies and communities – including guidance, advice, resources and assessment, as well as developing the Privacy Code.

Our Privacy Impact Assessment (PIA) eLearning program will support agencies in preparation for the Privacy Code coming into effect on 1 July 2018.

Of note, in preparation for the implementation of the European Union's General Data Protection Regulation (GDPR) and Notifiable Data Breaches (NDB) scheme we published guidance to assist Australian businesses to understand the new requirements.

3

Part 3
Management and accountability

Corporate governance

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

Enabling legislation

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

The OAIC has 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.

The OAIC is accountable as a non-corporate Commonwealth entity under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). The OAIC has annual reporting responsibilities under section 46 of the PGPA Act. It also has a range of reporting and other responsibilities under legislation generally applicable to Commonwealth government authorities.

Portfolio structure and responsible minister

The OAIC is a statutory authority within the Attorney-General's Department. The minister responsible is Senator the Hon George Brandis QC.

Executive

The OAIC Executive, comprising the Commissioner, Deputy and Assistant Commissioners, meets weekly and oversees all aspects of the OAIC's business covering business management and performance, finance, human resources, governance, risk management, external engagement and business planning.

Risk management

Our risk management framework helps staff assess risks, make informed decisions, confidently engage with risk and harness its opportunities.

The OAIC Executive regularly considers and reviews the risks faced by the agency and the reports on risk received from the Audit Committee.

This year, in preparation for the implementation of the Australian Public Service (APS) Privacy Governance Code and the Notifiable Data Breaches scheme, we have highlighted the need to regularly review all activities associated with implementation to ensure that any identified risks are mitigated.

Audit committee

Our audit committee assists the Commissioner to discharge his responsibilities on the OAIC's finances and performance, risk oversight and management, and system of internal control. The Audit Committee oversees the work of the OAIC's internal auditors, ensures the Annual Work Program and ensures appropriate coverage of our strategic and operational risks.

The Audit Committee is chaired by the Assistant Commissioner Dispute Resolution and has two independent members from the Australian Human Rights Commission (AHRC) and the Inspector-General of Intelligence and Security. Representatives from the Australian National Audit Office (ANAO) attend meetings of the Audit Committee as observers.

Corporate services

We have a memorandum of understanding (MOU) with the AHRC that covers the provision of corporate services. This includes financial, administrative, information and communications technology and human resources services. We also sublease our premises in Sydney from the AHRC under this arrangement. More information on the OAIC's MOU with the AHRC can be found in Appendix B.

Human resources

At the OAIC we strive to provide a workplace that offers fulfilling and challenging work, as well as promoting the professional and personal development of our employees. As the national expert in both personal information and FOI regulation, we rely on a team of highly skilled and competent staff.

In 2016–17, the OAIC continued to build capacity within the existing workforce, developing the necessary skillsets to meet the heightened demands for privacy and information management for the Australian public, government agencies and wider industry.

Our people

As a small agency in a competitive market, the OAIC continues to face challenges in recruiting and retaining skilled people. We use a number of strategies including online and social media advertising to attract talent.

This year we had an average staffing level of 71. During the year turnover was approximately 13.4% per cent for ongoing staff. This involved eleven ongoing staff resigning, retiring or transferring to other Australian Government agencies. We had twelve ongoing staff join the OAIC during the year. As of 30 June 2017, we had 74.37 full-time equivalent (FTE) staff, including ongoing and non-ongoing employees.

Table 11: Staffing profile as at 30 June 2017 (headcount)

CLASSIFICATION	MALE	FEMALE	FULL TIME	PART TIME	TOTAL ONGOING	TOTAL NON-ONGOING	TOTAL
Statutory Office Holders	1	0	1	0	0	1	1
SES Band 1	1	1	1	1	2	0	2
SES Band 2	0	1	1	0	1	0	1
Executive Level 2 ($116,828-$133,328)	2	7	4	5	8	1	9
Executive Level 1 ($100,580-$107,591)	6	15	17	4	19	2	21
APS 6 ($79,809-$87,885)	8	27	29	6	34	1	35
APS 5 ($72,377-$76,516)	1	7	3	5	6	2	8
APS 4 ($64,921-$68,981)	2	2	4	0	4	0	4
APS 3 (56,454-60,931)	0	1	1	0	0	1	1
Total	**21**	**61**	**61**	**21**	**74**	**8**	**82**

Employment stats

Our staff

82
Total staff

Employment type

61
Full-time

21
Part-time

Gender

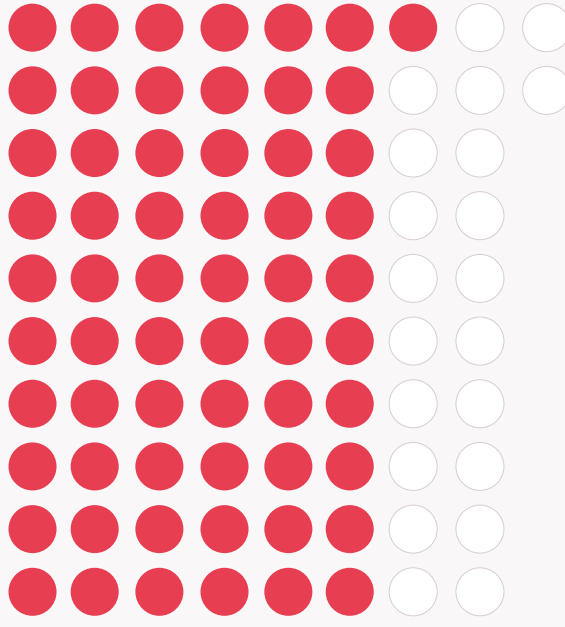
61
Female

21
Male

Diversity

22%
Non-English speaking background

1.2%
Indigenous



Organisational changes

This year there were a number of senior internal promotions. Ms Angelene Falk was promoted to Deputy Commissioner, overseeing the OAIC's corporate and communication functions and organisational strategic direction. Ms Falk was previously the Assistant Commissioner, Regulation and Strategy at the OAIC.

Mr Andrew Solomon was promoted to the position of Assistant Commissioner, Dispute Resolution and Ms Melanie Drayton to the position of Assistant Commissioner, Regulation and Strategy.

A temporary Business Improvement team was also established to review the OAIC's corporate governance frameworks and implement new policy and procedures in risk management, fraud control and business continuity. The team reviewed and improved the OAIC's HR, IT, records management and other associated policies and procedures.

Learning and development

We are committed to ongoing learning and development of our staff, recognising the importance of building and developing capabilities to meet current and future needs.

Our work is increasingly becoming more technical as the digital environment becomes more complex, and we are also seeing more complex and substantive complaints and investigations compared to previous years.

Staff are able to access a range of learning and development opportunities in line with the Australian Public Service Commission's 70–20–10 model of learning.

The OAIC provides the following components as part of its learning and development program for staff.

Talking about performance (TAP)

The OAIC's Performance Management and Development Scheme 'Talking about performance' provides regular and formal assessment of staff members' work performance and to identify learning and development needs.

Professional skills development

Staff undertake specialised training to ensure they are continuously building on their subject-matter expertise and able to access the latest information from industry and government.

This year relevant staff attended specialist training in conciliation, investigations, mediation,auditing skills, and report writing.

Mentoring program

The mentoring program aims to create productive professional relationships that allow knowledge, insights and assistance to be shared between more experienced people — mentors — and less experienced people — mentees. Three Executive members act as mentors as part of the program: the Deputy Commissioner, Assistant Commissioner Dispute Resolution, and Assistant Commissioner Regulation and Strategy.

Study and professional membership assistance

The OAIC encourages staff to undertake study to develop their knowledge and skills in relevant areas. Study assistance provide skilled and knowledgeable staff for current and future OAIC requirements and supports staff in meeting their learning and development needs.

Benefits

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

- flexible working arrangements including home-based work where appropriate
- employee assistance program
- extended purchase leave
- maternity and adoption leave
- parental leave
- leave for personal compelling reasons and exceptional circumstances
- access to paid leave at half pay
- flextime (APS staff)
- study assistance
- support for professional and personal development
- healthy lifestyle reimbursement
- eyesight testing and reimbursement of prescription glasses
- family care rooms
- influenza vaccinations.

Workplace relations

The OAIC's Enterprise Agreement 2016–19 was approved by the Fair Work Commission on 5 May 2016.

In 2016–17, no staff received performance pay or were under any individual flexibility arrangements, Australian workplace agreements or common law contracts.

OAIC Consultation Forum

The OAIC Consultation Forum (held twice a year) provides an opportunity for the OAIC, its employees and their representatives to meet and consider issues relating to working at the OAIC.

Statutory Office Holder and SES remuneration

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

Workplace diversity

We recognise the importance of reflecting the community we serve through diversity in staffing. Currently 22% of staff have a non-English speaking background and 1.2% identify as Indigenous.

In 2016–17 the OAIC established a Diversity Committee which is led by the Assistant Commissioner, Dispute Resolution and includes representatives from the Regulation and Strategy Branch, enquiries line, Dispute Resolution Branch and the Strategic Communications and Coordination and Business Improvement sections. The Committee is responsible for driving the OAIC's wider diversity strategy and coordinating the OAIC's obligations under Multicultural Access and Equity Reporting.

Since 1994, Commonwealth departments and agencies have reported on their performance as policy adviser, purchaser, employer, regulator and provider under the Commonwealth Disability Strategy. In 2007–08, reporting on the employer role was transferred to the Australian Public Service Commission's State of the Service Report and the APS Statistical Bulletin. These reports are available at www.apsc.gov.au. From 2010–11, government agencies have no longer been required to report on these functions.

Work health and safety

We share expertise and resources on Work Health and Safety (WHS) issues with the AHRC. Our WHS representatives are members of the joint agencies' WHS Committee. We conduct regular site inspections as a preventative measure and there have been no incidents reported over the last year. All new staff are provided with WHS information upon commencement and ongoing support and assistance is offered to our people.

Procurement

In 2016–17, we complied with the government's purchasing policies as stated in the Commonwealth Government Procurement Rules. We encourage competition, value for money, transparency and accountability.

All contracts were awarded after ensuring the efficient, effective, economical and ethical use of Australian Government resources.

In 2016–17, 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 contractor's premises.

Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website.

Consultants

We engage consultants where we lack specialist expertise or when independent research, review or assessment is required.

Typically, we only engage 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.

During 2016–17, we entered into two consultancy contracts. The total actual expenditure for these contracts were $28,340.00 (excluding GST). No consultancy contracts from previous periods were continued into this period.

Prior to engaging consultants, we take into account the skills and resources required for the task, the skills available internally and the cost-effectiveness of engaging external expertise. Additionally, all the decisions that we make relating to consultancy contracts are made in accordance with the *Public Governance, Performance and Accountability Act 2013* and related regulations including the Commonwealth Procurement Rules.

This report contains information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website.

Small business

We support small business participation in the Commonwealth Government procurement market and engage with small businesses wherever appropriate during our work. Small and Medium Enterprises (SME) and Small Enterprise participation statistics are available on the Department of Finance's website. We also recognise 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.

Other requirements

Advertising and market research

During 2016–17 we conducted the following advertising campaign:

The OAIC entered into a contract with Wallis Consulting Group to conduct the 2017 Australian Community Attitudes to Privacy Survey (a national survey into Australian's attitudes and behaviours around privacy issues) and to produce a report on the results. The total spend was $136,363.65 (GST exclusive). Further information on the survey is available on the OAIC website. The open tender was published on AusTender.

