



Australian Government

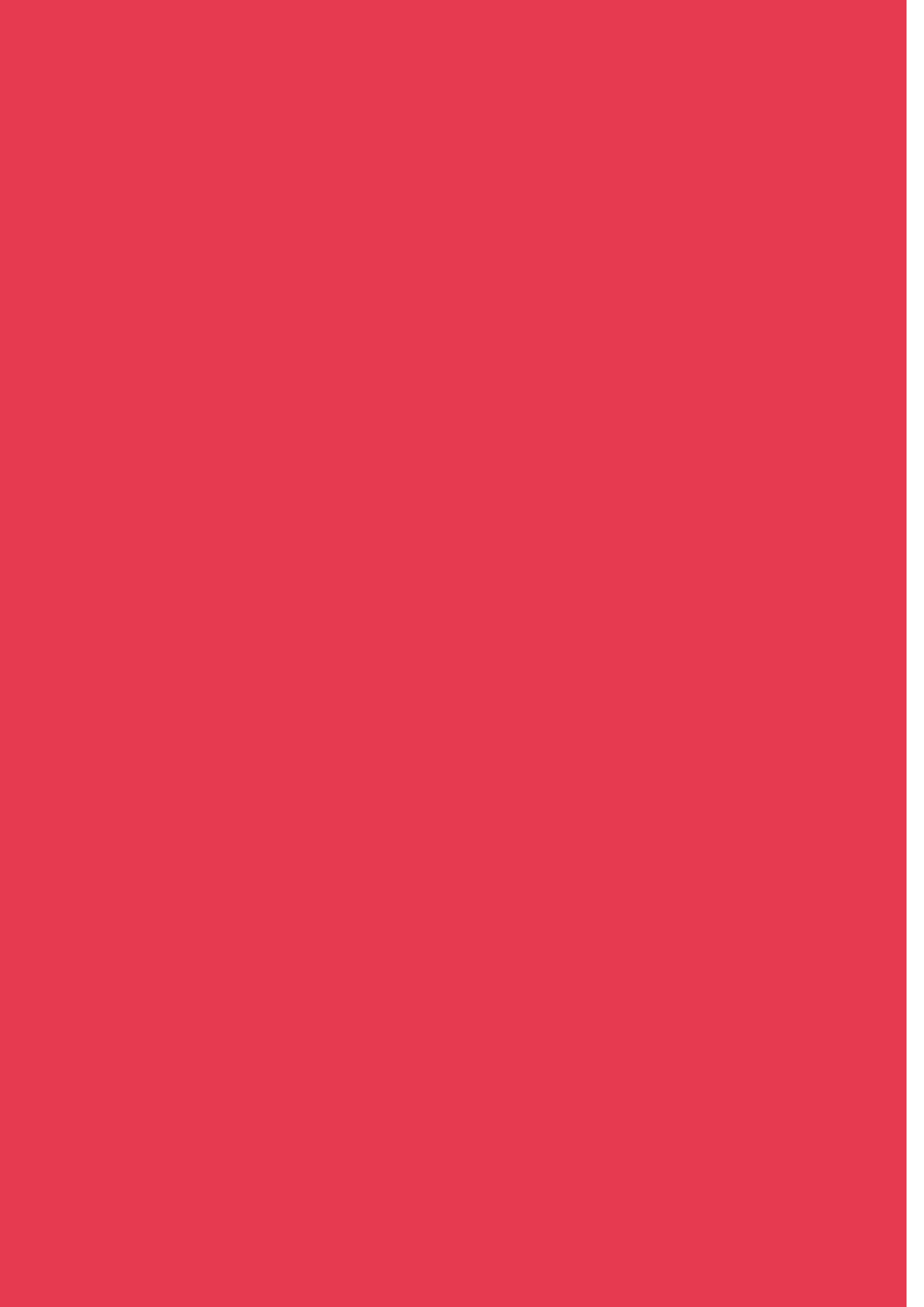
Office of the Australian  
Information Commissioner

Office of the Australian  
Information Commissioner

**Annual report 2022-23**



OAIC



# Office of the Australian Information Commissioner

Annual report 2022–23





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**Australian Government**

**Office of the Australian Information Commissioner**

**The Hon Mark Dreyfus KC MP**

Attorney-General  
Parliament House  
Canberra ACT 2600

Dear Attorney-General

I am pleased to provide the Office of the Australian Information Commissioner's (OAIC's) Annual report 2022–23.

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

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

I certify that the OAIC has prepared a fraud risk assessment and fraud control plan. We also have a number of appropriate fraud prevention, detection, investigation, reporting and data collection mechanisms in place. The OAIC has taken all reasonable measures to minimise the incidence of fraud.

I certify that this report has been prepared in line with the Public Governance, Performance and Accountability Rule 2014.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A. Falk'.

**Angelene Falk**

Australian Information Commissioner and Privacy Commissioner  
25 September 2023

# Contents

## 6

Acknowledgement of Country ..... 5

### Part 1: Overview

About the OAIC ..... 7

Overview from the Australian Information Commissioner  
and Privacy Commissioner Angelene Falk ..... 8

Our year at a glance ..... 11

Our structure ..... 15

## 20

### Part 2: Performance

Our annual performance statement ..... 21

Key activity 1: Influence and uphold privacy and information  
access rights frameworks ..... 25

Key activity 2: Advance online privacy protection  
for Australians ..... 38

Key activity 3: Encourage and support proactive release of  
government information ..... 41

Key activity 4: Take a contemporary approach to regulation ..... 46

## 62

### Part 3: Management and accountability

Corporate governance ..... 63

External scrutiny ..... 67

Our people ..... 69

Procurement ..... 75

Other requirements ..... 77

**80****Part 4: Financial statements**

|  |     |
|--|-----|
| Independent auditor's report .....                                       | 81  |
| Statement by the accountable authority and chief financial officer ..... | 83  |
| Statement of Comprehensive Income .....                                  | 84  |
| Statement of Financial Position .....                                    | 85  |
| Statement of Changes in Equity .....                                     | 87  |
| Cash Flow Statement .....  | 89  |
| Overview .....   | 91  |
| Financial Performance .....  | 94  |
| Financial Position .....   | 100 |
| Funding .....  | 108 |
| People and relationships .....   | 110 |
| Managing uncertainties .....   | 113 |
| Other information .....  | 116 |

**118****Part 5: Appendices**

|  |     |
|--|-----|
| Appendix A: Agency resource statement and resources for outcomes ..... | 119 |
| Appendix B: Executive remuneration .....                               | 121 |
| Appendix C: Workforce statistics .....                                 | 124 |
| Appendix D: Memorandums of understanding .....                         | 136 |
| Appendix E: Freedom of Information statistics .....                    | 137 |
| Appendix F: Stakeholder survey results and methodology .....           | 170 |
| Appendix G: Shortened forms .....                                      | 182 |
| Appendix H: Correction of material errors .....                        | 186 |
| Appendix I: List of requirements .....                                 | 187 |

|                    |            |
|--------------------|------------|
| <b>Index .....</b> | <b>194</b> |
|--------------------|------------|



## Acknowledgement of Country

The Office of the Australian Information Commissioner acknowledges Traditional Custodians of Country across Australia and recognises their continuing connection to lands, waters and communities. We pay our respect to Aboriginal and Torres Strait Islander cultures, and to Elders past and present.

*Pictured: Quandamooka woman, Elisa Jane Carmichael, who embraces traditional techniques alongside contemporary adaptations in her artistic practice. Elisa is a descendant of the Ngugi people, one of three clans who are the traditional custodians of Quandamooka (also known as Yoolooburrabee) people of the sand and sea.*

*Photographer: Hannah Millerick.*

*Location: Mparntwe Country (the Arrernte name for Alice Springs).*



# Part 1

## Overview

|   |    |
|---|----|
| About the OAIC .....  | 7  |
| Overview from the Australian Information Commissioner<br>and Privacy Commissioner Angelene Falk ..... | 8  |
| Our year at a glance .....  | 11 |
| Our structure .....   | 15 |

# About the OAIC

The Office of the Australian Information Commissioner (OAIC) is an independent statutory agency in the Attorney-General's portfolio, established under the [Australian Information Commissioner Act 2010](#) (AIC Act).

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

We do this by:

- ensuring proper handling of personal information under the [Privacy Act 1988](#) and other legislation
- protecting the public's right of access to documents under the [Freedom of Information Act 1982](#) (FOI Act)
- carrying out strategic information management functions within the Australian Government under the AIC Act.

Our regulatory activities include:

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

## Outcome and program structure

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

|                    |  |
|--------------------|--|
| <b>Outcome 1:</b>  | Provision of public access to Commonwealth Government information, protection of individuals' personal information, and performance of Information Commissioner, freedom of information and privacy functions. |
| <b>Program 1.1</b> | Complaint handling, compliance and monitoring, and education and promotion.  |

Our annual performance statement details our activities and key deliverables and measures our performance against our portfolio budget statement targets and the key activities set out in our [Corporate plan 2022–23](#).

Our key activities are to:

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

# Overview from the Australian Information Commissioner and Privacy Commissioner Angelene Falk

In 2022–23 the OAIC delivered our work for the Australian community through unprecedented times, as tens of millions of Australians were impacted by the biggest data breaches the country had experienced since the commencement of the Notifiable Data Breaches (NDB) scheme in 2018.

With the welcome support of additional government funding for privacy, we commenced and have substantially progressed major investigations into these breaches. They have brought into sharp relief the requirement for boards across corporate Australia, Ministers and Secretaries of Departments, to prioritise investment in protecting personal information and limiting its collection and retention. As cyber-attacks become increasingly prevalent and impactful, it's individuals who are at risk of harm but business and others with custody of personal information at risk of serious reputational damage.

This is why the OAIC seeks to serve the Australian people by putting the individual at the centre of our approach. We focus on applying our regulatory tools to promote access to government-held information and protect personal information. This means assessing where potential community impacts are most significant, being targeted in our approach, maximising the use of our resources, and adapting to a rapidly changing and increasingly complex environment.

Achieving that goal requires certain foundations to be in place: appropriate law, resources, capability – the right people with the right tools – effective engagement with risk, appropriate governance and importantly, collaboration.

The OAIC has developed these foundations to take a proportionate and proactive approach to identifying and reducing harms.

We have sought to influence quality Freedom of Information (FOI) decision-making by providing guidance to agencies and working with them to



improve the system. However, to achieve the vision for the OAIC's role in FOI requires sufficient resources to meet current demand and address backlogs which have arisen since the office's establishment, resulting in a legacy case load that persists and continues to grow.

This year applications for Information Commissioner review (IC review) of FOI decisions of agencies and ministers fell 16% to 1,647, a break in the significant increases of recent years primarily attributable to the Department of Home Affairs; and FOI complaints fell 2% to 212.

We finalised 1,519 IC reviews in 2022–23, an increase of 10% compared to 2021–22, which followed increases of 37% and 23% in the previous years respectively. But of 2,004 IC reviews on hand at 30 June, over half were more than 12 months old.

In 2018 the OAIC began efforts to garner support for a review of its functions and resourcing requirements, to ensure the organisation is positioned to meet the needs of the community. We have been consistent and persistent in our representations across all our functions. In the May 2023 Budget we were pleased to receive additional funding to bring in expertise to conduct a strategic assessment to ensure we are well placed to meet the regulatory challenges of the future.



While the funding had its genesis in ensuring the OAIC is able to regulate a reformed Privacy Act, it is essential that all our functions and operations form part of the review. Because we are one OAIC.

This is an opportunity full of promise. It will occur alongside a change in the composition of the OAIC at Commissioner level, following the Australian Government's announcement that the OAIC will return to the 3 statutory office holder model: the Australian Information Commissioner (as agency head), Privacy Commissioner and Freedom Information (FOI) Commissioner.

This will strengthen our ability to carry out our important statutory functions. It recognises the complexity and volume of matters dealt with by the OAIC and will provide welcome specialisation and capacity to address this workload.

Effective and efficient regulation also requires law that is fit for purpose. The major data breaches were also a catalyst for the strengthening of the OAIC's regulatory powers and available penalties, which was a precursor to expected wider legislative change resulting from the review of the *Privacy Act 1988*. Amendments were also made to the *Australian Information Commissioner Act 2010* in line with the OAIC's advice, to allow IC review decisions to be delegated to Senior Executive Service (SES).

During the year, we continued to engage with government agencies on issues of regulatory concern, and to promote the principles of Open by Design, which supports government agencies to build a culture of transparency and trust by prioritising, promoting and resourcing proactive disclosure. In doing so, we highlighted the importance of agencies developing robust digital systems that strengthen the community's access to information.

Mr Leo Hardiman PSM KC served as the FOI Commissioner from 19 April 2022 to 19 May 2023. During his term Commissioner Hardiman worked to advance the objectives of the FOI Act to promote timely access to government-held information. Mr Hardiman further developed FOI jurisprudence and his service to the Commonwealth is acknowledged.

Ms Toni Pirani commenced as acting FOI Commissioner on 20 May 2023 and has worked to further the objectives of the OAIC.

The OAIC has also embedded regulatory cooperation into our approach to performing our functions.

The OAIC continues to co-regulate the Consumer Data Right (CDR) with the Australian Competition and Consumer Commission (ACCC). During 2022–23, we provided advice on the privacy and confidentiality impacts of expanding the CDR to the non-bank lending sector, legislation to establish new functionality in the CDR to allow consumer-directed action and payment initiation, and new and amended data standards.

The Digital Platform Regulators Forum, comprising the OAIC, the Australian Communications and Media Authority, the ACCC and eSafety, continued work to promote proportionate, cohesive, well-designed and efficient digital platform regulation that best serves the public interest. The forum's strategic priorities for the year included a focus on the impact of algorithms, seeking to increase transparency of digital platforms' activities and how they are protecting users from potential harm, and collaboration and capacity building.

We have also been central to the whole of government response to data breaches, and to promoting regulatory cohesion through our co-chairing of the Cyber Regulators Network with the Australian Prudential Regulation Authority.

We have continued to engage internationally on privacy and access to information issues of global concern, including through our membership of working groups of the Global Privacy Assembly and as a member of the International Conference of Information Commissioners.

The OAIC continues to perform an important privacy complaint role for the community. In 2022–23, we received a 34% increase in privacy complaints (3,402) compared to 2021–22. We are focusing on the age of privacy complaints and have commenced a project to address a backlog of privacy complaints that are more than 12 months old.

In 2022–23, we also opened investigations into the personal information handling practices of certain retailers, focusing on the companies' use of facial recognition technology.

We sought to promote and improve protections to privacy and access to information rights by providing detailed submissions and policy advice to the Australian Government and others. In 2022–23, we made 16 submissions and 75 bill scrutiny comments across both privacy and FOI.

The OAIC engages with the community as part of our education function and to inform our regulatory approach. We led a successful Privacy Awareness Week, signing up a record number of supporters, and a successful International Access to Information Day.

Not surprisingly, due to the increase in the number and scale of data breaches reported, our Australian Community Attitudes to Privacy Survey 2023 released in August 2023, found that data breaches are seen as the number one privacy concern by the community.

This year we also embedded our hybrid way of working to attract and retain skilled people nationally and new shared services providers for finance and ICT. This required us to bring capability in house to support these systems as a service.

The OAIC has also grown significantly this year, with 72 new staff joining, requiring investment from our people and culture team to recruit, onboard and support. We also heard what is important to our people through our results in the Australian Public Service Commission (APSC) Census, and successfully

implemented a Census Roadmap to uplift the OAIC's results across all indexes.

We are also critiquing the OAIC's performance, and for the first time, we commissioned an independent stakeholder survey to seek feedback on key performance measures and set a baseline for the future. There are lessons to be learned and the data will be highly useful as we focus our efforts in the year ahead.

We can say confidently that privacy and access to information are very much in the spotlight and will continue to be so. Information access and privacy matters to Australians, and the OAIC will continue our important work to promote and protect these fundamental rights, harnessing the skills and commitment of our people.

We are one OAIC, delivering collectively for the Australian community. I want to thank the people of the OAIC for their determination, skill and dedication to delivering across our functions every day. The OAIC has a strong foundation on which to build, and it will move from strength to strength with the leadership of 3 expert commissioners.



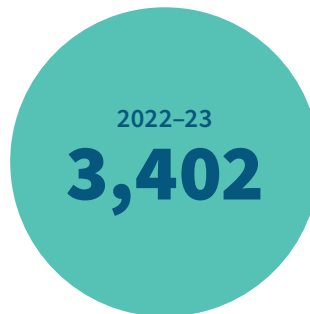
**Angelene Falk**  
Australian Information Commissioner and  
Privacy Commissioner

3 October 2023

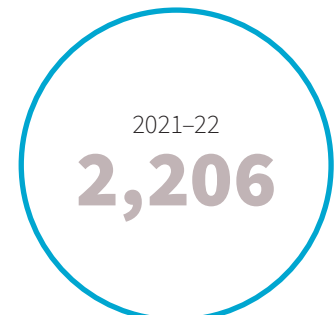
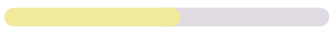
## Our year at a glance

### Privacy complaints

We received **34% more** privacy complaints



We finalised **17% more** privacy complaints



**84%**

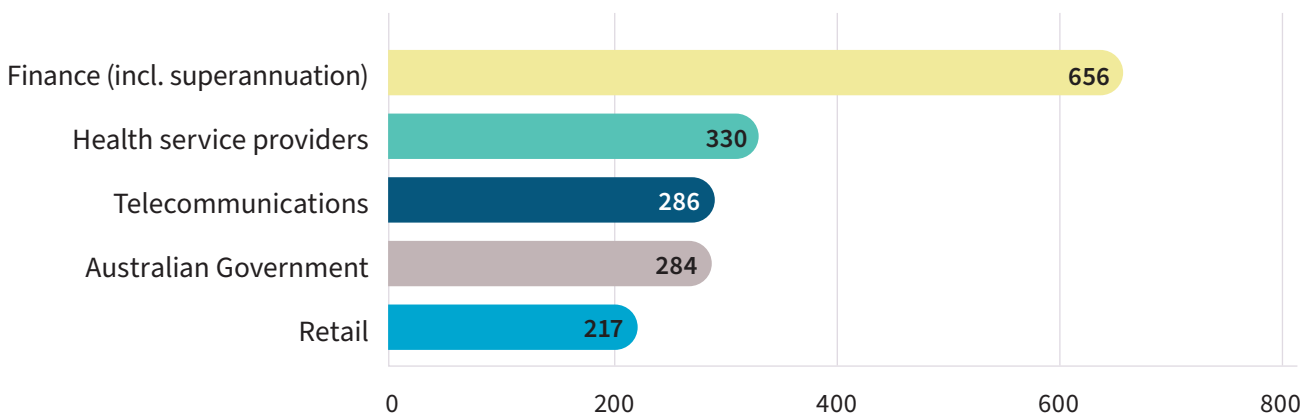
of privacy complaints were finalised within 12 months against a **target of 80%**



The **average time** taken to finalise a privacy complaint was

**6.4 months**

### Top 5 sectors by privacy complaints received



## Privacy enquiries

We handled

**11,672**

privacy enquiries

**↑7%**

increase from  
2021-22



**8,407**

phone



**3,265**

written

## Notifiable Data Breaches scheme

We received **5% more** notifications under the Notifiable Data Breaches scheme



**77%**

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

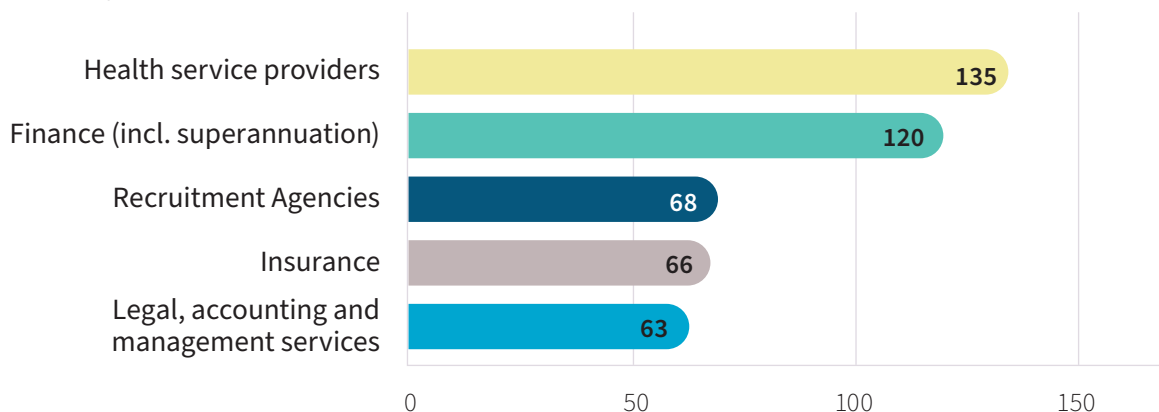


The **average time** taken to finalise a data breach notification was

**55 days**



### Top 5 sectors by data breach notifications received



# Our year at a glance

## Freedom of information (FOI) enquiries

We handled

**1,647**

FOI enquiries

**↓ 15%**

reduction from  
2021–22<sup>1</sup>



**1,029**

phone



**618**

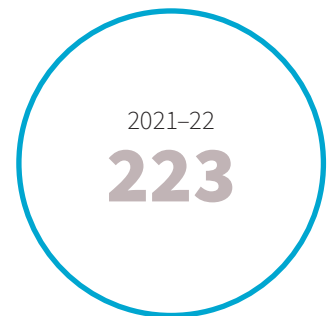
written

## FOI complaints

We received **2% fewer**  
FOI complaints



We finalised **44% fewer**  
FOI complaints<sup>2</sup>



**94%**

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



The **average time** taken  
to finalise an FOI complaint was

**4.1 months**

<sup>1</sup> During 2022–23, the OAIC ceased classifying certain communications about FOI as ‘enquiries’ where these are more complex, or require a specific response, and are therefore dealt with by the FOI Branch instead of the OAIC’s enquiries team. This has reduced the numbers of FOI enquiries reported on for this financial year. We are working towards reporting separately on this category of guidance in 2023–24.

<sup>2</sup> We finalised fewer complaints in 2022–23 due to our focus on finalising legacy IC reviews received in 2018 and 2019.



## Information Commissioner (IC) reviews

We received **16% fewer** applications for IC review of FOI decisions



We finalised **10% more** IC reviews



**78%**

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



The **average time** taken to finalise an IC review was

**9.8 months**

### Top 5 agencies involved in IC reviews



Department of Home Affairs



National Disability Insurance Agency



Australian Federal Police



Services Australia



Department of Veterans' Affairs

Statistics in this report are current as of 1 August 2023. On occasion, data is recorded or re-categorised on activities undertaken for the previous reporting period after the conclusion of that reporting period. Where relevant, adjustments to figures from last year's annual report are noted in this year's report (see Appendix H).

## Our structure

The OAIC is headed by the Australian Information Commissioner, Angelene Falk. She is a statutory officer appointed by the Governor-General to the roles of Australian Information Commissioner and Privacy Commissioner.

The Commissioner has a range of powers and responsibilities outlined in the AIC Act, and also exercises powers under the FOI Act, the Privacy Act and other privacy-related legislation. She is the OAIC's accountable authority, with responsibility for strategic oversight, corporate governance and the OAIC's privacy, freedom of information and government information management functions.

Commissioner Falk was first appointed to these roles in August 2018 and reappointed for a second 3-year term in August 2021.

The OAIC is supported by a Deputy Commissioner, Senior Assistant Commissioner, and Assistant Commissioners. In May 2023, the Government announced that a separate standalone Privacy Commissioner would also be appointed, together with an ongoing Freedom of Information Commissioner (FOI Commissioner), returning the OAIC to a 3-Commissioner model.

## Australian Information Commissioner and Privacy Commissioner

Over the past decade, Commissioner Falk has worked extensively with Australian Government agencies, the private sector and international organisations to address regulatory challenges and opportunities presented by rapidly evolving technology and potential uses of data. Her experience extends across industries and subject matter, including data breach prevention and management, data sharing, credit reporting, digital health and access to information.

Commissioner Falk is a member of the National Data Advisory Council and Digital Platform Regulators Forum. She was admitted as a legal practitioner to the Supreme Court of New South Wales in 1998 and holds a Bachelor of Laws with Honours, a Bachelor of Arts, a Graduate Diploma in Intellectual Property Law and a Graduate Diploma in Legal Practice.

## Freedom of Information Commissioner

Mr Leo Hardiman PSM KC held the statutory office of FOI Commissioner from 19 April 2022 to 19 May 2023. Mr Hardiman was formerly Deputy Chief General Counsel and National Leader in the Office of General Counsel, Australian Government Solicitor, with more than 30 years' experience advising the Commonwealth on legal matters.

On 20 May 2023, Ms Toni Pirani joined the OAIC as Acting FOI Commissioner. She holds a Bachelor of Laws and has worked in the public service for over 35 years, including roles with royal commissions, the Attorney-General's Department and the Australian Financial Security Authority.

## Our branches

Our 5 branches undertake work in relation to our privacy, FOI and information management functions.

The **Dispute Resolution branch** is responsible for resolving privacy disputes. This includes:

- handling privacy and FOI enquiries
- handling privacy complaints, which includes:
  - resolving privacy complaints at the earliest opportunity by assisting parties to reach settlement through conciliation
  - investigating more complex complaints and providing outcomes
  - supporting the Information Commissioner to make determinations, which may include declarations about entities taking remedial action
- administering the Notifiable Data Breaches scheme to ensure individuals are notified of data breaches so they can act to protect their personal information and that data breaches are contained and rectified
- conducting Commissioner-initiated preliminary inquiries and investigations into particular acts and practices, which may result in further regulatory action, that may include civil penalty proceedings, determinations and enforceable undertakings
- undertaking enforcement relating to the CDR system

The **Regulation and Strategy branch** is responsible for:

- providing strategic advice and guidance to individuals, government and businesses, which includes examining legislation and other proposals that may have an impact on privacy, data sharing and open government
- managing the program of work under the OAIC's international strategy
- auditing privacy practices in industry and government agencies
- strategic policy advice and guidance in relation to the CDR system, monitoring and assessing

compliance, and handling CDR enquiries and complaints

- monitoring the privacy aspects of the COVIDSafe system, which is now completed.

The **FOI branch** is responsible for undertaking the OAIC's FOI regulatory functions, including:

- undertaking Information Commissioner reviews
- monitoring, investigating and reporting on compliance through FOI complaints and Commissioner-initiated FOI investigations
- deciding on applications for vexatious applicant declarations and extensions of time
- collecting information and statistics from agencies and ministers about FOI matters
- providing advice and guidance on FOI and matters relating to information access, including the Information Publication Scheme.

The **Major Investigations branch** was established for 2 years on 31 October 2022 to investigate serious breaches of the Privacy Act, due to the increased complexity, scale and impact of these matters, and to recommend suitable regulatory responses. It is responsible for:

- investigating significant privacy breaches
- recommending suitable regulatory action which may include civil penalty proceedings, determinations and enforceable undertakings.

The **Corporate branch** provides enabling services across the OAIC which:

- includes the OAIC's legal services, strategic communications, people and culture, governance, finance, business analytics and reporting, facilities and information management, and executive support functions
- coordinates the OAIC's identification, assessment and mitigation of strategic and operational risks
- manages the security posture of the office, including compliance with the Protective Security Policy Framework.

# Our branches

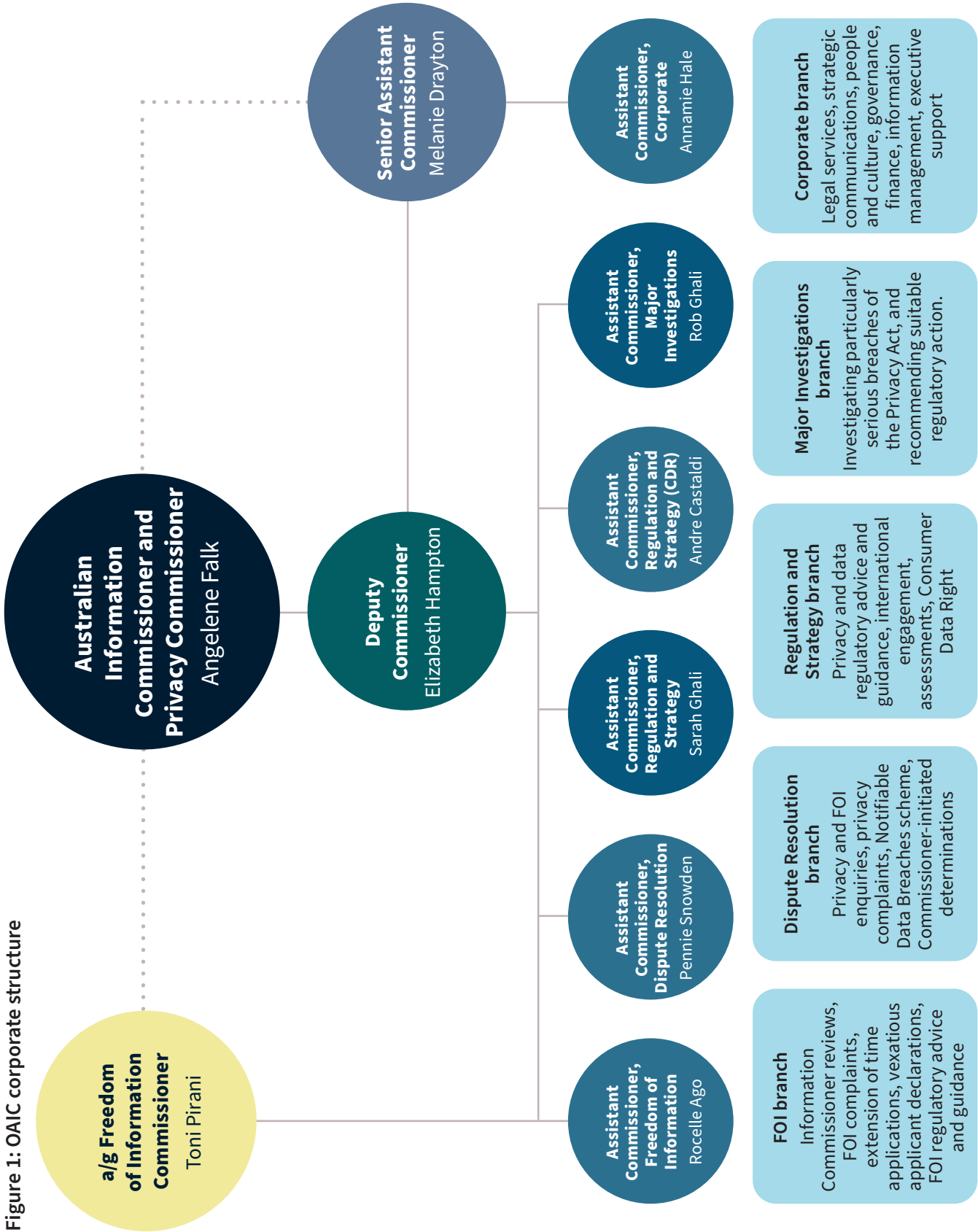


Figure 1: OAIC corporate structure

At 30 June 2023

## Our purpose

**Our purpose:** To promote and uphold privacy and information access rights

**Our vision:** To increase public trust and confidence in the protection of personal information and access to government-held information

### Guiding principles:



#### Engaged

We are active contributors and collaborators in the contemporary application of information protection and management legislation and regulation for businesses, government and the community



#### Targeted

We allocate resources efficiently, taking appropriate action in responding to risk and public expectations of Commonwealth regulators



#### Expert

We are a trusted authority on data protection and access to information, advising on policy, legislative reform and regulatory action, and providing education and guidance



#### Independent

We are professional by nature, and fair and impartial by application



#### Agile

We are collaborative in our response to changes in technology, legislation and the expectations of the community and government.



# Part 2

## Performance

- Our annual performance statement ..... 21
- Key activity 1: Influence and uphold privacy and information access rights frameworks ..... 25
- Key activity 2: Advance online privacy protection for Australians ..... 38
- Key activity 3: Encourage and support proactive release of government information ..... 41
- Key activity 4: Take a contemporary approach to regulation ..... 46

# Our annual performance statement

## Introduction

I, Angelene Falk, as the accountable authority of the Office of the Australian Information Commissioner (OAIC), present the 2022–23 annual performance statement of the OAIC, as required under section 39(1)(a) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). In my opinion, this annual performance statement is based on properly maintained records, accurately reflects the performance of the OAIC and complies with subsection 39(2) of the PGPA Act.

## Overall performance

During this reporting period, the OAIC delivered on our purpose to promote and uphold privacy and information access rights. We measure our success against the performance indicators outlined in our [Corporate plan 2022–23](#), which features 16 performance measures grouped under 4 key activities. In 2022–23, we achieved 11 of our 16 performance measures and 4 were not achieved. For one measure, a target was not assigned, as a specific target was not considered appropriate to that measure. For more information, see Table 1: Breakdown of performance measures by status.

## Highlights

- We finalised 2,576 privacy complaints, compared to 2,206 in 2021–22, resolving 84% within 12 months, and handled 11,672 privacy enquiries. We also undertook a program of work to increase the timeliness of responses to written enquiries and commenced a project to resolve the backlog of complaints over 12 months old.
- We issued 9 determinations following investigations of privacy complaints, and closed 94% of complaints through early resolution and conciliation.
- We commenced 28 Commissioner-initiated investigations on privacy matters, and finalised 28.
- We launched significant investigations into Optus, Medibank Private, Latitude Group and Australian Clinical Labs in relation to their data breaches.
- We welcomed the decision of the Full Court of the High Court of Australia to revoke Facebook Inc’s special leave to appeal to the High Court, clearing the way for proceedings which seek civil penalties in relation to the Cambridge Analytica matter to return to the Federal Court.

**Figure 2: OAIC performance measures by status**





- We finalised 1,519 Information Commissioner reviews (IC reviews) compared to 1,376 in the previous year. The OAIC is also focusing on a backlog of legacy IC reviews.
- We finalised 94% of FOI complaints within 12 months, against a target of 80%. The OAIC is also focusing on finalising complaints that are over 12 months old.
- We established a new external dispute resolution (EDR) schemes coordinator role to manage all aspects of our engagement with EDR schemes, and provided tailored guidance and advice to EDR schemes on privacy matters.
- We provided advice to the Minister and Consumer Data Right (CDR) agencies on the privacy and confidentiality aspects of expanding CDR to the non-bank lending sector.
- We co-chaired the Global Privacy Assembly's Digital Citizen and Consumer Working Group and the Cyber Security Regulator Network, and chaired and provided secretariat functions for the Digital Platform Regulators' Forum (DP-REG).
- We continued our extensive engagement with the government's Privacy Act review, which has included advice and submissions, with over 180 recommendations for reform.
- We made 16 submissions and provided 75 bill scrutiny comments across both privacy and FOI.
- We led the Australia-wide campaigns for Privacy Awareness Week (PAW) 2023 and International Access to Information Day (IAID) 2022. We enlisted over 840 government and private sector supporters for PAW – a record number.



## Note about statistics

Statistics in this report are current as of 1 August 2023. On occasion, data is recorded or recategorised on activities undertaken for the previous reporting period after the conclusion of that reporting period. Where relevant, adjustments are noted in the report. See Appendix G for adjustments for last year's Annual Report.

## Results

Our performance is measured against the 16 performance measures in our *Corporate plan 2022–23*.

**Table 1: Breakdown of performance measures by status**

| No.   | Performance measure   | Target   | Methodology   | Type                   | Result | Status       |
|-------|---|--|---|------------------------|--------|--------------|
| 1.1   | Effectiveness of the OAIC's contribution to the regulation of the Consumer Data Right as measured by stakeholder feedback.                      | Baseline to be established                                     | Annual stakeholder survey conducted by an independent professional provider | Effectiveness          | –      | Achieved     |
| 1.2.1 | Time taken to finalise privacy complaints   | 80% of privacy complaints finalised within 12 months           | OAIC information management system  | Output and PBS measure | 84%    | Achieved     |
| 1.2.2 | Time taken to finalise privacy and FOI Commissioner-initiated investigations (CIIs)   | 80% of CIIs finalised within 8 months                          | OAIC information management system  | Output and PBS measure | 68%    | Not achieved |
| 1.2.3 | Time taken to finalise Notifiable Data Breaches (NDBs)  | 80% of NDBs finalised within 60 days                           | OAIC information management system  | Output and PBS measure | 77%    | Not achieved |
| 1.2.4 | Time taken to finalise My Health Record notifications   | 80% of My Health Record notifications finalised within 60 days | OAIC information management system  | Output and PBS measure | 100%   | Achieved     |
| 1.2.5 | Time taken to finalise Information Commissioner (IC) reviews of FOI decisions made by agencies and Ministers                                    | 80% of IC reviews finalised within 12 months                   | OAIC information management system  | Output and PBS measure | 78%    | Not achieved |
| 1.2.6 | Time taken to finalise FOI complaints   | 80% of FOI complaints finalised within 12 months               | OAIC information management system  | Output and PBS measure | 94%    | Achieved     |
| 1.2.7 | Time taken to finalise written privacy and information access enquiries from the public   | 90% of written enquiries finalised within 10 working days      | OAIC information management system  | Output and PBS measure | 71%    | Not achieved |
| 2.1   | Effectiveness of the OAIC's contribution to the advancement of online privacy protections and policy advice as measured by stakeholder feedback | Baseline to be established                                     | Annual stakeholder survey conducted by an independent professional provider | Effectiveness          | –      | Achieved     |

| No. | Performance measure  | Target   | Methodology  | Type          | Result   | Status         |
|-----|--|--|--|---------------|--|----------------|
| 3.1 | Percentage of OAIC recommendations accepted by agencies following FOI complaint investigations   | 90% of recommendations accepted  | OAIC information management system   | Effectiveness | 92%  | Achieved       |
| 3.2 | Effectiveness of OAIC's advice and guidance on FOI obligations and the Information Publication Scheme in supporting government agencies to provide public access to government-held information, as measured by stakeholder feedback | Baseline to be established   | Annual stakeholder survey conducted by an independent professional provider  | Effectiveness | –  | Achieved       |
| 4.1 | Stakeholder assessment of the extent to which the OAIC's regulatory activities demonstrate a commitment to continuous improvement and building trust   | Baseline to be established   | Annual stakeholder survey conducted by an independent professional provider  | Effectiveness | –  | Achieved       |
| 4.2 | Stakeholder assessment of the extent to which to OAIC's regulatory activities demonstrate collaboration and engagement   | Baseline to be established   | Annual stakeholder survey conducted by an independent professional provider  | Effectiveness | –  | Achieved       |
| 4.3 | Stakeholder assessment of the extent to which the OAIC's regulatory activities are risk based and data driven  | Baseline to be established   | Annual stakeholder survey conducted by an independent professional provider  | Effectiveness | –  | Achieved       |
| 4.4 | Number of stakeholder engagement activities<br>Metric: Number of activities delivered via different engagement mechanisms  | Targets not appropriate due to fluctuations in nature and complexity of policy environment in any given year | Data snapshot demonstrating key formal engagements supplemented by case studies to demonstrate breadth, variety and effectiveness of engagement activities and modes of delivery | Effectiveness | Performance against this measure is described in Part 2 of this report (under 4.4) | Not applicable |
| 4.5 | Average call duration of telephone enquiries to the OAIC public enquiry line   | Baseline to be established   | OAIC information management system   | Efficiency    | –  | Achieved       |

## Key activity 1

### Influence and uphold privacy and information access rights frameworks

The OAIC promotes access to government-held information through the regulation of the *Freedom of Information Act 1982* (FOI Act) and our role in information policy. We regulate the collection and management of personal information by organisations and Australian Government agencies to ensure it is handled responsibly. The OAIC has a wide range of regulatory functions and powers under the *Privacy Act 1988* and over 30 pieces of additional legislation. We also regulate the privacy aspects of the Consumer Data Right (CDR).

#### Intended result 1.1 – The OAIC’s activities support the effective regulation of the Consumer Data Right



##### Measure

1.1 Effectiveness of the OAIC’s contribution to the regulation of the Consumer Data Right as measured by stakeholder feedback



##### Target

Baseline established  
Achieved

The OAIC has regulated the privacy aspects of the CDR since its launch in the banking sector on 1 July 2020.

We co-regulate the CDR system with the Australian Competition and Consumer Commission (ACCC). The OAIC enforces the privacy safeguards (and related CDR Rules) in the *Competition and Consumer Act 2010* by undertaking strategic enforcement activities, and can investigate individual and small business consumer complaints about the handling of their CDR data. Our goal is to ensure the data protection and privacy framework remains robust, and that consumers continue to be protected by effective accountability mechanisms.

We work collaboratively with the Treasury, the Data Standards Body (DSB) and the ACCC. As the CDR expands, we support a privacy-by-design approach to develop and maintain a robust privacy framework.

The OAIC provides advice to the Minister and CDR agencies on designating potential new sectors, the privacy implications of making rules, and issues that arise regarding the CDR’s operation.

During 2022–23, we provided advice to the Minister and CDR agencies on the privacy and confidentiality impacts of:

- expanding the CDR to the non-bank lending sector
- legislation to establish new functionality in the CDR to allow consumer-directed action and payment initiation
- new and amended data standards
- amendments to the Competition and Consumer (Consumer Data Right) Rules 2020 (CDR Rules).

In November 2022, the OAIC updated the Privacy Safeguard Guidelines to reflect amendments to the CDR Rules and regulations. The updates supported changes to the implementation of CDR in the energy sector, as well as the introduction of sponsorship and CDR representative models of participation, disclosures to trusted advisers and CDR insights. Our work aims to develop participant and consumer understanding and influence compliance with CDR obligations.

The OAIC completed CDR Assessment 2 and CDR Assessment 3 in 2022–23. Assessment 2 targeted a

sample of accredited persons and assessed their compliance with Privacy Safeguard 1 and CDR Rule 7.2 obligations to have a policy describing how they manage CDR data, and to maintain internal practices, procedures and systems to ensure compliance. Assessment 3 assessed the compliance of a sample of data holders with similar Privacy Safeguard 1 and CDR Rule 7.2 obligations regarding the required availability, form and contents of a CDR policy. Summary reports of both assessments are available on the OAIC website to assist all CDR participants, not just the targets, to better understand and fulfil their obligations.

We worked closely with the ACCC to assess all contacts<sup>1</sup> received via the CDR website. Between 1 July 2022 and 30 June 2023, 200 contacts were received with 107 contacts referred to the ACCC and 93 referred to the OAIC. A number of these contacts were found to relate to general privacy issues, not the CDR. The OAIC also receives contacts through other means, such as email and phone. In total, the OAIC handled 29 enquiries and 9 complaints about the CDR during the year. The OAIC also commenced Commissioner-initiated regulatory action in an area of identified risk.

Collaboration is a key element of the OAIC's work in regulating the CDR, and to gain feedback on our performance, data was collected through an independent annual stakeholder survey. Based on the average performance rating of relevant survey questions, an index score of 67 out of 100 was achieved for this measure in 2022–23. Future performance will be measured against this baseline.

The highest scoring questions relate to the OAIC working effectively to regulate the privacy and confidentiality of aspects of the CDR, the OAIC collaborating well with other CDR agencies, and the information and resources provided by the OAIC in relation to the CDR providing clear guidance for participants and other relevant entities.

Scores were lower for how CDR complaints are handled and the OAIC's effectiveness at supporting the expansion of the CDR to other industries. The OAIC will assess the survey results and consider initiatives that address the results relating to these survey questions, in particular how we can improve how CDR complaints are handled, and be more effective in supporting the expansion of CDR to other industries. For more information about the survey results and methodology, see Appendix I.

## Assessments, submissions and guidance updates

### Assessments

In 2022–23, we completed and published two assessment reports.

- [Summary report of CDR Assessment 2](#)
- [Summary report of CDR Assessment 3](#)

### Submissions

Under s 56AF of the Competition and Consumer Act, the Information Commissioner must analyse and report about an instrument proposing to designate a sector. In 2022–23, we reported on the following designation instruments.

- [Report on the draft designation instrument – \(Authorised Deposit – Taking Institutions\) Amendment 2022 \(published September 2022\)](#)
- [Report on the draft Consumer Data Right \(Non-Bank Lenders\) Designation 2022 \(published October 2022\)](#)

We also submitted responses to public consultations on draft legislation and rules.

- [Submission to Treasury on the Consumer Data Right Action Initiation Exposure Draft legislation \(published October 22\)](#)
- Submission to Treasury on exposure draft rules to expand CDR to telecommunications sector and other operational enhancements

### Guidance Updates

In 2022–23, we updated the following guidance to reflect changes to the CDR rules, including the expansion of the CDR to the energy sector.

- [Updated Privacy Safeguard Guidelines](#)
- [Updated Guide to developing a CDR Policy \(published December 2022\)](#)
- [Updated Guide to privacy for data holders \(published March 2023\)](#)

<sup>1</sup> CDR consumers include individuals and small businesses (as defined in the Privacy Act), meaning both individuals and small businesses can make a CDR complaint to the OAIC.

## Intended result 1.2 – The OAIC’s regulatory outputs are timely



### Measure

1.2.1 Time taken to finalise privacy complaints



### Target

80% of privacy complaints are finalised within 12 months

Achieved

Under s 36 of the Privacy Act, an individual may complain to the Commissioner about an act or practice that may be an interference with their privacy. An interference with privacy may relate to the Australian Privacy Principles (APPs) or to the credit reporting provisions of the Privacy Act.

In 2022–23, the OAIC:

- received 3,402 privacy complaints, an increase of 34% from the previous period
- finalised 2,576 privacy complaints, an increase of 17% from the previous period
- finalised 84% of privacy complaints within 12 months of receipt (a decrease from 90% in the previous period), with the average time taken to close a privacy complaint being 6.4 months
- closed 94% of complaints through early resolution and conciliation
- issued 9 determinations following an investigation of a privacy complaint.

The number and nature of the complaints we received appears to be attributable, at least in part, to a heightened awareness of privacy issues following a number of significant and highly publicised data breaches. Approximately 18% of the privacy complaints we received in 2022–23 concerned the major data breaches involving Medibank Private, Optus and Latitude Group.

We have continued to review and refine our complaint-handling practices in order to respond to the significant increase in complaints, and commenced a project to address a backlog of privacy complaints that are over 12 months old.

### Resolving privacy complaints

Where possible, we seek to resolve complaints through early resolution and conciliation. This means that, in many cases, we exercise the Commissioner’s discretion under s 41 of the Privacy Act to decline to investigate a complaint as a result of those processes, because, for example, the complaint does not involve an interference with the complainant’s privacy, the respondent has dealt with the complaint adequately, or an investigation is not warranted in the circumstances. During the reporting period, 68% of privacy complaints were finalised by exercising the Commissioner’s discretion under s 41 of the Privacy Act.

If a complaint cannot be resolved through early resolution or conciliation, and the Commissioner’s discretion under s 41 is not exercised, the complaint will be referred for investigation under s 40 of the Privacy Act.

Following an investigation, the Commissioner may make a determination under s 52 of the Privacy Act dismissing the complaint, or finding the complaint is substantiated and making declarations to address any interference with the complainant’s privacy.

During the reporting period, the Commissioner made 9 determinations following the investigation of a privacy complaint. In all but one case, the Commissioner found the complaint substantiated and made declarations to address the issues raised. In some cases, those declarations included the provision of compensation to the complainant.

## Privacy complaints by issue

Most of the privacy complaints we received were about the handling of personal information under the Australian Privacy Principles (APPs). The APPs deal with the management, collection, use or disclosure, quality, security, access and correction of personal information held by an Australian Government agency or an organisation covered by the Privacy Act.

The most common issues raised were:

- APP 11 – security of personal information (44%)
- APP 6 – use or disclosure of personal information (21%)
- APP 12 – access to personal information (14%)

## Privacy complaints by sector

In 2022–23, the privacy complaints we received primarily concerned the finance, health services and telecommunications sectors. There was a significant increase in the number of complaints we received in relation to the finance, telecommunications and insurance sectors compared to the previous reporting period.

**Table 1.2.1: Number of privacy complaints by sector**

| Issue  | Number of complaints received | %  | % change from 2021–22 |
|--|-------------------------------|----|-----------------------|
| Finance (incl. superannuation)                                       | 656                           | 19 | 154                   |
| Health service providers   | 330                           | 10 | -6                    |
| Telecommunications   | 286                           | 8  | 240                   |
| Australian Government  | 284                           | 8  | 6                     |
| Retail   | 217                           | 6  | 21                    |
| Insurance  | 196                           | 6  | 172                   |
| Online services  | 153                           | 4  | 0                     |
| Personal services (includes employment, childcare and veterinarians) | 134                           | 4  | 60                    |
| Real estate agents   | 106                           | 3  | 38                    |
| Credit reporting bodies  | 80                            | 2  | -40                   |



## Privacy complaint case studies

### APP complaint finalised through early resolution

The complainant received a text message from an unknown number enquiring about an item being delivered to their address. The complainant did not respond to the text and blocked the number, suspecting it was a scam. Shortly after, a third party attended at the complainant's home to enquire about their parcel, which the third party believed had been incorrectly delivered to the complainant's address. The third party advised that they had received the complainant's contact details from the respondent.

The respondent had sent a confirmation email to the third party in relation to a shipment, which included the complainant's address and telephone number.

The respondent acknowledged the confirmation email should not have contained the complainant's personal information, attributing this to a glitch in its online claims system. The respondent advised it was taking steps to rectify the issue to prevent any recurrence. The complainant accepted the respondent's offer of a written apology and a goodwill payment of \$500. The OAIC did not investigate the complaint given the respondent had dealt with the matter adequately.



### Credit reporting complaint finalised through early resolution

An individual complained to the OAIC regarding a default listing on their credit report. The OAIC made preliminary inquiries of the respondent, which revealed that the respondent had not met the notice requirements set out in the Credit Reporting Code and had not observed the timeframes stipulated by sections 6Q and 21D of the Privacy Act.

The respondent agreed to remove the default listing and provided the OAIC with evidence that it

had done so. The OAIC subsequently exercised the Commissioner's discretion not to further investigate the complaint because it had been dealt with adequately.



### **APP complaint resolved through conciliation**

An individual complained to the OAIC about the respondent's failure to update its records concerning personal information relating to their marriage, which had ended more than a decade earlier. The complainant had attended the respondent's local branch with the documentation required to update their personal information. However, the complainant's historical and now incorrect personal information continued to populate their existing accounts and appeared on records associated with their new accounts. The complainant contacted the respondent via its complaints and feedback avenues but after an initial acknowledgement did not receive any further response.

The complaint to the OAIC, which raised breaches of APP 10 (Quality of personal information) and APP 13 (Correction of personal information), was referred to the Conciliations team to facilitate a resolution. As a result of the conciliation, the respondent apologised to the complainant, undertook to correct the complainant's personal information in current and historical records, and provided the complainant with compensation.



### **APP and credit reporting complaint resolved by determination**

The complainant engaged the respondent's services to activate a pre-paid mobile service for a family member. The family member was listed as an authorised representative on the complainant's account for that purpose. More than a decade later, the family member contracted a new post-paid mobile service under the complainant's account, without the complainant's knowledge. The respondent issued the complainant with an invoice for the account, which was sent to an incorrect

address and therefore not paid, and ultimately sold the outstanding debt to another entity.

The complainant became aware of the issue when seeking finance to purchase a property.

Following an investigation, the Deputy Commissioner found that the respondent interfered with the complainant's privacy by failing to comply with sections 21C and 21D of the Privacy Act, and by failing to take reasonable steps under APP 10.2 to ensure that the personal information it disclosed about the complainant was accurate and up-to-date. The Deputy Commissioner declared that the respondent compensate the complainant in the amount of approximately \$2,100 and that the respondent arrange for the complainant's address to be corrected and for the credit enquiry to be removed from the complainant's credit file.

### **External dispute resolution schemes**

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

- Australian Financial Complaints Authority (AFCA)
- Energy & Water Ombudsman New South Wales (EWON)
- Energy & Water Ombudsman South Australia
- Energy and Water Ombudsman Victoria
- Energy & Water Ombudsman Queensland
- Energy and Water Ombudsman Western Australia
- Public Transport Ombudsman (Victoria)
- Telecommunications Industry Ombudsman (TIO)
- Tolling Customer Ombudsman
- ACT Civil & Administrative Tribunal.

On 1 July 2022, the OAIC established a new EDR schemes coordinator role to manage all aspects of its engagement with EDR schemes.

We consolidated the regular liaison meetings between the OAIC and the EDR schemes and established six-monthly senior officer-level liaison meetings and an annual executive-level liaison meeting to enable EDR schemes to discuss matters relating to privacy and CDR at a senior officer-level and at an executive-level.



The OAIC delivered regular privacy training to EDR schemes to equip and support their handling of privacy-related complaints.

We commenced regulatory action on repeated, serious or systemic privacy matters raised by EDR schemes in their quarterly or ad hoc reports to the OAIC.

The OAIC engaged with EDR schemes in relation to their 5-yearly independent reviews. Regular and independent review of an EDR scheme's performance is a key practice to indicate an EDR scheme's efficiency and effectiveness.

We provided tailored guidance and advice to EDR schemes on privacy matters and shared these with all EDR schemes to enable them to build on their privacy knowledge.

### Privacy complaint referrals

In 2020–21, the OAIC reached an agreement with EDR schemes to transfer privacy complaints (under s 50 of the Privacy Act) to them when they could more appropriately deal with the complaint. The first referral was made in 2021–22 and a total of 175 were made in this current reporting period.

The following are case studies provided by Energy & Water Ombudsman New South Wales (EWON), Australian Financial Complaints Authority (AFCA), and Telecommunications Industry Ombudsman (TIO), which showcase the range of privacy complaints that EDR schemes handle.



## EDR privacy case studies

### Case study by EWON

The complainant received an email from an unknown third party with the same name saying they had access to the complainant's online energy account.

The complainant contacted the respondent and was dissatisfied with the response. The complainant contacted EWON and it investigated the complaint and found:

- Access to the complainant's online account was incorrectly provided to a third party.
- Personal information was accessible through the online account.
- The cause of the privacy breach was human error; a staff member inadvertently selected the wrong account in the system.
- The respondent confirmed that the third party had securely destroyed the complainant's personal details.
- The respondent agreed to provide a written apology and a \$500 customer service gesture.

The respondent confirmed feedback and additional training was provided to staff. The complaint was finalised on the basis that the complainant accepted the resolution offer.



### Case study by AFCA

The complainant held a home loan with the respondent that was closed in 2018 but reported as open on their credit report until 2022. The complainant claimed their resulting credit score caused subsequent credit applications they had made to be declined. The respondent acknowledged the reporting breach and agreed it had failed to respond when the complainant made a correction request. The complainant refused the respondent's offer of \$500 to resolve their complaint.

AFCA had to consider what loss the complainant incurred. Limited information led AFCA to conclude it was speculative to consider what the impact of the complainant's credit score may have been on the credit applications, and it was not evident this was the sole reason for the applications being declined. AFCA nonetheless accepted the respondent's breaches would have caused the complainant stress and inconvenience and awarded compensation of \$1,000.



### Case study by TIO

The complainant's finance application was rejected because of a default listing on their credit file for a

telecommunications debt. The complainant paid the debt prior to applying for finance and was unaware of the default listing. The complainant took out a more expensive personal loan after their finance application was rejected.

The TIO found the respondent wrongly listed the default because the debt owing was less than the minimum amount allowed under section 9 of the Privacy (Credit Reporting) Code 2014.

Although the TIO found the complainant's financial loss totalled over \$12,000, it directed the respondent to pay the complainant \$5,000 because:

- while the respondent breached the complainant's privacy, its error which led to the breach was not egregious
- the respondent was not responsible for a credit provider's refusal to offer finance after the respondent removed the credit default
- it was the complainant's choice to take out a more expensive personal loan
- the disclosure of the invalid credit listing was limited.

During 2022–23, the OAIC commenced 28 privacy CIIs and finalised 28 privacy CIIs. Of those investigations, 68% were finalised within 8 months.

Some CIIs involve collection and review of significant volumes of evidence and may include examinations. By their nature, efficiently managed contemporary CIIs can take longer than the current performance measurement of 8 months. Bearing in mind the increased complexity and scale of this work, this target has been revised for 2023–24 to a target of 12 months.

When an investigation is finalised, it may be closed, or referred to the Determinations team for consideration, and a determination, litigation or enforceable undertaking may follow.

Of the privacy CIIs commenced during the reporting period, 18 concerned the acts or practices of a healthcare provider organisation under the *My Health Records Act 2012*. The OAIC also commenced CIIs in relation to the use of facial recognition technology by Bunnings Group Limited and Kmart Australia Limited, and in response to the widely-publicised data breaches involving Optus, Medibank Private and Latitude Group.

Eight privacy CIIs remained on foot at the conclusion of the reporting period.

The Commissioner may also commence an investigation on her own initiative under subsection 69(2) of the FOI Act. The OAIC did not conduct any FOI CIIs during the reporting period.



## Measure

1.2.2 Time taken to finalise privacy and FOI Commissioner-initiated investigations (CIIs)



## Target

80% of CIIs are finalised within 8 months

Not achieved

Subsection 40(2) of the Privacy Act empowers the Commissioner to investigate, on her own initiative, an act or practice that may be an interference with the privacy of an individual. That power can be exercised in the absence of an individual privacy complaint, and is used to investigate issues that could pose a significant risk, or are otherwise in the public interest.

**Table 1.2.2: Privacy Commissioner-initiated investigations commenced and finalised**

| Year                     | 2020–21 | 2021–22 | 2022–23 |
|--------------------------|---------|---------|---------|
| Number of CIIs commenced | 4       | 7       | 28      |
| Number of CIIs finalised | 10      | 4       | 28      |



## Measure

1.2.3 Time taken to finalise Notifiable Data Breaches (NDBs)



## Target

80% of NDBs are finalised within 60 days

Not achieved

A data breach involves the improper access, disclosure or loss of personal information. APP entities are required to notify the OAIC where a data breach is likely to result in serious harm to an individual.

In 2022–23, the OAIC received 895 notifications under the NDB scheme, which is an increase of 5% from the previous reporting period. We finalised 894 notifications and were reviewing 118 outstanding notifications at the end of the reporting period.

We finalised 77% of notifications within 60 days, falling just below our target of 80%.

### Notifiable Data Breaches scheme reports

We continue to publish biannual reports on the operation of the NDB scheme to highlight emerging issues and help entities and the public better understand privacy risks. The insights detailed in these reports aim to assist entities to improve their systems and processes to reduce the risk and potential impact of data breaches.



## NDB case study

### Information sent to all-staff email list

A public servant inadvertently sent an email about the outcome of an individual's application to all staff in their agency. The agency attempted to recall the email immediately but was unsuccessful.

Given the large number of unintended recipients and the content of the correspondence, the agency assessed the incident to be an eligible data breach and reported it to the OAIC within a week of it occurring. The agency notified the affected individual in writing and outlined support services available to them. The affected individual appreciated the agency's assistance and was satisfied with its handling of the matter.

To minimise the risk of an incident of this nature reoccurring, the agency counselled the staff member involved and issued communications to remind all staff of their privacy obligations and training available to them.

The OAIC was satisfied with the agency's response.

### NBD scheme notifications

In 2022–23, notifications made to the OAIC under the NDB scheme primarily involved data breaches arising as a result of a malicious or criminal attack. This was followed by data breaches as a result of human error.

**Table 1.2.3a: Source of data breaches**

|                              | Notifications received | %          |
|------------------------------|------------------------|------------|
| Malicious or criminal attack | 628                    | 70         |
| Human error                  | 299                    | 26         |
| System fault                 | 38                     | 4          |
| <b>Total</b>                 | <b>895</b>             | <b>100</b> |

The number of individuals affected by the data breaches reported to the OAIC during 2022–23 tended to be greater than in the previous reporting period, with 14 data breaches reportedly affecting more than 1,000,000 people.

**Table 1.2.3b: Number of individuals affected by data breaches reported under the NDB scheme**

| Number of individuals affected | 2021–22    | 2022–23    |
|--------------------------------|------------|------------|
| 1                              | 250        | 207        |
| 2–10                           | 158        | 181        |
| 11–100                         | 167        | 169        |
| 101–1,000                      | 159        | 170        |
| 1,001–5,000                    | 64         | 78         |
| 5,001–10,000                   | 19         | 24         |
| 10,001–25,000                  | 12         | 20         |
| 25,001–50,000                  | 7          | 10         |
| 50,001–100,000                 | 4          | 3          |
| 100,001–250,000                | 4          | 4          |
| 250,001–500,000                | –          | 2          |
| 500,001–1,000,000              | 3          | 2          |
| 1,000,001–10,000,000           | 5          | 10         |
| 10,000,001 or more             |            | 4          |
| Unknown                        | 1          | 11         |
| <b>Total</b>                   | <b>853</b> | <b>895</b> |



## Measure

1.2.4 Time taken to finalise My Health Record notifications



## Target

80% of My Health Record notifications are finalised within 60 days

Achieved

The My Health Record scheme is established by and operates under the My Health Records Act. A My Health Record is an electronic summary of a patient’s health information, including their treatment, medications, diagnoses and allergies.

The OAIC is responsible for regulating the privacy aspects of the My Health Record scheme, which includes assessing and, where necessary, investigating alleged data breaches.

In 2022–23, the OAIC received 10 notifications concerning data breaches under the My Health Record scheme, compared to 3 notifications in the previous reporting period. The 10 notifications were reviewed and finalised in an average time of 26 days.

On 3 occasions, the OAIC provided guidance to entities regarding their processes and reporting obligations, with a view to improve the security of personal information and mitigate the risk and impact of future incidents. The OAIC was otherwise satisfied with the action each entity had taken to address the breach and determined that no further regulatory action was required.



## Measure

**1.2.5 Time taken to finalise Information Commissioner (IC) reviews of FOI decisions made by agencies and ministers**



## Target

**80% of IC reviews are finalised within 12 months**

Not achieved

The OAIC finalised 1,519 Information Commissioner (IC) reviews in 2022–23, a 10% increase compared to 2021–22, when we finalised 1,376. Though we finalised a greater number of IC reviews within 12 months in 2022–23 (1,180) than in 2021–22 (1,144), the percentage of IC reviews finalised within 12 months (78%) in 2022–23 was lower than the percentage of IC reviews finalised within 12 months in 2021–22 (83%). The average time taken to finalise an IC review increased from 6.4 months in 2021–22 to 9.8 months in 2022–23.

This was due to:

- our focus on finalising legacy matters lodged in 2018 and 2019
- a reduction in the number of IC reviews of deemed access refusal decisions since 2021–22.

In 2022–23, the OAIC received 1,647 IC reviews, a 16% decrease compared to 1,955 IC reviews received in 2021–22 (which in turn was a 60% increase on the previous year). These changes were mainly due to:

- an increase in the number of IC reviews of deemed access refusal decisions from 465 in 2020–21 to 1,107 in 2021–22
- a decrease in the number of IC reviews of deemed access refusal decisions from 1,107 in 2020–21 to 854 in 2022–23.

Despite the increased number of finalisations, the number of IC reviews on hand increased from 1,876 in 2021–22 to 2,004 in 2022–23.

Under s 55K of the FOI Act, the Information Commissioner, after undertaking an IC review, must make a decision in writing to either affirm or vary the decision of the agency or minister or to set it aside and make a fresh decision. Individuals occupying the role of Information Commissioner, FOI Commissioner and Assistant Commissioner issued 68 decisions under s 55K of the FOI Act compared to 103 in 2021–22. Eleven affirmed the decision under review (compared to 57 in 2021–22), 48 set aside the decision (compared to 36 in 2021–22) and 9 varied the decision (compared to 10 in 2021–22). Of the 68 decisions, 26 were made following the respondent agency making a revised decision under s 55G of the FOI Act. The Commissioner affirmed 3 such decisions, set aside 21 decisions and varied 2 decisions.

Of the 1,519 IC reviews finalised in 2022–23, a number (282 or 19%) were closed under s 54N as invalid (out of jurisdiction, misdirected, out of time, copy of decision not provided, or not an IC-reviewable decision). As a proportion, this is fewer than the number of matters (313 or 23%) closed as invalid under s 54N in 2021–22.

Under s 55G of the FOI Act, at any time during an IC review, an agency or minister may revoke or vary an access refusal decision to favour the applicant. This can be done by giving access to a document, relieving the applicant from liability to pay a charge, or requiring a record of personal information to be amended or annotated in accordance with the application.

In total, 879 IC reviews were closed under s 54R as withdrawn, an increase from 684 in the previous reporting period. Of these, 516 were finalised following a revised decision to provide access being made under s 55G. This is an increase from 2021–22, when 479 IC reviews were finalised under s 54R following a revised decision. Of the 516 IC reviews finalised under s 54R following a revised decision, 456 involved a review of a deemed access refusal decision.



## IC review decision case studies

### **‘ABX’ and Department of Veterans’ Affairs (Freedom of information) [2022] AICmr 57 (29 July 2022)**

The applicant had made a request to the Department, which required the Department to collate data that it held into a discrete document. The Department decided to impose a charge of \$403.45 to process this request. In calculating this charge, the Department applied an Executive Level 1 rate of \$59.77 per hour in accordance with item 3 of Part 1 of Schedule 1 to the Freedom of Information (Charges) Regulations 1982. In applying for IC review, the applicant explained that they disagreed with the Department’s imposition of the charge and the calculation of the charge.

The Freedom of Information Commissioner (FOI Commissioner), explained in his decision that s 29 of the FOI Act provides agencies and ministers two separate and distinct discretionary powers with respect to the imposition of charges:

- whether an applicant is liable to pay a charge
- whether a charge should be reduced or not be imposed.

In considering whether the Department’s decision to impose a charge was the preferable decision, the FOI Commissioner explained that as a general rule:

- a charge should not be imposed in circumstances where the cost of assessing, imposing and collecting a charge is likely to be greater than the charge itself. In those circumstances, imposing a charge will generally only serve to delay or discourage access while incurring a net cost to the Commonwealth.
- where a request for access requires the use of a computer to produce information in a discrete form, agencies should consider the true nature of the activity involved in processing the request. Where the true nature of that activity is essentially similar to a search and retrieval activity, a fair and reasonable charge is best calculated by applying

the fixed hourly rate set out in the Charges Regulations for search and retrieval.

The FOI Commissioner found that the preferable decision would have been for the Department to decide that the applicant was not liable to pay a charge, having regard to the fact that the cost to the Commonwealth to assess and notify the charge, provide the applicant with procedural fairness and collect the charge would have been greater than the charge itself.

The FOI Commissioner also found that the task required of the Department to produce the document was entirely in the nature of a search and retrieval task, and on this basis, it would have been reasonable for the Department to apply the fixed hourly rate of \$15 in calculating the charge.



### **‘ACV’ and Tertiary Education Quality and Standards Agency (Freedom of information) [2023] AICmr 3 (1 February 2023)**

The applicant applied for access to documents relating to a service complaint about the agency. The complaint managers were in the agency’s legal team. With one exception, the FOI Commissioner considered that it was not established that a lawyer-client relationship existed, given the particular function being undertaken by the lawyers (i.e. managing a complaint) and the nature of the communications. The FOI Commissioner also found that to the extent that the documents could be considered to contain advice, it was of an administrative, rather than a legal, character.

This decision provides guidance as to when the privilege will apply to communications between in-house government lawyers and their employing agency, the factors to be established and the kind of evidence needed to support the claim.

The decision also explains that even where an exemption may be claimed and established, it is always open to an agency to decide to disclose documents, unless otherwise constrained by law (ref s 3A), including by way of a revised decision under s 55G during an IC review.



### **‘ACW’ and Australian National Maritime Museum (Freedom of information) [2023] AICmr 4 (1 February 2023)**

The applicant applied for access to all photographs and videos pertaining to the exploration of a specific vessel in April 2018. The Australian National Maritime Museum (ANMM) refused the request under s 24(1) of the FOI Act on the basis that a practical refusal reason exists, that processing the request would substantially and unreasonably divert the resources of the agency from its other operations (s 24AA(1)(a)(i)).

The FOI Commissioner set out the three elements of the decision-making task to be undertaken in considering whether a practical refusal reason applies, including what it means to be ‘satisfied’ in that context.

The FOI Commissioner was satisfied that the applicant’s request would involve a diversion of resources which is of ‘substance’ and an unreasonable diversion of resources. On the latter point, he noted (1) the ANMM is a small agency and does not have substantial resources to dedicate to processing FOI requests, (2) the size of the processing task is significant relative to the size and resources of the ANMM, and (3) processing the request would have a substantial impact on other work of the agency.

The FOI Commissioner also commented on the request consultation process undertaken by the agency. While the FOI Commissioner did not consider it was legally defective, he noted that if greater care had been taken in the consultation letter to avoid generic statements and to provide more tailored assistance, the practical refusal reason may have been avoided.



#### **National cabinet matters**

*Rex Patrick and Department of the Prime Minister and Cabinet (No. 2) (Freedom of information) [2022] AICmr 66* (14 October 2022)

*Michael Sergent and Department of the Prime Minister and Cabinet (Freedom of information) [2022] AICmr 67*

*William Summers and Department of the Prime Minister and Cabinet (No. 2) (Freedom of information) [2022] AICmr 68*

*‘ACD’ and Department of the Prime Minister and Cabinet (Freedom of information) [2022] AICmr 69*

Each applicant sought access to the Report compiled by the former Secretary of the Department into whether the former Minister for Agriculture had breached the Ministerial Standards in her administration of the Community Sports Infrastructure Grant Program. In *Sergent*, the applicant also requested access to the Agenda to the Cabinet Committee meeting where the Report was put forward.

The Department identified one document comprising the Report and refused access to it on the basis that it was exempt in full under the Cabinet documents exemption (ss 34(1)(a) and 34(3)). During the IC review in *Sergent*, the Department also identified a document comprising a draft of the Agenda, but submitted that it was exempt in full under s 34(1)(d), as it was a draft of an official record of Cabinet. The Department further submitted that the Report and draft Agenda were also conditionally exempt in full under the deliberative processes exemption (s 47C) and the certain operations of agencies exemption (47E(d)), and that it would be contrary to the public interest for the documents to be released.

The FOI Commissioner considered the nature of the draft Agenda and found that it was a draft of a document that recorded the items for discussion at the Governance Committee meeting and is in a form that preserves the relating, telling or setting down of matters to be discussed at the meeting. On this basis, the FOIC concluded that the draft Agenda was exempt in full under s 34(1)(d).

The FOI Commissioner decided that the Report was not exempt under ss 34(1)(a), 34(3), 47C or 47E(d), or 47F (which was not raised by the Department but which the FOI Commissioner considered may be relevant).

In making his decision, the FOI Commissioner explained that the exemption in s 34(1)(a) cannot apply in circumstances where the Report was not intended to be submitted to Cabinet at the time

it was brought into existence, even though it may have later been decided that the Report ought to be submitted to Cabinet.

Although the FOI Commissioner accepted that the Report was provided to the Governance Committee for its consideration, the FOI Commissioner considered that it was not sufficient for the Department to merely rely on this fact to sustain its claim that the document is exempt under s 34(3). Rather, it must be shown that the Report records a deliberation or decision of Cabinet. Based on the contents of the Report, the FOIC was not satisfied that the Report in fact records a deliberation or decision of Cabinet.

complaint about the handling of FOI matters by agencies, consistent with previous reporting periods. Other common complaints include:

- concerns regarding the conduct of consultations undertaken
- the imposition or amount of a charge
- poor customer service (most commonly failing to reply to correspondence, including acknowledgement of a request (s 15(5))
- agencies not publishing or complying with the Information Publication Scheme (IPS) and disclosure log requirements, and
- transferring requests to other agencies under s 16 of the FOI Act.



### Measure

1.2.6 Time taken to finalise FOI complaints



### Target

80% of FOI complaints are finalised within 12 months

Achieved

In 2022–23, the OAIC received 212 complaints about actions taken by agencies when handling FOI requests, a decrease of 2% compared to 2021–22.

We finalised 124 FOI complaints, compared to 223 in 2021–22, a decrease of 44%. While we finalised 94% of FOI complaints within 12 months, with 74% of all complaints (92) being finalised within 120 days, there is a backlog of complaints over 12 months old. We finalised less complaints in 2022–23 due to our focus on finalising legacy IC reviews received in 2018 and 2019.

The finalised complaints included 50 that were withdrawn. Another 3 were finalised under s 86 of the FOI Act. This includes 3 complaints where recommendations were made under s 88 of the FOI Act, which requires agencies to implement the Information Commissioner’s recommendations. We publish these recommendations on our website under [Freedom of Information investigation outcomes](#).

Agencies not meeting statutory timeframes in processing an FOI request was the most common



### Measure

1.2.7 Time taken to finalise written privacy and information access enquiries from the public



### Target

90% of written enquiries are finalised within 10 working days

Not achieved

The OAIC provides a free public information service for privacy and FOI issues. In 2022–23, we received 13,322 enquiries, which is an increase of 4% from the previous reporting period. The enquiries we received commonly involved questions about the OAIC’s jurisdiction across privacy and FOI functions, processes and the application of the APPs.

Almost 30% (3,886) of the enquiries we received were made in writing. Of those written enquiries, 71% were finalised within 10 working days. This fell short of our target of 90%. Work has been undertaken to finalise older enquiries to ensure that timely responses are provided within 10 working days going forward.

We continue to provide privacy services to the Australian Capital Territory (ACT) public sector agencies under our memorandum of understanding with the ACT Government. This included responding to enquiries about the *Information Privacy Act 2014* (ACT) and the Territory Privacy Principles.



## Key activity 2

### Advance online privacy protection for Australians

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

**Intended result 2** – The OAIC’s activities support innovation and capacity for Australian businesses to benefit from using data, while minimising privacy risks for the community



#### Measure

2.1 Effectiveness of the OAIC’s contribution to the advancement of online privacy protections and policy advice as measured by stakeholder feedback



#### Target

Baseline established  
Achieved

The OAIC delivered guidance and advice to key Australian Government agencies and other stakeholders on privacy in the online environment. We sought to influence the design of legislation and other policy initiatives to address privacy risks in the online environment and promote a best-practice approach to privacy matters, including making 9 submissions that address these issues. We provided advice on areas including the review of the Privacy Act and related legislation, digital health, credit reporting and the CDR.

We also sought to promote proportionate, cohesive, well-designed and efficient digital platform regulation that best serves the public interest as a founding member of the Digital Platform Regulators Forum (DP-REG), together with the ACCC, ACMA and the Office of the eSafety Commissioner.

To determine a baseline for this performance measure, data was collected through the OAIC’s independent annual stakeholder survey. Based on the average performance rating of relevant survey questions, an index score of 61 out of 100 was achieved for this measure, setting the baseline for future measurement.

The highest average scores achieved by the OAIC in terms of this performance measure relate to the OAIC working collaboratively with international regulators to support globally interoperable privacy regulation, and raising awareness of opportunities to enhance online privacy legislation.