Grant programs

No grant programs took place during 2016–17.

Fraud

We have a fraud control plan, fraud control policy and guidelines which are made available to all staff through internal communication channels.

Memoranda of understanding

We receive funding for specific services under a range of memoranda of understanding. Details can be found at Appendix B.

Disability reporting

Since 1994, Commonwealth departments and agencies have reported on their performance as policy adviser, purchaser, employer, regulator and provider under the Commonwealth Disability Strategy. In 2007–08, reporting on the employer role was transferred to the Australian Public Service Commission's State of the Service Report and the APS Statistical Bulletin. These reports are available at www.apsc.gov.au. From 2010–11, government departments and agencies have no longer been required to report on these functions.

The Commonwealth Disability Strategy has been overtaken by the National Disability Strategy 2010–2020, which sets out a ten-year national policy framework to improve the lives of people with disability, promote participation and create a more inclusive society. A high level two-yearly report will track progress against each of the six outcome areas of the Strategy and present a picture of how people with disability are faring. The first of these reports can be found at www.dss.gov.au.

Ecologically sustainable development and environment performance

Section 516A of the *Environment Protection and Biodiversity Conservation Act 1999* requires the OAIC to report on how its activities accord with the principles of ecologically sustainable development (ESD). Our role and activities do not directly link with the principles of ESD or impact on the environment other than through our business operations in 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.

Information Publication Scheme

As required by the *Freedom of Information Act 1982*, we have an Information Publication Scheme entry on our website (www.oaic.gov.au) that provides information on our structure, functions, appointments, annual reports, consultation arrangements, FOI officer, information we routinely release following FOI requests and information we routinely provide to the Australian Parliament.

4

Part 4
Financial statements

INDEPENDENT AUDITOR'S REPORT

To the Attorney-General

Opinion

In my opinion, the financial statements of the Office of the Australian Information Commissioner for the year ended 30 June 2017:

(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 Office of the Australian Information Commissioner as at 30 June 2017 and its financial performance and cash flows for the year then ended.

The financial statements of the Office of the Australian Information Commissioner, which I have audited, comprise the following statements as at 30 June 2017 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 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 Office of the Australian Information Commissioner 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* to the extent that they are not in conflict with the *Auditor-General Act 1997* (the Code). 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 Office of the Australian Information Commissioner the Australian Information Commissioner is responsible under the *Public Governance, Performance and Accountability Act 2013* for the preparation and fair presentation of annual financial statements that comply with Australian Accounting Standards – Reduced Disclosure Requirements and the rules made under that Act. The Australian Information Commissioner is also responsible for such internal control as the Australian Information Commissioner determines is necessary to enable the preparation and fair presentation 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 Office of the Australian Information Commissioner's ability 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 matters related to going concern as applicable and using the going concern basis of accounting unless the assessment indicates that it is not appropriate.

GPO Box 707 CANBERRA ACT 2601
19 National Circuit BARTON ACT
Phone (02) 6203 7300 Fax (02) 6203 7777

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 those charged with governance 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

Muhammad Qureshi
Acting Executive Director

Delegate of the Auditor-General

Canberra
8 September 2017

Office of the Australian Information Commissioner

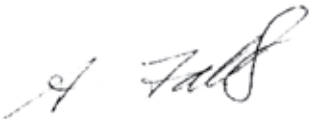
STATEMENT BY THE ACCOUNTABLE AUTHORITY AND CHIEF FINANCIAL OFFICER

In our opinion, the attached financial statements for the year ended 30 June 2017 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 non-corporate Commonwealth entity will be able to pay its debts as and when they fall due.

Timothy Pilgrim PSM
Australian Information Commissioner

8 September 2017



Angelene Falk
Chief Financial Officer

8 September 2017

Statement of Comprehensive Income

for the period ended 30 June 2017

	Notes	**2017 $'000**	2016 $'000	Original Budget $'000
NET COST OF SERVICES				
Expenses				
Employee Benefits	1.1A	**8,674**	7,844	9,979
Suppliers	1.1B	**3,989**	3,076	4,453
Depreciation and Amortisation	2.2A	**501**	519	560
Write-Down and Impairment of Assets	1.1C	**2**	-	-
Total expenses		**13,166**	11,439	14,992
Own-Source Income				
Own-source revenue				
Rendering of Services	1.2A	**2,824**	2,440	3,777
Other Revenue	1.2B	**36**	33	-
Total own-source revenue		**2,860**	2,473	3,777
Gains				
Other Gains	1.2C	**1**	1	33
Total gains		**1**	1	33
Total own-source income		**2,861**	2,474	3,810
Net cost of services		**(10,305)**	(8,965)	(11,182)
Revenue from Government	1.2D	**10,618**	9,328	10,622
Surplus/(Deficit) attributable to the Australian Government		**313**	363	(560)
OTHER COMPREHENSIVE INCOME				
Items subject to subsequent reclassification to net cost of services				
Changes in asset revaluation surplus		3	18	-
Total other comprehensive income		3	18	-

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

Budget Variances Commentary

The major variances on the Statement of Comprehensive Income are employee benefits, suppliers' expenses, depreciation and amortisation, and rendering of services revenue.

A contributor to the Office of the Australian Information Commissioner's (OAIC) financial statement variances in general relates to the Australian Government's 2016–17 Budget decision not to proceed with the previously proposed disbandment of the OAIC and to provide for the OAIC to have ongoing responsibility for privacy and FOI regulation. Ongoing funding for these functions was provided for as a new Budget measure to the OAIC in the 2016–17 Budget.

In the 2016-17 Budget the OAIC received $10,618,000 as appropriated funding after the whole of government savings measure detailed at Note 3.1A. Of the available funding, $9,342,000 was the new Budget measure and $1,276,000 was existing appropriation.

However, as the Supply Act (No.1) 2016-17 excludes new Budget measures the OAIC only received $533,000 from this Act in July 2016. This is five-twelfths of the existing appropriation. The OAIC received the majority of its appropriated funding, $10,089,000, via Appropriation Act (No.1) 2016–17 in mid-November 2016. Up until that time the OAIC operated from its cash reserves and prior year available appropriations. During that period the OAIC also moderated its business activities including employee recruitment and the engagement of suppliers, which resulted in a variance between the budgeted and actual activities under these items.

Depreciation and amortisation reflects the review of assets completed during the reporting period.

Rendering of services revenue reflects variations to memorandums of understanding with other government departments during the financial year.

Statement of Financial Position

as at 30 June 2017

	Notes	2017 $'000	2016 $'000	Original Budget $'000
ASSETS				
Financial assets				
Cash	2.1A	**2,711**	665	1,045
Trade and Other Receivables	2.1B	**3,588**	4,352	4,497
Total financial assets		**6,299**	5,017	5,542
Non-financial assets				
Infrastructure, Plant and Equipment	2.2A	**1,287**	1,367	983
Intangibles	2.2A	**648**	847	630
Other Non-Financial Assets	2.2B	**93**	72	61
Total non-financial assets		**2,028**	2,286	1,674
Total assets		**8,327**	7,303	7,216
LIABILITIES				
Payables				
Suppliers	2.3A	**1,011**	954	535
Other Payables	2.3B	**1,292**	686	2,130
Total payables		**2,303**	1,640	2,665
Non-interest bearing liabilities				
Lease incentives	2.4A	**970**	1,206	973
Total non-interest bearing liabilities		**970**	1,206	973
Provisions				
Employee Provisions	4.1A	**2,148**	1,863	2,029
Total provisions		**2,148**	1,863	2,029
Total liabilities		**5,421**	4,709	5,667
Net assets		**2,906**	2,594	1,549
EQUITY				
Contributed equity		**2,013**	2,013	1,993
Reserves		**154**	151	133
Retained surplus/(Accumulated deficit)		**739**	430	(577)
Total equity		**2,906**	2,594	1,549

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

Budget Variances Commentary

The major variances on the Statement of Financial Position are financial assets, non-financial assets, payables and equity.

The cash balance and other receivables reflects a timing difference between funds held in the OAIC's day to day operating bank account and appropriations receivable in the Official Public Account (OPA). The OAIC generally maintains a working bank account balance by transferring funds from the OPA when required. Note 2.1B provides details of the receivables and the Statement of Comprehensive Income outlines key environmental timing differences.

During 2016–17 the OAIC completed a minor office refurbishment which increased the total value of its infrastructure, plant and equipment.

Prepayments are the only other non-financial asset held by the OAIC and includes increased insurance premium and annual subscription costs. The payables variance arose from the OAIC's moderated business activities as outlined on the Statement of Comprehensive Income as well as the timing difference for supplier payables at year-end.

Commentary on equity variance is included on the Statement of Changes in Equity.

Statement of Changes in Equity

for the period ended 30 June 2017

	2017 $'000	2016 $'000	Original Budget $'000
CONTRIBUTED EQUITY			
Opening balance			
Balance carried forward from previous period	**2,013**	1,993	1,993
Adjusted opening balance	**2,013**	1,993	1,993
Transactions with owners			
Contributions by owners			
Departmental capital budget	**-**	20	-
Total transactions with owners	**-**	20	-
Closing balance as at 30 June	**2,013**	2,013	1,993
RETAINED EARNINGS			
Opening balance			
Balance carried forward from previous period	**430**	(17)	(17)
Other Adjustments	**(4)**	84	-
Adjusted opening balance	**426**	67	(17)
Comprehensive income			
Surplus/(Deficit) for the period	**313**	363	(560)
Total comprehensive income	**313**	363	(560)
Closing balance as at 30 June	**739**	430	(577)
ASSET REVALUATION RESERVE			
Opening balance			
Balance carried forward from previous period	**151**	133	133
Adjusted opening balance	**151**	133	133
Comprehensive income			
Other comprehensive income	**3**	18	-
Total comprehensive income	**3**	18	-
Closing balance as at 30 June	**154**	151	133
TOTAL EQUITY			
Opening balance			
Balance carried forward from previous period	**2,594**	2,109	2,109
Other Adjustments	**(4)**	84	-
Adjusted opening balance	**2,590**	2,193	2,109

Statement of Changes in Equity (continued)

for the period ended 30 June 2017

	2017 $'000	2016 $'000	Original Budget $'000
Comprehensive income			
Surplus/(Deficit) for the period	**313**	363	(560)
Other comprehensive income	**3**	18	-
Total comprehensive income	**316**	381	(560)
Transactions with owners			
Contributions by owners			
Departmental capital budget	**-**	20	-
Total transactions with owners	**-**	20	-
Closing balance as at 30 June	**2,906**	2,594	1,549

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

The major variance on the Statement of Changes in Equity relates to comprehensive income.

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 surplus.