Responses were lower in relation to the OAIC’s use of its full range of regulatory functions and powers to pursue breaches of privacy in the digital environment. The OAIC will assess the survey results and consider stakeholder initiatives that can improve performance. In recent years the OAIC has increased its focus on targeted proactive regulation to deliver for the community, and the survey will inform efforts to strengthen that approach through our upcoming strategic review. For more information about the survey results and methodology, see Appendix F.

## Credit Reporting

On 20 September 2022, the OAIC released the final report of the [2021 Independent review of the Privacy \(Credit Reporting\) Code 2014](#) (CR Code). The report reflects our significant engagement with stakeholders including credit providers, professional bodies, consumer advocates and external dispute resolution schemes, along with code developer the Australian Retail Credit Association (ARCA). Among the issues canvassed in the review were the roll-out of comprehensive credit reporting and the rise of Buy Now Pay Later (BNPL) products, both new developments since the previous review was conducted in 2017. The report contained 45 proposals for reform to the CR Code and 12 resolution of practice issues. The OAIC has published a [roadmap](#) showing how and when these proposals will be implemented.

During the reporting period, the OAIC successfully implemented a number of the proposals, including the publication of new guidance for consumers and industry, and an update of the OAIC's [Guidelines for developing codes](#). Other reforms include the introduction of a 'soft enquiries' framework, similar to those which operate in the UK and New Zealand, with ARCA leading a consultation process to obtain stakeholder input. Changes are also in the pipeline in relation to the credit ban process, an area which came under scrutiny in the wake of the Optus and Medibank data breaches as consumers sought to protect themselves against fraud.

The review identified a number of issues that can't be addressed through changes to the CR Code and will instead require amendments to Part IIIA of the Privacy Act. The OAIC has brought these issues to the attention of the Attorney-General's Department, which is due to complete its review of Part IIIA by 1 October 2024 (a separate process to the current Privacy Act review being undertaken by the Department).

## Privacy Act review

In February 2023, the Australian Government released the report of the Attorney-General's Department review of the *Privacy Act 1988* for public consultation. The report contains 116 proposals for reform, which are the culmination of two years of extensive consultation and review of the Act.

The OAIC has engaged with the Privacy Act review from its commencement in 2020 through to the release of the report this year. We have provided advice and submissions, with over 180 recommendations for reform, to support reforms that deliver a regulatory system that protects privacy, holds regulated entities to account and builds public trust to support a strong economy. In doing so, we have drawn on our regulatory experience and intelligence gathered through our regulatory work to inform our observations about how the proposed reforms would operate in practice. We also outlined the options that are likely to support us to achieve our regulatory objectives over the next decade for the benefit of the Australian community.

The OAIC has continued to engage closely with the Attorney-General's Department as it considers feedback received during the consultation on the report, which will inform next steps by the Government towards further reform of Australia's privacy framework.

## Privacy Legislation Amendment (Enforcement and Other Measures) Act 2022

The *Privacy Legislation Amendment (Enforcement and Other Measures) Act 2022* introduced targeted measures ahead of the outcomes of the broader review of the Privacy Act including:

- increasing the maximum civil penalties for a serious and/or repeated interference with privacy
- strengthening the Notifiable Data Breaches (NDB) scheme through new information-gathering powers, empowering the Commissioner to assess processes and procedures relating to eligible data breaches, and requiring greater particularity in NDB statements as to the kinds of information involved in a breach
- creating a new infringement notice provision for failing to give information, answer a question or provide a document or record when required to do so as part of an investigation
- expanding the types of declarations the Commissioner can make in a determination, and
- improving the Commissioner's information-sharing powers and the ability for the Commissioner to disclose or publish information in particular circumstances.

The OAIC worked closely with the Attorney-General's Department throughout the development of the Privacy Legislation (Enforcement and Other Measures) Bill 2022 (the Bill) and engaged with the Senate Legal and Constitutional Affairs Legislation Committee when the Bill was referred for inquiry. We made a written submission to the Committee and provided evidence during public hearings in November 2022 to support the passage of the Bill. Throughout the legislative drafting and parliamentary process, we provided advice on the measures required to enhance the OAIC's ability to regulate in line with community expectations and protect Australians' privacy in the digital environment, and observations on how these reforms would operate in practice.

The Act was passed by the Australian Parliament on 28 November 2022 and commenced on 13 December 2022.

## Digital Platform Regulators Forum (DP-REG)

DP-REG is an initiative of the Australian Competition and Consumer Commission (ACCC), Australian Communications and Media Authority (ACMA), OAIC and the Office of the eSafety Commissioner to share information and collaborate on cross-cutting issues and activities in relation to the regulation of digital platforms.

In 2022–23, DP-REG's strategic priorities included a focus on the impact of algorithms, seeking to increase transparency of digital platforms' activities and how they are protecting users from potential harm, and collaboration and capacity building. The OAIC performs the chair and secretariat functions for the forum and participates in three working groups that were established to progress DP-REG's priorities and other activities:

- Digital Technology Working Group to jointly explore relevant digital platform technologies (including algorithms) and their regulatory implications
- Codes and Regulation Working Group to undertake activities that promote a coordinated approach to regulatory frameworks and common regulatory issues, and to build regulatory capability across DP-REG members
- Data and Research Working Group to undertake activities that reduce barriers to and support the collection and sharing of relevant data, research and information across DP-REG members.

DP-REG members continue to share information and work together to tackle issues across their traditional lines of responsibility. The forum remains committed to working together to promote proportionate, cohesive, well-designed and efficiently implemented digital platform regulation.

## Key activity 3

### Encourage and support proactive release of government information

The OAIC promotes a proactive approach to publishing government-held information. We focus on making better use of government-held information to support efficient access to information and facilitate innovation and engagement while ensuring privacy is protected.

**Intended result 3** – The OAIC’s activities support Australian Government agencies to provide quick access to information requested and at the lowest reasonable cost, and proactively publish information of interest to the community, while minimising privacy risks for the community



#### Measure

3.1 Percentage of OAIC recommendations made following FOI complaint investigations accepted by agencies



#### Target

90% of recommendations accepted  
Achieved

Following the completion of an FOI complaint investigation, the Information Commissioner can make recommendations to an agency, under s 88 of the FOI Act, of steps the agency can take to improve their compliance with obligations under the FOI Act.

In 2022–23, 12 initial responses were received from respondent agencies to recommendations made by the Information Commissioner under s 88 of the FOI Act. Of these, 11 recommendations (92%) were accepted (meaning that the respondent agencies have either agreed to implement or are committed to implementing the recommendations made). This figure includes recommendations made by the Information Commissioner in prior reporting periods.

The Information Commissioner continues to engage with respondent agencies that choose not to accept the recommendations made under s 88 of the FOI Act, to achieve adequate and appropriate implementation. Where respondent agencies fail to adequately and appropriately implement the recommendations made, the Information Commissioner will seek to exercise her powers under ss 89 and 89A of the FOI Act.

In 2022–23, the Information Commissioner made 13 recommendations under s 88 of the FOI Act, upon completion of 3 FOI complaint investigations. The Information Commissioner’s recommendations to agencies include:

- developing and updating formal guidance for staff relevant to the agency’s obligations under the FOI Act
- issuing statements to all staff highlighting the agency’s obligations under the FOI Act
- providing education, guidance and formal training to ensure FOI requests are processed in accordance with the objects of the FOI Act

- conducting a review and audit of the agency's compliance with formal FOI processing requirements.

### FOI complaint compared to IC review

The Information Commissioner has the power to investigate agency actions about the handling of FOI matters as detailed in s 69 of the FOI Act.

The [FOI Guidelines](#) outline the Information Commissioner's view that making a complaint is not usually an appropriate mechanism where IC review is available – unless there is a special reason to undertake an investigation and the matter can be more appropriately and effectively dealt with in that manner.

This approach supports an individual's right to access information where the outcome they seek is more closely related to the outcome that can be provided through an IC review.

There were 21 complaints made during 2022–23 that were declined on the basis that the complainant has or had a right to have the action reviewed by the agency, a court or a tribunal, or by the Information Commissioner under Part VII of the FOI Act, and had not exercised that right when it would be reasonable to do so (s 73(b)).

### Extensions of time

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

If the applicant agrees to an EOT in writing, the agency or minister must notify the Information Commissioner of the agreement to extend the statutory processing time as soon as practicable (s 15AA of the FOI Act).

An agency or minister can also apply to the Information Commissioner for an extension of the processing period:

- if they can demonstrate that processing the FOI request will take longer than the statutory timeframe because it is voluminous or complex in nature (s 15AB of the FOI Act)
- where they have been unable to process the request within the statutory timeframe and are deemed to have made a decision refusing the FOI request (ss 15AC, 51DA and 54D of the FOI Act).

We received 31% more notifications and applications for extensions of time during this financial year compared to 2021–22. The OAIC aims to respond to these applications within 10 calendar days.

### Vexatious applicant declarations

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

In 2022–23, the OAIC received 2 applications from agencies under s 89K of the FOI Act seeking to have persons declared vexatious applicants and finalised 4 applications. No declarations under s 89K of the FOI Act were made during the reporting period.

Declarations are generally available in the [Australian Information Commissioner \(AICmrr\) database](#) on AustLII.

### Extensions of time

**Table 3.1a: FOI EOT notifications and requests received and closed**

| Notifications and applications | 2021–22 | 2022–23 |
|--------------------------------|---------|---------|
| Received                       | 4,926   | 6,470   |
| Finalised                      | 4,960   | 6,449   |

In relation to EOT applications requiring a decision of the Information Commissioner's delegates (ss 15AB, 15AC, 51DA and 54D of the FOI Act), there was a 7% increase in the number of applications finalised during this financial year compared to 2021–22.

**Table 3.1b: FOI EOT notifications and requests closed by type**

| Notification or request type   | 2021–22      | 2022–23      |
|--|--------------|--------------|
| s15AA – by agreement (notification of EOT agreements between agency and applicant)                                 | 3,212        | 4,683        |
| s15AB – complex or voluminous (request to OAIC by agency where voluminous or complex)                              | 890          | 1,182        |
| s15AC – deemed refusal (request to OAIC by agency where deemed refusal decision)                                   | 556          | 385          |
| s51DA-amendment – deemed refusal (request to OAIC by agency for EOT for dealing with amendment/annotation request) | 4            | 2            |
| Section 54D (request to OAIC by agency for EOT where deemed affirmation on internal review)                        | 106          | 96           |
| s54T-to lodge an IC review (request to OAIC for EOT for person to apply for IC review)                             | 192          | 101          |
| <b>Total</b>   | <b>4,960</b> | <b>6,449</b> |



## Measure

**3.2 Effectiveness of OAIC’s advice and guidance on FOI obligations and the Information Publication Scheme in supporting government agencies to provide public access to government-held information, as measured by stakeholder feedback**



## Target

**Baseline to be established**  
Achieved

In 2022–23, the OAIC provided guidance in response to 251 FOI enquiries from federal, state and territory or local governments.<sup>1</sup>

The OAIC also engages with practitioners through its Information Contact Officer Network (ICON), which is

<sup>1</sup> During 2022–23, the OAIC ceased classifying certain communications about FOI as ‘enquiries’ where these are more complex, or require a specific response, and are therefore dealt with by the FOI Branch instead of the OAIC’s enquiries team. This has reduced the numbers of FOI enquiries reported on for this financial year. We are working towards reporting separately on this category of guidance in 2023–24

a forum for Australian Government FOI practitioners. At the end of the reporting period, there were over 470 ICON members.

The OAIC has held various events for ICON members, including an online information session for micro and extra-small agencies regarding their FOI obligations, and roundtable discussions with Senior Executive level staff on information access issues.

To mark International Access to Information Day (IAID) 2022, we hosted a livestreamed event for ICON members featuring Attorney-General and Cabinet Secretary, the Honourable Mark Dreyfus KC MP, Australian Information Commissioner and Privacy Commissioner Angelene Falk, former Freedom of Information Commissioner Leo Hardiman PSM KC, and Director-General of National Archives of Australia, Simon Froude. The session was attended by around 90 people and was focused on how the digital world can improve access to information.

ICON members receive our Information Matters newsletter and targeted updates about information access news and events. We sent 11 Information Matters newsletters and 4 alerts to ICON members during the reporting period.

The OAIC also meets with agencies and attends forums to highlight and emphasise FOI obligations,

including appearing at FOI and privacy practitioner forums held by the Australian Government Solicitor (AGS).

In 2022–23, the OAIC reviewed sections of the FOI Guidelines, including Part 5 – Exemptions, Part 6 – Conditional Exemptions, and Part 13 – Information Publication Scheme.

We also reviewed the IC review procedure directions for agencies and applicants to facilitate greater engagement between applicants and respondent agencies and ministers during the IC review with a view to resolving IC reviews in a more timely and cost-effective way.

To determine a baseline for this performance measure from which future performance could be measured, data was collected through the OAIC's independent annual stakeholder survey. Based on the average performance rating of relevant survey questions, an index score of 60 was achieved for this measure, out of 100.

The survey found that the advice and guidance provided to stakeholders for the Information Publication Scheme were rated more highly than advice and guidance provided for the FOI Act. Responses were lower for the OAIC's advice and guidance provided to stakeholders regarding the FOI Act, in how well the advice and guidance answered questions, and the consistency of advice and guidance. For more information about the survey results and methodology, see Appendix F.

The OAIC will assess the survey results and communicate with stakeholders to inform better targeting of our resources, particularly regarding the FOI Act. We will finalise the review of Parts 5 and 6 of the FOI Guidelines in 2023–24, which will provide more current and updated guidance in relation to the application of exemptions under the FOI Act. We will also review Part 3 of the FOI Guidelines, which will provide guidance on how to process and make decisions on FOI requests, and update our guidance on the conduct of IC reviews.

### **International Access to Information Day 2022**

International Access to Information Day (IAID) recognises the importance of the community's right to access information held by governments. It is marked each year on 28 September.

For IAID 2022, in partnership with state and territory regulators, we promoted the theme 'openness through e-governance'. This aligned with the overall theme chosen by UNESCO, which was artificial intelligence, e-governance and access to information – looking at how our digital world can improve access to information and enhance openness through e-governance.

As well as holding a special livestreamed event for ICON members on the day, we released a joint statement from commissioners and ombudsmen highlighting the importance of government agencies developing robust digital systems that strengthen the community's access to information. We also developed a campaign website and supporter toolkit, which was shared with ICON members and government agencies, and published 41 campaign social media posts.

## FOI processing statistics received from Australian Government agencies and ministers

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

These reports show that Australian Government agencies and ministers received almost the same number of FOI requests in 2022–23 as in 2021–22 (34,225 requests were received in 2022–23, 11 fewer than in 2021–22). The proportion of requests for access to personal information was the same in 2022–23 as in 2021–22 (74% of all requests were for personal information). Requests for other (non-personal) information were also the same as in 2021–22 (26%).

In 2022–23, the Department of Home Affairs, Services Australia, the National Disability Insurance Agency, the Department of Veterans' Affairs and the Administrative Appeals Tribunal together received the majority of FOI requests (68% of the total). Together, these agencies accounted for 82% of all requests for access to personal information.

There was a small improvement in the percentage of FOI requests processed within the applicable statutory time in 2022–23, with 74% were decided in time, compared to 70% in 2021–22. This reverses a trend of declining timeliness in decision-making by Australian Government agencies and ministers which has been observable over the previous 4 years

(from 2018–19, when 83% of all decisions were decided within the applicable statutory time period).

The percentage of FOI requests granted in full decreased from 39% in 2021–22 to 25% in 2022–23. However, little can be read into this decline because in December 2022 the OAIC clarified that a decision to delete irrelevant information from a document before release is to be recorded as 'granted in part'. Some agencies have previously reported such decisions as 'granted in full'.

The percentage of FOI requests granted in part increased to 52% in 2022–23, up from 42% in 2021–22. As noted above, this appears to be the result of a

change in reporting rather than an underlying change in the way FOI requests are decided. The proportion of FOI requests refused in 2022–23 (including requests refused because the requested documents did not exist or could not be found, or a practical refusal reason existed, as well as when exemptions were applied) increased to 23% compared with 19% in 2021–22.

The personal privacy exemption in s 47F of the FOI Act remains the most claimed exemption (39% of all exemptions claimed, the same percentage as in 2021–22). The other exemptions applied in 2022–23 remained broadly consistent with previous years.

Agencies and ministers issued 2,881 notices advising of an intention to refuse a request for a practical refusal reason in 2022–23. This is a 22% increase on the number issued in 2021–22. Of these requests, 69% were subsequently refused or withdrawn; that proportion was 54% in 2021–22.

There was a 9% decrease in the total charges notified in 2022–23 (\$249,667) however agencies collected \$86,080 more in charges – 14% more than in 2021–22.

The total number of new entries added to agency disclosure logs in 2022–23 (2,493) was 6% lower than 2021–22, when 2,647 new entries were added. However, there was a small increase in the proportion of new documents available directly from agency websites (80% in 2022–23 compared with 79% in 2021–22).

There was a 9% decrease in internal review applications in 2022–23 (868 internal review applications were filed). The number of internal review decisions (834) was 14% less than in 2021–22 (when 965 were made). In 2022–23, 58% of internal reviews affirmed the original decision (59% were affirmed in 2021–22).

The total reported costs attributable to processing FOI requests in 2022–23 were \$70.33 million, a 9% increase on 2021–22 (\$64.56 million).

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



## Key activity 4

### Take a contemporary approach to regulation

The OAIC takes a contemporary approach to our regulatory role in promoting and upholding Australia's privacy and FOI laws. This means we engage with and respond to the community's expectations of regulators.

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

#### Intended result 4 – The OAIC's approach to its regulatory role is consistent with better practice principles



##### Measure

4.1 Stakeholder assessment of the extent to which the OAIC's regulatory activities demonstrate a commitment to continuous improvement and building trust.



##### Target

Baseline established  
Achieved

The OAIC has a wide range of regulatory functions, and we seek to take a contemporary approach to regulation, consistent with the [principles of regulator best practice](#).

An important aspect of this is continuous improvement and building trust. This means adopting a whole-of-system perspective, and continuously improving our performance, capability and culture, to build trust and confidence in Australia's regulatory settings. It also means demonstrating understanding of the industries we regulate and being clear and transparent in our decision-making.

Our responsibilities include conducting investigations, reviewing decisions and handling complaints. We also provide extensive guidance and advice, and undertake assessments to support and encourage best-practice compliance. We are committed to the development and retention of a highly engaged, skilled and professional workforce, who are well positioned to meet government and community expectations.

To determine a baseline for this measure from which future performance could be measured, data was collected through the OAIC's independent annual stakeholder survey. Based on the average performance rating of relevant survey questions, an index score of 60 was achieved for this measure out of 100.

#### Our 2022–23 regulatory focus

The OAIC identified 4 broad areas for regulatory focus in 2022–23:

- online platforms, social media and high privacy impact technologies
- security of personal information
- ensuring the privacy and security protections in the Consumer Data Right are effectively implemented by participants
- the timely and proactive release of government-held information.

The survey found that the most positively rated questions were that the OAIC provides relevant and clear guidance and that the OAIC is committed to making improvements. Responses were less positive for the OAIC being easy to deal with and that OAIC staff understand the environment they are regulating.

The OAIC will assess the survey results and consider stakeholder initiatives that can lift sub-measures across the board, particularly in determining, targeting and implementing more effective ways to engage with stakeholders.

Within the context of an evolving regulatory landscape, the OAIC will seek to develop and promote internal guidance in respect to its regulatory approach, across the agency, to ensure consistent approaches are taken with external stakeholders and within the regulatory environment. The OAIC understands the compliance and cost burden on business associated with regulatory processes and will seek to reduce such burden where it is reasonably able to do so. For more information about the survey results and methodology, see Appendix F.

### OAIC Regulatory Action Committee

The OAIC's Regulatory Action Committee (RAC) was established in October 2020 and provides a forum to discuss and determine significant and emerging privacy matters that warrant regulatory response.

The RAC comprises the OAIC's Executive and senior staff, who provide information, strategic advice and recommendations to the Information Commissioner. During 2022–23, the RAC met on 7 occasions.

The RAC considered privacy matters that were identified through external sources, and information brought to the OAIC's attention through complaints, enquiries, assessments, preliminary inquiries and data breach notifications.

Where the OAIC identifies an actual or potential privacy issue of significance, the RAC may consider:

- commencing a Commissioner-initiated investigation
- taking particular regulatory action at the conclusion of a Commissioner-initiated investigation, such as making a determination,

issuing an administrative warning or commencing civil penalty proceedings

- undertaking an assessment in relation to a particular entity or sector
- an educative response, including publishing guidance on a particular issue.

In determining the appropriate regulatory response, the RAC considers the circumstances of the matter against the OAIC's strategic priorities and the *Privacy Regulatory Action Policy*.

FOI regulatory responses are considered against the OAIC's strategic priorities and the *Freedom of Information Regulatory Action Policy*.

### Providing certainty to the regulated community

The *Privacy Legislation Amendment (Enforcement and Other Measures) Act 2022* commenced on 13 December 2022. It introduced targeted measures to enhance the OAIC's ability to regulate in line with community expectations and protect Australian's privacy in the digital environment. It also provided new powers of delegation for IC reviews under s 55k of the FOI Act and privacy determinations under s 52 of the Privacy Act.

### Our regulatory approach

We undertake our regulatory role in accordance with principles of regulator best practice:

- **Continuous improvement and building trust** – adopting a whole-of-system perspective, continuously improving our performance, capability and culture, to build trust and confidence in Australia's regulatory settings.
- **Risk-based and data-driven** – maintaining essential safeguards, using data and digital technology to manage risks proportionately to minimise regulatory burden and to support those we regulate to comply.
- **Collaboration and engagement** – being transparent and responsive, implementing regulation in a modern and collaborative way.

To provide clarity and certainty for the regulated community, the OAIC:

- updated our Regulatory Action Policy and Guide to Privacy Regulatory Action to reflect the new and enhanced powers
- published new guidance for not-for-profits, including charities, on their privacy obligations,
- promoted the new and updates resources along with existing guidance on our social media channels following commencement of the Act
- developed business rules for exercising FOI delegations and published them on our website.

The OAIC adopted a staged approach to implementation of the amendments with our initial focus on publishing new and updated external guidance followed by updates to our internal operational policies, processes and procedures.



## Measure

**4.2 Stakeholder assessment of the extent to which the OAIC's regulatory activities demonstrate collaboration and engagement.**



## Target

**Baseline established**

Achieved

The OAIC engages internationally on information access issues of global significance through its membership of the International Conference of Information Commissioners and domestically through engagement with FOI practitioners utilising our ICON network and roundtables. The OAIC also engages closely with the National Data Commissioner on government information sharing through the Information Commissioner's membership of the National Data Commissioner Advisory Council and the Deputy Commissioner's membership of the Deputy Secretaries Data Group. The OAIC is also an active contributor to the next National Action Plan through its membership of the Open Government Partnership and associated working groups. These engagements

bring together our expertise across access to information and privacy regulation.

The OAIC proactively collaborates with domestic and international regulators to ensure that privacy frameworks and regulatory activities are consistent with best-practice principles. The OAIC engaged in a range of regulatory forums, working groups and other collaborative mechanisms during 2022–23, including co-chairing the Global Privacy Assembly's Digital Citizen and Consumer Working Group, the Cyber Security Regulator Network of domestic regulators, and performing the chair and secretariat functions for DP-REG. The OAIC is also engaged in a range of collaborative forums with the ACCC and Data Standards Body to ensure the effective oversight of the CDR. During the reporting period there was significant engagement with regulated entities and government agencies following major data breaches.

The OAIC engages with key Australian Government agencies to provide regulatory policy advice, improve privacy protections and access to information for individuals, and develop guidance material for regulated entities and the community. During 2022–23, the OAIC made 16 submissions and provided 75 bill scrutiny comments across both privacy law and FOI. This includes our submission to the Senate Inquiry into the Privacy Legislation Amendment (Enforcement and other Measures) Bill 2022 which welcomed the enhancement of the OAIC's ability to regulate in line with community expectations. For more information, see page 40. The OAIC also worked closely with the Australian Digital Health Agency (ADHA) to develop and update guidance material used by healthcare providers to comply with their obligations under the My Health Records legislative framework.

To determine a baseline for this measure from which future performance could be measured, data was collected through the OAIC's independent annual stakeholder survey. Based on the average performance rating of relevant survey questions, an index score of 58 was achieved for this measure out of 100, setting the baseline for future measurement.

The highest average scores achieved by the OAIC in terms of this performance measure relate to the OAIC being transparent in its decision-making, and consulting with the stakeholder organisations when appropriate.

The least positive responses were for the OAIC's understanding of the particular issues relating to stakeholders, the OAIC's collaborative approach to addressing issues, and the OAIC's range of consultative mechanisms to ensure stakeholders can be involved.

The OAIC will assess the survey results and consider stakeholder initiatives that can lift sub-measures

across the board, in particular relating to views that there are opportunities for the agency to gain a deeper understanding of stakeholder issues. We will proactively explore new ways to engage with stakeholders and are committed to finding innovative ways to collaborate to solve issues. For more information about the survey results and methodology, see Appendix F.

## Collaboration with domestic and international regulators

### Cyber Security Regulator Network

As a founding member of the Cyber Security Regulator Network (CSRN), in collaboration with the Australian Prudential Regulation Authority (APRA), the Australian Securities and Investments Commission (ASIC), the Australian Communications and Media Authority (ACMA), and the Australian Competition and Consumer Commission (ACCC), the OAIC worked collaboratively to meet the challenges posed in the current environment.

The CSRN worked to reduce duplication or gaps in regulatory responses and improve the effectiveness and efficiency of regulatory activity, including through the facilitation of information sharing.

### International engagement

The OAIC engages with international networks and fora to keep abreast of emerging privacy and freedom of information developments, share knowledge and exchange information, and promote consistently high standards of data protection and information access rights around the globe.

Engagement with the international community is essential to ensuring that domestic frameworks are fit-for-purpose and informing best privacy and freedom of information practice.

The OAIC continues to be a leader in the global privacy environment. Our office co-chairs the Global Privacy Assembly's Digital Citizen and Consumer Working Group (DCCWG) with the Office of the Privacy Commissioner of Canada, which explores cross-regulatory intersections and mechanisms to enhance collaboration between regulators.

## Collaboration and engagement with stakeholders

### Privacy Awareness Week (PAW) 2023

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

The OAIC led the Australia-wide campaign for PAW 2023 from 1 to 7 May, in partnership with state and territory privacy regulators. Aligning with the overall APPA theme 'Back to Basics – Privacy Foundations' we used 'back to basics' as our campaign slogan, paired with a 'Privacy 101' campaign website. Key objectives of the campaign were to:

- increase individuals' awareness of privacy rights and risks and how to manage them
- engage with regulated entities through the PAW supporter program and enhance their understanding of their privacy obligations and the OAIC's regulatory stance, encourage best practice and gain their assistance to reach individuals.

The campaign emphasised the fundamental importance of privacy in our daily lives, and attracted over 840 private sector organisations and government agencies as supporters – our highest number yet. Resources included tips for [individuals](#), [businesses](#) and [government](#) on protecting personal information. A comprehensive supporter toolkit included content and ideas to assist supporters to raise privacy awareness and promote good privacy practices to their internal and external stakeholders.

The campaign was collaborative, with strong engagement. Supporters widely shared PAW

social media content, and we achieved significant engagement through the PAW website (over 57,000 home page views between 30 March and 18 May).

We promoted state-based regulator events, and participated in two joint panel events with other privacy regulators, as well as issuing a joint statement with other Privacy Authorities Australia members. In total, the Commissioner and Deputy Commissioner took part in 7 events with a combined live audience of around 1,800 people (in person and virtually), and an ongoing audience for presentations published online. These included a keynote address at an International Association of Privacy Professionals (IAPP) Australia and New Zealand tour at the start of PAW, as well as presenting at a later IAPP session. This year's engagement built on past years' campaigns, and supporter feedback will help guide our activities for PAW 2024.

### Security and access policy template and guidance

The Information Commissioner is the independent regulator of the privacy provisions relevant to the My Health Record system. In addition to the OAIC's compliance and enforcement role, we perform proactive education and guidance functions. During the reporting period, the OAIC focussed on supporting healthcare provider compliance with Rule 42 of the My Health Records Rule 2016 (Rule 42) through education initiatives, including the publication of new resources.

Rule 42 requires healthcare provider organisations to have, communicate and enforce a written security and access policy in order to register, and remain registered, to use the My Health Record system.

The OAIC collaborated with the ADHA to develop a downloadable and customisable security and access policy template to help healthcare providers comply with their obligations under Rule 42. The template was informed by the OAIC's assessments on Rule 42 compliance and stakeholder engagement with clinical peak bodies, primary health networks and ADHA clinical leads.

The template is supported by new OAIC Rule 42 guidance, including new tips to help healthcare providers develop, implement and maintain an effective security and access policy and associated

governance. The OAIC also provided input on the ADHA's new e-Learning course to further assist users of the template. The suite of new resources were co-promoted by both the OAIC and the ADHA across a range of communication channels, including social media and the OAIC's monthly newsletter.

The OAIC monitored use of the template and continued our collaboration with the ADHA during the reporting period to further refine the template's design and useability.

The OAIC will continue to engage closely with the ADHA to ensure the protection of sensitive health information in the advancement of national digital health initiatives.



### Measure

4.3 Stakeholder assessment of the extent to which the OAIC's regulatory activities are risk based and data driven



### Target

Baseline established

Achieved

We use data to assess risk and use appropriate regulatory tools to address privacy and information access issues in a proportionate and evidence-based way.

Consistent with Australian Government Investigations Standards 2022, the OAIC is evolving a positive risk culture in undertaking its investigative functions. The OAIC is developing processes and practices which deal with risks that undermine the effectiveness of its regulatory activities in the various stages of the lifecycle of its investigations.

In respect to major investigations, various risks are identified when an investigation is commenced, privacy impact assessments are conducted, where relevant, in respect to the collection of data; governance and reporting processes are in place to ensure oversight by senior executives; and process improvements are a high priority. Capability development is also a high

priority and is reflected through the identification of resources and training opportunities for those undertaking regulatory activities.

High-quality data analysis is integral to the OAIC's decision-making when fulfilling our functions and exercising our powers. We have worked to ensure all data collections, transformations and analytics are transparent, defensible and replicable. We have enhanced and managed this process through a dedicated data team. We use data to support decision-making on regulatory actions. Analysis of this data is distributed to key internal forums including the Operations Committee and Regulatory Action Committee.

We closely monitor risk through a range of governance measures to inform our regulatory decision-making and prioritise resources. For example, in relation to the Consumer Data Right the OAIC convenes a regular Internal Governance Forum to identify and mitigate existing and emerging risks that could impact on the OAIC's delivery of its CDR functions.

For OAIC's assessments, when developing a forward work-program we use data from the preceding 12 months, including OAIC complaint and enquiries data, CII or data breach notification data, information from external dispute resolution schemes, significant media coverage, and information about new technologies, processes or legislation. We also undertake background research and risk assessments to inform this work.

The OAIC's strategic communications team undertakes constant media scanning to identify emerging issues.

External Dispute Resolution schemes recognised by the Information Commissioner to handle certain privacy-related complaints (s 35A of the Privacy Act) are required to provide quarterly and ad hoc reports to the OAIC in relation to serious or repeated interferences with privacy and systemic privacy issues. The OAIC's EDR schemes coordinator facilitates distribution of this information to functional line areas across the OAIC.

Agencies subject to the FOI Act are required to provide a range of FOI statistics to the OAIC each quarter (and information about their staffing and expenditure on FOI every year). The OAIC uses this information to identify, inform and prioritise FOI regulatory action.

To determine a baseline for this measure from which future performance could be measured, data was collected through the OAIC's independent annual stakeholder survey.

Based on the average performance rating of relevant survey questions, an index score of 51 was achieved for this measure out of 100, setting the baseline for future measurement. This was the lowest rated performance measure as recorded by the survey.

The highest average scores achieved by the OAIC in terms of this performance measure relate to perceptions of the OAIC working with stakeholders to encourage voluntary compliance, and understanding emerging issues and changes impacting regulated sectors.

However, two sub-measures were rated more negative than positive, relating to the OAIC's prioritisation of resources to areas of highest risk or harm, and the OAIC's efforts to reduce the regulatory burden on stakeholders.

The OAIC will assess the survey results and implications of the responses, and consider stakeholder initiatives that can lift sub-measures across the board, in particular relating to more effective consultation. We will consider our approach to risk and prioritisation and regulatory burden to identify and implement improvements. For more information about the survey results and methodology, see Appendix F.

## Assessments

The OAIC uses assessments to facilitate compliance by identifying, and making recommendations to address privacy risks and legislative non-compliance.

In 2022–23, the OAIC assessed the privacy practices of approximately 500 entities including Australian Government agencies and healthcare provider organisations. Our assessments covered a range of areas including the Digital Identity System, digital health, passenger name records and data matching.

When conducting these assessments, we used a range of methods including reviewing documents, conducting interviews, and administering surveys

and questionnaires. The recommendations made in our assessments were generally accepted by the assessment participants.

### **COVIDSafe Assessment Program**

The COVIDSafe Assessment Program was composed of 5 assessments, the last two of which were finalised in November 2022. For more information, please see the case study on page 53.

### **Australian Government Privacy Impact Assessment (PIA) register assessment**

In 2020–21, the OAIC commenced an assessment of Australian Government agencies' compliance with the requirements to publish a PIA register under s 15.1 of the Privacy (Australian Government Agencies Governance) Code 2017 (the Code). The OAIC reviewed agencies by portfolio to assess their compliance. This assessment was finalised in June 2023.

Nine government agencies assessed did not initially have a published PIA register as required. However, this was remedied before the assessment of their portfolio was finalised. While the whole assessment was finalised by June 2023, individual agencies and portfolios were assessed on a rolling basis.

### **Digital health assessments**

We finalised the My Health Record access security policy assessment program in 2022–23. This program involved 2 assessments concerning the legislative requirement to have a written access security policy under Rule 42(1) of the My Health Record Rule 2016. At the conclusion of the first assessment, 79% of the 300 participating GP clinics had provided a security and access policy – up from 59% initially. We also commenced an APP 1 and APP 5 assessment of a mobile health application which we anticipate will be finalised in 2023–24.

### **Passenger Name Records (PNR)**

For flights travelling to, from or through Australia, international passenger airlines are required to provide certain passenger personal information (PNR data) to the Department of Home Affairs' (Home Affairs). In the reporting period, the OAIC finalised an assessment of Home Affairs' handling of PNR data under APP 8 (cross-border disclosures). Eight recommendations and 4 suggestions were made in this assessment.

### **The Digital Identity System**

In 2022–23, the OAIC finalised its assessment of Services Australia's handling of personal information as the Identity Exchange for the Australian Government Digital Identity System. Five recommendations were made in this assessment.

### **Health data matching**

Under the Practice Incentives Program eHealth Incentives (ePIP) program, general practices receive payments for participating in continuous quality improvement activities and submitting data quarterly. The OAIC assessed Health's matching and handling of personal information under Health's ePIP compliance program. Four recommendations and one suggestion was made in this assessment.

### **Consumer Data Right**

CDR Assessment 2 was finalised in 2022–23. It targeted a sample of 7 accredited persons and assessed their compliance with the Privacy Safeguard 1 and CDR Rule 7.2 obligations regarding the required availability, form and contents of a CDR policy. We made 17 findings of noncompliance, which were all accepted by the targets and 35 findings of partial compliance. CDR Assessment 3 was also finalised in 2022–23. It assessed compliance with similar Privacy Safeguard 1 and CDR Rule 7.2 obligations regarding the required availability, form and contents of a CDR policy, but targeted a sample of 7 data holders. We found 11 instances of noncompliance, which were all accepted by the targets, and 8 instances of partial compliance.

Also in 2022–23, CDR Assessment 4 and CDR Assessment 5 were commenced. CDR Assessment 4 examines whether a sample of 6 accredited persons and data holders are complying with their respective consent and authorisation process obligations under Divisions 4.2, 4.3 and 4.4 of the CDR Rules.

CDR Assessment 5 assesses whether a further sample of 19 accredited persons are complying with their obligations under Privacy Safeguard 1 and related CDR Rules regarding CDR policies.

We anticipate finalising the fourth and fifth CDR assessments in 2023–24



## Case study: Privacy assessment – COVIDSafe assessment program

The COVIDSafe app was launched on 27 April 2020 in response to the COVID-19 pandemic.

Under Part VIII A of the Privacy Act, the OAIC commenced the COVIDSafe Assessment Program which involved 5 assessments:

- Assessment 1 – Data Store Administrator (DSA) access controls for the National COVIDSafe Data Store
- Assessment 2 – State and Territory health authorities' (STHAs) COVID app data access controls
- Assessment 3 – COVIDSafe app functionality against the COVIDSafe privacy policy and collection notices, and Part VIII A requirements
- Assessment 4 – DSA compliance with Part VIII A data handling, retention and deletion requirements
- Assessment 5 – DSA compliance with Part VIII A deletion and notification requirements regarding the end of the pandemic.

Assessments 2 and 5 were finalised in 2022–23.

Assessment 2 examined STHA's handling of personal information in the COVIDSafe system.

The OAIC found that reasonable steps under APP 11.1 were generally being taken to secure the personal information of COVIDSafe users, and that STHAs were complying with relevant data handling requirements under Part VIII A. However, only 3 of the 8 STHAs actually collected COVID app data.

The OAIC made 20 recommendations and 23 suggestions to address privacy risks identified in this assessment. You can read the summary report [on our website](#).

Assessment 5 concerned the DSA's deletion and notification obligations at the end of the COVIDSafe data period. The assessment found that the DSA had generally met its obligations by:

- ceasing to collect COVID app data
- no longer offering the COVIDSafe app for download
- deleting all COVID app data from the Data Store
- taking reasonable steps to advise users that the COVID app data had been deleted
- advising users to delete the COVIDSafe app from their devices.

However, the DSA had not taken all reasonable steps to inform COVIDSafe users that COVID app data can no longer be collected. The OAIC made 2 suggestions to address the privacy risks identified. You can read the report [on our website](#).

## Optus data sharing with financial services entities

After the 2022 Optus data breach, the Telecommunications Regulations 2021 (the Regulations) were amended to facilitate the sharing of information or a document with financial services entities for the purpose of:

- preventing or responding to a cyber security incident, fraud, scam or identity theft
- addressing malicious cyber activity.

The OAIC supported this strategic measure by working closely with regulators and organisations to monitor the sharing of this information and ensure that steps were being taken to comply with requirements under the Regulations.



Table 4.3: Privacy assessments

| Privacy assessment subject  | Number of entities assessed | Year opened | Date closed |
|---|-----------------------------|-------------|-------------|
| COVIDSafe Assessment 2 – State and Territory health authorities' access controls  | 8                           | 2020–21     | Nov-22      |
| Privacy Impact Assessment Register Assessment Program – Australian Government Agencies Privacy Code s 15.1 compliance     | 162                         | 2020–21     | Jun-23      |
| CDR Assessment 2 – accredited data recipients' compliance with Privacy Safeguard 1  | 7                           | 2021–22     | Sep-22      |
| Assessment of 300 general practice clinics – My Health Records Rule 2016 Rule 42 compliance (APPs 1.2 and 11)             | 300                         | 2020–21     | Nov-22      |
| Assessment of 20 general practice clinics – My Health Records Rule 2016 Rule 42 compliance (APPs 1.2 and 11)              | 20                          | 2021–22     | Nov-22      |
| CDR Assessment 3 – data holders' compliance with Privacy Safeguard 1  | 7                           | 2021–22     | Dec-22      |
| Passenger name records assessment – Cross-border disclosures of personal information (APP 8)                              | 1                           | 2021–22     | Mar-23      |
| Digital Identity Assessment – Services Australia's role as the Identity Exchange  | 1                           | 2021–22     | Feb-23      |
| Australian Capital Territory Memorandum of Understanding assessment   | 7                           | 2022–23     | Ongoing     |
| COVIDSafe Assessment 5 – Obligations after the end of the COVIDSafe data period   | 1                           | 2022–23     | Nov-22      |
| Data matching assessment – Practice Incentives Program eHealth Incentives Compliance Program                              | 1                           | 2022–23     | May-23      |
| Mobile health application assessment  | 1                           | 2022–23     | Ongoing     |
| Digital Identity assessment   | 1                           | 2022–23     | Ongoing     |
| CDR Assessment 4 – accredited persons' and data holders' compliance with consent and/or authorisation process obligations | 6                           | 2022–23     | Ongoing     |
| CDR Assessment 5 – accredited persons' compliance with Privacy Safeguard 1  | 19                          | 2022–23     | Ongoing     |



## Measure

4.4 Number of stakeholder engagement activities



## Target

Targets not appropriate due to fluctuations in nature and complexity of policy environment in any given year

Not applicable

The OAIC is transparent and responsive to the needs of the community and those we regulate, genuinely engaging with and seeking feedback from stakeholders on our performance and implementing regulation in a modern and collaborative way.

We routinely engage with a variety of stakeholders including regulated entities, government agencies, other regulatory agencies, media, and the general public. Whilst the OAIC engages with stakeholders on a daily basis, we also conduct and participate in more formal engagements as well as utilising a diverse range of channels to communicate and connect with stakeholders. These types of engagements included OAIC-organised events, international forums, domestic forums, agency roundtables, intergovernmental meetings, and other significant stakeholder engagements. We engage proactively with domestic and international regulators through a range of forums, working groups and other collaborative mechanisms, including the Digital Platform Regulators Forum, Privacy Authorities Australia, the Global Privacy Assembly and the Association on Information Access Commissioners.

Each year, we run two national public-facing campaigns, Privacy Awareness Week and International Access to Information Day (see pages 44 and 49). Both provide an important opportunity to engage with stakeholders through events and collaboration, as well as engaging the broader public. These complement our other ongoing communications activities, including speaking at public events, media releases and engagement, joint statements, promoting submissions and reports such as those into the NDB scheme, and sharing news and resources through our website, email newsletters, and social media accounts.



## Case studies: stakeholder engagement activities

### Global Privacy Assembly (GPA) in Istanbul

In October 2022, Commissioner Falk attended the 44th Global Privacy Assembly (GPA) in Istanbul, hosted by the Turkish Personal Data Protection Authority (KVKK). This was an important opportunity for the OAIC to engage with over 130 data protection authorities from around the world on contemporary privacy issues and to hear from regulators, academics and the private sector. The theme of the 2022 assembly was ‘A matter of balance: Privacy in the era of rapid technological advancement’.

The conference also marked the end of Commissioner Falk’s term in key leadership roles as a member of the Executive Committee of the GPA and as Chair of its Strategic Direction Sub-Committee. Our international engagement supports the OAIC’s strategic priorities to influence privacy rights, advancing online protection for Australians and our ability to protect Australians through regulatory cooperation.

International regulatory cooperation maximises authorities’ resources by sharing capability, promoting efficiency and reducing regulatory impost on regulated entities. This was recognised at the conference in Türkiye by the OAIC and the UK Information Commissioner’s Office being awarded the Privacy and Data Protection Award in the Dispute Resolution and Enforcement category for our joint investigation into the personal information handling practices of Clearview AI Inc.



### FOI Micro and Extra Small Agency Session

The OAIC seeks to promote compliance and information access best practice and holds information sessions for its Information Contact Officer Network (ICON), comprised of FOI practitioners across Australian Government agencies subject to the FOI Act.

On 27 October 2022, the OAIC held a virtual information session for 23 micro and extra-small

agencies subject to the FOI Act. The focus of this session was to ensure that participants were aware of their agency's obligations under the FOI Act, including:

- making decisions within the relevant statutory timeframes
- making material disclosed under the FOI Act available on their agency's disclosure log
- publishing material on their agency's Information Publication Scheme (IPS) and
- providing their quarterly and annual statistical returns to the OAIC.

The session also provided participants practical tips for processing FOI requests and best-practice decision-making, information about resources to assist in processing FOI requests, and an opportunity to ask questions and clarify issues.



### Association of Information Access Commissioners

The Association of Information Access Commissioners of Australia (AIAC) met in Sydney, NSW in June 2023 for its first meeting of the year, hosted by the OAIC.

The AIAC is comprised of independent Information Commissioners and Ombudsmen of Australia and New Zealand who have oversight responsibilities, under their respective state and national jurisdictions, for access to government information laws.

Members affirmed the important role of the right to access government information in promoting integrity and accountability by government, noting that the structures and systems of government are changing rapidly. Government increasingly collects and applies data to make critical policy and service delivery decisions. In a functioning democracy, citizens are included in government decision-making and their right to access information enables them to participate and hold governments to account.

Members of the AIAC also observed that record keeping is a fundamental part of good governance and accountability. Leaders of government are responsible for promoting public sector values and

behaviours including upholding the public's right to access information. Agencies should start with the assumption that public servants are obliged by their position to provide robust and frank advice at all times and that obligation will not be diminished by transparency of government activities.

Collectively members identified contemporary challenges to information access and heightened risks. These include:

- public reporting of government assets and allocations of grants.
- legislative limitations as government harnesses new technologies.
- the use of consultants and professional services provided by government.

Members discussed solutions to these risks including:

- greater public reporting by government.
- reviewing legislation to determine if it remains fit for purpose.
- engaging with other independent integrity agencies to better understand risks to transparency and accountability.

Finally, members observed that collectively we have new challenges that requires a concerted and complementary approach by integrity agencies and government.



### Consumer Data Right (CDR) governance forums

In 2022–23, the OAIC participated in cross-agency Consumer Data Right (CDR) governance forums, including the CDR Board, Steering Committee and Implementation Working Group. The Information Commissioner was a member of the CDR Board, and the Deputy Commissioner was a member of the Steering Committee and Implementation Working Group. These forums brought together agencies with CDR responsibilities to provide strategic oversight and coordination of activities across the CDR program. The OAIC also participated in cross-agency CDR working groups for program workstreams including CDR sectors and key project areas.

## Spotlight on communications

### Information Matters

We send our monthly *Information Matters* newsletter to more than 9,000 subscribers, with a 14% increase from 8,200 to 9,366 during the 2022–23 financial year. The newsletter updates our stakeholders on the latest OAIC news, guidance, resources and decisions.

### Social media

We have continued to grow the OAIC’s reach on social media, which is an important channel for promoting awareness of privacy and information access rights and responsibilities.

Over the reporting period:

- LinkedIn followers increased by 37% to 9,470
- Twitter followers increased by 4% to 7,049
- Facebook followers increased by 11% to 4,614

### Media enquiries

Media engagement is effective for communicating the OAIC’s regulatory priorities and expectations to a broad audience. In the reporting period, we received 242 media enquiries, a 67% increase compared to 2021–22.

### External events

Our speeches and engagements program assists us in achieving our strategic priorities. The OAIC had 48 speaking engagements in the reporting period.

The external events we participated in included:

- *The Australian Financial Review* Government Services Summit

Table 4.4: Media enquiries

| Month        | 2021–22    | 2022–23    |
|--------------|------------|------------|
| July         | 12         | 9          |
| August       | 18         | 9          |
| September    | 23         | 42         |
| October      | 6          | 36         |
| November     | 21         | 22         |
| December     | 3          | 8          |
| January      | 6          | 13         |
| February     | 12         | 16         |
| March        | 13         | 41         |
| April        | 4          | 13         |
| May          | 9          | 17         |
| June         | 18         | 16         |
| <b>Total</b> | <b>145</b> | <b>242</b> |

- Australian Government Solicitor FOI and Privacy Practitioners Update
- Open Government and Right to Information Workshop for Niue
- LAWASIA Conference
- IAPP ANZ Summit
- Biometrics Institute Discussion Day
- Australian Government Data Forum

A list of upcoming and recent events is available on our website.



### Measure

4.5 Average call duration of telephone enquiries to the OAIC public enquiry line



### Target

Baseline established

The OAIC provides information and assistance to entities and members of the public about privacy and FOI matters through its telephone enquiries line. The enquiries we receive commonly relate to the OAIC's jurisdiction and processes.

In 2022–23, approximately 70% (9,435) of the 13,332 enquiries made to the OAIC were received by telephone. On average, those calls lasted 5 minutes, reflecting a baseline for efficient and effective advice to the public.

### Snapshot of enquiries from the public

In 2022–23, most of the enquiries received by the OAIC were made by telephone. This is consistent with previous reporting periods.

**Table 4.5.1a: How enquiries were received**

|              | Number        | %          |
|--------------|---------------|------------|
| By telephone | 9,436         | 71         |
| In writing   | 3,886         | 29         |
| <b>Total</b> | <b>13,322</b> | <b>100</b> |

Nearly half of all privacy-related enquiries (47%) involved the operation of the APPs. Enquiries regarding APP 11 (security of personal information) and APP 12 (access to personal information) were raised most frequently. Other common privacy enquiries concerned the OAIC's jurisdiction, credit reporting and the Notifiable Data Breach scheme.

**Table 4.5.1b: Number and nature of enquiries involving the APPs**

|   | 2022-23      | % of all privacy-related enquiries |
|---|--------------|------------------------------------|
| APP 11 – Security of Personal Information | 1,457        | 12                                 |
| Privacy generally                         | 1,132        | 10                                 |
| APP 12 – Access to Personal Information   | 1,051        | 9                                  |
| APP 3 – Collection                        | 891          | 8                                  |
| APP 6 – Use or Disclosure                 | 735          | 6                                  |
| APP Exemptions                            | 301          | 3                                  |
| APP 5 – Notification of Collection        | 271          | 2                                  |
| APP 13 – Correction                       | 96           | 1                                  |
| APP 7 – Direct Marketing                  | 75           | 1                                  |
| APP 10 – Quality of Personal Information  | 53           | 0.5                                |
| APP 8 – Cross-border Disclosure           | 46           | 0.4                                |
| APP 1 – Open and Transparent Management   | 38           | 0.3                                |
| APP 2 – Anonymity and Pseudonymity        | 8            | 0.1                                |
| APP 4 – Unsolicited Personal Information  | 4            | 0.0                                |
| APP 9 – Government Identifiers            | 1            | 0.0                                |
| <b>Total</b>                              | <b>5,444</b> | <b>47</b>                          |

In 2022–23, approximately 12% (1,647) of the enquiries received by the OAIC concerned FOI matters. Those enquiries primarily related to general FOI processes and the OAIC’s jurisdiction to deal with FOI issues.<sup>1</sup>

**Table 4.5.1c: Number and nature of FOI enquiries**

|                                | Number of enquiries | Percentage (%) |
|--------------------------------|---------------------|----------------|
| General processes              | 724                 | 44             |
| OAIC’s jurisdiction            | 661                 | 40             |
| Agency statistics              | 102                 | 6              |
| Processing by agency           | 92                  | 6              |
| Access to personal information | 57                  | 3              |
| Amendment and annotation       | 22                  | 1              |
| Access to general information  | 18                  | 1              |
| Vexatious application          | 7                   | 0.4            |
| Information Publication Scheme | 1                   | 0.1            |
| <b>Total</b>                   | <b>1,647</b>        | <b>100</b>     |

**Note:** The total is the total number of FOI enquiries, which is less than the sum of rows as more than one issue may be raised in an enquiry. Percentages total 100% but the sum of rows may not add to 100% due to rounding.

<sup>1</sup> During 2022–2023, the OAIC ceased classifying certain communications about FOI as ‘enquiries’ where these are more complex, or require a specific response, and are therefore dealt with by the FOI Branch instead of the OAIC’s enquiries team. This has reduced the numbers of FOI enquiries reported on for this financial year. We are working towards reporting separately on this category of guidance in 2023–24.





# Part 3

## Management and accountability

- Corporate governance ..... 63
- External scrutiny ..... 67
- Our people .....69
- Procurement ..... 75
- Other requirements ..... 77

# Corporate governance

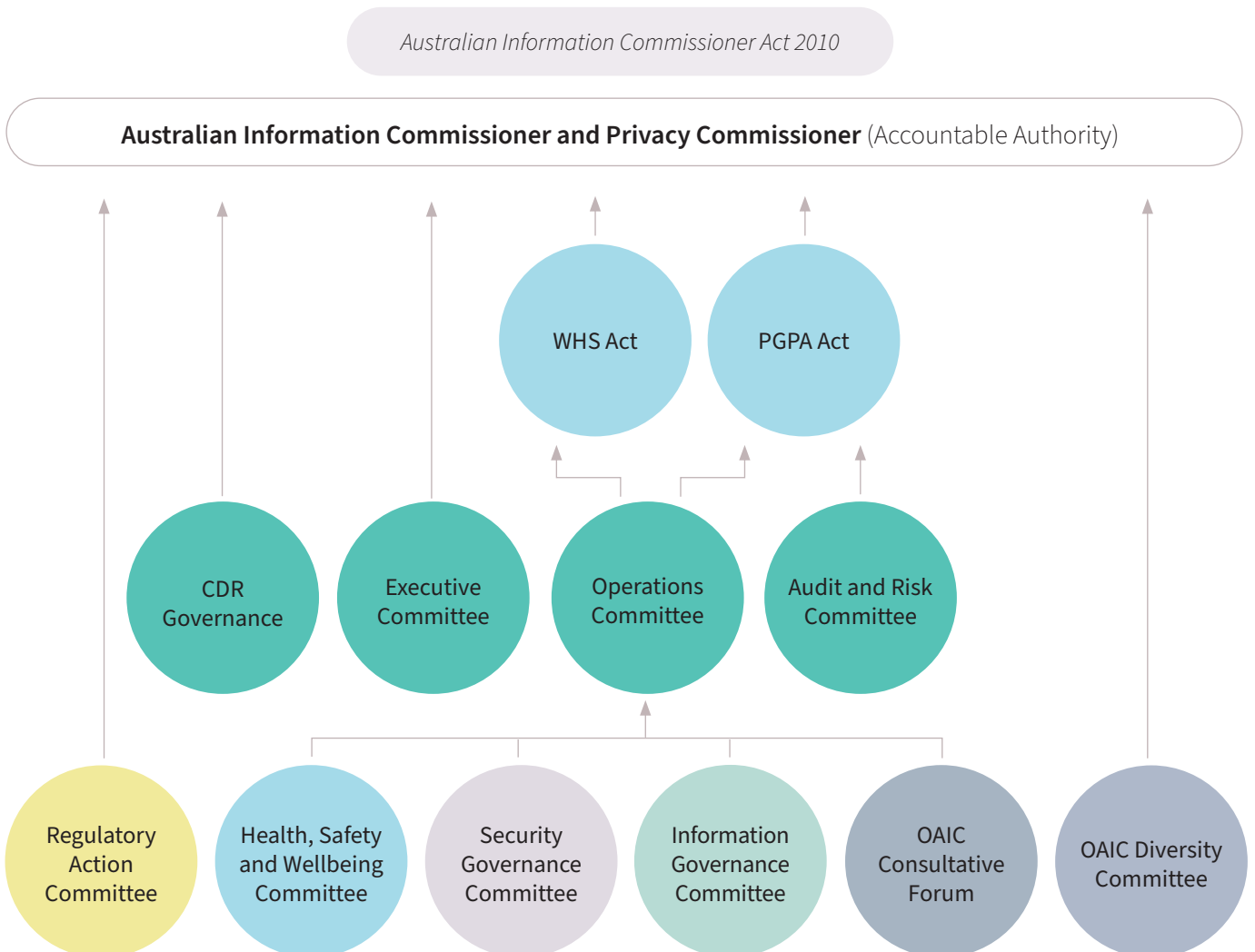
Our corporate governance framework and practices define how we manage our regulatory and operational responsibilities and deliver on our strategic objectives. Setting strategic direction, implementing and maintaining effective controls, policies and processes, and monitoring progress are key elements of this framework.

The Office of the Australian Information Commissioner’s (OAIC’s) corporate governance arrangements comply with statutory requirements and are regularly reviewed to ensure they remain relevant and fit-for-purpose.

## Corporate committee structure

Our governance committees uphold the principles and values of the public sector to provide transparency, accountability, integrity and efficiency and are detailed in Figure 3.

**Figure 3: Governance committees**



## Enabling legislation

The OAIC was established in November 2010 as an independent statutory agency under the *Australian Information Commissioner Act 2010* (AIC Act). The Australian Information Commissioner and Privacy Commissioner has a range of powers and responsibilities under the AIC Act, *Freedom of Information Act 1982* (FOI Act), *Privacy Act 1988* and other privacy-related legislation. The Freedom of Information (FOI) Commissioner exercises FOI functions.

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

## Portfolio structure and responsible minister

The OAIC is an independent statutory agency in the Attorney-General's portfolio. The minister responsible is the Attorney-General, the Honourable Mark Dreyfus KC MP.

## Executive

The OAIC operates 2 executive committees – the Operations Committee and the Executive Committee.

## Operations Committee

The Operations Committee comprises the Deputy Commissioner, Senior Assistant Commissioner, all Assistant Commissioners, Chief Financial Officer, General Counsel and Director Corporate Services. Both the Australian Information Commissioner and Privacy Commissioner and Freedom of Information Commissioner are optional attendees at Operations Committee meetings.

During the reporting period, the Operations Committee provided governance and accountability for a range of operational matters, including business management and reporting, risk, security and resources.

## Executive Committee

The Executive Committee consists of all OAIC Executives, including the Australian Information Commissioner and Privacy Commissioner and the Freedom of Information Commissioner.

The Executive Committee oversee known and emerging priorities, and provide cross-functional accountability regarding litigation, finance, significant issues and external engagement to ensure alignment of Executive focus relating to the strategic priorities of the agency.

Each committee is scheduled to meet fortnightly, with one committee meeting each alternate week.

## Corporate plan

The OAIC's planning and reporting requirements are set out in the PGPA Act and the AIC Act.

Our primary strategic and planning document is the OAIC Corporate plan, which details the objectives and priorities for the year ahead, how they will be achieved and how success will be measured.

The OAIC's *Corporate plan 2022–23* was published in August 2022.

## Risk management

Effective risk management is critical to our compliance with the PGPA Act and contributes to improved performance and sound governance. The OAIC Risk Management Policy and Framework aligns with the Commonwealth Risk Management Policy and details how we engage with and manage risk to achieve our objectives.

The OAIC takes an integrated approach to risk, which is monitored and reported as part of our business practices, and planning, review, and governance processes.

The OAIC Risk Appetite Statement describes our attitude towards risk-taking and details the level of risk we are willing to accept for individual risk categories. Combined with our Risk Management Policy and Framework, this statement communicates and supports the OAIC's effective engagement with risk and helps us understand what constitutes acceptable risk-taking in both our day-to-day work and in delivering our strategic priorities.

In November 2022, our Risk Appetite Statement and Risk Management Policy and Framework were reviewed and updated through several risk management workshops. The Chief Risk Officer and Governance and Risk team continue to enhance the OAIC's audit and risk capability and enhance the agency's positive risk culture.

Regular reporting was provided to the accountable authority, Audit and Risk Committee, and governance committees, regarding current and emerging risks, threats and opportunities. All OAIC staff are required to undertake an introductory risk management training module upon induction.

## Fraud and corruption

The OAIC does not tolerate fraud or corruption and we will take all reasonable and practicable steps to prevent, detect and respond to fraud and corruption suspicions and allegations.

Aligned with the Commonwealth Fraud Control Framework, the OAIC's Fraud Control Framework includes our Fraud Control Policy and Guidelines, and Fraud Control Plan and Risk Assessment. These documents were reviewed and updated in April 2023 and again in June 2023 to include additional requirements relating to the implementation of the National Anti-Corruption Commission (NACC).

Fraud and corruption risks are regularly monitored and reviewed through a scheduled risk management and monitoring program. The appropriateness of the OAIC's fraud control arrangements is considered by the OAIC Audit and Risk Committee.

Several workshops with OAIC Executive and key leadership staff were held in November 2022 with an external risk consultant to review the OAIC's Fraud Risk

Assessment, including the effectiveness of current fraud and corruption-related controls.

All OAIC staff receive training on fraud and corruption and managing conflicts of interest as part of their induction training. Annual fraud awareness training is mandatory for all OAIC staff and was completed by all staff (excluding those on long-term leave or secondment) in 2022–23.

## Internal audit

The OAIC's internal audit services were provided by KPMG during 2022–23. The risk-based internal audit program is informed by a consultative and collaborative process involving key OAIC officials, and approved by the Australian Information Commissioner following the endorsement of the Audit and Risk Committee. All audit reports are presented to the Audit and Risk Committee, with accompanying plans to action any recommendations as part of ongoing efforts to improve agency processes and performance.

The OAIC will continue to focus audit resources on areas of significant risk, while being flexible to respond to emerging risks and changing demands. The audit program will be reviewed and revised to account for significant changes in the internal and external environment and to reflect the continued growth in the OAIC's maturity and capability.

## Audit and Risk Committee

Our Audit and Risk Committee provides independent advice to the Australian Information Commissioner on the appropriateness of the OAIC's financial reporting, performance measurement, risk oversight and management, and internal control systems.

The Audit and Risk Committee charter was reviewed and updated in 2022–23. It sets out the role, responsibilities and expectations of the committee, and is available on the OAIC website at: <https://www.oaic.gov.au/about-the-OAIC/our-corporate-information/operational-information/oaic-audit-committee>.

The committee met 4 times during 2022–23.

During 2022–23 the Audit and Risk Committee comprised of an independent Chair and 2 external members. Committee advisors and observers included representatives from the Australian National Audit Office (ANAO) and external auditor, the internal auditor, and OAIC subject matter experts and management representatives.

Details of the Audit and Risk Committee’s membership for the 2022–23 period, including remuneration, meeting attendance, and experience and qualifications of members, are provided in Table 2.

**Table 2: Audit and Risk Committee membership**

| Member name                | Qualifications, knowledge, skills or experience  | No of meetings attended | Total no of meetings held | Total annual remuneration (GST inc.) | Role on committee |
|----------------------------|--|-------------------------|---------------------------|--------------------------------------|-------------------|
| Josephine Schumann (Chair) | Ms Schumann is a former senior public servant with experience as the corporate executive general manager at the Australian Competition and Consumer Commission. She has extensive experience at the Senior Executive Service level within various Australian Government agencies and currently chairs audit committees for several agencies. Ms Schumann has strong public sector and regulatory experience, with her skillset including risk and organisational performance.  | 4                       | 4                         | \$4,200                              | Chair             |
| Anita Kauffmann            | Ms Kauffman is a chartered accountant with qualifications in governance and mediation. She is an experienced audit committee member, including as chair of the Civil Aviation Safety Authority’s Board Audit and Risk Committee. Formerly a chartered accountant in public practice and chief financial officer at the University of New England, Ms Kauffmann has held numerous board, committee and executive roles in the education, aviation, sports administration, primary production, health and public policy sectors. | 4                       | 4                         | \$3,990                              | Member            |
| Peter Woods                | Mr Woods is a consultant in ICT and corporate management. He has worked in a range of senior executive roles in government agencies, including as chief information officer at the Australian Competition and Consumer Commission and chief information officer and head of the Corporate Services Division at the Department of the Environment. He has extensive experience in the executive management of major ICT business solutions and procurement projects and has served on multiples boards.                         | 4                       | 4                         | \$4,180                              | Member            |

# External scrutiny

## Judicial decisions

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

## External audit

There were no reports on our operations by the Auditor-General or the Commonwealth Ombudsman in 2022–23.

The Auditor-General is the external auditor for the OAIC, as required by the PGPA Act. The Auditor-General, through the firm Crowe on behalf of the Australian National Audit Office (ANAO), audited the OAIC's financial statements to ensure they were prepared in accordance with the Australian Accounting Standards and other requirements prescribed by the Public Governance, Performance and Accountability (Financial Reporting) Rule 2015. The OAIC's financial statements are presented in Part 4 of this report. The Auditor-General issued an unmodified audit opinion for the OAIC's 2022–23 financial statements.

Under its [Charter](#), the Audit and Risk Committee is empowered to act as a forum for communication between OAIC management and the ANAO, and to review both the financial accounts and the processes in place that support the integrity of financial information published in the annual report.

The ANAO did not conduct any performance audits on OAIC operations in 2022–23.

## Parliamentary committees

During the 2022–23 reporting period, the OAIC appeared before the Legal and Constitutional Affairs Legislation Committee for Senate and Budget Estimates in November 2022, February 2023 and May 2023.

On 17 November 2022, the OAIC appeared before the Senate Legal and Constitutional Affairs Legislation Committee for its inquiry into the provisions of the Privacy Legislation Amendment (Enforcement and

Other Measures) Bill 2022. The Committee released its report in November 2022, recommending the Bill be passed.

On 18 April 2023, the OAIC appeared before the Senate Economics Legislation Committee inquiry into the provisions of the Treasury Laws Amendment (Consumer Data Right) Bill 2022. The Committee released its report recommending the Bill be passed on 3 May 2023.

## Federal Court applications relating to OAIC freedom of information regulatory activity

In 2022–23, 3 matters were the subject of judicial review.

The first related to 2 decisions made under s 54W(b) of the FOI Act to decline to undertake Information Commissioner reviews. This matter was discontinued by the Federal Court.

The second related to a decision made under s 15AC of the FOI Act to provide an Australian Government agency with an extension of time to process an FOI request. This matter was discontinued by the Federal Court.

The third matter was an application under s 7 of the *Administrative Decisions (Judicial Review) Act 1977* (ADJR Act). The application sought relief from the Court for what the Applicant alleged was unreasonable delay, within the meaning of the ADJR Act, by the Australian Information Commissioner in deciding on a number of IC review applications. Through the course of the proceeding, the number of IC review applications to be considered by the Court was reduced to 9 (the 'separate question'), and the OAIC raised issues as to the competency of the Applicant's application (the 'competency question'). The Applicant's maximum costs were also capped at \$80,000.

Justice Wheelahan delivered his judgement on 26 May 2023. In his reasons, His Honour concluded that

there was no unreasonable delay by the Australian Information Commissioner in respect of the IC review applications the subject of the separate question and dismissed the application on that basis. He found against the OAIC in relation to the competency question, and awarded costs against the Applicant to the capped amount of \$80,000.

His Honour noted that the “orders sought by the applicant, if granted, would involve an inappropriate interference by the Court with the Information Commissioner’s capacity to evaluate the entire workload of her statutory office, to assess the importance of competing priorities, and to determine how best to manage limited resources.” See *Patrick v Australian Information Commissioner (No 2)* [2023] FCA 530.

## Royal Commission into the Robodebt Scheme

The Royal Commission was established on 18 August 2022 to inquire into the establishment, design and implementation of the Robodebt scheme; the use of third-party debt collectors under the scheme; concerns raised following the implementation of the scheme; and the intended or actual outcomes of the scheme.

During the reporting period, the OAIC assisted the Royal Commission by responding to enquiries from the Commission in the form of a written submission.

On 7 July 2023, the Australian Government tabled the report by the Royal Commission into the Robodebt Scheme. The OAIC is committed to carefully considering and appropriately responding to the aspects of the report that are relevant to our work.

## Our people

We are committed to attracting, developing and retaining talent as we grow, and maintaining a highly engaged, skilled and professional workforce.

We continue to support our people to deliver what is needed for our stakeholders in a busy and changing environment. As our staff numbers have grown, we have worked to ensure new staff members are welcomed and well-equipped to undertake their roles.

In 2022–23 the OAIC implemented a hybrid work model guided by a set of principles and mutual commitments. By embedding hybrid work, we have improved staff satisfaction, retention and attraction. The success of our hybrid principles is measured through our Australian Public Service (APS) Census results, the performance measurement framework and Arrival, Stay and Exit surveys. Hybrid work provides flexibility for OAIC staff no matter where they are located, as well as providing the ability for us to recruit staff based beyond the Sydney metropolitan area. This has strengthened our employee value proposition and helps us to capture the best talent from across Australia in an environment where there is significant competition for skills.

Forty percent of our people are based in a location other than New South Wales, and we are proud to now be able to say that we are not only a national regulator, but one with staff based in all Australian states and territories.

**Figure 4: Employees at 30 June by location**



| <b>Headcount</b><br>(excl casuals) | <b>Total</b> |
|------------------------------------|--------------|
| New South Wales                    | 107          |
| Queensland                         | 20           |
| South Australia                    | 12           |
| Tasmania                           | 3            |
| Victoria                           | 19           |
| Western Australia                  | 4            |
| Australian Capital Territory       | 10           |
| Northern Territory                 | 2            |
| <b>Total</b>                       | <b>177</b>   |



## Workforce statistics

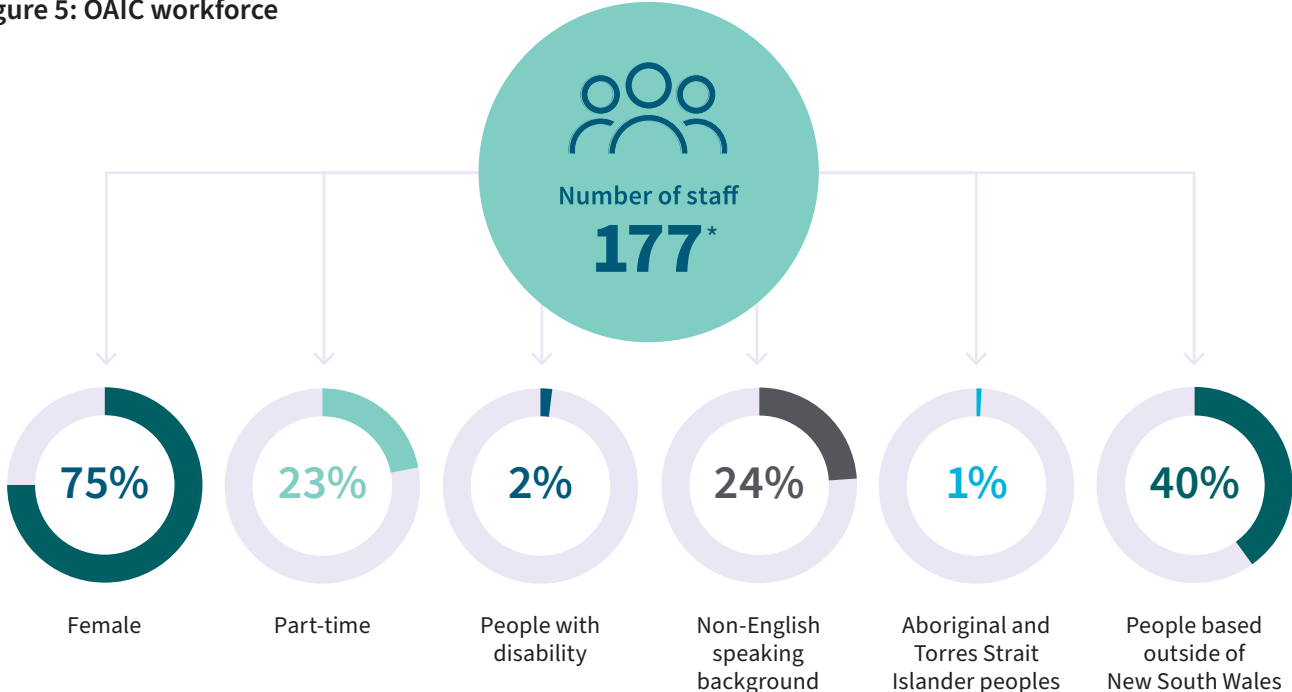
During 2022–23, we had an average staffing level of 137. Our staff turnover was around 15% for ongoing staff, compared to 35% in 2021–22. This involved 20 ongoing staff resigning, retiring or transferring to other Australian Government agencies.

The OAIC continued to grow in 2022–23. We conducted 37 recruitment processes and had

72 people join us in ongoing roles. At 30 June 2023, we had 159.6 full time equivalent (FTE) staff, including in ongoing, non-ongoing and casual roles. The addition of a recruitment specialist in October 2022 has been integral in supporting the increasing demand for recruiting services within the OAIC.

For detailed workforce statistics, see Appendix C: Workforce statistics.

Figure 5: OAIC workforce



\* This reflects total head count and does not equate to the FTE total of 159.6.

## Learning and development

The OAIC's People and Culture team operates in partnership with the Australian Public Service Commission, professional bodies and education providers to offer learning and development opportunities and targeted skills training to our people using hybrid delivery methods, in keeping with our hybrid work approach.

To best support the learning and development of our people, we successfully implemented the Learnhub learning management system in December 2022. This system enables our people to undertake induction and mandatory training modules and provides learning and development records management capabilities. In 2022–23 we offered professional development opportunities on a range of topics including communication, capability and wellbeing.

We have also recruited a workforce capability adviser, who will assist in strengthening the OAIC's learning and capability functions going into 2023–24.

We also engage with APS and non-APS agencies to promote, support and encourage staff mobility. The APSJobs Mobility Portal, led by the Australian Public Service Commission for existing Commonwealth employees, is a key channel for this activity.

## Working at our best

Our people participate in the 'Talking about performance' (TAP) performance management framework. Staff and their supervisors set out performance expectations at the start of the cycle and engage in mid-cycle and end-of-cycle reviews. We have worked in 2022–23 to make the system as streamlined as possible. Importantly, discussions and recording of feedback in between review stages are also encouraged, so that reflection and development remain an ongoing process. The focus is on strengthening and supporting our people, including through helping to identify their learning and development needs, and ensuring we deliver for the public.

## Embedding change

Towards the end of last financial year, we transitioned our finance and human resources services from the Australian Human Rights Commission (AHRC) to the Service Delivery Office within the Department of Finance, to align with the Australian Government's Shared Services Program. This meant we needed to establish inhouse Finance and People and Culture teams, which we have now done. In 2022–23 we continued to build on our capacity in these important areas, with the recruitment of expert staff. We also embedded the transition of our information and communication technology services from the AHRC to the Department of Education, Skills and Employment (DESE), now Department of Employment and Workplace Relations (DEWR).

These notable changes coincided with our move to a hybrid workplace. In 2022–23 we have focussed on collaborating across our branches, and making sure our people and processes are well positioned to benefit from these new arrangements. Having an inhouse People and Culture team has, in particular, supported the notable level of recruitment required this financial year, to ensure the OAIC is able to deliver on what is needed. This has included the establishment of our new Major Investigations branch, as well as growth and staff movements across other areas.

## Census Roadmap 2022

Our results from the 2022 Census reflected that the OAIC had a strong integrity culture and responses indicated our people maintain a strong individual drive to support our agency's objectives and work, despite a fall in this measure in 2022 compared to previous years. The OAIC scored similarly to comparable agencies (small agencies and other regulators) in wellbeing policies and support, while our scores in employee engagement and innovation were marginally lower than comparator agencies. OAIC's overall results indicated that there were still improvements to make, and we remain committed to maintaining a highly engaged, skilled and professional workforce, and acting upon the feedback we received from our people.

To make sure we benefited from the opportunities presented by the Census, a 2022 Roadmap was created which set out what our people told us we can improve, how we were going to act upon the feedback, and by when. Three core themes were the focus for the year:

- strengthening leadership and management capability and learning and development opportunities
- promoting staff wellbeing and a safe and healthy working environment
- promoting, supporting and encouraging staff mobility, connectiveness and innovation.

As a result of the changes implemented through the Census Roadmap the OAIC's 2023 Census results reflected improvements across all key Indexes compared to 2022 results.