Cash Flow Statement

for the period ended 30 June 2017

	Notes	2017 $'000	2016 $'000	Original Budget $'000
OPERATING ACTIVITIES				
Cash received				
Appropriations		**10,618**	9,328	10,622
Cash transferred from the Official Public Account		**4,636**	1,435	685
Rendering of services		**2,711**	2,518	3,777
Net GST received		**308**	270	110
Total cash received		**18,273**	13,551	15,194
Cash used				
Employees		**(8,337)**	(7,977)	(8,052)
Suppliers		**(4,523)**	(3,577)	(4,585)
Section 74 receipts transferred to OPA		**(3,148)**	(2,566)	(2,537)
Total cash used		**(16,008)**	(14,120)	(15,174)
Net cash from/(used by) operating activities		**2,265**	(569)	20
INVESTING ACTIVITIES				
Cash used				
Purchase of infrastructure, plant and equipment		**(219)**	(29)	(20)
Total cash used		**(219)**	(29)	(20)
Net cash from/(used by) investing activities		**(219)**	(29)	(20)
FINANCING ACTIVITIES				
Cash received				
Departmental capital budget		**-**	20	-
Total cash received		**-**	20	-
Net cash from/(used by) financing activities		**-**	20	-
Net increase/(decrease) in cash held		**2,046**	(578)	-
Cash and cash equivalents at the beginning of the reporting period		**665**	1,243	1,045
Cash and cash equivalents at the end of the reporting period	2.1A	**2,711**	665	1,045

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

Budget Variances Commentary

The major variances on the Cash Flow Statement include cash received, cash used and purchase of infrastructure, plant and equipment.

As outlined in the commentary on the Statement of Comprehensive Income, the timing difference between the receipt of the OAIC's appropriation from the Supply Act (No.1) 2016–17 and Appropriation Act (No.1) 2016–17 required it to operate from cash reserves and prior year available appropriations. This impacted on all cash received and cash used activities.

As noted on the Statement of Financial Position, the additional purchases of infrastructure, plant and equipment is attributed to the partial office refurbishment during the reporting period.

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.

In the 2014–15 Budget, the Australian Government announced that the OAIC would cease operation as part of its commitment to smaller government. New arrangements for privacy and FOI regulation were to commence from 1 January 2015, following passage of legislation to implement these changes. Funding transfers to the Australian Human Rights Commission and other agencies to facilitate these changed arrangements occurred as part of the 2014–15 Budget.

The government decided not to proceed with these proposed changes and the OAIC had ongoing responsibility for privacy and FOI regulation over the reporting period. Ongoing funding for these functions was provided in the 2016–17 Budget. 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 section 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) for reporting periods ending on or after 1 July 2015; and

b) Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

c) 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.

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. No new, revised, amending standards and interpretations that were issued prior to the sign-off date and are applicable to the current reporting period have a material effect, or expected to have a future material effect, on the OAIC's financial statements.

Future Australian Accounting Standard Requirements

The following new standards and interpretations were issued by the Australian Accounting Standards Board prior to the signing of the statement by the accountable authority and chief financial officer, which are expected to have a material impact on the OAIC's financial statements for future reporting period(s):

Standard/ Interpretation	Application date for the OAIC	Nature of impending change/s in accounting policy and likely impact on initial application
AASB 15 Revenue from Contracts with customers	1 January 2018	This standard establishes principles for reporting information about the nature, amount, timing and uncertainty of revenue and cash flows arising from the OAIC's contracts with customers, with revenue recognised as 'performance obligations' are satisfied; and will apply to contracts of NFP entities that are exchange transactions. AASB 1004 Contributions will continue to apply to non-exchange transactions until the Income for NFP project is completed. The effective date was modified by 2015-8 for for-profit entities and 2016-7 Not-For-Profit entities. Depending on the nature of the transaction and the OAIC's current policy, the new Standard may have a significant impact on the timing of the recognition of revenue. Final outcome will need to be considered once the related Income for NFP project is completed.
2014-5 Amendments to Australian Accounting Standards arising from AASB 15	1 January 2018	This Standard gives effect to the consequential amendments to Australian Accounting Standards (including Interpretations) arising from the issuance of AASB 15.
AASB 16 Leases	1 July 2019	The standard will require the net present value of payments under most operating leases to be recognised as assets and liabilities. An initial assessment indicates that the implementation of the standard may have a substantial impact on the financial statements, however, OAIC is yet to undertake a detailed review.

All other new, revised, amending standards and interpretations that were issued prior to the sign-off date and are applicable to future reporting period(s) are not expected to have a future material impact on the OAIC's financial statements.

Taxation

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

Events After the Reporting Period

The OAIC is not aware of any significant events that have occurred since balance date that warrant disclosure in these financial statements.

Financial Performance

This section analyses the financial performance of the Office of the Australian Information Commissioner for the year ended 2017.

1.1 Expenses

	2017 $'000	2016 $'000
1.1A: Employee Benefits		
Wages and salaries	**6,730**	5,882
Superannuation		
Defined contribution plans	**808**	667
Defined benefit plans	**356**	375
Leave and other entitlements	**743**	750
Separation and redundancies	**-**	134
Other employee expenses	**37**	36
Total employee benefits	**8,674**	7,844

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

1.1B: Suppliers		
Goods and services supplied or rendered		
Insurance	**21**	19
Office consumables	**21**	22
Official travel	**281**	234
Printing and publications	**75**	42
Professional services and fees	**2,295**	1,586
Property outgoings	**246**	225
Reference materials, subscriptions and licenses	**204**	136
Staff training	**143**	133
Telecommunications	**27**	40
Other	**110**	73
Total goods and services supplied or rendered	**3,423**	2,510

1.1 Expenses (continued)

	2017 $'000	2016 $'000
Goods supplied	**299**	200
Services rendered	**3,124**	2,310
Total goods and services supplied or rendered	**3,423**	2,510
Other suppliers		
Operating lease rentals in connection with		
Related parties		
Sublease	**531**	531
Workers compensation expenses	**35**	35
Total other suppliers	**566**	566
Total suppliers	**3,989**	3,076

Leasing commitments

The OAIC in its capacity as sub-lessee leases office accommodation that is subject to the provisions of the headlease. The initial periods of accommodation are still current and there are two options in the headlease agreement to renew.

Commitments for minimum lease payments in relation to non-cancellable operating leases are payable as follows:

Within 1 year	**1,220**	1,172
Between 1 to 5 years	**3,813**	5,011
Total operating lease commitments	**5,033**	6,183

1.1C: Write-Down and Impairment of Assets

Impairement of asset	**2**	-
Total write-down and impairment of assets	**2**	-

Accounting Policy

Operating lease payments are expensed on a straight-line basis which is representative of the pattern of benefits derived from the leased assets.

The discount rate used is the interest rate implicit in the lease. Leased assets are amortised over the period of the lease.

1.2 Own-Source Revenue and gains

	2017 $'000	2016 $'000
OWN-SOURCE REVENUE		
1.2A: Rendering of Services		
Rendering of services	**2,824**	2,440
Total sale of goods and rendering of services	**2,824**	2,440

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.

1.2B: Other Revenue		
Remuneration of auditors	**36**	33
Total other revenue	**36**	33

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 revenue due to their nature.

GAINS		
1.2C: Other Gains		
Sale of assets	**1**	1
Total other gains	**1**	1

Accounting Policy

Sale of Assets

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

1.2 Own-Source Revenue and gains (continued)

	2017 $'000	2016 $'000
1.2D: Revenue from Government		
Appropriations		
Departmental appropriations	**10,618**	9,328
Total revenue from Government	**10,618**	9,328

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 Office of the Australian Information Commissioner's 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

	2017 $'000	2016 $'000
2.1A: Cash		
Cash on hand and at bank	**2,711**	665
Total cash and cash equivalents	**2,711**	665

Accounting Policy

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

2.1B: Trade and Other Receivables		
Goods and services receivables		
Goods and services	**1,031**	321
Total goods and services receivables	**1,031**	321
Appropriations receivables		
Appropriations receivables	**2,497**	3,985
Total appropriations receivables	**2,497**	3,985
Other receivables		
GST Receivable from the Australian Taxation Office	**60**	46
Total other receivables	**60**	46
Total trade and other receivables (gross)	**3,588**	4,352
Total trade and other receivables (net)	**3,588**	4,352
Trade and other receivables (net) expected to be recovered		
No more than 12 months	**3,588**	4,352
Total trade and other receivables (net)	**3,588**	4,352

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 Infrastructure, Plant and Equipment

Reconciliation of the opening and closing balances of Infrastructure, plant and equipment for 2017

	Leasehold Improvements $'000	Computer, Plant and Equipment $'000	Computer, Plant and Equipment – Work in Progress $'000	Total $'000
As at 1 July 2016				
Gross book value	**1,313**	**27**	**27**	**1,367**
Accumulated depreciation, amortisation and impairment	**-**	**-**	**-**	**-**
Total as at 1 July 2016	**1,313**	**27**	**27**	**1,367**
Additions				
Purchase	**201**	**19**	**-**	**220**
Work-in-progress transfer	**-**	**27**	**(27)**	
Revaluations and impairments recognised in other comprehensive income	**(2)**	**5**	**-**	**3**
Depreciation and amortisation	**(262)**	**(39)**	**-**	**(301)**
Disposals	**(2)**	**-**	**-**	**(2)**
Total as at 30 June 2017	**1,248**	**39**	**-**	**1,287**
Total as at 30 June 2017 represented by				
Gross book value	**1,248**	**39**	**-**	**1,287**
Accumulated depreciation, amortisation and impairment	**-**	**-**	**-**	**-**
Total as at 30 June 2017	**1,248**	**39**	**-**	**1,287**

No indicators of impairment were found for intangibles.

No infrastructure, plant and equipment is expected to be sold or disposed of within the next 12 months.

2.2 Non-Financial Assets (continued)

Revaluations of non-financial assets

All revaluations were conducted in accordance with the revaluation policy stated at Note 2.2. On 30 June 2017, an independent valuer conducted the revaluations.

Reconciliation of the opening and closing balances of Infrastructure, plant and equipment for 2016

	Leasehold Improvements $'000	Computer, Plant and Equipment $'000	Computer, Plant and Equipment – Work in Progress $'000	Total $'000
As at 1 July 2015				
Gross book value	1,582	56	-	1,638
Accumulated depreciation, amortisation and impairment	-	-	-	-
Total as at 1 July 2015	1,582	56	-	1,638
Additions				
Purchase			27	27
Revaluations and impairments recognised in other comprehensive income	(5)	23	-	18
Depreciation and amortisation	(264)	(52)	-	(316)
Disposals				
Total as at 30 June 2016	1,313	27	27	1,367
Total as at 30 June 2016 represented by				
Gross book value	1,313	27	27	1,367
Accumulated depreciation, amortisation and impairment	-	-	-	-
Total as at 30 June 2016	1,313	27	27	1,367

2.2 Non-Financial Assets (continued)

Reconciliation of the opening and closing balances of intangibles for 2017

	Intangibles $'000	Total $'000
As at 1 July 2016		
Gross book value	**2,619**	**2,619**
Accumulated depreciation, amortisation and impairment	**(1,772)**	**(1,772)**
Total as at 1 July 2016	**847**	**847**
Depreciation and amortisation	**(199)**	**(199)**
Total as at 30 June 2017	**648**	**648**
Total as at 30 June 2017 represented by		
Gross book value	**2,619**	**2,619**
Accumulated depreciation, amortisation and impairment	**(1,971)**	**(1,971)**
Total as at 30 June 2017 represented by	**648**	**648**

No indicators of impairment were found for intangibles.

No intangibles is expected to be sold or disposed of within the next 12 months.

Reconciliation of the opening and closing balances of intangibles for 2016

	Intangibles $'000	Total $'000
As at 1 July 2015		
Gross book value	2,619	2,619
Accumulated depreciation, amortisation and impairment	(1,569)	(1,569)
Total as at 1 July 2015	1,050	1,050
Additions		
Depreciation and amortisation	(203)	(203)
Total as at 30 June 2016	847	847
Total as at 30 June 2016 represented by		
Gross book value	2,619	2,619
Accumulated depreciation, amortisation and impairment	(1,772)	(1,772)
Total as at 30 June 2016 represented by	847	847

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.