## Study and professional membership assistance

The OAIC contributes to the attainment and maintenance of relevant professional memberships and certifications for our staff. This includes:

- lawyers' practising certificates
- Resolution Institute membership and National Mediator Accreditation System accreditation for conciliators
- International Association of Privacy Professionals membership.

We also encourage our people to undertake study to develop their knowledge and skills in relevant areas which contribute to the work of the OAIC and individual career development.

## Workplace relations

In November 2022, the APS Commissioner advised agencies of service-wide bargaining throughout 2023. The OAIC commenced bargaining on a new proposed enterprise agreement to replace the OAIC Enterprise Agreement 2016–2019 on 21 February 2023. (The OAIC Remuneration Determination 2022 and OAIC [Amendment] Remuneration Determination 2023 supplement the OAIC Enterprise Agreement 2016–2019 by providing adjustments to salary and salary-related allowances). Separate to bargaining and in line with the Public Sector Interim Workplace Arrangements 2022, eligible employees received a 3% remuneration increase on 13 May 2023. No staff received performance pay in 2022–23. There were a total of 12 active individual flexibility arrangements in place in 2022–23.

## Statutory office holder and SES remuneration

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

Following the resignation of Mr Leo Hardiman PSM KC from the role of FOI Commissioner effective 19 May 2023, acting FOI Commissioner Ms Toni Pirani was appointed on 20 May 2023 for a 6-month term or until a substantive appointment is made.

On 3 May 2023, the Australian Government announced that it would reinstate the 3-Commissioner model that is provided for under the AIC Act.

Determinations set out the salary of SES officers on commencement and provide for increments in salary, based on performance. Over the course of 2022–23, the OAIC had 9 SES determinations in place that provided for general performance-based increments within existing salary structures.

For more information, see Appendix B: Executive remuneration.

## Benefits

The OAIC offers our people a range of non-salary benefits including:

- flexible working arrangements, including home-based work where appropriate
- an employee assistance program
- extended purchased leave
- maternity and adoption leave
- parental leave
- leave for compelling personal reasons and exceptional circumstances
- access to paid leave at half pay
- Flextime (APS staff) and time off in lieu (EL staff)
- study assistance
- support for professional and personal development

- healthy lifestyle reimbursement
- screen-based eyesight testing and prescription glasses reimbursements
- influenza vaccinations
- paid leave for COVID-19 vaccinations.

## OAIC committees

We have a range of committees that provide avenues for our people to get involved in the diverse activities and decisions of the OAIC.

### Better Together Committee

The OAIC's Better Together Committee includes staff from across Australia and has a focus on how we can drive a 'OneOAIC' culture across the OAIC. A OneOAIC culture is an acknowledgement that all staff members are an integral part of the OAIC and contributing to the delivery of our purpose – no matter where they are or what type of work they do.

The Better Together Committee is an evolution of the Moving on Up Committee, which focused on the consolidation of our Sydney office space and move to permanent hybrid work.

## OAIC Consultation Forum

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

The focus topics for this year centred around consultation, review of and supporting the implementation of the Hybrid Work Principles, the commencement of service-wide bargaining for a new OAIC Enterprise Agreement, and development of a psychosocial wellbeing policy.

## OAIC Diversity Committee

The OAIC Diversity Committee (ODC) plays an important role in championing diversity and multicultural activities across the OAIC. This committee is responsible for executing the OAIC's Workplace Diversity Strategy and Multicultural Access and Equity Plan, as well as partnering with other APS agencies to promote, engage and celebrate a diverse and inclusive workforce.

During the reporting period, the ODC coordinated activities and communications for events including NAIDOC Week, Sydney WorldPride, International Women's Day, Wear It Purple Day, the International Day of People with Disability, Lunar New Year and National Reconciliation Week.

Some of the highlights of 2022–23 included ongoing engagement with the Metropolitan Local Aboriginal Land Council, including on the Gadigal Language naming of meeting rooms in our Sydney office; a hybrid event that featured a discussion of the history and significance of Mardi Gras during Sydney WorldPride 2023; and a panel discussion on International Women's Day that featured speakers from across the OAIC.

## OAIC Health, Safety and Wellbeing Committee

As an employer, the OAIC has obligations under the *Workplace Health and Safety Act 2011* to provide a safe workplace for all staff. One way we do this is by carrying out regular workplace inspections to identify, manage and minimise health and safety risks as far as is reasonably practicable. The Health, Safety and Wellbeing Committee, in partnership with the People and Culture team, has had a firm focus in 2022–23 on providing education sessions and support to our people around understanding, identifying and preventing psychosocial hazards in the workplace. This followed changes to the legislation in June 2022.

We are committed to ensuring we provide a safe and healthy workplace by:

- providing and maintaining a healthy and safe physical working environment. In 2022–23 we:
  - installed an automatic external defibrillator and provided practical training on its use
  - ran in-person and virtual workstation assessments
  - undertook an agency-specific mock evacuation exercise to improve our emergency response
  - revised our business continuity plans
  - educated staff who would not normally attend the Sydney office on our emergency procedures
- providing financial and other resources to ensure that necessary work health and safety programs and activities are established and maintained.
- providing a dedicated employee assistance provider for staff to access wellbeing support or counselling on a wide range of workplace and personal issues.
- engaging a specialist in mental health training and consultancy, who ran a series of wellbeing workshops that focused on early intervention for both leadership and staff.
- providing a forum for consultation and cooperation on work health and safety matters.
- implementing policies, guidelines and health and safety arrangements on a range of relevant matters, including a revised and updated home-based work policy as part of our Hybrid Work Principles, to ensure staff are working safely regardless of where they are located.
- appointing trained health and safety representatives, first aid officers, fire wardens and harassment contact officers for the agency. In 2023–24 we will appoint trained mental health first aid officers for the first time.

## Social Committee

The Social Committee was re-formed in 2022. The committee explored creative initiatives to socially unify people across the agency through a mix of in-person and online events. The committee has organised a 10,000 steps challenge and a Coffee Roulette social coffee program, and is currently working on projects including a book club.

# Procurement

During this reporting period, we complied with the Commonwealth Procurement Rules (CPRs), the OAIC's Accountable Authority Instructions (AAIs), the PGPA Act and the Public Governance, Performance and Accountability Rule 2014 (PGPA Rule), which provides the framework for decisions concerning the purchase of goods and services.

We encouraged competition, achieved value-for-money outcomes and applied transparency and accountability in our decision-making.

All procurement was conducted to ensure the efficient, effective, economical and ethical use of Australian Government resources.

## Consultants

### Consultancy and non-consultancy contract expenditure reporting

Annual reports contain information about actual expenditure on reportable consultancy and nonconsultancy contracts. Information on the value of reportable consultancy and non-consultancy contracts is available on the AusTender website.

Decisions to engage consultants during 2022–23 were made in accordance with the PGPA Act and related regulations, including the CPRs and relevant internal policies.

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

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

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

During 2022–23, 4 new reportable consultancy contracts were entered into involving total actual expenditure of \$186,900. In addition, 3 ongoing reportable consultancy contracts were active during the period, involving total actual expenditure of \$381,902.

The OAIC entered into 47 new reportable non-consultancy contracts involving actual expenditure of \$2,285,319. In addition, 16 ongoing reportable non-consultancy contracts were active during the period, involving total actual expenditure of \$2,113,414.

**Table 3: Expenditure on reportable consultancy contracts**

| Reportable consultancy contracts 2022–23                          | Number   | Expenditure \$'000 (GST inc.) |
|---|----------|-------------------------------|
| New contracts entered into during the reporting period            | 4        | 187                           |
| Ongoing contracts entered into during a previous reporting period | 3        | 382                           |
| <b>Total</b>  | <b>7</b> | <b>569</b>                    |

**Table 4: Expenditure on reportable non-consultancy contracts**

| Reportable non-consultancy contracts 2022–23                      | Number    | Expenditure \$'000 (GST inc.) |
|---|-----------|-------------------------------|
| New contracts entered into during the reporting period            | 47        | 2,285                         |
| Ongoing contracts entered into during a previous reporting period | 16        | 2,113                         |
| <b>Total</b>  | <b>63</b> | <b>4,398</b>                  |

**Table 5: Organisations receiving 5 largest shares of reportable consultancy contract expenditure**

| Name of organisation                        | Expenditure \$'000 (GST inc.) |
|---|-------------------------------|
| KPMG (ABN 51 194 660 183)                   | 317                           |
| Lonergan Research (ABN 34 138 789 401)      | 105                           |
| Crafted Solutions (ABN 14 614 074 172)      | 85                            |
| PricewaterhouseCoopers (ABN 52 780 433 757) | 49                            |
| Sparke Helmore Lawyers (ABN 78 848 387 938) | 13                            |

**Table 6: Organisations receiving 5 largest shares of reportable non-consultancy contract expenditure**

| Name of organisation  | Expenditure \$'000 (GST inc.) |
|---|-------------------------------|
| Department of Employment and Workplace Relations (ABN 96 584 957 427) | 1,873                         |
| Department of Finance (ABN 61 970 632 495)                            | 608                           |
| Sparke Helmore Lawyers (ABN 78 848 387 938)                           | 560                           |
| Cypha Interactive Pty Limited (ABN 26 161 735 833)                    | 193                           |
| Resolve Software Group Pty Ltd (ABN 87 063 320 696)                   | 166                           |

## Australian National Audit Office access clauses

The OAIC did not enter into any contracts of \$100,000 or more (inclusive of GST) that did not include provisions allowing the Auditor-General to have access to contractor premises.

## Exempt contracts

During 2022–23, no OAIC contracts or standing offers were exempt from publication on AusTender on the basis that publication would disclose exempt matters under the FOI Act.

## Small business

The OAIC supports small business participation in the Commonwealth Government procurement market. We do this by providing opportunities wherever possible and engaging with small businesses where appropriate during our work. Small and medium enterprises (SMEs) and small enterprise participation statistics are available on the Department of Finance's website. We also recognised the importance of ensuring that small businesses were paid on time. Our statistics are available in the results of the Survey of Australian Government Payments to Small Business on the Treasury's website.

## Other requirements

### Advertising and market research

The OAIC did not conduct advertising campaigns or market research in the reporting period.

### Disability reporting

*Australia's Disability Strategy 2021–2031* is the overarching framework for inclusive policies, programs and infrastructure that will support people with disability to participate in all areas of Australian life.

The strategy sets out where practical changes will be made to improve the lives of people with disability. It is intended to ensure the principles underpinning the United Nations Convention on the Rights of Persons with Disabilities are incorporated into Australian policies and programs that affect people with disability, their families and carers.

All levels of government have committed to deliver more comprehensive and visible reporting under the strategy. A range of reports on progress of the strategy's actions and outcome areas will be published and available at [disabilitygateway.gov.au/ads](http://disabilitygateway.gov.au/ads).

Disability reporting is included in the Australian Public Service Commission's State of the Service reports and the APS Statistical Bulletin. These reports are available at <http://www.apsc.gov.au>.

The OAIC is committed to diversity and inclusion, and reducing barriers for current and future staff with disability. At 30 June 2023, 2% of the OAIC's workforce identified as people living with disability.

### Grants

The OAIC did not award any grants in 2022–23.

### Information Publication Scheme

As required by the FOI Act, we have an Information Publication Scheme section on our website that provides information on our structure, functions, appointments, annual reports, consultation arrangements and FOI officer. It also includes information we routinely release through FOI requests and provide to the Australian Parliament. You can find it at: [www.oaic.gov.au/about-the-OAIC/access-our-information/our-information-publication-scheme](http://www.oaic.gov.au/about-the-OAIC/access-our-information/our-information-publication-scheme).

### Memorandums of understanding

We received funding for specific services under a range of memorandums of understanding (MOU). The OAIC also held MOUs for select services. For more information, see Appendix D: Memorandums of understanding.

### Australian Public Service Net Zero 2030

As part of the reporting requirements under section 516A of the *Environment Protection and Biodiversity Conservation Act 1999*, and in line with the Government's APS Net Zero 2030 policy, we are required to report on the emissions from our operations, commencing with public reporting of 2022–23 emissions. The OAIC's role and activities do not directly link with the principles of ecologically sustainable development or impact on the environment, other than through the consumption of resources to sustain our business operations. We use energy-saving methods in the OAIC's operation and seek to make the best use of our resources. The table below provides additional detail. Greenhouse gas emissions reporting has been developed with methodology that is consistent with the whole-of-Australian Government approach as part of the APS Net Zero 2030 policy.



**Table 7: Greenhouse Gas Emissions Inventory (location-based approach)**

| Emission Source                       | Scope 1 kg CO2-e | Scope 2 kg CO2-e | Scope 3 kg CO2-e | Total kg CO2-e |
|---------------------------------------|------------------|------------------|------------------|----------------|
| Electricity (Location Based Approach) | N/A              | 31,491           | 2,588            | 34,079         |
| Natural Gas                           | –                | N/A              | –                | –              |
| Fleet Vehicles                        | –                | N/A              | –                | –              |
| Domestic Flights                      | N/A              | N/A              | 50,865           | 50,865         |
| Other Energy                          | –                | N/A              | –                | –              |
| <b>Total kg CO2-e</b>                 | –                | <b>31,491</b>    | <b>53,453</b>    | <b>84,944</b>  |

*The electricity emissions reported above are calculated using the location-based approach. When applying the market-based method, which accounts for activities such as Greenpower, purchased LGCs and/or being located in the ACT, the total emissions for electricity are as listed below.*

**Table 8: Greenhouse Gas Emissions Inventory (market-based approach)**

| Emission Source                     | Scope 1 kg CO2-e | Scope 2 kg CO2-e | Scope 3 kg CO2-e | Total kg CO2-e |
|-------------------------------------|------------------|------------------|------------------|----------------|
| Electricity (Market Based Approach) | N/A              | 29,542           | 3,910            | 33,452         |
| Natural Gas                         | –                | N/A              | –                | –              |
| Fleet Vehicles                      | –                | N/A              | –                | –              |
| Domestic Flights                    | N/A              | N/A              | 50,865           | 50,865         |
| Other Energy                        | –                | N/A              | –                | –              |
| <b>Total kg CO2-e</b>               | –                | <b>29,542</b>    | <b>54,775</b>    | <b>84,317</b>  |



# Part 4

## Financial statements

|   |     |
|---|-----|
| Independent auditor's report .....  | 81  |
| Statement by the accountable authority<br>and chief financial officer ..... | 83  |
| Statement of Comprehensive Income .....                                     | 84  |
| Statement of Financial Position .....                                       | 85  |
| Statement of Changes in Equity .....  | 87  |
| Cash Flow Statement .....   | 89  |
| Overview .....  | 91  |
| Financial Performance .....   | 94  |
| Financial Position .....  | 100 |
| Funding .....   | 108 |
| People and relationships .....  | 110 |
| Managing uncertainties .....  | 113 |
| Other information .....   | 116 |



## INDEPENDENT AUDITOR'S REPORT

### To the Attorney-General

#### Opinion

In my opinion, the financial statements of the Office of the Australian Information Commissioner (the Entity) for the year ended 30 June 2023:

- (a) comply with Australian Accounting Standards – Simplified Disclosures and the Public Governance, Performance and Accountability (Financial Reporting) Rule 2015; and
- (b) present fairly the financial position of the Entity as at 30 June 2023 and its financial performance and cash flows for the year then ended.

The financial statements of the Entity, which I have audited, comprise the following as at 30 June 2023 and for the year then ended:

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

#### Basis for opinion

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

#### Accountable Authority's responsibility for the financial statements

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

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

## **Auditor's responsibilities for the audit of the financial statements**

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

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

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

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

Australian National Audit Office



Ben Nicholls  
Audit Principal

Delegate of the Auditor-General  
Canberra

8 September 2023

Statement by the accountable authority  
and chief financial officer

In our opinion, the attached financial statements for the year ended 30 June 2023 comply with subsection 42(2) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), and are based on properly maintained financial records as per subsection 41(2) of the PGPA Act.

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



**Angelene Falk**  
Australian Information Commissioner

7 September 2023



**Simon Crone**  
Chief Financial Officer

7 September 2023

# Statement of Comprehensive Income

for the year ended 30 June 2023

|   |       | 2023            | 2022         | Original Budget |
|---|-------|-----------------|--------------|-----------------|
|   | Notes | \$'000          | \$'000       | \$'000          |
| <b>NET COST OF SERVICES</b>   |       |                 |              |                 |
| <b>Expenses</b>   |       |                 |              |                 |
| Employee benefits   | 1.1A  | 20,246          | 16,493       | 19,306          |
| Suppliers   | 1.1B  | 11,885          | 8,925        | 9,629           |
| Depreciation and amortisation   | 2.2A  | 1,533           | 1,998        | 1,461           |
| Finance costs   | 1.1C  | 16              | 20           | 15              |
| Write-down and impairment of other assets                                       | 1.1D  | 7               | 32           | -               |
| Other expenses  | 1.1E  | 22              | -            | -               |
| <b>Total expenses</b>   |       | <b>33,709</b>   | 27,468       | 30,411          |
| <b>Own-source revenue</b>   |       |                 |              |                 |
| Revenue from contracts with customers   | 1.2A  | 253             | 186          | 178             |
| Other revenue   | 1.2B  | 74              | 36           | -               |
| <b>Total own-source revenue</b>   |       | <b>327</b>      | 222          | 178             |
| <b>Gains</b>  |       |                 |              |                 |
| Other gains   | 1.2C  | 32              | -            | 33              |
| <b>Total gains</b>  |       | <b>32</b>       | -            | 33              |
| <b>Total own-source income</b>  |       | <b>359</b>      | 222          | 211             |
| <b>Net cost of services</b>   |       | <b>(33,350)</b> | (27,246)     | (30,200)        |
| Revenue from Government   | 1.2D  | 29,641          | 26,730       | 29,641          |
| <b>Deficit before income tax on continuing operations</b>                       |       | <b>(3,709)</b>  | (516)        | (559)           |
| <b>Deficit after income tax on continuing operations</b>                        |       | <b>(3,709)</b>  | (516)        | (559)           |
| <b>OTHER COMPREHENSIVE INCOME</b>   |       |                 |              |                 |
| <b>Items not subject to subsequent reclassification to net cost of services</b> |       |                 |              |                 |
| Changes in asset revaluation reserve  |       | -               | 100          | -               |
| <b>Total comprehensive income/(loss)</b>  |       | <b>(3,709)</b>  | <b>(416)</b> | <b>(559)</b>    |

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

## Budget Variances Commentary

The OAIC recorded a deficit from operations for the financial year ended 30 June 2023 of \$3.709M compared to an original budgeted deficit of \$0.559M.

The deficit was anticipated earlier in the year as matters around investigations of major data breaches and freedom of information funding became clearer. Permission for an operating loss of \$3.6M was sought and given in March 2023.

The variance is reflected in both employee benefits and suppliers and represents that loss which was driven by the costs associated with the investigations of the major data breaches that were not anticipated at the time of the budget and extra resource applied to freedom of information matters.

There was also a variance in depreciation/amortisation which reflects impact of going live on the new OAIC website, both in extra depreciation of the new site and the full depreciation of the old site.

# Statement of Financial Position

as at 30 June 2023

|   |       | 2023          | 2022   | Original Budget |
|---|-------|---------------|--------|-----------------|
|   | Notes | \$'000        | \$'000 | \$'000          |
| <b>ASSETS</b>                             |       |               |        |                 |
| <b>Financial assets</b>                   |       |               |        |                 |
| Cash and cash equivalents                 | 2.1A  | 3,087         | 2,931  | 2,912           |
| Trade and other receivables               | 2.1B  | 2,271         | 2,871  | 2,871           |
| <b>Total financial assets</b>             |       | <b>5,358</b>  | 5,802  | 5,783           |
| <b>Non-financial assets</b>               |       |               |        |                 |
| Right of Use                              | 2.2A  | 2,570         | 3,505  | 2,570           |
| Infrastructure, plant and equipment       | 2.2A  | 1,211         | 1,515  | 1,278           |
| Computer software                         | 2.2A  | 679           | 577    | 938             |
| Other non-financial assets                | 2.2B  | 106           | 114    | 114             |
| <b>Total non-financial assets</b>         |       | <b>4,566</b>  | 5,711  | 4,900           |
| <b>Total assets</b>                       |       | <b>9,924</b>  | 11,513 | 10,683          |
| <b>LIABILITIES</b>                        |       |               |        |                 |
| <b>Payables</b>                           |       |               |        |                 |
| Suppliers                                 | 2.3A  | 2,315         | 1,621  | 1,620           |
| Other payables                            | 2.3B  | 614           | 387    | 384             |
| <b>Total payables</b>                     |       | <b>2,929</b>  | 2,008  | 2,004           |
| <b>Interest bearing liabilities</b>       |       |               |        |                 |
| Leases                                    | 2.4A  | 2,686         | 3,594  | 2,692           |
| <b>Total interest bearing liabilities</b> |       | <b>2,686</b>  | 3,594  | 2,692           |
| <b>Provisions</b>                         |       |               |        |                 |
| Employee provisions                       | 4.1A  | 5,169         | 3,692  | 3,695           |
| <b>Total provisions</b>                   |       | <b>5,169</b>  | 3,692  | 3,695           |
| <b>Total liabilities</b>                  |       | <b>10,784</b> | 9,294  | 8,391           |
| <b>Net assets</b>                         |       | <b>(860)</b>  | 2,219  | 2,292           |



|  |       | 2023         | 2022    | Original Budget |
|--|-------|--------------|---------|-----------------|
|  | Notes | \$'000       | \$'000  | \$'000          |
| <b>EQUITY</b>                          |       |              |         |                 |
| Contributed equity                     |       | 6,053        | 5,423   | 6,053           |
| Reserves                               |       | 606          | 606     | 608             |
| Retained surplus/(Accumulated deficit) |       | (7,519)      | (3,810) | (4,369)         |
| <b>Total equity</b>                    |       | <b>(860)</b> | 2,219   | 2,292           |

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

### Budget Variances Commentary

While variances in assets and liabilities are to a degree driven by timing, for the year ended 30 June 2023 they are also impacted by the costs associated with the investigations of major data breaches that were not anticipated at the time of the budget and extra resource applied to freedom of information matters. There was also an increase in the employee provisions resulting from the increase in the size of the OAIC.

The movement in equity is a result of the operating deficit which reflects the approved operating loss of \$3.6M to allow for the costs associated with the investigations of major data breaches that were not anticipated at the time of the budget and extra resource applied to freedom of information matters.

# Statement of Changes in Equity

for the year ended 30 June 2023

|  |       | 2023           | 2022    | Original Budget |
|--|-------|----------------|---------|-----------------|
|  | Notes | \$'000         | \$'000  | \$'000          |
| <b>CONTRIBUTED EQUITY</b>                    |       |                |         |                 |
| <b>Opening balance</b>                       |       |                |         |                 |
| Balance carried forward from previous period |       | 5,423          | 4,873   | 5,423           |
| <b>Adjusted opening balance</b>              |       | <b>5,423</b>   | 4,873   | 5,423           |
| <b>Transactions with owners</b>              |       |                |         |                 |
| <b>Contributions by owners</b>               |       |                |         |                 |
| Equity injection – Appropriations            |       | 630            | 550     | 630             |
| <b>Total transactions with owners</b>        |       | <b>630</b>     | 550     | 630             |
| <b>Closing balance as at 30 June</b>         |       | <b>6,053</b>   | 5,423   | 6,053           |
| <b>RETAINED EARNINGS</b>                     |       |                |         |                 |
| <b>Opening balance</b>                       |       |                |         |                 |
| Balance carried forward from previous period |       | (3,810)        | (3,294) | (3,810)         |
| <b>Adjusted opening balance</b>              |       | <b>(3,810)</b> | (3,294) | (3,810)         |
| <b>Comprehensive income</b>                  |       |                |         |                 |
| Deficit for the period                       |       | (3,709)        | (516)   | (559)           |
| <b>Total comprehensive income</b>            |       | <b>(3,709)</b> | (516)   | (559)           |
| <b>Closing balance as at 30 June</b>         |       | <b>(7,519)</b> | (3,810) | (4,369)         |
| <b>ASSET REVALUATION RESERVE</b>             |       |                |         |                 |
| <b>Opening balance</b>                       |       |                |         |                 |
| Balance carried forward from previous period |       | 606            | 506     | 608             |
| <b>Adjusted opening balance</b>              |       | <b>606</b>     | 506     | 608             |
| <b>Comprehensive income</b>                  |       |                |         |                 |
| Other comprehensive income                   |       | –              | 100     | –               |
| <b>Total comprehensive income</b>            |       | <b>–</b>       | 100     | –               |
| <b>Closing balance as at 30 June</b>         |       | <b>606</b>     | 606     | 608             |

|  |       | 2023    | 2022   | Original Budget |
|--|-------|---------|--------|-----------------|
|  | Notes | \$'000  | \$'000 | \$'000          |
| <b>TOTAL EQUITY</b>                          |       |         |        |                 |
| <b>Opening balance</b>                       |       |         |        |                 |
| Balance carried forward from previous period |       | 2,219   | 2,085  | 2,221           |
| <b>Adjusted opening balance</b>              |       | 2,219   | 2,085  | 2,221           |
| <b>Comprehensive income</b>                  |       |         |        |                 |
| Deficit for the period                       |       | (3,709) | (516)  | (559)           |
| Other comprehensive income                   |       | -       | 100    | -               |
| <b>Total comprehensive income</b>            |       | (3,709) | (416)  | (559)           |
| <b>Transactions with owners</b>              |       |         |        |                 |
| <b>Contributions by owners</b>               |       |         |        |                 |
| Equity injection – Appropriations            |       | 630     | 550    | 630             |
| <b>Total transactions with owners</b>        |       | 630     | 550    | 630             |
| <b>Closing balance as at 30 June</b>         |       | (860)   | 2,219  | 2,292           |

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 movement in equity is a result of the operating deficit which reflects the approved operating loss of \$3.6M to allow for the costs associated with the investigations of major data breaches that were not anticipated at the time of the budget and extra resource applied to freedom of information matters.

# Cash Flow Statement

for the year ended 30 June 2023

|  |       | 2023            | 2022     | Original Budget |
|--|-------|-----------------|----------|-----------------|
|  | Notes | \$'000          | \$'000   | \$'000          |
| <b>OPERATING ACTIVITIES</b>                          |       |                 |          |                 |
| <b>Cash received</b>                                 |       |                 |          |                 |
| Appropriations                                       |       | 32,325          | 27,903   | 29,641          |
| Sale of goods and rendering of services              |       | 253             | 622      | 178             |
| Net GST received                                     |       | 822             | 781      | 414             |
| Other  |       | 229             | –        | –               |
| <b>Total cash received</b>                           |       | <b>33,629</b>   | 29,306   | 30,233          |
| <b>Cash used</b>                                     |       |                 |          |                 |
| Employees  |       | (19,373)        | (16,410) | (19,306)        |
| Suppliers  |       | (10,301)        | (10,133) | (9,596)         |
| Interest payments on lease liabilities               |       | (16)            | (20)     | (15)            |
| Section 74 receipts transferred to OPA               |       | (1,660)         | (533)    | –               |
| Net GST paid   |       | (822)           | –        | (414)           |
| <b>Total cash used</b>                               |       | <b>(32,172)</b> | (27,096) | (29,331)        |
| <b>Net cash from/(used by) operating activities</b>  |       | <b>1,457</b>    | 2,210    | 902             |
| <b>INVESTING ACTIVITIES</b>                          |       |                 |          |                 |
| <b>Cash received</b>                                 |       |                 |          |                 |
| Proceeds from sales of property, plant and equipment |       | 32              | –        | –               |
| <b>Total cash received</b>                           |       | <b>32</b>       | –        | –               |
| <b>Cash used</b>                                     |       |                 |          |                 |
| Purchase of property, plant and equipment            |       | (751)           | –        | (649)           |
| Purchase of intangibles                              |       | (304)           | (256)    | –               |
| <b>Total cash used</b>                               |       | <b>(1,055)</b>  | (256)    | (649)           |
| <b>Net cash from/(used by) investing activities</b>  |       | <b>(1,023)</b>  | (256)    | (649)           |

|   |       | 2023   | 2022   | Original Budget |
|---|-------|--------|--------|-----------------|
|   | Notes | \$'000 | \$'000 | \$'000          |
| <b>FINANCING ACTIVITIES</b>   |       |        |        |                 |
| <b>Cash received</b>  |       |        |        |                 |
| Contributed equity  |       | 630    | –      | 630             |
| <b>Total cash received</b>  |       | 630    | –      | 630             |
| <b>Cash used</b>  |       |        |        |                 |
| Principal payments of lease liabilities                             |       | (908)  | (862)  | (902)           |
| <b>Total cash used</b>  |       | (908)  | (862)  | (902)           |
| <b>Net cash from/(used by) financing activities</b>                 |       | (278)  | (862)  | (272)           |
| <b>Net increase/(decrease) in cash held</b>                         |       | 156    | 1,092  | (19)            |
| Cash and cash equivalents at the beginning of the reporting period  |       | 2,931  | 1,839  | 2,931           |
| <b>Cash and cash equivalents at the end of the reporting period</b> | 2.1A  | 3,087  | 2,931  | 2,912           |

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

### Budget Variances Commentary

The variance in cash flows is a result of drawing down prior year appropriations to fund the operating deficit which reflects the approved operating loss of \$3.6 million to allow for the costs associated with the investigations of major data breaches that were not anticipated at the time of the budget and extra resource applied to freedom of information matters. It also reflects the increased inflows related to funded leave balances for staff transferring in from other areas of government.

## Overview

### Objectives of the Office of the Australian Information Commissioner

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

The OAIC 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 OAIC originally budgeted for a breakeven result (after adjustment for depreciation/amortisation funded through revenue appropriations of \$0.526M, depreciation/amortisation of ROU of \$0.935M and principal repayments on leased assets of \$0.902M) for the year ended 30 June 2023. The actual Cash Operating Deficit was \$3.084M (after adjustment for depreciation/amortisation funded through revenue appropriations of \$0.598M, depreciation/amortisation of ROU of \$0.935M and principal repayments on leased assets of \$0.908M). The actual deficit was anticipated earlier in the year as matters around investigations and freedom of information funding became clearer. Permission for an operating loss of \$3.6 million was sought and given March 2023. The variance represents that approved loss which was driven by the costs associated with the investigations of the major data breaches that were not anticipated at the time of the budget and extra resource applied to freedom of information matters.

### The Basis of Preparation

The financial statements 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)*; and
- b) Australian Accounting Standards and Interpretations – including simplified disclosures for Tier 2 Entities under AASB 1060 issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

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

## Going Concern Basis of Accounting

The financial statements have been prepared on a going concern basis under the Australian Accounting Standards which assumes that the OAIC will realise assets and settle liabilities in the ordinary course of business, and amounts have been recognised on this basis. No adjustments have been made relating to the recoverability and classification of recorded asset amounts, nor to the amounts and classification of liabilities, that might be necessary should the OAIC not continue as a going concern.

The OAIC is an Australian Government entity established under the Australian Information Commissioner Act 2010. It would require legislative change to either cease or wind-up operations. The OAIC made a cash operating deficit of \$3.084 million for the year ended 30 June 2023 (2021–22: surplus of \$0.620 million). As at 30 June 2023, the OAIC has accumulated losses of \$7.519 million (2021–22: \$3.810 million), net liabilities of \$0.860 million (2021–22: net assets \$2.219 million) and net current assets of \$0.970 million (2021–22: \$1.288 million). The balance of cash and equivalents as at 30 June 2023 was \$3.087 million (2021–22: \$2.931 million). The OAIC also has \$1.713 million of appropriation receivable as at 30 June 2023 (2021–22: \$2.737 million).

The OAIC future funding as outlined in the Budget 2023–24 Portfolio Budget Statements, indicate that OAIC funding will reduce by \$15.397 million (33%) between 2023–24 and 2024–25 and a further \$6.894 million (22.1%) between 2024–25 and 2025–26. The reduction in funding predominantly relates to a series of terminating measures at the end of 2023–24 related to privacy, digital identity and the Optus data breach and terminating measures at the end of 2024–25 related to MyHeath Record and Consumer Data Right. Funding in relation to each of these areas is expected to be considered as a part of the federal budget processes over the next 12 to 24 months.

The OAIC has prepared cashflow forecasts which indicate that it will have sufficient cash to fund its operations for at least 12 months from the date of signing these financial statements without additional funding and support other than that already included in the Budget 2023–24 Portfolio Budget Statements. The OAIC has also developed a plan to return to a positive net asset position over the next three financial years.

While the net liability position, together with the funding reductions noted above, could indicate that a material uncertainty exists that may cast significant doubt on the Group's ability to continue as a going concern, it is our opinion that due to the strong operating cash position and likely future funding to replace the terminating measures that we are confident that the OAIC will be able to continue as a going concern.

## New Accounting Standards

### *Adoption of New Australian Accounting Standard Requirements*

Two amending standards (AASB 2021-2 and AASB 2021-6) were adopted earlier than the application date as stated in the standard. This amending standards have been adopted for the 2022–23 reporting period.

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

| Standard/Interpretation  | Nature of change in accounting policy, transitional provisions, and adjustment to financial statements   |
|--|--|
| AASB 2021-2 <i>Amendments to Australian Accounting Standards – Disclosure of Accounting Policies and Definition of Accounting Estimates</i> (AASB 2021-2) and        | AASB 2021-2 amends AASB 7, AASB 101, AASB 108, AASB 134 and AASB Practice Statement 2. The amending standard requires the disclosure of material, rather than significant, accounting policies, and clarifies what is considered a change in accounting policy compared to a change in accounting estimate.  |
| AASB 2021-6 <i>Amendments to Australian Accounting Standards – Disclosure of Accounting Policies: Tier 2 and Other Australian Accounting Standards</i> (AASB 2021-6) | AASB 2021-6 amends the Tier 2 reporting requirements set out in AASB 1049, AASB 1054 and AASB 1060 to reflect the changes made by AASB 2021-2.<br><br>The details of the changes in accounting policies and adjustments are disclosed below and in the relevant notes to the financial statements. This amending standard is not expected to have a material impact on the entity's financial statements for the current reporting period or future reporting periods. |

## Taxation

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

## Events After the Reporting Period

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



## Financial Performance

This section analyses the financial performance of the OAIC for the year ended 30 June 2023.

### 1.1 Expenses

|                                | 2023          | 2022          |
|--------------------------------|---------------|---------------|
|                                | \$'000        | \$'000        |
| <b>1.1A: Employee benefits</b> |               |               |
| Wages and salaries             | 15,131        | 13,220        |
| Superannuation                 |               |               |
| Defined contribution plans     | 2,056         | 2,076         |
| Defined benefit plans          | 527           | 62            |
| Leave and other entitlements   | 2,389         | 1,100         |
| Separation and redundancies    | -             | 1             |
| Other employee expenses        | 143           | 34            |
| <b>Total employee benefits</b> | <b>20,246</b> | <b>16,493</b> |

#### Accounting Policy

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

|  | 2023          | 2022   |
|--|---------------|--------|
|  | \$'000        | \$'000 |
| <b>1.1B: Suppliers</b>                               |               |        |
| <b>Goods and services supplied or rendered</b>       |               |        |
| Audit fees (paid)                                    | 88            | 36     |
| Consultants  | 366           | 126    |
| Contractors  | 1,703         | 106    |
| Travel   | 341           | 34     |
| ICT services   | 802           | 577    |
| Communication  | 290           | -      |
| Legal  | 5,673         | 1,032  |
| MOU  | 1,458         | 1,979  |
| Property   | 317           | 581    |
| Office services                                      | 146           | 20     |
| Learning & Development                               | 215           | 213    |
| Other  | 296           | 3,013  |
| <b>Total goods and services supplied or rendered</b> | <b>11,695</b> | 7,717  |
| Goods supplied                                       | 82            | 100    |
| Services rendered                                    | 11,613        | 7,617  |
| <b>Total goods and services supplied or rendered</b> | <b>11,695</b> | 7,717  |
| <b>Other suppliers</b>                               |               |        |
| Workers compensation expenses                        | 33            | 62     |
| Short-term leases                                    | 64            | 1,005  |
| Low value leases                                     | 93            | 141    |
| <b>Total other suppliers</b>                         | <b>190</b>    | 1,208  |
| <b>Total suppliers</b>                               | <b>11,885</b> | 8,925  |

The OAIC has short-term lease commitments of \$4,300 as at 30 June 2023 located at: Ground Floor, 4 National Circuit, BARTON ACT 2600 which is on monthly basis.

### Accounting Policy

#### *Short-term leases and leases of low-value assets*

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

|                               | 2023      | 2022   |
|-------------------------------|-----------|--------|
|                               | \$'000    | \$'000 |
| <b>1.1C: Finance costs</b>    |           |        |
| Interest on lease liabilities | 16        | 20     |
| <b>Total finance costs</b>    | <b>16</b> | 20     |

The above lease disclosures should be read in conjunction with the accompanying notes 2.2 and 2.4A.