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 infrastructure, 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).

Revaluations

Following initial recognition at cost, plant and equipment are carried at fair value. 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 was eliminated against the gross carrying amount of the asset and the asset restated to the revalued amount.

Depreciation

Depreciable infrastructure, plant and equipment assets are written-off to their estimated residual values over their estimated useful lives to the OAIC 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:

	2017	2016
Leasehold improvements	Lease term	Lease term
Computer, plant and equipment	4 to 10 years	4 to 10 years

Impairment

All assets were assessed for impairment at 30 June 2017. 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 OAIC were deprived of the asset, its value in use is taken to be its depreciated replacement cost.

Derecognition

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

Intangibles

The OAIC's intangibles comprise software developed 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 (2016: 2 to 5 years).

All software assets were assessed for indications of impairment as at 30 June 2017.

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.

2.2 Non-Financial Assets (continued)

	2017 $'000	2016 $'000
2.2B: Other Non-Financial Assets		
Prepayments	**93**	72
Total other non-financial assets	**93**	72
Other non-financial assets expected to be recovered		
No more than 12 months	**93**	72
Total other non-financial assets	**93**	72

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

2.3 Payables

	2017 $'000	2016 $'000
2.3A: Suppliers		
Trade creditors and accruals	**644**	576
Rent Payable	**367**	378
Total suppliers	**1,011**	954
Suppliers expected to be settled		
No more than 12 months	**707**	639
More than 12 months	**304**	315
Total suppliers	**1,011**	954

Settlement is generally made in accordance with the terms of the supplier invoice.

2.3B: Other Payables		
Salaries and wages	**54**	24
Superannuation	**11**	5
Other employee expenses	**16**	1
Revenue received in advance	**1,211**	656
Total other payables	**1,292**	686
Other payables to be settled		
No more than 12 months	**1,292**	686
Total other payables	**1,292**	686

2.4 Non-interest Bearing Liabilities

	2017 $'000	2016 $'000
2.4A: Lease incentives		
Lease incentives	**970**	1,206
Total loans	**970**	1,206
Minimum lease payments expected to be settled		
Within 1 year	**228**	246
Between 1 to 5 years	**742**	960
Total lease incentives	**970**	1,206

Accounting Policy

Refer to Note 1.1.B.

Funding

This section identifies the Office of the Australian Information Commissioner's funding structure.

3.1 Appropriations

3.1A: Annual Appropriations ('Recoverable GST exclusive')

Annual Appropriations for 2017

	Annual Appropriation[1] $'000	Adjustments to appropriation[2] $'000	Total appropriation $'000	Appropriation applied in 2017 (current and prior years) $'000	Variance[3] $'000
Departmental					
Ordinary annual services	10,618	2,631	13,249	(12,689)	560
Total departmental	**10,618**	**2,631**	**13,249**	**(12,689)**	**560**

1. In 2016–17, there was an amount of $3,653 withheld (Section 51 of the PGPA Act) appropriation relating to the whole of government Govlink savings measure.
2. Adjustments including for PGPA Act Section 74 receipts.
3. Variance represents the application of current and previous years appropriation and own-source revenue.

3.1 Appropriations (continued)

Annual Appropriations for 2016

	Annual Appropriation[1] $'000	Section 74 Receipts $'000	Total appropriation $'000	Appropriation applied in 2017 (current and prior years) $'000	Variance[2] $'000
Departmental					
Ordinary annual services	9,335	2,501	11,836	(11,270)	566
Capital Budget[3]	20	-	20	(29)	(9)
Total departmental	9,355	2,501	11,856	(11,299)	557

1. In 2016-17 there was an amount of $7,428 quarantined appropriation relating to PSSap administration costs.
2. Variance represents the application of current and previous years own-source revenue.
3. Departmental Capital Budgets are appropriated through Appropriation Acts (No.1,3,5). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts.

3.1B: Unspent Annual Appropriations ('Recoverable GST exclusive')

	2017 $'000	2016 $'000
Departmental		
Appropriation Act (No.5) 2014-15	-	2,172
Appropriation Act (No.1) 2015-16	-	1,813
Appropriation Act (No.1) 2016-17	**2,497**	-
Cash held by the OAIC	**2,711**	665
Total departmental	**5,208**	4,650

3.2 Net Cash Appropriation Arrangements

	2017 $'000	2016 $'000
Total comprehensive income/(loss) less depreciation/amortisation expenses previously funded through revenue appropriations	**814**	900
Plus: depreciation/amortisation expenses previously funded through revenue appropriation	**(501)**	(519)
Total comprehensive income/(loss) - as per the Statement of Comprehensive Income	**313**	381

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

	2017 $'000	2016 $'000
4.1A: Employee Provisions		
Leave	**2,148**	1,863
Total employee provisions	**2,148**	1,863
Employee provisions expected to be settled		
No more than 12 months	**1,690**	1,278
More than 12 months	**458**	585
Total employee provisions	**2,148**	1,863

Accounting policy

Liabilities for short-term employee benefits and termination benefits expected within twelve 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 perfomed for the Department of Finance (DoF) and summarised in the Standard Parameters for use in 2016–17 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 OAIC 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.

Accounting policy (continued)

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 the Department of Finance's administered 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, directly or indirectly, including any director (whether executive or otherwise) of the OAIC. The OAIC has determined the key management personnel to be the Australian Information Commissioner and Senior Executive Service Officers. Key management personnel remuneration is reported in the table below:

	2017 $'000	2016 $'000
Short-term employee benefits	**958**	857
Post-employment benefits	**119**	122
Other long-term employee benefits	**115**	86
Termination benefits	**-**	-
Total key management personnel remuneration expenses[1]	**1,192**	1,065

The total number of key management personnel that are included in the above table are 4 (2016: 4).

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; and
- 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 Office of the Australian Information Commissioner manages financial risks within its operating environment.

5.1 Contingent Assets and Liabilities

Quantifiable Contingencies

As at 30 June 2017 the Office of the Australian Information Commissioner had no quantifiable contingent liabilities.

Unquantifiable Contingencies

As at 30 June 2017 the Australian Information Commissioner (AIC) was a respondent to five (5) matters and an applicant in one (1) in the Federal Court of Australia (FCA) and a respondent in one (1) matter in the Federal Circuit Court (FCC).

The six (6) matters before the federal courts in which the AIC was a respondent are Administrative Decisions (Judicial Review) Act 1977 (ADJR) reviews of decisions to finalise privacy complaints, Information Commissioner reviews and decisions on FOI requests to the OAIC.

In relation to the applicant proceeding in the FCA, the AIC has, under section 55H of the Freedom of Information Act 1982 referred a question of law to the court.

Although the federal courts may award costs, the AIC's exposure to a costs order is highly unlikely in all bar one matter, based on current legal advice. It is not possible to estimate the amounts of payment(s) that may be required in relation to the one matter where a costs order may materialise at the conclusion of the matter.

The AIC is also a respondent to six (6) matters in the Administrative Appeals Tribunal, five (5) of which are in relation to determinations made by the AIC under section 52 of the Privacy Act 1988 and the other in relation to an FOI request decision by the OAIC. However, as the Tribunal 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

	2017 $'000	2016 $'000
5.2A: Categories of Financial Instruments		
Financial Assets		
Receivables		
Cash on hand and at bank	**2,711**	665
Trade and other receivables	**1,031**	321
Total receivables	**3,742**	986
Total financial assets	**3,742**	986
Financial Liabilities		
Other financial liabilities		
Trade creditors and accruals	**1,011**	576
Total financial liabilities measured at amortised cost	**1,011**	576
Total financial liabilities[1]	**1,011**	576

1. Carrying amount is equal/approximate to fair value.

Accounting Policy

Financial assets

The OAIC classifies its financial assets in the following categories as receivables.

The classification depends on the nature and purpose of the financial assets and is determined at the time of initial recognition. Financial assets are recognised and derecognised upon trade date.

Effective Interest Method

The effective interest method is a method of calculating the amortised cost of a financial asset and of allocating interest income over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash receipts through the expected life of the financial asset, or, where appropriate, a shorter period.

Receivables

Trade and other receivables that have fixed or determinable payments that are not quoted in an active market are classified as 'receivables'. Receivables are measured at amortised cost using the effective interest method less impairment.

Impairment of Financial Assets

Financial assets are assessed for impairment at the end of each reporting period.

Financial assets held at cost – if there is objective evidence that an impairment loss has been incurred, the amount of the impairment loss is the difference between the carrying amount of the asset and the present value of the estimated future cash flows discounted at the current market rate for similar assets.

Financial liabilities

Financial liabilities are classified as other financial liabilities. Financial liabilities are recognised and derecognised upon trade date.

Other Financial Liabilities

Other 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 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 deems transfers between levels of the fair value hierarchy to have occurred 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			
	2017 $'000	2016 $'000	**Category (Level 1, 2 or 3)[2]**	**Valuation Technique(s) and Inputs Used**
Non-financial assets[1]				
Infrastructure, plant and equipment	1,287	1,340	2	Market approach. Market replacement cost less estimate of written down value of asset used.

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

5

Part 5
Appendices

Appendix A: Agency resource statement and resources for outcomes

Table A.1: Office of the Australian Information Commissioner resource statement 2016–17*

		ACTUAL AVAILABLE APPROPRIATION FOR 2016–17 $'000	PAYMENTS MADE 2016–17 $'000	ACTUAL AVAILABLE APPROPRIATION FOR 2016–17 $'000
		(a)	(b)	(a) - (b)
Ordinary Annual Services[1]				
Departmental appropriation		19,045	13,837	5,208
Total		**19,045**	**13,837**	**5,208**
Administered expenses		—	—	
Total ordinary annual services	**A**	**19,045**	**13,837**	
Other services				
Administered expenses		—	—	
Departmental non-operating		—	—	
Administered non-operating		—	—	
Total		—	—	
Total other services	**B**	—	—	
Total available annual appropriations and payments				
Special appropriations		—	—	
Special appropriations limited by criteria/entitlement		—	—	
Total special appropriations	**C**	—	—	
Special Accounts		—	—	
Total Special Account	**D**	N/A	N/A	
Total resourcing and payments A + B + C + D		19,045	13,837	
Less appropriations drawn from annual or special appropriations above and credited to special accounts		N/A	N/A	
And/or payments to corporate entities through annual appropriations		N/A	N/A	
Total net resourcing and payments for the Office of the Australian Information Commissioner		**19,045**	**13,837**	

1 Appropriation Act (No.1) 2016–17 and Appropriation Act (No.3) 2015–16 and Appropriation Act (No. 5) 2014–15. Includes prior year departmental appropriation and section 74 Retained Revenue Receipts.

* All figures are GST exclusive.

Table A.2: Office of the Australian Information Commissioner resource statement 2016–17

	BUDGET 2016–17 $'000	ACTUAL EXPENSES 2016–17 $'000	VARIATION 2016–17 $'000
	(a)	**(b)**	**(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 appriopriation[1]	14,395	12,662	1,733
Special appropriations	—	—	—
Special Accounts	—	—	—
Expenses not requiring appropriation in the Budget year	593	503	90
Total for Program 1.1	**14,988**	**13,165**	**1,823**
Outcome 1 Totals by appropriation type			
Administered Expenses	—	—	—
Departmental expenses			
Departmental appropriation1	14,395	12,662	1,733
Special appropriations	—	—	—
Special Accounts	—	—	—
Expenses not requiring appropriation in the Budget year	593	503	90
Total expenses for Outcome 1	**14,988**	**13,165**	**1,823**

	2016-17	2016-17	
Average Staffing Level (number)	**75**	**71**	**4**

1 Departmental Appropriation combines Ordinary annual services (Appropriation Act Nos. 1, 3 and 5) and Retained Revenue Receipts under section 74 of the PGPA Act 2013.