### Accounting Policy

All borrowing costs are expensed as incurred.

|  | 2023      | 2022   |
|--|-----------|--------|
|  | \$'000    | \$'000 |
| <b>1.1D: Write-down and impairment of other assets</b> |           |        |
| Write-down of property, plant and equipment            | 7         | 32     |
| <b>Total write-down and impairment of other assets</b> | <b>7</b>  | 32     |
| <b>1.1E: Other expenses</b>                            |           |        |
| Settlement of litigation                               | 17        | -      |
| Other – FBT Expenses                                   | 5         | -      |
| <b>Total other expenses</b>                            | <b>22</b> | -      |

## 1.2 Own-Source Revenue and gains

|  | 2023       | 2022   |
|--|------------|--------|
|  | \$'000     | \$'000 |
| <b>Own-Source Revenue</b>                                      |            |        |
| <b>1.2A: Revenue from contracts with customers</b>             |            |        |
| Rendering of services  | 253        | 186    |
| <b>Total revenue from contracts with customers</b>             | <b>253</b> | 186    |
| <b>Disaggregation of revenue from contracts with customers</b> |            |        |
| Major product / service line:                                  |            |        |
| Privacy Service  | 253        | 186    |
| Type of customer:  |            |        |
| Australian Government entities (related parties)               | 75         | 1      |
| State and Territory Governments                                | 178        | 178    |
| Non-government entities  | -          | 7      |
|  | <b>253</b> | 186    |
| Timing of transfer of goods and services:                      |            |        |
| Over time  | 253        | 186    |
|  | <b>253</b> | 186    |

### 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.

|                                   | 2023      | 2022   |
|-----------------------------------|-----------|--------|
|                                   | \$'000    | \$'000 |
| <b>1.2B: Other revenue</b>        |           |        |
| Resources received free of charge |           |        |
| Remuneration of auditors          | 36        | 36     |
| Other revenue                     | 38        | -      |
| <b>Total other revenue</b>        | <b>74</b> | 36     |

### Accounting Policy

#### *Resources Received Free of Charge*

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

|                                   | 2023      | 2022   |
|-----------------------------------|-----------|--------|
|                                   | \$'000    | \$'000 |
| <b>1.2C: Other gains</b>          |           |        |
| Gains arising from sale of assets | 32        | -      |
| <b>Total other gains</b>          | <b>32</b> | -      |

The above lease disclosure should be read in conjunction with the accompanying notes 1.1D and 2.2.

### Accounting Policy

#### *Sale of Assets*

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

.....

|                                      | 2023          | 2022   |
|--------------------------------------|---------------|--------|
|                                      | \$'000        | \$'000 |
| <b>1.2D: Revenue from Government</b> |               |        |
| Appropriations                       |               |        |
| Departmental appropriations          | <b>29,641</b> | 26,730 |
| <b>Total revenue from Government</b> | <b>29,641</b> | 26,730 |

### Accounting Policy

#### *Revenue from Government*

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

## Financial Position

This section analyses the OAIC'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

|  | 2023         | 2022   |
|--|--------------|--------|
|  | \$'000       | \$'000 |
| <b>2.1A: Cash and cash equivalents</b> |              |        |
| Cash on hand or on deposit             | 3,087        | 2,931  |
| <b>Total cash and cash equivalents</b> | <b>3,087</b> | 2,931  |

#### Accounting Policy

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

|  | 2023   | 2022   |
|--|--------|--------|
|  | \$'000 | \$'000 |
| <b>2.1B: Trade and other receivables</b>         |        |        |
| <b>Appropriation receivables</b>                 |        |        |
| Appropriation receivable                         | 1,713  | 2,737  |
| <b>Total appropriation receivables</b>           | 1,713  | 2,737  |
| <b>Other receivables</b>                         |        |        |
| GST receivables                                  | 106    | 134    |
| Other receivables                                | 452    | -      |
| <b>Total other receivables</b>                   | 558    | 134    |
| <b>Total trade and other receivables (gross)</b> | 2,271  | 2,871  |
| <b>Total trade and other receivables (net)</b>   | 2,271  | 2,871  |

Credit terms for goods and services were within 30 days (2022: 30 days).

### Accounting Policy

#### *Financial assets*

Trade receivables, loans and other receivables that are held for the purpose of collecting the contractual cash flows where the cash flows are solely payments of principal and interest, that are not provided at below-market interest rates, are subsequently measured at amortised cost using the effective interest method adjusted for any loss allowance.



## 2.2 Non-Financial Assets

### 2.2A: Reconciliation of the Opening and Closing Balances of Property, Plant and Equipment and Intangibles

|   | Right of Use | Lease improvements | Computer, plant and equipment | Computer Software | Total   |
|---|--------------|--------------------|-------------------------------|-------------------|---------|
|   | \$'000       | \$'000             | \$'000                        | \$'000            | \$'000  |
| <b>As at 1 July 2022</b>                              |              |                    |                               |                   |         |
| Gross book value                                      | 4,673        | 1,340              | 672                           | 2,534             | 9,219   |
| Accumulated depreciation, amortisation and impairment | (1,168)      | (477)              | (20)                          | (1,957)           | (3,622) |
| <b>Total as at 1 July 2022</b>                        | 3,505        | 863                | 652                           | 577               | 5,597   |
| <b>Adjusted total as at 1 July 2022</b>               | 3,505        | 863                | 652                           | 577               | 5,597   |
| Additions – Purchase or internally developed          | –            | –                  | 99                            | 304               | 403     |
| Depreciation and amortisation                         | –            | (216)              | (180)                         | (202)             | (598)   |
| Depreciation on right-of-use assets                   | (935)        | –                  | –                             | –                 | (935)   |
| Disposals – Other                                     | –            | –                  | (7)                           | –                 | (7)     |
| <b>Total as at 30 June 2023</b>                       | 2,570        | 647                | 564                           | 679               | 4,460   |
| <b>Total as at 30 June 2023 represented by</b>        |              |                    |                               |                   |         |
| Gross book value                                      | 4,673        | 1,340              | 763                           | 2,838             | 9,614   |
| Accumulated depreciation, amortisation and impairment | (2,103)      | (693)              | (199)                         | (2,159)           | (5,154) |
| <b>Total as at 30 June 2023</b>                       | 2,570        | 647                | 564                           | 679               | 4,460   |
| Carrying amount of right-of-use assets                | 2,570        | –                  | –                             | –                 | 2,570   |

No property, plant and equipment and intangibles are expected to be sold or disposed of within the next 12 months.

#### Contractual commitments for the acquisition of property, plant, equipment and intangible assets

As at 30 June 2023, the OAIC's commitments include Computer, plant and equipment of \$0.235M, Leasehold Improvements of \$0.277M and Intangible Asset of \$0.125M

Reconciliation of the opening and closing balances of property, plant and equipment for 2022

|   | Right of Use | Lease improvements | Computer, plant and equipment | Computer Software | Total   |
|---|--------------|--------------------|-------------------------------|-------------------|---------|
|   | \$'000       | \$'000             | \$'000                        | \$'000            | \$'000  |
| <b>As at 1 July 2021</b>  |              |                    |                               |                   |         |
| Gross book value  | 7,864        | 1,490              | 55                            | 3,316             | 12,725  |
| Accumulated depreciation, amortisation and impairment                 | (3,424)      | –                  | –                             | (2,695)           | (6,119) |
| <b>Total as at 1 July 2021</b>  | 4,440        | 1,490              | 55                            | 621               | 6,606   |
| <b>Additions</b>  |              |                    |                               |                   |         |
| Purchase  | –            | –                  | 652                           | 256               | 908     |
| Revaluations and impairments recognised in other comprehensive income | –            | 91                 | 9                             | –                 | 100     |
| Depreciation and amortisation   | (935)        | (710)              | (40)                          | (313)             | (1,998) |
| Other movements   |              |                    |                               | 13                | 13      |
| Disposals   |              |                    |                               |                   |         |
| Other   | –            | (8)                | (24)                          | –                 | (32)    |
| <b>Total as at 30 June 2022</b>                                       | 3,505        | 863                | 652                           | 577               | 5,597   |
| <b>Total as at 30 June 2022 represented by</b>                        |              |                    |                               |                   |         |
| Gross book value  | 4,673        | 1,340              | 672                           | 2,534             | 9,219   |
| Accumulated depreciation, amortisation and impairment                 | (1,168)      | (477)              | (20)                          | (1,957)           | (3,622) |
| <b>Total as at 30 June 2022</b>                                       | 3,505        | 863                | 652                           | 577               | 5,597   |

## Accounting Policy

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

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

### *Asset Recognition Threshold*

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

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

### *Lease Right of Use (ROU) Assets*

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

An impairment review is undertaken for any right of use lease asset that shows indicators of impairment and an impairment loss is recognised against any right of use lease asset that is impaired. Lease ROU assets continue to be measured at cost after initial recognition in Commonwealth agency, GGS and Whole of Government financial statements.

### *Revaluations*

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

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

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

### *Depreciation*

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

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

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

|                        | 2023          | 2022          |
|------------------------|---------------|---------------|
| Leasehold improvements | Lease terms   | Lease terms   |
| Plant and equipment    | 4 to 10 years | 4 to 10 years |

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

#### *Impairment*

All assets were assessed for impairment at 30 June 2023. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

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

#### *Derecognition*

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

#### *Intangibles*

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

Software is amortised on a straight-line basis over its anticipated useful life. The useful lives of the entity's software are 2 to 5 years (2022: 2 to 5 years).

All software assets were assessed for indications of impairment as at 30 June 2023.

#### *Accounting Judgements and Estimates*

The OAIC last undertook an asset revaluation on 30 June 2022. Management has performed an assessment based on current indices and determined that prior year valuation does not differ materially to the fair value at year end because there has been no significant movements in the indices used in prior valuation. As the result, revaluation was not carried out as at 30 June 2023.

|   | 2023       | 2022       |
|---|------------|------------|
|   | \$'000     | \$'000     |
| <b>2.2B: Other non-financial assets</b> |            |            |
| Prepayments                             | 106        | 114        |
| <b>Total other non-financial assets</b> | <b>106</b> | <b>114</b> |

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

## 2.3 Payables

|                              | 2023         | 2022   |
|------------------------------|--------------|--------|
|                              | \$'000       | \$'000 |
| <b>2.3A: Suppliers</b>       |              |        |
| Trade creditors and accruals | 2,315        | 1,621  |
| <b>Total suppliers</b>       | <b>2,315</b> | 1,621  |

Settlement terms for suppliers are within 20 days of the date of an official, correctly rendered supplier invoice.

|                             | 2023       | 2022   |
|-----------------------------|------------|--------|
|                             | \$'000     | \$'000 |
| <b>2.3B: Other payables</b> |            |        |
| Salaries and wages          | 515        | 333    |
| Superannuation              | 78         | 51     |
| Other employee payables     | 16         | 3      |
| Statutory payable           | 5          | -      |
| <b>Total other payables</b> | <b>614</b> | 387    |

## 2.4 Interest Bearing Liabilities

|  | 2023         | 2022   |
|--|--------------|--------|
|  | \$'000       | \$'000 |
| <b>2.4A: Leases</b>  |              |        |
| Lease liabilities  | 2,686        | 3,594  |
| <b>Total leases</b>  | <b>2,686</b> | 3,594  |
| <b>Maturity analysis – contractual undiscounted cash flows</b> |              |        |
| Within 1 year  | 954          | 918    |
| Between 1 to 5 years   | 1,759        | 2,714  |
| <b>Total leases</b>  | <b>2,713</b> | 3,632  |

Total cash outflow for leases for the year ended 30 June 2023 was \$0.924M (2022: \$0.882M)

The above lease disclosures should be read in conjunction with the accompanying notes 1.1C and 2.2.

### Accounting Policy

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

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

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

## Funding

This section identifies the OAIC funding structure.

### 3.1 Appropriations

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

##### Annual Appropriations for 2023

|                                    | Annual<br>Appropriation | Adjustments to<br>appropriation <sup>1</sup> | Total<br>appropriation | Appropriation<br>applied in 2023<br>(current and<br>prior years) | Variance <sup>2</sup> |
|------------------------------------|-------------------------|--|------------------------|--|-----------------------|
|                                    | \$'000                  | \$'000                                       | \$'000                 | \$'000   | \$'000                |
| <b>Departmental</b>                |                         |  |                        |  |                       |
| Ordinary annual services           | 29,641                  | 838  | 30,479                 | (32,133)   | (1,654)               |
| Other Services – Equity Injections | 630                     | –  | 630                    | –  | 630                   |
| <b>Total departmental</b>          | <b>30,271</b>           | <b>838</b>                                   | <b>31,109</b>          | <b>(32,133)</b>  | <b>(1,024)</b>        |

1. Adjustments to appropriations includes adjustments to current year annual appropriations including PGPA Act section 74 receipts.

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

##### Annual Appropriations for 2022

|                                    | Annual<br>Appropriation | Adjustments to<br>appropriation <sup>1</sup> | Total<br>appropriation | Appropriation<br>applied in 2022 | Variance <sup>2</sup> |
|------------------------------------|-------------------------|--|------------------------|----------------------------------|-----------------------|
|                                    | \$'000                  | \$'000                                       | \$'000                 | \$'000                           | \$'000                |
| <b>Departmental</b>                |                         |  |                        |                                  |                       |
| Ordinary annual services           | 26,730                  | 533  | 27,263                 | (26,658)                         | 605                   |
| Other Services – Equity Injections | 550                     | 31   | 581                    | (153)                            | 428                   |
| <b>Total departmental</b>          | <b>27,280</b>           | <b>564</b>                                   | <b>27,844</b>          | <b>(26,811)</b>                  | <b>1,033</b>          |

1. Adjustments to appropriations includes PGPA Act section 74 receipts.

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

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

|                                   | 2023         | 2022         |
|-----------------------------------|--------------|--------------|
|                                   | \$'000       | \$'000       |
| <b>Departmental</b>               |              |              |
| Cash or cash equivalent           | 3,087        | 2,931        |
| Appropriation Act (No. 2) 2022–23 | 500          | –            |
| Supply Act ( No. 2) 2022–23       | 98           | –            |
| Supply Act ( No. 4) 2022–23       | 32           | –            |
| Appropriation Act (No. 1) 2021–22 | 533          | 533          |
| Appropriation Act (No. 4) 2021–22 | 550          | 550          |
| Appropriation Act (No. 1) 2020–21 | –            | 807          |
| Supply Act ( No. 1) 2020–21       | –            | 847          |
| <b>Total departmental</b>         | <b>4,800</b> | <b>5,668</b> |

### 3.2 Net Cash Appropriation Arrangements

|  | 2023           | 2022         |
|--|----------------|--------------|
|  | \$'000         | \$'000       |
| <b>Total comprehensive income/(loss) – as per the Statement of Comprehensive Income</b>  | <b>(3,709)</b> | <b>(416)</b> |
| <b>Plus:</b> depreciation/amortisation of assets funded through appropriations (departmental capital budget funding and/or equity injections) <sup>1</sup> | <b>598</b>     | 1,063        |
| <b>Plus:</b> depreciation of right-of-use assets <sup>2</sup>  | <b>935</b>     | 935          |
| <b>Less:</b> lease principal repayments <sup>2</sup>   | <b>(908)</b>   | (862)        |
| <b>Less:</b> Changes in asset revaluation reserve  | –              | (100)        |
| <b>Net Cash Operating Surplus/(Deficit)</b>  | <b>(3,084)</b> | 620          |

1. From 2010–11, the Government introduced net cash appropriation arrangements where revenue appropriations for depreciation/ amortisation expenses of non-corporate Commonwealth entities and selected corporate Commonwealth entities were replaced with a separate capital budget provided through equity appropriations. Capital budgets are to be appropriated in the period when cash payment for capital expenditure is required.

2. The inclusion of depreciation/amortisation expenses related to ROU leased assets and the lease liability principal repayment amount reflects the impact of AASB 16 Leases, which does not directly reflect a change in appropriation arrangements.



## 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

|                                  | 2023         | 2022   |
|----------------------------------|--------------|--------|
|                                  | \$'000       | \$'000 |
| <b>4.1A: Employee provisions</b> |              |        |
| Leave                            | 5,169        | 3,692  |
| <b>Total employee provisions</b> | <b>5,169</b> | 3,692  |

#### 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.

Other long-term employee benefits are measured as net total of the present value of the defined benefit obligation at the end of the reporting period minus the fair value at the end of the reporting period of plan assets (if any) out of which the obligations are to be settled directly.

#### 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 entity'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 as at 30 June 2023. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

#### Separation and Redundancy

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

#### Superannuation

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

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

.....

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported in 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 entity 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.

**Accounting Judgements and Estimates**

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

## 4.2 Key Management Personnel Remuneration

Key management personnel are those persons having authority and responsibility for planning, directing and controlling the activities of the OAIC. The OAIC has determined the key management personnel to be the Australian Information Commissioner and Deputy Commissioner or individuals acting in those positions for a specified time.

|   | 2023       | 2022       |
|---|------------|------------|
|   | \$’000     | \$’000     |
| Short-term employee benefits  | 783        | 764        |
| Post-employment benefits  | 90         | 87         |
| Other long-term employee benefits                                       | 54         | 33         |
| <b>Total key management personnel remuneration expenses<sup>1</sup></b> | <b>927</b> | <b>884</b> |

The total number of key management personnel that are included in the above table are 2 (2022: 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 OAIC.

## 4.3 Related Party Disclosures

### Related party relationships:

The parent entity to OAIC is Australian Government. The entity 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 OAIC manages financial risks within its operating environment.

## 5.1A: Contingent assets and liabilities

### Quantifiable contingent assets

As at 30 June 2023, the OAIC had no quantifiable contingent assets.

### Quantifiable contingent liabilities

As at 30 June 2023, the OAIC had no quantifiable contingent liabilities.

### Unquantifiable contingent assets

As at 30 June 2023, the OAIC had 8 unquantifiable contingent assets relating to matters before the court that are considered more likely than not to lead to costs in favour of the OAIC. It was not possible to estimate the amounts of any eventual payments that may be received in relation to these claims.

### Unquantifiable contingent liabilities

As at 30 June 2023, the OAIC had 6 unquantifiable contingent liabilities relating to matters before the court that are considered more likely than not to lead to costs against the OAIC. It was not possible to estimate the amounts of any eventual payments that may be paid out in relation to these claims.

#### **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

|   | 2023   | 2022   |
|---|--------|--------|
|   | \$'000 | \$'000 |
| <b>5.2A: Categories of financial instruments</b>              |        |        |
| <b>Financial assets at amortised cost</b>                     |        |        |
| Cash on hand or on deposit                                    | 3,087  | 2,931  |
| <b>Total financial assets at amortised cost</b>               | 3,087  | 2,931  |
| <b>Total financial assets</b>                                 | 3,087  | 2,931  |
| <b>Financial Liabilities</b>                                  |        |        |
| <b>Financial liabilities measured at amortised cost</b>       |        |        |
| Trade creditors and accruals                                  | 2,315  | 1,621  |
| <b>Total financial liabilities measured at amortised cost</b> | 2,315  | 1,621  |
| <b>Total financial liabilities</b>                            | 2,315  | 1,621  |

### Accounting Policy

#### *Financial assets*

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

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

The classification depends on both the entity's business model for managing the financial assets and contractual cash flow characteristics at the time of initial recognition. Financial assets are recognised when the entity becomes a party to the contract and, as a consequence, has a legal right to receive or a legal obligation to pay cash and derecognised when the contractual rights to the cash flows from the financial asset expire or are transferred upon trade date.

Comparatives have not been restated on initial application.

#### *Financial Assets at Amortised Cost*

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

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

Amortised cost is determined using the effective interest method.



#### *Effective Interest Method*

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

#### *Impairment of Financial Assets*

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

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

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

#### **Financial liabilities**

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

#### *Financial Liabilities at Amortised Cost*

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

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

## 5.3 Fair Value Measurement

### **Accounting Policy**

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

### 5.3A: Fair value measurement

|                                     | Fair value measurements<br>at the end of the reporting period |        |
|-------------------------------------|---|--------|
|                                     | 2023  | 2022   |
|                                     | \$'000  | \$'000 |
| <b>Non-financial assets</b>         |   |        |
| Infrastructure, plant and equipment | 1,211   | 1,515  |

The OAIC last undertook an asset revaluation on 30 June 2022. Management has performed an assessment based on current indices and determined that prior year valuation does not differ materially to the fair value at year end because there has been no significant movements in the indices used in prior valuation. As the result, revaluation was not carried out as at 30 June 2023.

## Other information

### 6.1 Current/non-current distinction for assets and liabilities

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

|   | 2023          | 2022          |
|---|---------------|---------------|
|   | \$'000        | \$'000        |
| <b>Assets expected to be recovered in:</b>    |               |               |
| <b>No more than 12 months</b>                 |               |               |
| Cash and cash equivalents                     | 3,087         | 2,931         |
| Trade and other receivables                   | 452           | –             |
| Appropriation receivables                     | 1,713         | 2,737         |
| GST Receivables                               | 106           | 134           |
| Prepayment                                    | 106           | 114           |
| Right of Use                                  | 935           | –             |
| Infrastructure, plant and equipment           | 453           | –             |
| Computer software                             | 206           | –             |
| <b>Total no more than 12 months</b>           | <b>7,058</b>  | <b>5,916</b>  |
| <b>More than 12 months</b>                    |               |               |
| Right of Use                                  | 1,635         | 3,505         |
| Infrastructure, plant and equipment           | 758           | 1,515         |
| Computer software                             | 473           | 577           |
| <b>Total more than 12 months</b>              | <b>2,866</b>  | <b>5,597</b>  |
| <b>Total assets</b>                           | <b>9,924</b>  | <b>11,513</b> |
| <b>Liabilities expected to be settled in:</b> |               |               |
| <b>No more than 12 months</b>                 |               |               |
| Suppliers                                     | 2,315         | 1,621         |
| Salaries and wages                            | 515           | 333           |
| Superannuation                                | 78            | 51            |
| Employee provisions                           | 2,205         | 1,718         |
| Leases  | 954           | 902           |
| Other payables                                | 21            | 3             |
| <b>Total no more than 12 months</b>           | <b>6,088</b>  | <b>4,628</b>  |
| <b>More than 12 months</b>                    |               |               |
| Leases  | 1,732         | 2,692         |
| Employee provisions                           | 2,964         | 1,974         |
| <b>Total more than 12 months</b>              | <b>4,696</b>  | <b>4,666</b>  |
| <b>Total liabilities</b>                      | <b>10,784</b> | <b>9,294</b>  |





# Part 5

## Appendices

|  |     |
|--|-----|
| Appendix A: Agency resource statement and resources for outcomes ..... | 119 |
| Appendix B: Executive remuneration .....                               | 121 |
| Appendix C: Workforce statistics .....                                 | 124 |
| Appendix D: Memorandums of understanding .....                         | 136 |
| Appendix E: Freedom of Information statistics .....                    | 137 |
| Appendix F: Stakeholder survey results and methodology .....           | 170 |
| Appendix G: Shortened forms .....                                      | 182 |
| Appendix H: Correction of material errors .....                        | 186 |
| Appendix I: List of requirements .....                                 | 187 |

## Appendix A: Agency resource statement and resources for outcomes

**Table A.1: OAIC resource statement 2022–23**

|   | Actual available appropriation for 2022–23 \$'000 | Payments made 2022–23 \$'000 | Balance remaining for 2022–23 \$'000 |
|---|---|------------------------------|--------------------------------------|
|   | (a)   | (b)                          | (a) – (b)                            |
| <b>Departmental</b>                                       |   |                              |                                      |
| Annual appropriations – ordinary annual services*         | 32,728  | 29,641                       | 3,087                                |
| Annual appropriations – other services s 74†              | 3,847   | 3,314                        | 533                                  |
| Annual appropriations – other services – non-operating‡   | 1180  | –                            | 1,180                                |
| <b>Total departmental annual appropriations</b>           | 37,755  | 32,955                       | 4,800                                |
| <b>Total available annual appropriations and payments</b> | 37,755  | 32,955                       | 4,800                                |
| <b>Total resourcing and payments</b>                      | 37,755  | 32,955                       |                                      |
| <b>Total net resourcing and payments for the OAIC</b>     | 37,755  | 32,955                       |                                      |

All figures are Goods and Services Tax (GST) exclusive.

\* Appropriation Act (No. 1) 2022–2023, Supply Act (No. 1) 2022–2023, Supply Act (No. 3) 2022–2023 and unspent cash or cash equivalents.

† Appropriation Act (No. 1) 2020–2021, Supply Act (No. 1) 2020–2021 and Appropriation Act (No. 1) 2021–22, includes Public Governance, Performance and Accountability Act 2013 (PGPA Act) and s 74 retained receipts.

‡ Appropriation Act (No. 2) 2022–23, Supply Act (No. 2) 2022–2023, Supply Act (No. 4) 2022–2023 and Appropriation Act (No. 4) 2021–2022.

Table A.2: OAIC resources for outcomes 2022–23

|   | Budget 2022–23<br>\$'000 | Actual expenses<br>2022–23<br>\$'000 | Variation 2022–23<br>\$'000 |
|---|--------------------------|--------------------------------------|-----------------------------|
|   | (a)                      | (b)                                  | (a) – (b)                   |
| <b>Outcome 1</b>  |                          |                                      |                             |
| Provision of public access to Commonwealth Government information, protection of individuals' personal information, and performance of Information Commissioner, freedom of information and privacy functions |                          |                                      |                             |
| <b>Program 1.1</b>  |                          |                                      |                             |
| Complaint handling, compliance and monitoring, and education and promotion  |                          |                                      |                             |
| Administered expenses   | –                        | –                                    | –                           |
| Departmental expenses   |                          |                                      |                             |
| Departmental appropriation*   | 29,678                   | 32,682                               | (3,004)                     |
| s 74 External revenue   | 178                      | 359                                  | (181)                       |
| Expenses not requiring appropriation in the Budget year   | 559                      | 668                                  | (109)                       |
| <b>Total for program 1.1</b>  | <b>30,415</b>            | <b>33,709</b>                        | <b>(3,294)</b>              |
| <b>Total expenses for outcome 1</b>   | <b>30,415</b>            | <b>33,709</b>                        | <b>(3,294)</b>              |
|   |                          |                                      |                             |
|   | <b>2022–23</b>           | <b>2022–23</b>                       |                             |
| <b>Average staffing level (number)</b>  | <b>167</b>               | <b>137</b>                           | <b>30</b>                   |

\* Departmental appropriation combines ordinary annual services (Appropriation Act No. 1, Supply Act No. 1 and Supply Act No. 3 2022–2023) and the PGPA Act.

## Appendix B: Executive remuneration

### Key management personnel

The OAIC has determined that our key management personnel (KMP) are the Information Commissioner and Deputy Commissioner or individuals acting in those positions for a specified period of time. Angelene Falk held the position of Information Commissioner, and Elizabeth Hampton held the position of Deputy Commissioner, for duration of the reporting period.

Details of KMP remuneration are provided in Note 4.2 of the financial statements. Disaggregated information is shown in Table B.1 and is prepared in accordance with the Public Governance, Performance and Accountability Rule 2014 (PGPA Rule) and *Commonwealth entities executive remuneration reporting guide for annual reports* (RMG 138).

### Senior Executive

At 30 June 2023, the OAIC had one non-KMP and non-Senior Executive Service (SES) senior executive being the Freedom of Information Commissioner. The OAIC also had 8 SES positions, including the Deputy Commissioner, Senior Assistant Commissioner, Assistant Commissioner Dispute Resolution, Assistant Commissioner Regulation and Strategy, Assistant Commissioner Regulation and Strategy (CDR), Assistant Commissioner Freedom of Information, Assistant Commissioner Major Investigations and Assistant Commissioner Corporate. One of the 8 SES positions is occupied by temporary personnel.

### Remuneration policies and practices

In accordance with s 17 of the *Australian Information Commissioner Act 2010* (AIC ACT), the remuneration of the Information Commissioner and the Freedom of Information Commissioner is set by the Remuneration Tribunal. The Remuneration Tribunal also determines increases to remuneration or allowances.

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

SES determinations set out the salary on commencement and provide for increments in salary. To be eligible for an increase in salary, an SES officer must obtain an annual performance rating of effective or above, which aligns with the OAIC's performance management framework, Talking about performance (TAP).

Performance agreements are set and reviewed by the Information Commissioner or Deputy Commissioner as appropriate.

**Table B.1: Information about remuneration for key management personnel**

| Name              | Position            | Short-term benefits |          |                               | Post-employment benefits     |                          | Termination benefits | Total remuneration |                          |
|-------------------|---------------------|---------------------|----------|-------------------------------|------------------------------|--------------------------|----------------------|--------------------|--------------------------|
|                   |                     | Base salary         | Bonuses  | Other benefits and allowances | Superannuation contributions | Other long-term benefits |                      |                    |                          |
|                   |                     |                     |          |                               |                              | Long service leave       |                      |                    | Other long term benefits |
| Angelene Falk     | Commissioner        | 464,577             | -        | -                             | 36,434                       | 27,548                   | -                    | 528,559            |                          |
| Elizabeth Hampton | Deputy Commissioner | 318,565             | -        | -                             | 53,609                       | 26,670                   | -                    | 398,844            |                          |
| <b>Total</b>      |                     | <b>783,142</b>      | <b>-</b> | <b>-</b>                      | <b>90,043</b>                | <b>54,218</b>            | <b>-</b>             | <b>927,403</b>     |                          |

**Table B.2: Information about remuneration for senior executives**

| Remuneration band   | Number of senior executives | Short-term benefits |                 |                                       | Average other benefits and allowances | Average superannuation contributions | Other long-term benefits   |                                  | Post-employment benefits | Termination benefits | Total remuneration |
|---------------------|-----------------------------|---------------------|-----------------|---------------------------------------|---------------------------------------|--------------------------------------|----------------------------|----------------------------------|--------------------------|----------------------|--------------------|
|                     |                             | Average base salary | Average bonuses | Average other benefits and allowances |                                       |                                      | Average long service leave | Average other long-term benefits |                          |                      |                    |
| \$0–\$220,000       | 5                           | 68,094              | –               | –                                     | 12,567                                | 22,099                               | –                          | –                                | –                        | 102,759              |                    |
| \$220,001–\$245,000 | 2                           | 190,311             | –               | –                                     | 23,674                                | 24,272                               | –                          | –                                | –                        | 238,257              |                    |
| \$245,001–\$270,000 | 1                           | 205,757             | –               | –                                     | 30,044                                | 20,723                               | –                          | –                                | –                        | 256,524              |                    |
| \$270,001–\$295,000 | –                           | –                   | –               | –                                     | –                                     | –                                    | –                          | –                                | –                        | –                    |                    |
| \$295,001–\$320,000 | 2                           | 250,286             | –               | –                                     | 39,709                                | 17,560                               | –                          | –                                | –                        | 307,555              |                    |
| \$320,001–\$345,000 | –                           | –                   | –               | –                                     | –                                     | –                                    | –                          | –                                | –                        | –                    |                    |
| \$345,001–\$370,000 | –                           | –                   | –               | –                                     | –                                     | –                                    | –                          | –                                | –                        | –                    |                    |
| \$370,001–\$395,000 | 1                           | 345,089             | –               | –                                     | 40,215                                | –10                                  | –                          | –                                | –                        | 385,294              |                    |
| \$395,001–\$420,000 | 1                           | 318,565             | –               | –                                     | 53,609                                | 26,670                               | –                          | –                                | –                        | 398,844              |                    |

**Table B.3 Details of accountable authority during the reporting period**

| Period as the accountable authority or member within the reporting period |                                     |                      |                   |
|---|-------------------------------------|----------------------|-------------------|
| Name  | Position title/position held        | Date of commencement | Date of cessation |
| <b>Angelene Falk*</b>   | Australian Information Commissioner | 1 July 2022          | 30 June 2023      |

\* Angelene Falk was appointed by the Governor-General to the roles of Australian Information Commissioner and Privacy Commissioner on 16 August 2018. On 6 August 2021, she was reappointed for a second 3-year term, from 16 August 2021 to 15 August 2024

## Appendix C: Workforce statistics

This appendix includes the OAIC's workforce statistics on staffing numbers, employment type, classifications, gender, location and diversity.<sup>1</sup>

**Table C.1: All ongoing employees (30 June 2023)**

|                      | Man/Male  |           |           | Woman/Female |           |            | Non-binary |           |          | Prefers not to answer |           |          | Uses a different term |           |          | Total      |
|----------------------|-----------|-----------|-----------|--------------|-----------|------------|------------|-----------|----------|-----------------------|-----------|----------|-----------------------|-----------|----------|------------|
|                      | Full time | Part time | Total     | Full time    | Part time | Total      | Full time  | Part time | Total    | Full time             | Part time | Total    | Full time             | Part time | Total    |            |
| NSW                  | 29        | 2         | 31        | 52           | 17        | 69         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 100        |
| Qld                  | 2         | -         | 2         | 7            | 6         | 13         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 15         |
| SA                   | -         | -         | -         | 9            | 2         | 11         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 11         |
| Tas                  | 1         | -         | 1         | 1            | 1         | 2          | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 3          |
| Vic                  | 4         | -         | 4         | 12           | 3         | 15         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 19         |
| WA                   | 1         | -         | 1         | 2            | 1         | 3          | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 4          |
| ACT                  | -         | 1         | 1         | 6            | 1         | 7          | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 8          |
| NT                   | 1         | -         | 1         | 1            | -         | 1          | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 2          |
| External territories | -         | -         | -         | -            | -         | -          | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -          |
| Overseas             | -         | -         | -         | -            | -         | -          | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -          |
| <b>Total</b>         | <b>38</b> | <b>3</b>  | <b>41</b> | <b>90</b>    | <b>31</b> | <b>121</b> | <b>-</b>   | <b>-</b>  | <b>-</b> | <b>-</b>              | <b>-</b>  | <b>-</b> | <b>-</b>              | <b>-</b>  | <b>-</b> | <b>162</b> |

<sup>1</sup> Totals of 'employees' and 'APS employees' differ, as the 'employee' tables include statutory appointments.

Table C.2: All ongoing employees (30 June 2022)

|                      | Man/Male  |           |           | Woman/Female |           |           | Non-binary |           |          | Prefers not to answer |           |          | Uses a different term |           |          | Total      |
|----------------------|-----------|-----------|-----------|--------------|-----------|-----------|------------|-----------|----------|-----------------------|-----------|----------|-----------------------|-----------|----------|------------|
|                      | Full time | Part time | Total     | Full time    | Part time | Total     | Full time  | Part time | Total    | Full time             | Part time | Total    | Full time             | Part time | Total    |            |
| NSW                  | 22        | 1         | 23        | 49           | 20        | 69        | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 92         |
| Qld                  | -         | -         | -         | 2            | 2         | 4         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 4          |
| SA                   | -         | -         | -         | 2            | -         | 2         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 2          |
| Tas                  | -         | -         | -         | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -          |
| Vic                  | -         | -         | -         | 1            | 2         | 3         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 3          |
| WA                   | -         | -         | -         | 1            | -         | 1         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 1          |
| ACT                  | -         | -         | -         | 4            | 1         | 5         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 5          |
| NT                   | -         | -         | -         | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -          |
| External territories | -         | -         | -         | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -          |
| Overseas             | -         | -         | -         | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -          |
| <b>Total</b>         | <b>22</b> | <b>1</b>  | <b>23</b> | <b>59</b>    | <b>25</b> | <b>84</b> | <b>-</b>   | <b>-</b>  | <b>-</b> | <b>-</b>              | <b>-</b>  | <b>-</b> | <b>-</b>              | <b>-</b>  | <b>-</b> | <b>107</b> |



Table C.3: All non-ongoing employees (30 June 2023)<sup>2</sup>

|                      | Man/Male  |           |          | Woman/Female |           |           | Non-binary |           |          | Prefers not to answer |           |          | Uses a different term |           |          | Total     |
|----------------------|-----------|-----------|----------|--------------|-----------|-----------|------------|-----------|----------|-----------------------|-----------|----------|-----------------------|-----------|----------|-----------|
|                      | Full time | Part time | Total    | Full time    | Part time | Total     | Full time  | Part time | Total    | Full time             | Part time | Total    | Full time             | Part time | Total    |           |
| NSW                  | 2         | 1         | 3        | 2            | 2         | 4         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 7         |
| Qld                  | -         | -         | -        | 2            | 3         | 5         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 5         |
| SA                   | -         | -         | -        | 1            | -         | 1         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 1         |
| Tas                  | -         | -         | -        | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -         |
| Vic                  | -         | -         | -        | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -         |
| WA                   | -         | -         | -        | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -         |
| ACT                  | -         | -         | -        | 1            | 1         | 2         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 2         |
| NT                   | -         | -         | -        | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -         |
| External territories | -         | -         | -        | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -         |
| Overseas             | -         | -         | -        | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -         |
| <b>Total</b>         | <b>2</b>  | <b>1</b>  | <b>3</b> | <b>6</b>     | <b>6</b>  | <b>12</b> | <b>-</b>   | <b>-</b>  | <b>-</b> | <b>-</b>              | <b>-</b>  | <b>-</b> | <b>-</b>              | <b>-</b>  | <b>-</b> | <b>15</b> |

<sup>2</sup> Non-ongoing tables have previously been reported including casual staff, but this year exclude casuals based on guidance by the Department of Finance

Table C.4: All non-ongoing employees (30 June 2022)

|                      | Man/Male  |           |          | Woman/Female |           |           | Non-binary |           |          | Prefers not to answer |           |          | Uses a different term |           |          | Total     |
|----------------------|-----------|-----------|----------|--------------|-----------|-----------|------------|-----------|----------|-----------------------|-----------|----------|-----------------------|-----------|----------|-----------|
|                      | Full time | Part time | Total    | Full time    | Part time | Total     | Full time  | Part time | Total    | Full time             | Part time | Total    | Full time             | Part time | Total    |           |
| NSW                  | 7         | 1         | 8        | 6            | 3         | 9         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 17        |
| Qld                  | -         | -         | -        | -            | 1         | 1         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 1         |
| SA                   | -         | -         | -        | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -         |
| Tas                  | -         | -         | -        | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -         |
| Vic                  | -         | -         | -        | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -         |
| WA                   | -         | -         | -        | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -         |
| ACT                  | 1         | -         | 1        | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 1         |
| NT                   | -         | -         | -        | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -         |
| External territories | -         | -         | -        | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -         |
| Overseas             | -         | -         | -        | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -         |
| <b>Total</b>         | <b>8</b>  | <b>1</b>  | <b>9</b> | <b>6</b>     | <b>4</b>  | <b>10</b> | <b>-</b>   | <b>-</b>  | <b>-</b> | <b>-</b>              | <b>-</b>  | <b>-</b> | <b>-</b>              | <b>-</b>  | <b>-</b> | <b>19</b> |

Table C.5: Australian Public Service Act ongoing employees (30 June 2023)

|              | Man/Male  |           |           | Woman/Female |           |            | Non-binary |           |          | Prefers not to answer |           |          | Uses a different term |           |          | Total    |            |
|--------------|-----------|-----------|-----------|--------------|-----------|------------|------------|-----------|----------|-----------------------|-----------|----------|-----------------------|-----------|----------|----------|------------|
|              | Full time | Part time | Total     | Full time    | Part time | Total      | Full time  | Part time | Total    | Full time             | Part time | Total    | Full time             | Part time | Total    |          |            |
| SES 3        | -         | -         | -         | -            | -         | -          | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -        |            |
| SES 2        | -         | -         | -         | 1            | -         | 1          | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -        | 1          |
| SES 1        | 2         | -         | 2         | 4            | 1         | 5          | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -        | 7          |
| EL 2         | 6         | -         | 6         | 15           | 7         | 22         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -        | 28         |
| EL 1         | 12        | 1         | 13        | 25           | 10        | 35         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -        | 48         |
| APS 6        | 8         | 1         | 9         | 30           | 10        | 40         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -        | 49         |
| APS 5        | 6         | 1         | 7         | 13           | 3         | 16         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -        | 23         |
| APS 4        | 4         | -         | 4         | 1            | -         | 1          | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -        | 5          |
| APS 3        | -         | -         | -         | 1            | -         | 1          | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -        | 1          |
| APS 2        | -         | -         | -         | -            | -         | -          | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -        | -          |
| APS 1        | -         | -         | -         | -            | -         | -          | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -        | -          |
| Other        | -         | -         | -         | -            | -         | -          | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -        | -          |
| <b>Total</b> | <b>38</b> | <b>3</b>  | <b>41</b> | <b>90</b>    | <b>31</b> | <b>121</b> | <b>-</b>   | <b>-</b>  | <b>-</b> | <b>-</b>              | <b>-</b>  | <b>-</b> | <b>-</b>              | <b>-</b>  | <b>-</b> | <b>-</b> | <b>162</b> |

Table C.6: Australian Public Service Act ongoing employees (30 June 2022)

|              | Man/Male  |           |           | Woman/Female |           |           | Non-binary |           |          | Prefers not to answer |           |          | Uses a different term |           |          | Total    |            |
|--------------|-----------|-----------|-----------|--------------|-----------|-----------|------------|-----------|----------|-----------------------|-----------|----------|-----------------------|-----------|----------|----------|------------|
|              | Full time | Part time | Total     | Full time    | Part time | Total     | Full time  | Part time | Total    | Full time             | Part time | Total    | Full time             | Part time | Total    |          |            |
| SES 3        | -         | -         | -         | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -        |            |
| SES 2        | -         | -         | -         | 1            | -         | 1         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -        | 1          |
| SES 1        | -         | -         | -         | 3            | -         | 3         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -        | 3          |
| EL 2         | 5         | -         | 5         | 10           | 8         | 18        | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -        | 23         |
| EL 1         | 6         | 1         | 7         | 17           | 10        | 27        | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -        | 34         |
| APS 6        | 6         | -         | 6         | 21           | 4         | 25        | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -        | 31         |
| APS 5        | 4         | -         | 4         | 7            | 3         | 10        | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -        | 14         |
| APS 4        | 1         | -         | 1         | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -        | 1          |
| APS 3        | -         | -         | -         | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -        | -          |
| APS 2        | -         | -         | -         | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -        | -          |
| APS 1        | -         | -         | -         | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -        | -          |
| Other        | -         | -         | -         | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -        | -          |
| <b>Total</b> | <b>22</b> | <b>1</b>  | <b>23</b> | <b>59</b>    | <b>25</b> | <b>84</b> | <b>-</b>   | <b>-</b>  | <b>-</b> | <b>-</b>              | <b>-</b>  | <b>-</b> | <b>-</b>              | <b>-</b>  | <b>-</b> | <b>-</b> | <b>107</b> |

Table C.7: Australian Public Service Act non-ongoing employees (30 June 2023)

|              | Man/Male  |           |          | Woman/Female |           |           | Non-binary |           |          | Prefers not to answer |           |          | Uses a different term |           |          | Total     |
|--------------|-----------|-----------|----------|--------------|-----------|-----------|------------|-----------|----------|-----------------------|-----------|----------|-----------------------|-----------|----------|-----------|
|              | Full time | Part time | Total    | Full time    | Part time | Total     | Full time  | Part time | Total    | Full time             | Part time | Total    | Full time             | Part time | Total    |           |
| SES 3        | -         | -         | -        | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -         |
| SES 2        | -         | -         | -        | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -         |
| SES 1        | -         | -         | -        | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -         |
| EL 2         | 1         | 1         | 2        | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 2         |
| EL 1         | -         | -         | -        | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -         |
| APS 6        | -         | -         | -        | 1            | 1         | 2         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 2         |
| APS 5        | 1         | -         | 1        | 1            | 1         | 2         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 3         |
| APS 4        | -         | -         | -        | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -         |
| APS 3        | -         | -         | -        | 1            | -         | 1         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 1         |
| APS 2        | -         | -         | -        | 1            | 4         | 5         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 5         |
| APS 1        | -         | -         | -        | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -         |
| Other        | -         | -         | -        | -            | -         | -         | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -         |
| <b>Total</b> | <b>2</b>  | <b>1</b>  | <b>3</b> | <b>4</b>     | <b>6</b>  | <b>10</b> | <b>-</b>   | <b>-</b>  | <b>-</b> | <b>-</b>              | <b>-</b>  | <b>-</b> | <b>-</b>              | <b>-</b>  | <b>-</b> | <b>13</b> |

Table C.8: Australian Public Service Act non-ongoing employees (30 June 2022)

|              | Man/Male  |           |          | Woman/Female |           |          | Non-binary |           |          | Prefers not to answer |           |          | Uses a different term |           |          | Total     |
|--------------|-----------|-----------|----------|--------------|-----------|----------|------------|-----------|----------|-----------------------|-----------|----------|-----------------------|-----------|----------|-----------|
|              | Full time | Part time | Total    | Full time    | Part time | Total    | Full time  | Part time | Total    | Full time             | Part time | Total    | Full time             | Part time | Total    |           |
| SES 3        | -         | -         | -        | -            | -         | -        | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -         |
| SES 2        | -         | -         | -        | -            | -         | -        | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -         |
| SES 1        | 1         | -         | 1        | -            | -         | -        | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 1         |
| EL 2         | 2         | -         | 2        | 1            | -         | 1        | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 3         |
| EL 1         | 2         | -         | 2        | 2            | -         | 2        | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 4         |
| APS 6        | 1         | -         | 1        | -            | 2         | 2        | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 3         |
| APS 5        | -         | -         | -        | 2            | -         | 2        | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 2         |
| APS 4        | 1         | -         | 1        | -            | -         | -        | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 1         |
| APS 3        | -         | -         | -        | -            | -         | -        | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -         |
| APS 2        | -         | 1         | 1        | -            | 2         | 2        | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | 3         |
| APS 1        | -         | -         | -        | -            | -         | -        | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -         |
| Other        | -         | -         | -        | -            | -         | -        | -          | -         | -        | -                     | -         | -        | -                     | -         | -        | -         |
| <b>Total</b> | <b>7</b>  | <b>1</b>  | <b>8</b> | <b>5</b>     | <b>4</b>  | <b>9</b> | <b>-</b>   | <b>-</b>  | <b>-</b> | <b>-</b>              | <b>-</b>  | <b>-</b> | <b>-</b>              | <b>-</b>  | <b>-</b> | <b>17</b> |

Table C.9: Australian Public Service Act employees by full-time and part-time status (30 June 2023)

|              | Ongoing    |           |               | Non-Ongoing |           |                   | Total      |
|--------------|------------|-----------|---------------|-------------|-----------|-------------------|------------|
|              | Full time  | Part time | Total Ongoing | Full time   | Part time | Total Non-Ongoing |            |
| SES 3        | –          | –         | –             | –           | –         | –                 | –          |
| SES 2        | 1          | –         | 1             | –           | –         | –                 | 1          |
| SES 1        | 6          | 1         | 7             | –           | –         | –                 | 7          |
| EL 2         | 21         | 7         | 28            | 1           | 1         | 2                 | 30         |
| EL 1         | 37         | 11        | 48            | –           | –         | –                 | 48         |
| APS 6        | 38         | 11        | 49            | 1           | 1         | 2                 | 51         |
| APS 5        | 19         | 4         | 23            | 2           | 1         | 3                 | 26         |
| APS 4        | 5          | –         | 5             | –           | –         | –                 | 5          |
| APS 3        | 1          | –         | 1             | 1           | –         | 1                 | 2          |
| APS 2        | –          | –         | –             | 1           | 4         | 5                 | 5          |
| APS 1        | –          | –         | –             | –           | –         | –                 | –          |
| Other        | –          | –         | –             | –           | –         | –                 | –          |
| <b>Total</b> | <b>128</b> | <b>34</b> | <b>162</b>    | <b>6</b>    | <b>7</b>  | <b>13</b>         | <b>175</b> |

Table C.10: Australian Public Service Act Employees by full-time and part-time status (30 June 2022)

|              | Ongoing   |           |               | Non-Ongoing |           |                   | Total      |
|--------------|-----------|-----------|---------------|-------------|-----------|-------------------|------------|
|              | Full time | Part time | Total Ongoing | Full time   | Part time | Total Non-Ongoing |            |
| SES 3        | –         | –         | –             | –           | –         | –                 | –          |
| SES 2        | 1         | –         | 1             | –           | –         | –                 | 1          |
| SES 1        | 3         | –         | 3             | 1           | –         | 1                 | 4          |
| EL 2         | 15        | 8         | 23            | 3           | –         | 3                 | 26         |
| EL 1         | 23        | 11        | 34            | 4           | –         | 4                 | 38         |
| APS 6        | 27        | 4         | 31            | 1           | 2         | 3                 | 34         |
| APS 5        | 11        | 3         | 14            | 2           | –         | 2                 | 16         |
| APS 4        | 1         | –         | 1             | 1           | –         | 1                 | 2          |
| APS 3        | –         | –         | –             | –           | –         | –                 | –          |
| APS 2        | –         | –         | –             | –           | 3         | 3                 | 3          |
| APS 1        | –         | –         | –             | –           | –         | –                 | –          |
| Other        | –         | –         | –             | –           | –         | –                 | –          |
| <b>Total</b> | <b>81</b> | <b>26</b> | <b>107</b>    | <b>12</b>   | <b>5</b>  | <b>17</b>         | <b>124</b> |



**Table C.11: Australian Public Service Act employment type by location (30 June 2023)**

|                      | Ongoing    | Non-Ongoing | Total      |
|----------------------|------------|-------------|------------|
| NSW                  | 100        | 6           | 106        |
| Qld                  | 15         | 5           | 20         |
| SA                   | 11         | 1           | 12         |
| Tas                  | 3          | 0           | 3          |
| Vic                  | 19         | 0           | 19         |
| WA                   | 4          | 0           | 4          |
| ACT                  | 8          | 1           | 9          |
| NT                   | 2          | 0           | 2          |
| External territories | 0          | 0           | 0          |
| Overseas             | 0          | 0           | 0          |
| <b>Total</b>         | <b>162</b> | <b>13</b>   | <b>175</b> |

**Table C.12: Australian Public Service Act employment type by location (30 June 2022)**

|                      | Ongoing    | Non-Ongoing | Total      |
|----------------------|------------|-------------|------------|
| NSW                  | 92         | 16          | 108        |
| Qld                  | 4          | 1           | 5          |
| SA                   | 2          | 0           | 2          |
| Tas                  | 0          | 0           | 0          |
| Vic                  | 3          | 0           | 3          |
| WA                   | 1          | 0           | 1          |
| ACT                  | 5          | 0           | 5          |
| NT                   | 0          | 0           | 0          |
| External territories | 0          | 0           | 0          |
| Overseas             | 0          | 0           | 0          |
| <b>Total</b>         | <b>107</b> | <b>17</b>   | <b>124</b> |

**Table C.13: Australian Public Service Act Indigenous employment (30 June 2023 and 30 June 2022)**

|              | Total at 30 June 2023 | Total at 30 June 2022 |
|--------------|-----------------------|-----------------------|
| Ongoing      | 1                     | 1                     |
| Non-ongoing  | 0                     | 0                     |
| <b>Total</b> | <b>1</b>              | <b>1</b>              |

**Table C.14: Australian Public Service Act employment arrangements: current report period (2022–23)**

|  | SES      | Non-SES    | Total      |
|--|----------|------------|------------|
| OAIC Enterprise Agreement 2016–19 (ongoing)                  | –        | 154        | 154        |
| OAIC Enterprise Agreement 2016–19 (non-ongoing)              | –        | 13         | 13         |
| SES Determinations made under Public Service Act 1999 s24(1) | 8        | –          | 8          |
| <b>Total</b>   | <b>8</b> | <b>167</b> | <b>175</b> |

**Table C.15: Australian Public Service Act employment salary ranges by classification level (minimum/maximum) for the current report period (2022–23)**

|                              | Minimum salary  | Maximum salary   |
|------------------------------|-----------------|------------------|
| SES 3                        | –               | –                |
| SES 2                        | \$251,132       | \$282,517        |
| SES 1                        | \$197,654       | \$224,605        |
| EL 2                         | \$131,425       | \$149,988        |
| EL 1                         | \$113,148       | \$121,035        |
| APS 6                        | \$89,781        | \$98,866         |
| APS 5                        | \$81,420        | \$86,077         |
| APS 4                        | \$73,033        | \$77,600         |
| APS 3                        | \$63,508        | \$68,544         |
| APS 2                        | \$57,290        | \$61,831         |
| APS 1                        | \$49,266        | \$55,862         |
| Other                        | –               | –                |
| <b>Minimum/maximum range</b> | <b>\$49,266</b> | <b>\$282,517</b> |

## Appendix D: Memorandums of understanding

### Australian Capital Territory Government

Under our memorandum of understanding (MOU) with the Australian Capital Territory (ACT) Government, the OAIC continued to provide privacy services to ACT public sector agencies in relation to the *Information Privacy Act 2014* (ACT). These services included:

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

The OAIC received \$177,500 (GST exclusive) for these services from the ACT Government in 2022–23.

For further information on our activities under this MOU, see the *MOU with the ACT Government for privacy services* on our website.

### Department of Home Affairs

In June 2022, the OAIC and Department of Home Affairs extended the term of the letter of exchange under which we will provide a passenger name record (PNR) data-related assessment to 30 June 2023.

The agreement between Australia and the European Union (EU) on the processing and transfer of PNR data states: ‘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.’

During the reporting period, the OAIC received \$75,000 (GST exclusive) for these assessment services. The assessment report was finalised in 2022–23.

### Department of Finance Service Delivery Office

The OAIC transitioned our payroll and finance services to the Service Delivery Office (SDO) in May 2022. Under this MOU, the SDO provides the OAIC with transactional finance and human resources shared services. The OAIC paid \$601,128 (GST not applicable) in service charges in 2022–23.

### Department of Employment and Workplace Relations

The OAIC transitioned our ICT services to the Department of Education, Skills and Employment in May 2022. Effective 1 July 2022 the services were transferred to a new entity, the Department of Employment and Workplace Relations (DEWR). The OAIC paid DEWR a service fee of \$957,396 (GST not applicable) for the period of 2022–23. This fee was in addition to purchased hardware and other installation fees during the year.

## Appendix E: Freedom of Information statistics

This appendix contains information regarding:

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

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

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

The data given by ministers and agencies for the preparation of this appendix is published on [data.gov.au](http://data.gov.au).<sup>2</sup>

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

<sup>2</sup> Statistics reported in this Appendix have been rounded to the nearest whole number. As a result, the totals in tables may not equal the sum of the rows.

### Requests for access to documents

#### Types of FOI requests

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

The *FOI Statistics Guide*, which is issued by the OAIC to assist agencies in completing their FOI statistical returns, defines a request for personal information as a request in which personal information is the predominant kind of information sought. For this purpose, 'personal information' includes both an applicant's own information and information about other individuals. 'Personal information' is defined in s 4(1) of the FOI Act by reference to the definition in the *Privacy Act 1988*. In summary, 'personal information' means information or an opinion about an identified individual or an individual who is reasonably identifiable. A request for 'other' information means a request for all other documents, such as documents concerning policy development or government decision making.

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

The Governor-General made an Administrative Arrangements Order (AAO) on 23 June 2022. This took effect on 1 July 2022, at the beginning of the reporting year. A further AAO was made on 13 October 2022, with effect from 14 October 2022. These AAOs changed the functions and administrative responsibilities of some departments and agencies and resulted in changes to the number and composition of FOI requests they received during the financial year.

## Number of FOI requests received

Table E.1 compares the number of FOI requests received in each of the past 7 reporting years, including the percentage increase or decrease from the previous financial year.

The number of FOI requests made to Australian Government agencies and ministers in 2022–23 was almost the same as in 2021–22 (11 fewer FOI requests were received in 2022–23 than in 2021–22).

As can be seen from Table E.2, there were significant decreases in the number of FOI requests received by some Australian Government agencies during 2022–23, however other agencies experienced significant increases.

The agencies in the top 20, in terms of FOI requests received, that experienced significant decreases in FOI requests in 2022–23, include the Department of Home Affairs (Home Affairs) (which received 1,549 fewer FOI requests in 2022–23 than in 2021–22, an 11% decrease), the National Disability Support Agency (NDIA) (which received 132 fewer requests, a 7% decrease), the Department of Veterans' Affairs (Veterans' Affairs) (189 fewer requests, an 11% decrease), the Department of Health and Aged Care (Health and Aged Care) (down 730, a 58% decrease), the Australian Securities and Investments Commission (ASIC) (down 63 requests, a 22% decrease) and the Immigration Assessment Authority (IAA) (110 less, a 36% decrease).

Agencies in the top 20 that experienced significant increases in FOI requests in 2022–23 include Services

Australia (which received 510 more FOI requests in 2022–23 than in 2021–22, an 11% increase), the Australian Taxation Office (66 more requests, a 40% increase), the Department of Defence (300 more requests, up 57%), the Australian Federal Police (190 more requests, up 39%), the Australian Research Council (656 more requests than in 2021–22 when it received 14, a 4,686% increase), the Attorney-General's Department (148 more requests, up 53%), the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (29 more requests, up 13%) and the Department of the Treasury (59 more requests, up 40%).

Agencies comprising the top 20 agencies for FOI requests received slightly fewer FOI requests in 2022–23 than in 2021–22 (785 fewer, a 3% decrease). The top 20 agencies received 87% of all FOI requests received by Australian Government agencies in 2022–23, compared with 90% of all requests in 2021–22.

Agencies comprising the top 20 agencies for FOI requests received almost the same number of FOI requests for access to personal information in 2022–23 as they did in 2021–22 (109 fewer FOI requests for personal information were received), while also experiencing a 10% decrease in the number of non-personal FOI requests (676 fewer than in 2020–21).

Overall, there was an increase in the number of FOI requests received by agencies outside the top 20 in 2022–23 (235 more FOI requests were received by these agencies than in 2021–22, a 6% increase).

**Table E.1: FOI requests received over the past 7 years**

|                                       | 2016–17 | 2017–18 | 2018–19 | 2019–20 | 2020–21 | 2021–22 | 2022–23 |
|---------------------------------------|---------|---------|---------|---------|---------|---------|---------|
| Number of FOI requests received       | 39,519  | 34,438  | 38,879  | 41,333  | 34,797  | 34,236  | 34,225  |
| % change from previous financial year | +4      | -13     | +13     | +6      | -16     | -2      | 0       |

## Number of FOI requests received by an agency or minister

The agencies that received the largest numbers of FOI requests in 2022–23 were Home Affairs, Services Australia, the NDIA, Veterans' Affairs, the Administrative Appeals Tribunal (AAT) and the Australian Taxation Office (ATO).

Together, these 6 agencies received 71% of all the FOI requests received by Australian Government agencies and ministers and 86% of all requests for access to personal information in 2022–23. Last reporting year (2021–22), the top 6 agencies received 75% of all FOI requests received by Australian Government agencies and ministers and 87% of all requests for access to personal information.

Despite experiencing an 11% decrease in FOI requests in 2022–23, Home Affairs still receives the largest number of requests of any Australian Government agency or minister (13,095 or 38% of all FOI requests received). However, FOI requests received by Home Affairs, as a percentage of all FOI requests made to Australian Government agencies and ministers, have been declining over the past 4 years. In 2021–22, Home Affairs received 14,644 requests, which comprised 43% of all FOI requests received that year. Home Affairs received 46% of all requests in 2020–21 and 43% in 2019–20.

Services Australia (and its predecessor the Department of Human Services) has received the second highest number of FOI requests since 2013–14. In 2022–23, Services Australia experienced an 11% increase in the number of FOI requests (5,137 requests, 510 more than in 2021–22 when Services Australia received 4,627). Services Australia received 15% of all requests made to Australian Government agencies and ministers in 2022–23.

The NDIA, Veterans' Affairs and the AAT each received 5% of the total requests made to Australian Government agencies and ministers in 2022–23.

The NDIA received the third highest number of FOI requests for the second year in a row (it received the fifth highest number of requests in 2020–21) despite receiving 132 fewer requests in 2022–23 than in 2021–22 (a 7% decrease)

Veterans' Affairs received the fourth highest number of FOI requests for the second year in a row (prior to this it received the third highest number of requests). Veterans' Affairs received 189 fewer requests in 2022–23 than in the previous reporting year (down 11%).

The AAT received 66 more FOI requests (up 4% on 2021–22) and was the agency that received the fifth highest number of FOI requests, the same ranking as in 2021–22 (in 2020–21 it received the fourth highest number). The ATO received 323 more FOI requests in 2022–23 than in 2021–22 (a 40% increase) which was the sixth highest number of requests (it was seventh in 2021–22).

As in previous years, there were no specific factors responsible for increases/decreases in the number of FOI requests received by Australian Government agencies and ministers in 2022–23. Agency-specific factors are most relevant in accounting for significant increases and decreases in FOI requests.

For some Australian Government departments, machinery of government changes which took effect in July and October 2022 resulted in the addition or loss of certain functions and responsibilities. As a result, there were variations (up and down) to the number of FOI request made to some departments in 2022–23 when compared with earlier years.

The the Australian Research Council (ARC), which experienced a 4,686% increase in FOI requests in 2022–23 (the ARC received 14 FOI requests in 2021–22 and 670 in 2022–23) said there was an increase in requests from researchers seeking additional information about the assessment of their grant applications. The ARC has subsequently made changes to its ICT platform so researchers can now access this information themselves, without having to seek administrative access or access through FOI requests.

The Aged Care Quality and Safety Commission received 176 FOI requests in 2022–23, a 198% increase on the number of requests it received in 2021–22 (59). It has advised that its profile, role and activity in the aged care sector – including engagement both with providers and older Australians and their families – has grown significantly since it was established in 2019. Further, the 2021 Royal Commission Report into

Aged Care Quality and Safety increased the national conversation about aged care and created greater visibility of the role, responsibilities and activities of the Commission, which are all potential factors that contributed to the increase in FOI requests.

The Reserve Bank of Australia (RBA) experienced a record increase in FOI requests, with 65 requests, a 183% increase over 2021–22 when it received 23. It believes this to be the result of the monetary policy tightening cycle and increased coverage of the its activities throughout the year.

The National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA), which received 133% more FOI requests in 2022–23 (28) than in 2021–22 (12), said the increase is due to increased public awareness and heightened interest in the offshore energy sector.

The Bureau of Meteorology received 122% more FOI requests in 2022–23 (40) than in 2021–22 (18). It states that approximately 10 of these requests related to an agency brand refresh in October 2022. However, even if those requests were excluded, the Bureau says it would still have received its highest annual total of requests and that this follows a general trend of increasing numbers of FOI requests over the past 10 years. While the Bureau has no clear data indicating a reason for this trend, anecdotally these increases may be attributed to a general increase in awareness amongst the public of the FOI scheme, easier access to making requests (via email) and increased interest generally with oversight of government activity.

The Attorney-General's Department (AGD), which received 143 more FOI requests in 2022–23 (426) than in 2021–22 (278, a 53% increase), said that while it did not want to speculate on the reasons for this increase, noted that it presently has responsibility for a number of significant policy issues of public interest which may partially explain the rise in FOI requests.

The Australian Federal Police (AFP) reported a 39% increase in FOI requests in 2022–23 compared with 2021–22 (682 were received in 2022–23; 492 in 2021–22). The AFP explains that it has been involved in a number of high-profile investigations and incidents in recent years, resulting in increased media and public interest. This has had a direct impact on the number of non-personal FOI requests with certain

matters generating numerous separate requests from multiple applicants over a protracted period.

The Australian Electoral Commission (AEC), which had a 36% increase in FOI requests in 2022–23 (99) when compared with 2021–22 (73), said it continues to see a sustained increase in FOI requests following the election and in the lead-up to the Referendum.

Health and Aged Care, which received 730 fewer FOI requests in 2022–23 (524) than in 2021–22 (1,254, a 58% decrease), explains that the decrease is due to a reduction in the number of COVID-related FOI requests.

The IAA reported a 36% decrease in the number of FOI requests in 2022–23 (193) compared with 2021–22 (303). The IAA attributes this reduction to its reduced incoming caseload and the corresponding reduced number of finalisations within the reporting period.

The Australian Bureau of Statistics (ABS), which experienced a 29% decrease in FOI requests in 2022–23 (24, compared with 34 requests received in 2021–22), attributes this to the timeframe between Censuses, which historically attract FOI requests, as well as a reduction in requests for COVID-related documentation.

The Fair Work Ombudsman (FWO) considers its 14% reduction in FOI request numbers in 2022–23 (56, compared with 65 in 2021–22), to be the result of its refreshed Information Governance Policy Framework which emphasises the use of s 718 of the *Fair Work Act 2009* as the most effective mechanism for disclosure of information, where appropriate.

Home Affairs, which received 1,549 fewer requests than in 2021–22 (13,095 an 11% decrease), says it has put in place a series of measures to reduce the number of overdue requests and to make it easier for people to request the information they need. The introduction of these measures followed an investigation by the Information Commissioner into a cohort of 17 complaints about Home Affairs' delay in processing requests for access to personal information. The Department says that while the total number of information requests has increased overall (1,070 more than in 2021–22), those received to be processed under the FOI Act has decreased. Home Affairs says the measures it has introduced include changes to

make use of the provisions in the *Privacy Act 1988* (Privacy Act) to provide personal information (2,619 new requests were registered for processing under the Privacy Act – these requests would previously have been registered as requests under the FOI Act). Another measure, introduced in March 2023, was a fee-for-service process for access to data and statistics. Home Affairs says the reduction in non-personal FOI requests can be attributed to applicants making use of this new channel to request data, rather than the FOI Act.

Veterans' Affairs, which received 189 fewer FOI requests in 2022–23 (1,596) than in 2021–22 (1,785, an 11% decrease), says that in line with recommendations made by the Royal Commission into Defence and Veteran Suicide interim report, it encourages applicants to seek information through administrative access and other arrangements outside of the FOI scheme. Veterans' Affairs has advertised its preferred method of release is administrative release for personal information and that it has seen the number of FOI requests decrease as a result of this promotion.

The NDIA, which received 132 fewer FOI requests in 2022–23 (1,752) than in 2021–22 (1,884, a 7% decrease), said it is committed to delivering prompt public access to its information, through administrative release wherever possible. The NDIA says that as a result of investment in improved triage and referral pathways, many requests are redirected to administrative release processes which provide quicker and easier access for applicants.

The 20 agencies that received the largest number of requests in 2022–23, are shown in Table E.2, with a comparison to the number of requests received by those agencies in 2021–22.

## Requests for personal and 'other' documents

In 2022–23, 25,235 FOI requests (or 74% of all requests received) were for documents containing personal information. This is the same proportion of personal requests as 2021–22, but lower than previous years and maintains the decrease over time of requests for access to personal information (when expressed as a proportion of all FOI requests received). In 2020–21,

77% of all FOI requests were for predominantly personal information, in 2019–20, it was 81%, in 2018–19, 83%, in 2017–18, 82%, in 2016–17, 82%, and in 2015–16, 87%.

As has been said in previous years, the decrease in the proportion of personal FOI requests may be the result of agencies increasingly making documents available to members of the public using administrative access schemes, including through online portals.

In 2022–23, there were 8,990 FOI requests for 'other' (non-personal) information (26% of all requests). This is the same proportion as in 2021–22, but higher than in 2020–21, when 23% of all requests were for other information. In 2019–20, this proportion was 19%, in 2018–19, it was 17%, in 2017–18 and 2016–17 it was 18%, in 2015–16, 13% and in 2014–15, 15%.

Generally, there was little difference in the profile of FOI requests received (personal/non-personal) in 2022–23 compared with 2021–22. Some agencies in the 'top 20' agencies in terms of the number of requests received the same proportion of personal/non-personal requests as in 2021–22; Home Affairs (87% personal/13% non-personal), Services Australia (95% personal/5% non-personal), the AAT (97% personal/3% non-personal) and the Office of the Australian Information Commissioner (OAIC) (50/50).

Although Home Affairs received the same proportion of personal/non-personal FOI requests in 2022–23 as in 2021–22, it received 1,459 fewer requests for access to personal information in 2022–23. The proportion of personal requests in 2022–23 and 2021–22 is similar to the previous 2 years; in 2020–21 86% of all requests were for access to personal information and in 2019–20 this was 89%.

Services Australia, which also received the same proportion of personal and 'other' FOI requests in 2022–23 as in 2021–22, experienced an overall increase in requests (11% more). The increase was therefore comprised of the same proportion of personal and non-personal (other) requests as in 2021–22.

The majority of other agencies in the top 20 had a less than 3% difference in the proportion of personal to non-personal (other) requests in 2022–23 compared with 2021–22. For example, the NDIA (89% personal FOI requests in 2022–23 compared with 86% in



2021–22), Veterans' Affairs (91% personal requests in 2022–23; 92% in 2021–22), the Department of Foreign Affairs and Trade (DFAT) (43% personal requests in 2022–23; 40% in 2021–22), the Department of the Prime Minister and Cabinet (PM&C) (3% in 2022–23; 5% in 2021–22), the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRDCA) (3% in 2022–23; 0% in 2021–22), the Department of the Treasury (Treasury) (4% in 2022–23; 5% in 2021–22), the IAA (97% in 2022–23; 99% in 2021–22) and the AFP (75% in 2022–23; 78% in 2021–22).

However, some other agencies in the top 20 experienced significant differences in the profile of their FOI requests in 2022–23 compared with 2021–22 (in terms of personal/non-personal requests).

Some of these agencies received significantly more requests for access to personal information (as a percentage of all the requests they received)

in 2022–23. For example, 99% of all requests for access received by the ARC in 2022–23 were for predominantly personal information (this was 0% in 2021–22), 82% of all requests to the ATO were for personal information (71% in 2021–22), 33% of all requests received by the Department of Defence (Defence) were for personal information (26% in 2021–22), 14% of the requests to Health and Aged Care were for personal information (3% in 2021–22) and 31% the requests to ASIC were for personal information (27% in 2021–22).

The two remaining agencies in the top 20 experienced a reverse trend – receiving more non-personal (other) requests (as a percentage of the total) than in previous years. These were the AGD (83% of all requests in 2022–23 were for non-personal information; this was 75% in 2021–22) and the Australian Transaction Reports and Analysis Centre (AUSTRAC) (39% of all requests were for non-personal information; this was 29% in 2021–22).

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

| Agency   | 2021-22                    |          |        |       |                       | 2022-23 |          |        |       |                       |                 |
|--|----------------------------|----------|--------|-------|-----------------------|---------|----------|--------|-------|-----------------------|-----------------|
|  | Rank*                      | Personal | Other  | Total | % of all FOI requests | Rank    | Personal | Other  | Total | % of all FOI requests | Change in total |
|  | Department of Home Affairs | 1        | 12,793 | 1,851 | 14,644                | 43      | 1        | 11,334 | 1,761 | 13,095                | 38              |
| Services Australia   | 2                          | 4,395    | 232    | 4,627 | 14                    | 2       | 4,868    | 269    | 5,137 | 15                    | 510             |
| National Disability Insurance Agency                         | 3                          | 1,615    | 269    | 1,884 | 6                     | 3       | 1,556    | 196    | 1,752 | 5                     | -132            |
| Department of Veterans' Affairs                              | 4                          | 1,642    | 143    | 1,785 | 5                     | 4       | 1,450    | 146    | 1,596 | 5                     | -189            |
| Administrative Appeals Tribunal                              | 5                          | 1,453    | 52     | 1,505 | 4                     | 5       | 1,528    | 43     | 1,571 | 5                     | 66              |
| Australian Taxation Office                                   | 7                          | 573      | 231    | 804   | 2                     | 6       | 921      | 206    | 1,127 | 3                     | 323             |
| Department of Defence  | 8                          | 138      | 392    | 530   | 2                     | 7       | 278      | 552    | 830   | 2                     | 300             |
| Australian Federal Police                                    | 9                          | 386      | 106    | 492   | 1                     | 8       | 509      | 173    | 682   | 2                     | 190             |
| Australian Research Council                                  | 74                         | 0        | 14     | 14    | 0                     | 9       | 661      | 9      | 670   | 2                     | 656             |
| Department of Health and Aged Care                           | 6                          | 33       | 1,221  | 1,254 | 4                     | 10      | 73       | 451    | 524   | 2                     | -730            |
| Attorney-General's Department                                | 17                         | 70       | 208    | 278   | 1                     | 11      | 72       | 354    | 426   | 1                     | 148             |
| Australian Transaction Reports and Analysis Centre (AUSTRAC) | 10                         | 294      | 119    | 413   | 1                     | 12      | 247      | 156    | 403   | 1                     | -10             |
| Department of Foreign Affairs and Trade                      | 11                         | 147      | 224    | 371   | 1                     | 13      | 163      | 212    | 375   | 1                     | 4               |
| Department of the Prime Minister and Cabinet                 | 12                         | 16       | 302    | 318   | 1                     | 14      | 10       | 320    | 330   | 1                     | 12              |
| Office of the Australian Information Commissioner            | 13                         | 153      | 154    | 307   | 1                     | 15      | 157      | 157    | 314   | 1                     | 7               |

| Agency   | 2021–22 |               |              |               |                       | 2022–23   |               |              |               |                       |                 |
|--|---------|---------------|--------------|---------------|-----------------------|-----------|---------------|--------------|---------------|-----------------------|-----------------|
|  | Rank*   | Personal      | Other        | Total         | % of all FOI requests | Rank      | Personal      | Other        | Total         | % of all FOI requests | Change in total |
| Department of Infrastructure, Transport, Regional Development, Communications and the Arts | 18      | 0             | 225          | 225           | 1                     | 16        | 7             | 247          | 254           | 1                     | 29              |
| Department of Climate Change, Energy, the Environment and Water*                           |         |               |              |               |                       | 17        | 0             | 233          | 233           | 1                     | 233             |
| Australian Securities and Investments Commission   | 16      | 76            | 207          | 283           | 1                     | 18        | 69            | 151          | 220           | 1                     | -63             |
| Department of the Treasury   | 25      | 8             | 140          | 148           | 0                     | 19        | 8             | 199          | 207           | 1                     | 59              |
| Immigration Assessment Authority   | 15      | 300           | 3            | 303           | 1                     | 20        | 187           | 6            | 193           | 1                     | -110            |
| <b>Total top 20†</b>   |         | <b>24,092</b> | <b>6,093</b> | <b>30,185</b> | <b>88</b>             | <b>21</b> | <b>24,098</b> | <b>5,841</b> | <b>29,939</b> | <b>87</b>             | <b>-246</b>     |
| Others   |         | 1,081         | 2,970        | 4,051         | 12                    | 22        | 1,137         | 3,149        | 4,286         | 13                    | 235             |
| <b>Total</b>   |         | <b>25,173</b> | <b>9,063</b> | <b>34,236</b> | <b>100</b>            |           | <b>25,235</b> | <b>8,990</b> | <b>34,225</b> | <b>100</b>            | <b>-11</b>      |

Note

Figures may not add to 100% due to rounding.

\* Following the Administrative Arrangements Order of 23 June 2022, some functions of the former Department of Agriculture, Water and the Environment were transferred to the Department of Climate Change, Energy, the Environment and Water. Other functions of the former Department are now the responsibility of the Department of Agriculture, Fisheries and Forestry. As a result, the FOI statistics for the Department of Climate Change, Energy, the Environment and Water are not comparable with past years.

† The composition of the top 20 has changed since 2021–22.

## FOI requests finalised

Agencies and ministers commenced 2022–23, with more FOI requests on hand requiring a decision than the previous financial year (35% more than at the beginning of 2021–22).

In 2022–23, there:

- were the same number of FOI requests received as in 2021–22
- was a reduction in the number of requests decided (16% fewer than in 2021–22)
- were more requests transferred between agencies (16% more than in 2021–22)
- were 38% fewer requests on hand at the end of the year (5,543) than at the beginning of the financial year (8,996)
- were 40% fewer requests on hand at the end of 2022–23 than at the end of 2021–22
- was an increase in the number of FOI requests withdrawn by applicants (169% higher than in 2021–22)
- was an increase in the number of requests finalised (up 19%).