Appendix B: Memoranda of understanding

Australian Bureau of Statistics

This year we entered into an MOU with the Australian Bureau of Statistics (ABS) to provide privacy advice tailored to the needs of the ABS.

For this service, we received $25,000.00 (GST exclusive) from the ABS.

Australian Digital Health Agency

In July 2016, the Australian Digital Health Agency (the Agency) became the My Health Record System Operator. This year we entered into an MOU with the Agency and worked closely with the Agency to provide support and assistance on privacy matters relating to both the Healthcare Identifiers (HI) Service and My Health Record system.

For the HI Service, we provide the following services:

- respond to privacy enquiries and complaints
- investigate cases of misuse of healthcare identifiers
- receive data breach notifications
- conduct privacy assessments
- provide guidance material
- liaise and coordinate on privacy related matters and activities with key stakeholders
- provide policy advice
- monitor and participate in digital health developments.

For the My Health Record system, we provide the following services:

- respond to enquiries and complaints relating to the privacy aspects of the My Health Record system
- investigate acts and practices that may have been a contravention of the My Health Record system
- receive data breach notifications and provide advice
- investigate failures to notify data breaches
- conduct privacy assessments
- provided guidance material for individuals and participants in the My Health Record system
- liaise and coordinate on privacy related matters and activities with key stakeholders

- prepare relevant communication and media materials
- provide policy and legislation advice
- monitor and participate in digital health developments.

For these combined services, we received $2,076,649.94 (GST exclusive) from the Agency.

Australian Human Rights Commission

The Australian Human Rights Commission (AHRC) continued to provide a number of corporate services to our office this year. The corporate services included financial, administrative, information technology and human resource related tasks. As a part of this, we also sub-let premises in Sydney from the AHRC.

For the corporate services we paid $1,050,010 (GST exclusive), and for the premises (including outgoings) we paid $1,029,214.23 (GST exclusive) to the AHRC.

ACT Government

As a part of our three year MOU with the ACT Government we continued to provide privacy services to ACT public sector agencies. These services included:

- handling privacy complaints and enquiries about ACT public sector agencies in relation to the Information Privacy Act 2014 and its Territory Privacy Principles (TPPs)
- providing policy and legislation advice
- providing advice on data breach notifications, where applicable
- carrying out privacy assessments
- providing access to privacy seminars.

For these services, we received $175,131.77 (GST exclusive) from the ACT Government.

Department of Education and Training

We continued to support the Department of Education and Training with their Student Identifier (SI) initiative, providing expert and timely advice on privacy matters. Our services to the department this year included:

- Advice on Data Breach Response Plan
- Advice on Data Access Guidelines
- Completion of an assessment of the SI Office to determine whether the SI Office is managing personal information as required by APPs 1 and 5
- Design and development of an online questionnaire for the assessment of Registered Training Organisation against APPs 1 and 5.

For these services, we received $114,000.00 (GST exclusive).

Department of Immigration and Border Protection

Under our MOU with the Department of Immigration and Border Protection (DIBP) we commenced a Passenger Name Record (PNR) data related assessment which follows up the implementation of recommendations made in a previous assessment undertaken in 2015. The assessment also considers DIBP's practices concerning the destruction and de-identification of PNR data.

For these services, we received $65,000.00 (including GST).

Note: The agreement between Australia and the European Union (EU) on the processing and transfer of Passenger Name Record data states that 'The Australian Customs and Border Protection Service has arrangements in place under the Privacy Act for the Australian 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.'

Department of Human Services

As a part of our ongoing work with the Department of Human Services, we continued to provide general privacy services and support to the Department of Human Services. Our work included:

- Advice on the updated DHS Privacy Policy
- Advice on the operation of the APPs with respect to a Draft Practice Direction issued by the Administrative Appeals Tribunal (Social Services And Child Support Division)
- Advice on the Privacy Impact Assessment for the Welfare Payment Transformation Program
- Review of 29 data breach notifications by DHS under s 75 of the *My Health Records Act 2012* (Cth)

For these services, we received $220,000.00 (GST exclusive) from the Department of Human Services.

Appendix C: Privacy statistics

Table C.1: Issues in complaints: APPs

APP ISSUES	NO. OF COMPLAINTS	%
Openness and transparency	8	0.3
Anonymity and pseudonymity	12	0.5
Collection	274	11.0
Unsolicited personal information	6	0.24
Notification of collection	71	2.9
Use or disclosure	794	31.9
Direct marketing	108	4.3
Cross-border disclosure	5	0.20
Government identifiers	4	0.16
Quality of personal information	210	8.4
Security of personal information	493	19.8
Access to personal information	420	16.9
Correction	32	1.3

Table C.2: The main remedies agreed in conciliated complaints in 2016–17

REMEDY*	APPS**	CREDIT	SPENT CONVICTIONS	TFN	TOTALS
Access provided	198	3	0	1	202
Record amended	76	69	0	0	145
Compensation	110	6	1	1	118
Apology	125	9	0	0	134
Changed procedures	101	3	0	2	106
Staff training	29	0	0	0	29
Other or confidential	121	23	0	0	144

* Each complaint resolved may involve more than 1 remedy type.

**Includes NPP, IPP and ACT TPP complaints

Table C.3:

COMPENSATION AMOUNTS	APPS**	CREDIT	SPENT CONVICTIONS	TFN	TOTALS
Up to $1000	27	3	0	0	30
$1001 to $5000	52	6	0	1	59
$5001 to $10,000	28	0	1	0	28
Over $10,001	17	0	1	0	18

** Includes NPP, IPP and ACT TPP complaints

Table C.4: Privacy assessments

	ASSESSMENT SUBJECT	NO. ENTITIES ASSESSED	YEAR OPENED	DATE CLOSED
1	Comcare	1	2015–16	Sep–16
2	Department of Immigration and Border Protection (Advanced Passenger Processing)	1	2015–16	Oct–16
3	Department of Immigration and Border Protection (Smartgate)	1	2015–16	Oct–16
4	Universal Student Identifier (USI) — APPs 1 and 5	1	2015–16	Dec–16
5	Telstra: requests for information by law enforcement agencies — APP 11	1	2015–16	Dec–16
6	Department of Immigration and Border Protection (Contractual arrangements)	1	2015–16	Ongoing
7	Follow up with Optus — ss 306 and 306A obligations	1	2016–17	Sep–16
8	Follow up with iiNet — ss 306 and 306A obligations	1	2016–17	Dec–16
9	Vodafone: requests for information by law enforcement agencies — APP 11	1	2016–17	Feb–17
10	Optus: requests for information by law enforcement agencies — APP 11	1	2016–17	Jun–17
11	Follow up with Vodafone — ss 306 and 306A obligations	1	2016–17	Jul–17
12	Document Verification Service — gateway service providers	2	2016–17	Ongoing
13	Department of Immigration and Border Protection (SmartGate security)	1	2016–17	Ongoing
14	Department of Immigration and Border Protection (third party provider)	1	2016–17	Ongoing
15	Department of Immigration and Border Protection (SmartGate APP 12)	1	2016–17	Ongoing
16	Loyalty program	2	2016–17	Ongoing

	ASSESSMENT SUBJECT	NO. ENTITIES ASSESSED	YEAR OPENED	DATE CLOSED
17	ACT Government — Access Canberra	1	2016–17	Ongoing
18	iiNet: requests for information by law enforcement agencies — APP 11	1	2016–17	Ongoing
19	Tax file numbers publishing agencies	7	2016–17	Ongoing
20	Department of Immigration and Border Protection (Passenger name record)	1	2016–17	Ongoing

Table C.5: Digital health assessments

ASSESSMENT SUBJECT	NO. ENTITIES ASSESSED	YEAR OPENED	CLOSED
Follow up assessment of the implementation of recommendations made in the 2015 OAIC audit of the National Repositories Service	1	2015–16	Sep–2016
Assessment of the Australian Health Practitioner Regulation Agency's handling of healthcare identifiers and associated personal information — APPs 10 and 11	1	2015–16	Oct–2016
Assessment of the Department of Human Services for services related to the My Health Record system — APP 1.2	1	2016–17	Ongoing

Appendix D: FOI statistics

This appendix has been prepared using data collected from ministers and agencies subject to the FOI Act, and separately from the Administrative Appeals Tribunal and from our own records. Ministers and agencies 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.

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

Table D.1: Number of FOI requests received — top 20 and others

AGENCY	2015–16			2016–17			
	PERSONAL	OTHER	TOTAL [*]	PERSONAL	OTHER	TOTAL	%
Department of Immigration and Border Protection	20,889	590	21,479	17,702	516	18,218	46.10
Department of Human Services	4,573	114	4,687	7,164	293	7,457	18.87
Department of Veterans' Affairs	3,318	20	3,338	3,067	28	3,095	7.83
Administrative Appeals Tribunal	1,406	8	1,414	1,547	17	1,564	3.96
Northern Australian Infrastructure Facility	-	-	-	0	1,367	1,367	3.46
Australian Taxation Office	586	518	1,104	599	515	1,114	2.82
Australian Federal Police	446	175	621	438	201	639	1.62
Immigration Assessment Authority	-	-	-	402	0	402	1.02
Department of Defence	114	274	388	151	233	384	0.97
Department of Health	1	271	272	4	333	337	0.85
Department of the Treasury	6	130	136	0	224	224	0.57
Department of Foreign Affairs and Trade	90	184	274	76	146	222	0.56
Attorney-General's Department	47	175	222	51	164	215	0.54
Department of the Prime Minister and Cabinet	5	226	231	1	197	198	0.50

AGENCY	2015–16			2016–17			
	PERSONAL	OTHER	TOTAL [*]	PERSONAL	OTHER	TOTAL	%
Australian Securities and Investments Commission	43	199	242	69	125	194	0.49
Department of Employment	155	52	207	107	66	173	0.44
Commonwealth Ombudsman	-	-	-	158	13	171	0.43
Department of Social Services	77	83	160	68	99	167	0.42
Australian Transaction Reports and Analysis Centre (AUSTRAC)	110	30	140	119	47	166	0.42
Department of Finance	4	144	148	13	146	159	0.40
Total — Top 20	32,186^	3,418^	35,604^	31,736	4,730	36,466	92.27
Remaining agencies and Ministers	698	1,694	2,392	647	2,406	3,053	7.73
Total	**32,884**	**5,112**	**37,996**	**32,383**	**7,136**	**39,519**	**100**

^ Shows the total for the top 20 agencies in 2015–16 (i.e. includes figures for agencies that are not in the top 20 agencies in 2016–17).

[*] Number in brackets after 2015–16 totals indicates the agency ranking for that year where not the same as 2016-17.

Table D.2: FOI requests determined — top 20 and others

AGENCY	GRANTED IN FULL	%	GRANTED IN PART	%	REFUSED	%	TOTAL
Department of Immigration and Border Protection	11,230	62.48	5,828	32.43	915	5.09	17,973
Department of Human Services	2,728	41.96	3,142	48.32	632	9.72	6,502
Department of Veterans' Affairs	2,735	97.92	31	1.11	27	0.97	2,793
Administrative Appeals Tribunal	892	81.83	172	15.78	26	2.39	1,090
Australian Taxation Office	111	12.97	566	66.12	179	20.91	856
Australian Federal Police	32	5.62	383	67.31	154	27.06	569
Department of Defence	61	19.87	173	56.35	73	23.78	307
Immigration Assessment Authority	229	80.63	38	13.38	17	5.99	284
Department of Health	48	28.57	58	34.52	62	36.90	168
Australian Securities and Investments Commission	22	14.47	62	40.79	68	44.74	152
Commonwealth Ombudsman	22	14.86	80	54.05	46	31.08	148
Australian Transaction Reports and Analysis Centre	59	40.14	56	38.10	32	21.77	147
Department of Employment	59	45.04	47	35.88	25	19.08	131
Department of the Prime Minister and Cabinet	17	13.08	47	36.15	66	50.77	130
Attorney Generals' Department	12	9.38	41	32.03	75	58.59	128

AGENCY	GRANTED IN FULL	%	GRANTED IN PART	%	REFUSED	%	TOTAL
Department of Foreign Affairs and Trade	16	12.80	58	46.40	51	40.80	125
Comcare	33	28.45	43	37.07	40	34.48	116
Trade Marks Office	26	22.41	84	72.41	6	5.17	116
Australian Postal Corporation	20	18.02	53	47.75	38	34.23	111
Department of the Environment and Energy	12	10.91	82	74.55	16	14.55	110
Total - Top 20	18,364	57.47	11,044	34.56	2,548	7.97	31,956
Remaining agencies and Ministers	513	24.75	723	34.88	837	40.38	2,073
Total	**18,877**	**55.47**	**11,767**	**34.58**	**3,385**	**9.95**	**34,029**

Table D.3: Use of exemptions in FOI decisions in 2016–17

FOI ACT REFERENCE	EXEMPTION	PERSONAL	OTHER	TOTAL	%
s 33	Documents affecting national security, defence or international relations	478	129	607	4.41
s 34	Cabinet documents	0	67	67	0.49
s 37	Documents affecting enforcement of law and protection of public safety	717	191	908	6.60
s 38	Documents to which secrecy provisions of enactments apply	638	209	847	6.16
s 42	Documents subject to legal professional privilege	253	139	392	2.85
s 45	Documents containing material obtained in confidence	174	125	299	2.17
s 45A	Parliamentary Budget Office documents	1	2	3	0.02
s 46	Documents disclosure of which would be contempt of Parliament or contempt of court	11	18	29	0.21
s 47	Documents disclosing trade secrets or commercially valuable information	37	106	143	1.04
s 47A	Electoral rolls and related documents	11	4	15	0.11
s 47B	Commonwealth-State relations	67	55	122	0.89
s 47C	Deliberative processes	313	345	658	4.78
s 47D	Financial or property interests of the Commonwealth	25	20	45	0.33
s 47E	Certain operations of agencies	1,962	579	2,541	18.47
s 47F	Personal privacy	5,705	886	6,591	47.90
s 47G	Business	186	306	492	3.58
s 47H	Research	1	0	1	0.01
s 47J	The economy	0	0	0	-

Table D.4: Reliance on exemptions by percentage from 2014–15 to 2016–17

This table shows the percentage use of each exemption category in relation to all exemptions claimed. A dash is shown where the exemption was not used or it is less than 0.1 %.

EXEMPTION	2014–15 %	2015–16 %	2016–17 %
s 33	4.6	5	4.4
s 34	0.6	0.6	0.5
s 37	12.2	8.8	6.6
s 38	5	6.1	6.2
s 42	2.2	2.6	2.8
s 45	2.3	1.8	2.2
s 45A	-	-	-
s 46	0.1	0.2	0.2
s 47	1.1	0.8	1.0
s 47A	-	0.1	0.1
s 47B	1	1.2	0.9
s 47C	4.7	4.3	4.8
s 47D	0.1	0.1	0.3
s 47E	13.9	19.8	18.5
s 47F	47.6	44.6	47.9
s 47G	4.3	4	3.6
s 47H	-	-	-
s 47J	-	-	-

Table D.5: Use of practical refusal 2016–17

PRACTICAL REFUSAL PROCESSING STEP	PERSONAL	OTHER	TOTAL	%
Notified in writing of intention to refuse request	834	732	1,566	-
Request was subsequently refused or withdrawn	560	473	1,033	66
Request was subsequently processed	274	259	533	34

Table D.6: Time taken to respond to FOI requests

	2015–16			2016–17		
RESPONSE TIME	PERSONAL	OTHER	TOTAL	PERSONAL	OTHER	TOTAL
Within applicable statutory time period	23,170	3,099	26,269	16,343	3,264	19,607
1 — 30 days over	3,453	313	3,766	3,475	325	3,800
31 — 60 days over	1,129	149	1,278	2,746	83	2,829
61 — 90 days over	632	63	695	2,549	46	2,595
90 + days over	1,063	102	1,165	5,006	192	5,198
Total	**29,447**	**3,726**	**33,173**	**30,119**	**3,910**	**34,029**

Table D.7: Determinations of FOI requests for amendment of personal records

DECISION	2013–14	%	2014–15	%	2015–16	%	2016–17	%
Requests granted: amend record	2,040	61.8	1,624	63.9	1,497	60.2	625	55.6
Requests granted: annotate record	208	6.3	203	8.0	154	6.2	136	12.1
Requests granted: amend and annotate record	-	-	2	0.1	1	-	3	0.3
Requests refused	1,055	31.9	713	28.0	835	33.6	360	32.0
Total decided	**3,303**	**100**	**2,542**	**100**	**2,487**	**100**	**1,124**	**100**

Charges

Section 29 of the FOI Act provides for an agency or minister to impose charges for costs associated with processing some FOI requests. There is no charge for making an application.

Under the *Freedom of Information (Charges) Regulations 1982*, charges apply only to an initial access decision under Part III of the FOI Act. Charges that agencies can impose include costs associated with search and retrieval time, collating information and photocopying. An applicant may request that a charge be reduced or not imposed, and the agency must consider that request.

Table D.10: Charges collected 2016–17 — top 20 agencies and others

AGENCY	REQUESTS RECEIVED	REQUESTS WHERE CHARGES WERE NOTIFIED	TOTAL CHARGES NOTIFIED $	TOTAL CHARGES COLLECTED $
Department of Health	337	134	97,831	21,984
Department of Education and Training	157	73	29,585	12,891
Australian Taxation Office	1,114	21	10,248	9,668
Department of Foreign Affairs and Trade	222	81	29,185	9,007
Department of the Environment and Energy	129	31	18,440	8,534
Department of Defence	384	67	14,237	6,857
Department of the Prime Minister and Cabinet	198	21	9,584	5,535
Department of Finance	159	48	35,894	4,911
Civil Aviation Safety Authority	113	31	13,529	4,581
Australian Transaction Reports and Analysis Centre (AUSTRAC)	166	11	4,455	4,326
Department of Veterans' Affairs	3,095	57	4,578	4,196
Department of Human Services	7,457	121	20,270	3,989
Department of Industry, Innovation and Science	87	15	6,914	3,482
Food Standards Australia New Zealand	10	4	6,282	3,415

AGENCY	REQUESTS RECEIVED	REQUESTS WHERE CHARGES WERE NOTIFIED	TOTAL CHARGES NOTIFIED $	TOTAL CHARGES COLLECTED $
Department of Agriculture and Water Resources	85	21	9,941	3,392
Department of Infrastructure and Regional Development	109	24	11,095	3,185
Australian Competition and Consumer Commission	61	20	6,726	2,801
Clean Energy Regulator	22	4	2,407	2,407
Australian Bureau of Statistics	63	13	12,419	2,388
Attorney-General's Department	215	17	18,214	2,245
Total - Top 20	14,183	814	36,1834	119,794
Remaining agencies and ministers	25,336	503	143,560	27,249
Total	**39,519**	**1317**	**505,394**	**147,043**

Disclosure log

All Australian Government agencies and ministers that are subject to the FOI Act are required to maintain an FOI disclosure log on their website. The disclosure log lists information that has been released to FOI applicants, subject to some exceptions (such as personal information).

In 2016–17, 98 agencies and ministers provided information on disclosure log activity (up from 89 in 2015–16). Collectively, they listed 958 documents on their disclosure logs and counted 59,738 page views.

Review of FOI decisions

Under the FOI Act, an applicant who is dissatisfied with the decision of an agency on their initial FOI request has several avenues of review or redress.

A person who is dissatisfied with an agency's access grant or access refusal decision can either apply for internal review or IC review of that decision.

Table D.11: Internal agency review of decisions — outcomes

INTERNAL AGENCY REVIEW DECISION	PERSONAL	OTHER	2016–17 TOTAL
Decisions affirmed	149	145	294
Access granted in full	68	18	86
Access granted in part	142	60	202
Access granted after deferment	5	2	7
Access granted in another form	9	2	11
Charges reduced	1	15	16
Lesser access	3	7	10
Withdrawn without concession	16	17	33
Total	**393**	**266**	**659**

Information Commissioner review of FOI decisions

Table D.12: Top 20 IC review applications received

AGENCY	TOTAL FOI REQUESTS RECEIVED BY AGENCY	ACCESS REFUSAL DECISIONS	ACCESS GRANT DECISIONS	TOTAL IC REVIEWS
Department of Immigration and Border Protection	18,218	140	0	140
Department of Human Services	7,457	91	0	91
Australian Taxation Office	1,114	46	0	46
Australian Securities and Investments Commission	194	19	8	27
Australian Federal Police	639	26	1	27
Department of Defence	384	25	2	27
Department of Health	337	17	1	18
Department of the Prime Minister and Cabinet	198	16	0	16
Department of Foreign Affairs and Trade	222	16	0	16
Prime Minister of Australia	63	14	0	14
Attorney-General's Department	215	11	0	11
Australian Sports Anti-Doping Authority	39	9	0	9

AGENCY	TOTAL FOI REQUESTS RECEIVED BY AGENCY	ACCESS REFUSAL DECISIONS	ACCESS GRANT DECISIONS	TOTAL IC REVIEWS
Commonwealth Ombudsman	171	7	0	7
Department of the Treasury	224	7	0	7
Department of Veterans' Affairs	3,095	6	1	7
Department of Employment	173	6	0	6
Department of the Environment and Energy	129	5	1	6
Australian Postal Corporation	125	6	0	6
Civil Aviation Safety Authority	94	6	0	6
Australian Human Rights Commission	55	5	1	6
Subtotal	33,146	478	15	493
Remaining agencies/ministers	6,373	131	8	139
Total	**39,519**	**609**	**23**	**632**

Table D.13: IC review outcomes 2013–14 to 2016–17 and % change from 2015–16 to 2016–17

INFORMATION COMMISSIONER DECISIONS	2013–14	2014–15	2015–16	2016–17	% OF 2016-17 TOTAL
s 54N — out of jurisdiction or invalid	59	37	44	34	6.60
s 54R — withdrawn	111	59	81	115	22.33
s 54R — withdrawn/conciliated	71	51	78	93	18.06
s 54W(a) — deemed acceptance of PV/appraisal	27	26	7	0	0
s 54W(a)(i) — frivolous, vexatious, misconceived, lacking in substance, or not in good faith	170	87	94	66	12.82
s 54W(a)(ii) — failure to cooperate	62	19	7	57	11.07
s 54W(a)(iii) — lost contact	0	5	5	3	0.58
s 54W(b) — refer AAT	41	61	32	15	2.91
s 55F — set aside by agreement	1	0	2	7	1.36
s 55F — varied by agreement	1	2	7	5	0.97
s 55F — affirmed by agreement	1	2	1	1	0.19
s 55G — substituted	4	5	16	15	2.91
s 55K — affirmed by IC	32	48	28	48	9.32
s 55K — affirmed by IC following revised decision during IC review	8	5	11	17	3.30
s 55K — set aside by IC	53	52	22	23	4.47
s 55K — varied by IC	5	23	19	16	3.11
Total	**646**	**482**	**454**	**515**	**100%**

Administrative Appeals Tribunal review

An application may be made to the AAT for review of the Commissioner's IC review decisions and where the Commissioner has indicated a matter is better dealt with directly by the AAT.

As with IC review, the AAT conducts a merits review process. The AAT's decisions are appealable to the Federal Court of Australia, but only on a question of law.

Table D.14: Applications to AAT for FOI review in 2016–17

AGENCY	APPLICATIONS
Aged Care Complaints Commissioner	1
Austrade	1
Australian Fisheries Management Authority	2
Australian Health Practitioner Regulation Agency	1
Australian Postal Corporation	1
Australian Securities and Investments Commission	1
Australian Sports Commission	1
Australian Taxation Office	7
Bureau of Meteorology	1
Department of Defence	4
Department of the Environment and Energy	2
Department of Foreign Affairs and Trade	1
Department of Human Services	1
Department of Immigration and Border Protection	9
Department of Veterans' Affairs	1
Minister for Communications and the Arts	1
Prime Minister of Australia	3
Office of the Australian Information Commissioner (vexatious applicant declaration)	1
Total	**39**

Table D.15: Outcomes of FOI reviews finalised by the AAT in 2016–17

AAT OUTCOMES	NUMBER
By decision	
Decision affirmed	8
Decision varied/set aside/remitted	7
Other	
Dismissed by AAT	1
No jurisdiction	0
Extension of time refused	0
By consent or withdrawn	
Decision affirmed	0
Decision varied/set aside/remitted	4
Dismissed by consent	1
Dismissed by operation of law	0
Withdrawn by applicant	13
Total	**34**

Impact of FOI on agency resources

To assess the impact on agency resources on compliance with the FOI Act, agencies are required to estimate the hours that staff spent on FOI matters and the non-labour costs directly attributable to FOI, such as training and legal costs.

Table D.16: Comparative total yearly cost of FOI processing

YEAR	TOTAL COST $	YEAR	TOTAL COST $	YEAR	TOTAL COST $
1982–83*	7,502,355	1994–95	11,955,482	2006–07	24,936,178
1983–84	15,106,511	1995–96	14,564,562	2007–08	29,474,653
1984–85	16,496,961	1996–97	15,972,950	2008–09	30,358,484
1985–86	15,711,889	1997–98	12,191,478	2009–10	27,484,129
1986–87	13,336,864	1998–99	13,066,029	2010–11	36,318,030
1987–88	11,506,931	1999–00	14,035,394	2011–12	41,718,803
1988–89	10,494,376	2000–01	14,415,406	2012–13	45,231,147
1989–90	10,373,321	2001–02	17,387,088	2013–14	41,836,685
1990–91	9,921,772	2002–03	18,398,181	2014–15	40,021,572
1991–92	12,723,097	2003–04	20,189,136	2015–16	41,151,698
1992–93	12,702,329	2004–05	22,860,022	2016–17	44,787,154
1993–94	13,977,360	2005–06	24,903,771		

Table D.17: Average cost per FOI request for last ten years

YEAR	REQUESTS DETERMINED	TOTAL COST	AVERAGE COST PER REQUEST DETERMINED $
2007–08	31,367	29,474,653	940
2008–09	25,139	30,358,484	1,208
2009–10	19,583	27,484,129	1,403
2010–11	20,187	36,318,030	1,799
2011–12	22,237	41,718,803	1,876
2012–13	21,764	45,231,147	2,078
2013–14	23,106	41,836,685	1,811
2014–15	29,000	40,021,572	1,380
2015–16	33,173	41,151,698	1,241
2016–17	34,029 (2.6% increase)	44,787,154 (8.8% increase)	1,316 (6% increase)

Table D.18: Reported time spent by staff on FOI matters for years 2013–14 to 2016–17 and % change between 2015–16 and 2016–17

PERCENTAGE OF TIME SPENT	2013–14	2014–15	2015–16	2016–17	+/- %
Staff numbers: 75–100% of time spent on FOI matters	287	291	259	276	6.56
Staff numbers: Less than 75% of time spent on FOI matters	3,623	3,046	3,378	3,600	6.57
Total staff hours	630,936	589,726	614,424	670,986	9.21
Total staff years	315.5	294.9	307.2	335.5	-

Table D.19: Estimated staff costs of FOI processing for 2016–17

TYPE OF STAFF	STAFF YEARS	TOTAL STAFF COSTS $[*]
FOI officers	258.63	30,808,955
SES	9.23	2,727,886
APS Level 6 and EL 1–2	26.82	4,669,263
APS Levels 1–5	38.45	3,784,513
Minister and advisers	1.10	238,518
Minister's support staff	1.25	122,827
Total	**335.49**	**42,351,963**

[*] Includes 60% loading for related costs.

Non-labour costs

Table D.20: Non-labour costs for FOI processing for years 2013–14 to 2016–17, and the percentage change between 2015–16 and 2016–17.

COSTS $	2013–14	2014–15	2015–16	2016–17	%+/-
General legal advice	830,002	1,031,544	483,263	1,268,462	162.48
Litigation	157,781	764,772	930,047	635,240	-31.70
Total legal costs	987,783	1,796,316	1,413,310	1,903,702	34.70
General administrative	706,032	378,265	309,987	237,932	-23.24
Training	134,989	334,599	341,303	244,765	-28.29
Other	78,352	114,453	273,007	48,792	-82.00
Total	**1,907,156**	**2,623,633**	**2,337,607**	**2,435,191**	**4.17**

Impact of the Information Publication Scheme on agency resources

Agencies are required to provide information about the costs of meeting their obligations under the Information Publication Scheme (IPS), which commenced on 1 May 2011.

Information Publication Scheme costs

Table D.21: Reported time spent by staff on IPS matters for years 2013–14 to 2016–17, and the percentage change between 2015–16 and 2016–17

PERCENTAGE OF TIME SPENT	2013–14	2014–15	2015–16	2016–17	%+/-
Staff numbers: 75–100% of time spent on IPS	17	5	8	9	12.5
Staff numbers: Less than 75% of time spent on IPS	415	240	212	280	32.08
Total staff hours	26,116	10,696	7,083	6,705	- 5.34
Total staff years	13.1	5.3	3.5	3.35	-

Table D.22: Estimated staff costs of IPS for 2016–17

TYPE OF STAFF	STAFF YEARS	TOTAL STAFF COSTS $[*]
IPS officers	2.70	321,390
SES	0.06	16,986
APS Level 6 and EL 1–2	0.36	63,102
APS Levels 1–5	0.23	23,079
Total	**3.35**	**424,557**

[*] Includes 60% loading for related costs.

Appendix E: Acronyms and abbreviations

ACRONYM OR ABBREVIATION	EXPANDED TERM
AAT	Administrative Appeals Tribunal
ACAPS	Australian Community Attitudes to Privacy Survey
ACCAN	Australian Communications Consumer Action Network
AHPRA	Australian Health Practitioner Regulation Agency
AHRC	Australian Human Rights Commission
AIC Act	*Australian Information Commission Act 2010*
ALRC	Australian Law Reform Commission
ANAO	Australian National Audit Office
APEC	Asia-Pacific Economic Cooperation
APP	Australian Privacy Principle
APPA	Asia Pacific Privacy Authorities
APS	Australian Public Service
ATO	Australian Taxation Office
AUSTRAC	Australian Transaction Reports and Analysis Centre
BGA	Block Grant Authority
CALC	Consumer Action Law Centre
CASA	Civil Aviation Safety Authority
CCLCSA	Consumer Credit Law Centre South Australia
CII	Commissioner-Initiated Investigation
CIO	Credit and Investments Ombudsman
CHF	Consumers Health Forum of Australia
CPN	Consumer Privacy Network
DBN	Data Breach Notification

ACRONYM OR ABBREVIATION	EXPANDED TERM
DHS	Department of Human Services
DIBP	Department of Immigration and Border Protection
DSS	Department of Social Services
DVS	Document Verification Service
EDR	External dispute resolution
EFA	Electronic Frontiers Australia Inc.
ESD	Ecologically Sustainable Development
EWOQ	Energy + Water Ombudsman Queensland
EWON	Energy & Water Ombudsman NSW
EWOSA	Energy & Water Ombudsman SA
EWOV	Energy and Water Ombudsman Victoria
EWOWA	Energy and Water Ombudsman Western Australia
FOS	Financial Ombudsman Service
FOI	Freedom of information
FTE	Full-Time Equivalent
GDPR	General Data Protection Regulation
GP	General practice
GPEN	Global Privacy Enforcement Network
GST	Goods and Services Tax
HI	Healthcare Identifiers
IC	Information Commissioner
Information Commissioner	Australian Information Commissioner, within the meaning of the *Australian Information Commissioner Act 2010*.
IPP	Information Privacy Principle
IPS	Information Publication Scheme
MDBA	Murray-Darling Basin Authority

ACRONYM OR ABBREVIATION	EXPANDED TERM
MOU	Memorandum of Understanding
MYEFO	Mid-Year Economic and Fiscal Outlook
My Health Records Act	*My Health Records Act 2012*
NAB	National Australia Bank
NDB	Notifiable Data Breaches
NPP	National Privacy Principle
OAIC	Office of the Australian Information Commissioner
PGPA Act	*Public Governance, Performance and Accountability Act 2013*
PPN	Privacy Professionals' Network
Privacy Act	*Privacy Act 1988*
PAW	Privacy Awareness Week
PIA	Privacy Impact Assessment
PTO	Public Transport Ombudsman Victoria
SES	Senior Executive Service
SI	Student Identifier
SME	Small and Medium Enterprises
SRC Act	*Safety, Rehabilitation and Compensation Act 1988*
TAP	Talking about performance
Telecommunications Act	*Telecommunications Act 1997*
TCO	Tolling Customer Ombudsman
TFN	Tax File Number
TIA Act	*Telecommunications (Interception and Access) Act 1979*
TIO	Telecommunications Industry Ombudsman
TPPs	Territory Privacy Principles
WHS	Workplace Health and Safety

Appendix F: Correction of material errors

Correction of errors in the *Office of the Australian Information Commissioner Annual Report 2015–16*.

Page 3

The OAIC incorrectly referenced 'Subsection 63(1) of the *Public Service Act 1999*' in the transmittal letter. The correct reference is section 46 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act)

Page 12

The first paragraph referenced the 2015–16 Budget; the correct reference was the 2016–17 Budget.

Page 14

The number of privacy complaints about credit reporting bodies was incorrectly reported as 153 rather than 151 and telecommunications reported as 151 rather than 153 (however the figures shown on page 42 relating to this subject are correct).

Page 16

The rise in FOI enquiries was incorrectly reported as 19% rather than 31%.

The number of Information Commissioner reviews of FOI requests was incorrectly reported as 323 rather than 373 (for 2014–15).

Appendix G: Index

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Appendix H: 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 section 46 of the Act and any enabling legislation that specifies additional requirements in relation to the annual report.	Mandatory	3
17AD(h) Aids to access			
17AJ(a)	Table of contents.	Mandatory	4
17AJ(b)	Alphabetical index.	Mandatory	187
17AJ(c)	Glossary of abbreviations and acronyms.	Mandatory	183
17AJ(d)	List of requirements.	Mandatory	200
17AJ(e)	Details of contact officer.	Mandatory	2
17AJ(f)	Entity's website address.	Mandatory	2
17AJ(g)	Electronic address of report.	Mandatory	2
17AD(a) Review by accountable authority			
17AD(a)	A review by the accountable authority of the entity.	Mandatory	14–17
17AD(b) Overview of the entity			
17AE(1)(a)(i)	A description of the role and functions of the entity.	Mandatory	9
17AE(1)(a)(ii)	A description of the organisational structure of the entity.	Mandatory	23–26
17AE(1)(a)(iii)	A description of the outcomes and programmes administered by the entity.	Mandatory	38–83

PGPA RULE REFERENCE	DESCRIPTION	REQUIREMENT	PART OF REPORT
17AE(1)(a)(iv)	A description of the purposes of the entity as included in corporate plan.	Mandatory	10
17AE(1)(b)	An outline of the structure of the portfolio of the entity.	Portfolio departments - mandatory	9, 23–26
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			
Annual performance Statements			
17AD(c)(i); 16F	Annual performance statement in accordance with paragraph 39(1)(b) of the Act and section 16F of the Rule.	Mandatory	38–83
17AD(c)(ii) Report on Financial Performance			
17AF(1)(a)	A discussion and analysis of the entity's financial performance.	Mandatory	112–149
17AF(1)(b)	A table summarising the total resources and total payments of the entity.	Mandatory	153–154
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.	112–149, 153–154
17AD(d) Management and Accountability			
Corporate Governance			

PGPA RULE REFERENCE	DESCRIPTION	REQUIREMENT	PART OF REPORT
17AG(2)(a)	Information on compliance with section 10 (fraud systems)	Mandatory	110
17AG(2)(b)(i)	A certification by accountable authority that fraud risk assessments and fraud control plans have been prepared.	Mandatory	3
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	3
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	3
17AG(2)(c)	An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance.	Mandatory	100
17AG(2)(d) — (e)	A statement of significant issues reported to Minister under paragraph 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
External Scrutiny			
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 section 43 of the Act), a Parliamentary Committee, or the Commonwealth Ombudsman.	If applicable, Mandatory	N/A

PGPA RULE REFERENCE	DESCRIPTION	REQUIREMENT	PART OF REPORT
17AG(3)(c)	Information on any capability reviews on the entity that were released during the period.	If applicable, Mandatory	N/A
Management of Human Resources			
17AG(4)(a)	An assessment of the entity's effectiveness in managing and developing employees to achieve entity objectives.	Mandatory	102
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	103
17AG(4)(c)	Information on any enterprise agreements, individual flexibility arrangements, Australian workplace agreements, common law contracts and determinations under subsection 24(1) of the *Public Service Act 1999*.	Mandatory	106
17AG(4)(c)(i)	Information on the number of SES and non-SES employees covered by agreements etc identified in paragraph 17AG(4)(c).	Mandatory	103
17AG(4)(c)(ii)	The salary ranges available for APS employees by classification level.	Mandatory	103
17AG(4)(c)(iii)	A description of non-salary benefits provided to employees.	Mandatory	105
17AG(4)(d)(i)	Information on the number of employees at each classification level who received performance pay.	If applicable, Mandatory	106
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

PGPA RULE REFERENCE	DESCRIPTION	REQUIREMENT	PART OF REPORT
17AG(4)(d)(iv)	Information on aggregate amount of performance payments.	If applicable, Mandatory	N/A
Assets Management			
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
Purchasing			
17AG(6)	An assessment of entity performance against the Commonwealth Procurement Rules.	Mandatory	108
Consultants			
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	108
17AG(7)(b)	A statement that "*During [reporting period], [specified number] new consultancy contracts were entered into involving total actual expenditure of $[specified million]. In addition, [specified number] ongoing consultancy contracts were active during the period, involving total actual expenditure of $[specified million]".*	Mandatory	108
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	108
17AG(7)(d)	A statement that "Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website."	Mandatory	108

PGPA RULE REFERENCE	DESCRIPTION	REQUIREMENT	PART OF REPORT
Australian National Audit Office Access Clauses			
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.	If applicable, Mandatory	N/A
Exempt contracts			
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.	If applicable, Mandatory	N/A
Small business			
17AG(10)(a)	A statement that "*[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.*"	Mandatory	109
17AG(10)(b)	An outline of the ways in which the procurement practices of the entity support small and medium enterprises.	Mandatory	109
17AG(10)(c)	If the entity is considered by the Department administered by the Finance Minister as material in nature—a statement that "*[Name of entity] recognises the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian GovernmentPayments to Small Business are available on the Treasury's website.*"	If applicable, Mandatory	109

PGPA RULE REFERENCE	DESCRIPTION	REQUIREMENT	PART OF REPORT
Financial Statements			
17AD(e)	Inclusion of the annual financial statements in accordance with subsection 43(4) of the Act.	Mandatory	112–149
17AD(f) Other Mandatory Information			
17AH(1)(a)(i)	If the entity conducted advertising campaigns, a statement that "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."	If applicable, Mandatory	110
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 "Information on grants awarded by [name of entity] during [reporting period] is available at [address of entity's website]."	If applicable, Mandatory	110
17AH(1)(c)	Outline of mechanisms of disability reporting, including reference to website for further information.	Mandatory	110
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	110
17AH(1)(e)	Correction of material errors in previous annual report	If applicable, mandatory	186
17AH(2)	Information required by other legislation	Mandatory	158–161, 162–182

Our priorities for the coming year

In collaboration with the Department of the Prime Minister and Cabinet, and the Australian Public Service Commissioner, we will implement the Australian Public Service (APS) Privacy Governance Code, which will play a key role in building public trust in the APS, supporting the Australian Government's public data agenda and enhancing privacy governance and capability.

The Notifiable Data Breaches scheme will be take effect in February 2018, strengthening the protections afforded to Australians' personal information, and improving transparency in the way that organisations respond to serious data breaches. The OAIC will work with businesses and agencies to ensure that guidance and resources are available to promote a smooth implementation of this important new privacy protection.

We will review the Privacy (Credit Reporting) Code 2014 and provide recommendations for improvement, in consultation with industry and stakeholder groups.

Throughout the year, we will continue to conduct targeted privacy assessments in areas such as national security, identity management, digital health, and the enhanced welfare payment integrity data matching program.

We will host the 47th Asia Pacific Privacy Authorities meeting and Data + Privacy Asia Pacific national conference — providing a unique opportunity for Australian privacy professionals to engage with industry developments on an international level.

We will celebrate the 30th anniversary of the commencement of the Privacy Act 1988.

We will update tools and guidance for Australian Government agencies to assist them to review their compliance with the FOI Act.

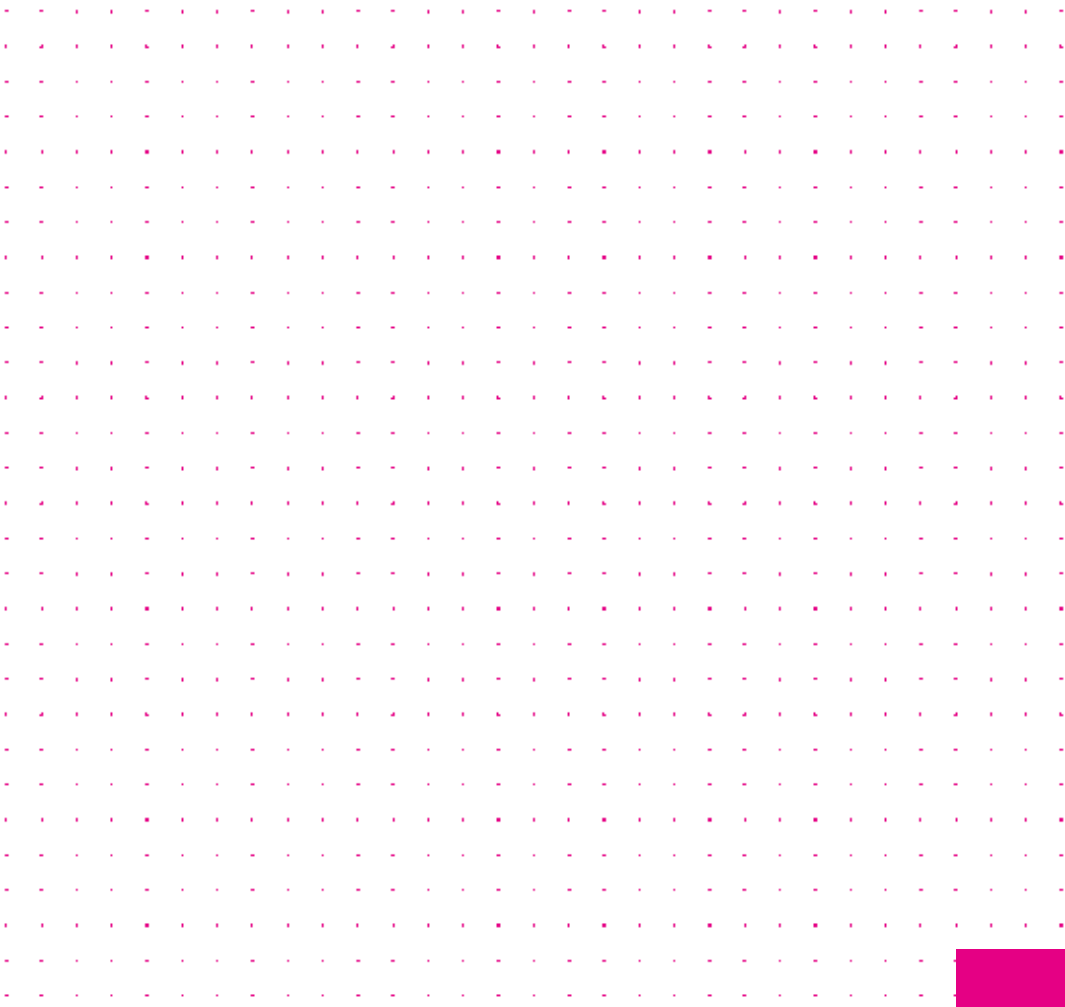
We will develop and publish an FOI regulatory action policy that outlines how we undertake IC reviews, FOI complaints and Commissioner-initiated investigations.

We will conduct a campaign for Right to Know Day 2017 raising awareness about people's right to access government information and promoting FOI as essential to both democracy and good governance.

We will provide advice and guidance in support of any implementation of the Australian Government's Productivity Commission's Data Availability and Use report, and the Cyber Security Strategy among other priorities.

We are at the forefront of guidance and enforcement of Australia's privacy and freedom of information laws; shaping how emerging technologies and data practices impact the lives of every Australian.

In 2016–17 we have continued to promote and protect two important principles of open democratic government in the information age — the right of individuals to access government-held information and understand how it is used for public purposes; and to exercise choice and control over their personal information.



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