The reason for the large increase in the number of FOI requests withdrawn in 2022–23 (169% more than in 2021–22) was the very large increase in the number of requests made to Home Affairs that were withdrawn during the year.

In 2021–22, 1,349 FOI requests made to Home Affairs were withdrawn; this increased to 10,919 in 2022–23 (a 709% increase). The number of requests for access to personal information withdrawn in 2022–23 was 976% higher than in 2021–22 (941 personal requests were withdrawn in 2021–22; 10,127 personal requests were withdrawn in 2022–23). Double the number of requests for access to personal information were withdrawn than decided in 2022–23 (5,202 personal requests were decided; 10,127 were withdrawn). The number of requests made to Home Affairs for access to other (non-personal) information that were withdrawn fell by 41% (from 1,349 to 792).

The increase in the number of requests finalised in 2022–23 is a function of the large increase in the number of FOI requests withdrawn during the year (the number finalised is the sum of the requests decided, transferred and withdrawn).

Home Affairs says that to help reduce its overdue personal caseload, it implemented a new process to make use of the Privacy Act to release personal information. Part of this approach included finalising previously registered FOI requests as withdrawn (in consultation with the applicant) and processing them as requests for access under the Privacy Act. Home Affairs says that the success of this approach in streamlining personal access requests accounts for the increase in withdrawals during 2022–23 and the decline in the number of decisions made under the FOI Act compared to previous years. Home Affairs notes that the large number of FOI requests withdrawn in 2022–23 is unlikely to be repeated as new requests for access to personal information will be registered (where appropriate) as applications for information under the Privacy Act instead of the FOI Act.

In December 2022, the OAIC clarified to agencies that when access is granted to an edited copy of a document (including if it is edited to remove irrelevant information under s 22(1)(b)(ii)) this is to be recorded as a decision to grant partial access to the document. In some cases, agencies had recorded decisions in which irrelevant information was deleted as 'granted in full' (on the basis that the applicant had not requested the irrelevant information so they were being granted access to all the information they requested).<sup>3</sup>

As a result, the OAIC expected to see a decrease in the number of decisions recorded as being granted in full, and an increase in the number of decisions recorded as being granted in part. This was observable from the data reported by agencies in 2022–23.

In 2022–23, 25% of all requests were granted in full, down from 39% in 2021–22. However, prior to the clarification of recording decisions referred to above, the proportion of requests granted in full had been declining year-on-year. In 2020–21, 41% of all requests were granted in full, this was 47% in 2019–20, 52% in 2018–19 and 50% in 2017–18.

The proportion of FOI requests granted in part increased to 52% in 2022–23, up from 42% in 2021–22. In 2020–21, 41% of all decisions were granted in part and in 2019–20 this was 38%.

<sup>3</sup> In the '[FOIstats Guide to Quarterly and Annual FOI Act statistical returns](#)'.

**Table E.3: Overview of FOI requests received and finalised**

| FOI request processing               | 2021–22 | 2022–23 | % change |
|--------------------------------------|---------|---------|----------|
| On hand at the beginning of the year | 6,647*  | 8,996*  | 35       |
| Received during the year             | 34,236  | 34,225  | 0        |
| Requiring decision <sup>†</sup>      | 40,883  | 43,221  | 6        |
| Withdrawn                            | 5,916   | 15,915  | 169      |
| Transferred                          | 462     | 535     | 16       |
| Decided <sup>‡</sup>                 | 25,303  | 21,228  | -16      |
| Finalised <sup>§</sup>               | 31,681  | 37,678  | 19       |
| On hand at the end of the year       | 9,202   | 5,543   | -40      |

\* Agencies may ask the OAIC to change the number of FOI requests on hand at the beginning of a reporting year if the number carried over from the previous year is incorrect.

<sup>†</sup> Total of FOI requests on hand at the beginning of this reporting period and requests received during this reporting period.

<sup>‡</sup> Covers access granted in full, part or refused.

<sup>§</sup> The sum of requests withdrawn, transferred, and decided.

The proportion of FOI requests refused in 2022–23 (including requests refused because the documents requested did not exist or could not be found, or a practical refusal reason existed, as well as when exemptions were applied) increased to 23% compared with 19% in 2021–22 and 18% in 2020–21. The proportion of FOI requests refused was 15% in 2019–20.

Agencies decided 16% fewer FOI requests in 2022–23 than in 2021–22. Seventy-one percent of all decisions made in 2022–23 were made in relation to requests for access to personal information (this was 73% in 2021–22). Agencies decided 18% fewer requests for access to personal information in 2022–23 (18,557 personal information requests were decided in 2021–22; 15,129 were decided in 2022–23). There were 10% fewer decisions made on requests for access to other (non-personal) information (6,746 in 2021–22; 6,099 in 2022–23).

The slight increase in the proportion of non-personal (other) FOI requests decided in 2022–23, would generally be expected to result in a higher refusal rate (either in full or in part) because requests for access to ‘other’ information are generally considered to be more complex than requests for access to personal information and may be more likely to be subject to a wider range of exemptions under the FOI Act.

Table E.5 (see page 148) lists the top 20 agencies by the number of FOI decisions made in 2022–23, and also shows differences in the outcomes of FOI requests compared to other agencies.

In previous years, the percentage of FOI requests granted in full has been higher for agencies in the top 20 than for the remaining agencies. While this remained the case in 2022–23, the difference is less significant than in previous years.

**Table E.4: Outcomes of FOI requests decided 2022–23 compared with 2021–22**

| Decision         | Personal<br>2021–22 | Other<br>2021–22 | Total<br>2021–22 | %          | Personal<br>2022–23 | Other<br>2022–23 | Total<br>2022–23 | %          |
|------------------|---------------------|------------------|------------------|------------|---------------------|------------------|------------------|------------|
| Granted in full* | 8,380               | 1,586            | 9,966            | 39         | 4,025               | 1,351            | 5,376            | 25         |
| Granted in part† | 8,411               | 2,136            | 10,547           | 42         | 8,886               | 2,169            | 11,055           | 52         |
| Refused          | 1,766               | 3,024            | 4,790            | 19         | 2,218               | 2,579            | 4,797            | 23         |
| <b>Total</b>     | <b>18,557</b>       | <b>6,746</b>     | <b>25,303</b>    | <b>100</b> | <b>15,129</b>       | <b>6,099</b>     | <b>21,228</b>    | <b>100</b> |

\* The release of all documents within the scope of the request, as interpreted by the agency or minister.

† A document is granted in part when a part, or parts, of a document have been redacted to remove any irrelevant, exempt or conditionally exempt matter.

In 2022–23, agencies in the top 20 (in terms of decisions made) granted access in full to documents in 26% of all decisions made; the remaining agencies granted 21% of all requests in full. In 2021–22, agencies in the top 20 granted access in full in 42% of the decisions made; for agencies outside the top 20 this was 18%. In 2020–21, agencies in the top 20 granted full access in 43% of the decisions made; this was 20% for agencies outside the top 20.

In 2022–23, agencies in the top 20 (in terms of decisions made) granted access in part in 54% of the decisions made; this was 43% for the agencies outside the top 20. Agencies in the top 20 in 2022–23 refused access to requested documents in 20% of all decisions made; this proportion was 36% for the agencies outside the top 20.

In previous years, agencies processing higher proportions of FOI requests seeking access to personal information have generally had higher rates of FOI requests granted in full. While this remained the case in 2022–23 for some agencies receiving more FOI requests for personal information, many agencies that have previously granted high proportions of requests in full, had lower rates of full access decisions. As noted above, one possible reason is that these agencies may have previously recorded as ‘granted in full’ decisions which edited irrelevant information from the requested documents.

Agencies receiving high proportions of requests for access to personal information that granted full access to documents in high proportions in 2022–23 include the AAT (52% of all requests granted in full), the IAA (50%) and the NDIA (48%).

One notable exception to the general trend of agencies that receive large numbers of requests for access to personal information granting greater access to documents is Services Australia, which receives a high proportion of requests for access to personal information (95% of all requests received in both 2022–23 and 2021–22). It granted 16% of all FOI requests in full in 2022–23 and 14% in 2021–22 in full (down from 23% in 2020–21).

Of the top 20 agencies, 13 refused access to documents at levels higher than the average of all agencies (which was 23%). Several agencies had refusal rates at or above 50%, including AGD, ASIC, the Australian Postal Corporation (Australia Post) and the Treasury.

All these agencies receive higher numbers of FOI requests for ‘other’ information. In some circumstances, the proactive publication of ‘other’ information can reduce the need for requests for this type of information to be made under the FOI Act.

Table E.5: Top 20 agencies by numbers of FOI requests decided in 2022–23

| Agency   | Granted<br>in full | %         | Granted<br>in part | %         | Refused      | %         | Total         |
|--|--------------------|-----------|--------------------|-----------|--------------|-----------|---------------|
| Department of Home Affairs   | 1,956              | 31        | 3,129              | 50        | 1,203        | 19        | 6,288         |
| Services Australia   | 549                | 16        | 2,598              | 74        | 377          | 11        | 3,524         |
| National Disability Insurance Agency   | 698                | 48        | 510                | 35        | 252          | 17        | 1,460         |
| Administrative Appeals Tribunal  | 678                | 52        | 566                | 43        | 63           | 5         | 1,307         |
| Department of Veterans' Affairs  | 210                | 19        | 820                | 74        | 85           | 8         | 1,115         |
| Australian Taxation Office   | 129                | 18        | 353                | 49        | 238          | 33        | 720           |
| Department of Defence  | 30                 | 5         | 350                | 55        | 255          | 40        | 635           |
| Australian Federal Police  | 35                 | 7         | 317                | 60        | 175          | 33        | 527           |
| Australian Transaction Reports and Analysis Centre (AUSTRAC)                               | 18                 | 4         | 251                | 61        | 141          | 34        | 410           |
| Attorney-General's Department  | 21                 | 6         | 95                 | 29        | 208          | 64        | 324           |
| Department of Foreign Affairs and Trade  | 12                 | 4         | 169                | 54        | 130          | 42        | 311           |
| Department of Health and Aged Care   | 90                 | 31        | 102                | 35        | 100          | 34        | 292           |
| Department of the Prime Minister and Cabinet   | 39                 | 15        | 103                | 38        | 126          | 47        | 268           |
| Immigration Assessment Authority   | 97                 | 50        | 86                 | 44        | 12           | 6         | 195           |
| Office of the Australian Information Commissioner  | 62                 | 32        | 81                 | 42        | 48           | 25        | 191           |
| Department of Infrastructure, Transport, Regional Development, Communications and the Arts | 27                 | 17        | 69                 | 42        | 67           | 41        | 163           |
| Australian Postal Corporation  | 33                 | 21        | 11                 | 7         | 116          | 73        | 160           |
| Australian Research Council  | 43                 | 29        | 101                | 69        | 2            | 1         | 146           |
| Australian Securities and Investments Commission   | 16                 | 12        | 52                 | 38        | 69           | 50        | 137           |
| Department of the Treasury   | 22                 | 17        | 36                 | 27        | 74           | 56        | 132           |
| <b>Total top 20</b>  | <b>4,765</b>       | <b>26</b> | <b>9,799</b>       | <b>54</b> | <b>3,741</b> | <b>20</b> | <b>18,305</b> |
| Others   | 611                | 21        | 1,256              | 43        | 1,056        | 36        | 2,923         |
| <b>Total</b>   | <b>5,376</b>       | <b>25</b> | <b>11,055</b>      | <b>52</b> | <b>4,797</b> | <b>23</b> | <b>21,228</b> |

## Use of exemptions

Table E.6 shows how Australian Government agencies and ministers claimed exemptions under the FOI Act when processing FOI requests in 2022–23. More than one exemption may be applied in processing an FOI request.

Exemptions were not claimed or were not relevant<sup>4</sup> in relation to 6,653 FOI requests decided in 2022–23, or 31% of all FOI requests decided (compared to 54% in 2020–21, and 60% in 2019–20).<sup>5</sup>

Overall, there was very little change in the application of exemptions in 2022–23, when compared with previous years. The personal privacy exemption (s 47F) remains the most claimed exemption. It was applied in 39% of all FOI requests in which an exemption was claimed in 2022–23, the same percentage as in 2021–22 and only slightly above 2020–21 when it was applied in 38% of decisions (the same percentage as in 2019–20 and 2018–19).

The next most claimed exemptions were:

- s 47E (certain operations of agencies: 26%, up slightly from 25% in 2022–22 and 20% in 2019–20)
- s 37 (documents affecting enforcement of law and protection of public safety: 7%, the same percentage as 2021–22, a year in which there was a small decrease in use compared with 2020–21 (8%) and 2019–20 and 2018–19 (10%))
- s 38 (documents to which secrecy provisions apply: 6%, applied slightly more often than in 2021–22 (5%) but the same as previous years in which it was applied in 6% of all decisions in which an exemption was applied)
- s 47G (business: 5%, a small decrease from 2021–22 when it was applied in 6% of decisions in which an exemption was applied)

<sup>4</sup> As well as decisions made to grant access in full to the documents sought, this also includes decisions made under s 24 of the FOI Act (practical refusal) and s 24A (documents do not exist or cannot be found).

<sup>5</sup> It appears that in previous years, Home Affairs has included withdrawn and transferred requests as requests for which exemptions were not claimed or were not relevant (the category should only include those FOI requests in which a decision was made during the year). As a result, little can be read into the apparent decrease in the number of requests decided for which exemptions were not claimed or were not relevant.

- s 47C (deliberative processes: 5%, a small decrease from 2021–22 when it was applied in 6% of all decisions, down from 2020–21 (10%)).

## Use of practical refusal

Section 24AB of the FOI Act sets out that a ‘request consultation process’ must be undertaken if a ‘practical refusal reason’ exists (s 24AA). A practical refusal reason exists if the work involved in processing the FOI request would substantially and unreasonably divert the agency’s resources from its other operations, or if the FOI request does not adequately identify the documents sought.

The request consultation process involves the agency sending a written notice to the FOI applicant advising them that the agency intends to refuse the request and providing details of how the FOI applicant can consult the agency. The FOI Act imposes an obligation on the agency to take reasonable steps to help the FOI applicant revise their request so that the practical refusal reason no longer exists.

Table E.7 (see page 151) provides information about how agencies and ministers engaged in request consultation processes under s 24AB of the FOI Act in 2022–23 and the outcome of those processes.

Agencies sent 2,881 notices of an intention to refuse an FOI request for a practical refusal reason in 2022–23, 22% more than in 2021–22, when 2,353 notices were sent.

The reasons for this overall increase include increases in the number of practical refusal notices issued by Home Affairs, with 1,547 notices in 2022–23, compared with 1,230 in 2020–21 (a 26% increase), the ATO, with 157 notices in 2022–23, compared to 72 in 2021–22 (a 118% increase) and Defence, with 103 notices in 2022–23, compared with 52 in 2021–22 (a 98% increase). Other agencies that issued significantly more practical refusal notices in 2022–23 than in 2021–22 include Australia Post, with 5 notices issued in 2021–22, 28 in 2022–23 (a 460% increase), AGD, with 14 notices issued in 2021–22, 55 in 2022–23 (a 293% increase), the AEC, with 6 notices issued in 2021–22, 20 in 2022–23 (a 233% increase) and Treasury, with 20 notices issued in 2021–22, 45 in 2022–23 (a 125% increase). In many cases, the increase in the number of practical refusal notices issued in 2022–23 reflects an increase in the number of FOI requests decided by the agency during the year (for example, Defence, AGD, Treasury, the ATO and the AEC).



Table E.6: Use of exemptions in FOI decisions in 2022–23

| FOI Act reference | Exemption  | Personal | Other | Total | % of all exemptions applied |
|-------------------|--|----------|-------|-------|-----------------------------|
| s 33              | Documents affecting national security, defence or international relations          | 271      | 315   | 586   | 4                           |
| s 34              | Cabinet documents  | 3        | 125   | 128   | 1                           |
| s 37              | Documents affecting enforcement of law and protection of public safety             | 860      | 217   | 1,077 | 7                           |
| s 38              | Documents to which secrecy provisions of enactments apply                          | 808      | 123   | 931   | 6                           |
| s 42              | Documents subject to legal professional privilege                                  | 184      | 240   | 424   | 3                           |
| s 45              | Documents containing material obtained in confidence                               | 116      | 187   | 303   | 2                           |
| s 45A             | Parliamentary Budget Office documents  | 1        | 1     | 2     | –*                          |
| s 46              | Documents disclosure of which would be contempt of Parliament or contempt of court | 18       | 11    | 29    | –*                          |
| s 47              | Documents disclosing trade secrets or commercially valuable information            | 34       | 172   | 206   | 1                           |
| s 47A             | Electoral rolls and related documents  | 13       | 0     | 13    | –*                          |
| s 47B             | Commonwealth-state relations   | 93       | 90    | 183   | 1                           |
| s 47C             | Deliberative processes   | 290      | 493   | 783   | 5                           |
| s 47D             | Financial or property interests of the Commonwealth                                | 153      | 40    | 193   | 1                           |
| s 47E             | Certain operations of agencies   | 3,174    | 1,035 | 4,209 | 26                          |
| s 47F             | Personal privacy   | 5,285    | 1,167 | 6,452 | 39                          |
| s 47G             | Business   | 398      | 466   | 864   | 5                           |
| s 47H             | Research   | 0        | 4     | 4     | –*                          |
| s 47J             | The economy  | 0        | 5     | 5     | –*                          |

\* Denotes a figure that is less than 1% when rounded to nearest whole number.

**Table E.7: Use of practical refusal in 2022–23**

| Practical refusal processing step                  | Personal | Other | Total | %* |
|--|----------|-------|-------|----|
| Notified in writing of intention to refuse request | 1,552    | 1,329 | 2,881 | –  |
| Request was subsequently refused or withdrawn      | 1,093    | 893   | 1,986 | 69 |
| Request was subsequently processed                 | 459      | 436   | 895   | 31 |

\* Percentage of the total number of notices advising of an intention to refuse a request for a practical refusal reason.

Some agencies, however, issued significantly fewer notices of intention to refuse an FOI request for a practical refusal reason in 2022–23 than they did in 2021–22. For example, Health and Aged Care issued 78 notices in 2022–23, compared with 171 in 2021–22 (a 54% decrease), PM&C issued 43 notices in 2022–23, compared with 76 notices in 2021–22 (a 43% decrease), and ASIC issued 63 notices in 2022–23, with 95 issued in 2021–22 (a 34% decrease). Both Health and Aged Care and ASIC decided fewer FOI requests in 2022–23 so the decrease in the number of practical refusal notices issued reflects that trend; however, PM&C made more FOI decisions in 2022–23 than in 2021–22 so the decrease in the number of notices issued by the Department shows a reduced reliance on the practical refusal mechanism in s 24 of the FOI Act.

Some agencies and ministers issued a high proportion of notices of an intention to refuse a request, as a percentage of all the FOI requests they decided during 2022–23. The Assistant Treasurer issued practical refusal notices for 88% of all FOI requests decided in 2022–23 (7 of 8 decisions made); the National Emergency Management Agency issued practical refusal notices for 83% of all the FOI requests decided (5 of the 6 decisions made); the Bureau of Meteorology 68% (13 of 19 requests decided); the Office of the eSafety Commissioner 67% (10 of 15 requests decided); the Australian Transport Safety Bureau 67% (4 of 6 decisions made); the Australian Competition and Consumer Commissioner 61% (19 of 31 decisions made); the Department of Education 58% (14 of 24); the Office of the Registrar of Indigenous Corporations 61% (4 of 7); the Department of Climate Change, Energy, the Environment and Water (DCCEEW)

48% (60 of 126); ASIC 46% (63 of 137); and the Prime Minister 46% (21 of 46).<sup>6</sup>

In 2022–23, 69% of the FOI requests subject to a notice of intention to refuse were subsequently refused or withdrawn (895 of 2,881 notices issued). This is an increase in the proportion of requests refused or withdrawn compared with previous years. In 2021–22, 54% of all requests were refused after a practical refusal notice was issued, and in 2020–21, 48% were refused after a notice was issued.

This higher proportion of FOI requests subsequently refused or withdrawn after a practical refusal notice is issued suggests that applicants may not have revised their FOI requests so they can be processed, and also raises the question whether applicants received sufficient assistance to revise the scope of their FOI requests.

Home Affairs issued 54% of all notices of an intention to refuse a request for a practical refusal reason in 2022–23 (1,547 notices). It subsequently processed 380 of these requests (25%) compared with 2021–22, when it subsequently processed 51% of all requests after issuing a notice of intention to refuse a request for a practical refusal reason. That percentage was 61% in 2020–21.

<sup>6</sup> This paragraph excludes agencies and ministers who decided only one request in 2022–23 and the outcome of that request was a practical refusal under s 24 of the FOI Act (that is, 100% of all requests decided were practical refusals). The relevant agencies and ministers were the Minister for Social Services, the National Portrait Gallery, the Museum of Australian Democracy, the Commonwealth Grants Commission, Screen Australia and the Solicitor General.

For all other agencies, the percentage of FOI requests subsequently processed after a practical refusal notice was issued was 39%, which is similar to 2021–22 when it was 40%. These low rates indicate agencies' consultation with applicants has not always been successful in removing the practical refusal reason.

The percentage of FOI requests subsequently processed after a practical refusal notice has been issued has fluctuated over the past 6 years. For example, in 2016–17, 34% of all requests for which a practical refusal notice was issued were subsequently processed. This decreased to 16% in 2017–18 but rose again in 2018–19 (23%), 2019–20 (40%), 2020–21 (52%), 2021–22 (46%) and 2022–23 (31%).

## Charges

Section 29 of the FOI Act provides that an agency or minister may impose charges in respect of FOI requests, except requests for personal information, and sets out the process by which charges are assessed, notified and adjusted. There is no charge for giving access to an individual's own personal information. Charges can only be imposed for requests relating to 'other' (i.e., non-personal) information.

Table E.8 (see page 153) shows the amounts collected by the 20 agencies that collected the most in charges under the FOI Act in 2022–23. These top 20 agencies are responsible for 95% of all charges collected by agencies and ministers under the FOI Act during the reporting period.

In 2022–23, agencies notified a total of \$249,667 in charges with respect to 1,243 FOI requests and collected \$86,080 (34% of the total notified). This is a higher proportion than 2021–22, when 28% of the total charges notified were collected. The difference between charges notified and charges collected is due to agencies exercising their discretion under s 29 of the FOI Act not to impose the whole charge, or applicants withdrawing their FOI request and not paying the notified charge.

Four agencies notified total charges of over \$10,000 – Health and Aged Care (\$48,135 notified), DCCEEW (\$29,775 notified), Home Affairs (\$24,566 notified) and the Civil Aviation Safety Authority (\$15,658 notified).

Agencies notified less in charges in 2022–23 than the previous year but collected more than in 2021–22. Charges notified in 2022–23 (\$249,667) were 9% lower than in 2021–22, when \$272,928 was notified. In 2022–23, agencies collected \$86,080, 14% more than in 2021–22 when \$75,537 was collected.

This year's charges statistics do not conform to the trend, observable over the past 9 years, of the total charges notified and collected declining year-on-year (since 2013–14, when \$734,762 was notified and \$239,628 was collected).

## Time taken to respond to FOI requests

Agencies and ministers have 30 days to make a decision under the FOI Act. The FOI Act allows for the timeframe to be extended in certain circumstances.<sup>7</sup>

If a decision is not made on an FOI request within the statutory timeframe (including any extension period) then s 15AC of the FOI Act provides that a decision refusing access is deemed to have been made. Nonetheless, agencies should continue to process a request that has been deemed to be refused in these circumstances.

In 2022–23, 74% of all FOI requests determined were processed within the applicable statutory time frame: 70% of all personal information requests and 85% of all non-personal requests. This represents a small improvement in timeliness of decision making from 2021–22, when 70% of all FOI requests were decided within time (65% of personal requests and 85% of all non-personal requests). However, timeliness of decision-making in the previous reporting year (2021–22) was the lowest in 4 years, and this year's 74% remains below average timeliness in previous years (77% in 2020–21, 79% in 2019–20 and 83% in 2018–19).

<sup>7</sup> An agency may extend the period of time to make a decision by agreement with the applicant (s 15AA), or to undertake consultation with a third party (ss 15(6)-(8)). An agency can also apply to the Information Commissioner for more time to process a request when the request is complex or voluminous (s 15AB), or when access has been deemed to have been refused (ss 15AC and 51DA) or deemed to have been affirmed on internal review (s 54D). These extension provisions acknowledge there are circumstances when it is appropriate for an agency to take more than 30 days to process a request. When an agency has obtained an extension of time to deal with an FOI request and finalises the request within the extended time, the request is recorded as having been determined within the statutory time period.

**Table E.8: Top 20 agencies by charges collected in 2022–23**

| Agency  | Rank | Requests received | Requests where charges notified | Total charges notified (\$) | Total charges collected (\$) |
|---|------|-------------------|---------------------------------|-----------------------------|------------------------------|
| Department of Climate Change, Energy, the Environment and Water           | 1    | 233               | 80                              | 29,775                      | 16,177                       |
| Department of Health and Aged Care  | 2    | 524               | 150                             | 48,135                      | 15,956                       |
| Department of Home Affairs  | 3    | 13,095            | 627                             | 24,566                      | 9,487                        |
| Civil Aviation Safety Authority   | 4    | 104               | 55                              | 15,658                      | 7,564                        |
| Department of Agriculture, Fisheries and Forestry                         | 5    | 95                | 28                              | 9,006                       | 4,819                        |
| Department of Employment and Workplace Relations                          | 6    | 132               | 31                              | 9,055                       | 3,489                        |
| Australian Competition and Consumer Commission                            | 7    | 62                | 19                              | 7,841                       | 3,412                        |
| Great Barrier Reef Marine Park Authority                                  | 8    | 6                 | 3                               | 3,477                       | 3,377                        |
| National Offshore Petroleum Safety and Environmental Management Authority | 9    | 28                | 12                              | 6,539                       | 2,517                        |
| Clean Energy Regulator  | 10   | 32                | 11                              | 7,546                       | 1,971                        |
| Australian Pesticides and Veterinary Medicines Authority                  | 11   | 15                | 5                               | 5,449                       | 1,725                        |
| Commonwealth Scientific and Industrial Research Organisation (CSIRO)      | 12   | 53                | 8                               | 4,826                       | 1,636                        |
| Department of Industry, Science and Resources                             | 13   | 186               | 25                              | 8,169                       | 1,609                        |
| Department of Education   | 14   | 77                | 27                              | 7,990                       | 1,565                        |
| Department of Foreign Affairs and Trade                                   | 15   | 375               | 10                              | 2,545                       | 1,542                        |
| Australian Building and Construction Commission                           | 16   | 13                | 4                               | 2,672                       | 1,425                        |
| Tertiary Education Quality and Standards Agency                           | 17   | 14                | 9                               | 1,810                       | 1,337                        |
| Department of the Treasury  | 18   | 207               | 14                              | 5,032                       | 876                          |
| Australian Bureau of Statistics   | 19   | 24                | 6                               | 2,528                       | 860                          |
| National Indigenous Australians Agency                                    | 20   | 32                | 12                              | 6,162                       | 573                          |
| <b>Total top 20</b>   |      | <b>15,307</b>     | <b>1,136</b>                    | <b>208,781</b>              | <b>81,917</b>                |
| Others  |      | 18,918            | 107                             | 40,886                      | 4,163                        |
| <b>Total</b>  |      | <b>34,225</b>     | <b>1,243</b>                    | <b>249,667</b>              | <b>86,080</b>                |

The small improvement in timeliness in 2022–23 is the result of improvements in timeliness for deciding requests seeking access to personal information. In 2021–22, 65% of all requests for personal information were decided within time; this improved to 70% in 2022–23 (85% of requests for access to non-personal information were decided in time in both 2022–23 and 2021–22). While acknowledging this represents improvement in timeliness, members of the public have a right to expect that their requests, especially for access to personal information, will be decided in a timely way, and within the statutory timeframes in the FOI Act.

Some agencies and ministers have found it difficult to comply with statutory timeframes in 2022–23. The reasons given for this include an increase in the number of FOI requests which impacts their capacity to attend to requests in a timely way, resource constraints – particularly in the context of short term surges in request numbers, the increasing complexity and volume of requests, staff turnover, difficulty recruiting staff, and loss of corporate knowledge.

Some agencies and ministers decided less than 50% of FOI requests within the statutory timeframes in 2022–23. These included the Commonwealth Ombudsman (20%), the Digital Transformation Agency (25%), the Australian Institute of Aboriginal and Torres Strait Islander Studies (33%), the Treasurer (36%), Home Affairs (38%) and the Minister for Infrastructure, Transport, Regional Development and Local Government (43%). The Australian Institute of Family Studies decided the only request it received in 2022–23 more than 2 months outside the statutory timeframe.

The Commonwealth Ombudsman explains that while the number of FOI requests it received decreased slightly from 2021–22, the complexity of the requests and therefore the time required to process them increased. This is due in part to the number of requests received relating to the *Public Interest Disclosure Act 2013* which involve complex considerations of various conditional exemptions and whether release would be contrary to the public interest. The small FOI team at the Commonwealth Ombudsman has also experienced significant staff turnover and corporate knowledge loss at all levels, particularly the Executive level. The Commonwealth

Ombudsman has implemented an action plan to address the backlog of deemed requests as well as to prioritise current statutory deadlines.

The Treasurer's Office said that statutory timeframes were not met for 7 requests. Of these, 6 were decided within 20 days following the expiry of the deadline. The remaining request required significant consultation with external parties. The Treasurer's Office notes that it takes its obligations under the FOI Act seriously and devotes adequate resources to ensure it adheres to its commitment to transparency.

The Minister for Infrastructure, Transport, Regional Development and Local Government notes that of the 4 decisions not made within the statutory timeframe in 2022–23, 3 were made within a small number of days of the due date and that one took longer because additional time was needed because the request related to a sensitive matter involving personal privacy that was ongoing at the time the FOI request was being progressed. The Minister advises that they dedicate considerable effort to processing and finalising FOI decisions within the relevant timeframes and will pay particular attention to FOI processing deadlines in future.

Because of the large number of FOI requests received and decided by Home Affairs, it is worth noting that its compliance with statutory timeframes declined further in 2022–23 compared with previous years. In 2022–23, Home Affairs decided 38% of all FOI requests within the statutory timeframe (32% of all requests for personal information and 86% of non-personal requests). Home Affairs decided 45% of all requests in time 2021–22, 62% in 2020–21, 66% in 2019–20 (66%) and 74% in 2018–19. Home Affairs decided only 41% of FOI requests for access to personal information within statutory timeframes, a decline in timeliness from 2020–21 (61%) and 2019–20 (69%).

Home Affairs' compliance with statutory timeframes is well below the Australian Government average of 74%. It is further worth noting that if reporting of Home Affairs' compliance with statutory timeframes is removed from the calculation of overall timeliness, the average for all other Australian Government agencies and ministers would be 89%.

Home Affairs advises that it has a large backlog of FOI requests, particularly requests for access to

personal information. Home Affairs advises that it processes requests in the order they are lodged and is committed to reducing its on-hand overdue caseload to a manageable level. However, its focus on reducing the backlog means the percentage of requests processed in time will continue to fall until the out of time requests are finalised. Home Affairs says that in 2022–23 it has significantly reduced the on-hand requests for access to personal information which means that the requests now being processed will be less out of time.

Following an Information Commissioner investigation into the timeliness of decision making by DFAT, its compliance with statutory timeframes has improved from 60% in 2021–22, to 76% in 2022–23. DFAT advises that in response to the Acting FOI Commissioner’s letters regarding poor compliance with statutory timeframes it has developed and implemented an ‘FOI Compliance Action Plan: Implementation Report’ and implemented process structural reforms from 1 July 2022. A key component of these reforms has been greater SES involvement and oversight and the

appointment of Executive Level 1/2 action officers for each request. While these process improvements have led to an increase in staff hours spent on FOI requests, this has increased DFAT’s compliance with statutory timeframes.

During the reporting period, there was a decrease in the proportion of FOI requests decided more than 90 days over the applicable statutory period compared with 2021–22; 14% of all requests decided in 2022–23 were decided more than 90 days after the expiry of the statutory processing period; this was 19% in 2021–22. However, this proportion is still higher than in previous reporting years – 12% in 2020–21, 10% in 2019–20 and 2% in 2018–19.

Home Affairs accounted for 89% of all requests decided more than 90 days after the expiry of the statutory time period in 2022–23 (2,736 of 3,057) so is the primary driver for the continuing high rate of requests decided more than 90 days over time. Overall, 44% of all the FOI decisions made by Home Affairs were made more than 90 days over time;

**Table E.9: FOI request response times for 2021–22 and 2022–23**

| Response time   | 2021–22       |              |                             |            | 2022–23       |              |               |                             |
|---|---------------|--------------|-----------------------------|------------|---------------|--------------|---------------|-----------------------------|
|   | Personal      | Other        | % of total requests decided | %          | Personal      | Other        | Total         | % of total requests decided |
| Within applicable statutory time period                 | 12,084        | 5,714        | 17,798                      | 70         | 10,554        | 5,168        | 15,723        | 74                          |
| Up to 30 days over applicable statutory time period     | 1,018         | 703          | 1,721                       | 7          | 868           | 629          | 1,496         | 7                           |
| 31–60 days over applicable statutory time period        | 450           | 186          | 636                         | 3          | 390           | 164          | 554           | 3                           |
| 61–90 days over applicable statutory time period        | 258           | 66           | 324                         | 1          | 337           | 61           | 398           | 2                           |
| More than 90 days over applicable statutory time period | 4,747         | 77           | 4,824                       | 19         | 2,980         | 77           | 3,057         | 14                          |
| <b>Total</b>  | <b>18,557</b> | <b>6,746</b> | <b>25,303</b>               | <b>100</b> | <b>15,129</b> | <b>6,099</b> | <b>21,228</b> | <b>100</b>                  |

52% of personal information requests and 1% of non personal requests.

The NDIA and Services Australia also contributed to the high numbers of requests decided more than 90 days over time with 152 and 95 decisions made respectively in this category.

A number of agencies that process large numbers of FOI requests (more than 100) decided them all within the statutory time in 2022–23. These agencies include IP Australia (128 requests decided), DCCEEW (126 requests decided) and the Department of Industry, Science and Resources (DISR) (106 requests decided).

**Table E.10: Response times greater than 90 days after expiry of applicable statutory period in 2022–23**

| Agency  | Total requests decided | FOI requests decided more than 90 days after statutory period | % of FOI requests decided more than 90 days after the expiry of statutory period, as a % of all requests decided |
|---|------------------------|---|--|
| Australian Institute of Aboriginal and Torres Strait Islander Studies | 3                      | 2   | 67   |
| Department of Home Affairs  | 6,288                  | 2,736   | 44   |
| Minister for Home Affairs   | 5                      | 1   | 20   |
| Commonwealth Ombudsman  | 86                     | 10  | 12   |
| Airservices Australia   | 36                     | 4   | 11   |
| National Disability Insurance Agency                                  | 1,460                  | 152   | 10   |
| Australian Federal Police   | 527                    | 22  | 4  |
| Office of the Commonwealth Director of Public Prosecutions            | 27                     | 1   | 4  |
| Services Australia  | 3,524                  | 95  | 3  |
| Department of the Prime Minister and Cabinet                          | 268                    | 6   | 2  |
| Australian Research Council   | 146                    | 3   | 2  |
| Department of Defence   | 635                    | 10  | 2  |
| Department of Foreign Affairs and Trade                               | 311                    | 4   | 1  |
| Department of Veterans' Affairs                                       | 1,115                  | 8   | 1  |
| Attorney-General's Department   | 324                    | 1   | 0  |
| Australian Transaction Reports and Analysis Centre (AUSTRAC)          | 410                    | 1   | 0  |
| Administrative Appeals Tribunal                                       | 1,307                  | 1   | 0  |

## Applications for amendment of personal records

Section 48 of the FOI Act confers a right on a person to apply to an agency or to a minister to amend a document to which lawful access has been granted, when the document contains personal information about the applicant:

- that is incomplete, incorrect, out of date or misleading, and
- that has been used, is being used, or is available for use by the agency or minister for an administrative purpose.

In 2022–23, 11 agencies received 1,230 amendment applications (no applications were received by ministers). This is a 4% decrease in applications compared with 2021–22, when 1,282 amendment applications were received. It is worth noting, however, that in 2021–22 there was a 56% increase in applications, and the year before that (2020–21) there was a 14% increase. As a result, despite the decrease in amendment applications in 2022–23, the number of applications remains high when compared with the period prior to 2019–20.

The decrease in amendment applications is due to a decrease in applications received by Home Affairs (down 5% in 2022–23 (1,128 applications) compared with 2021–22 (1,193 applications)). Other agencies

experienced increases in amendment applications this year (for example, Defence up 26% on 2021–22 and the NDIA up from 2 applications in 2021–22 to 6 in 2022–23). Three agencies (Comcare, Veterans' Affairs and DFAT) received amendment applications when they did not receive any the previous year.

Table E.11 compares the decision-making for amendment applications during the reporting period with 2020–21. In 2022–23, a decision was made to amend or annotate a person's personal record in 89% of all decided applications, which is lower than in 2020–21, when 91% of all decided applications resulted in a decision to amend or annotate a person's personal information. Because Home Affairs accounted for 92% of all amendment applications received in 2022–23, overall trends in amendment decision making are largely determined by decisions made by that department (which decided to amend or annotate a person's personal record in 85% of the applications it decided, compared with 93% in 2021–22).

## Time taken to respond to amendment applications

An agency is required to notify an applicant of a decision on their application to amend personal records as soon as practicable, but in any case, not later than 30 days after the day the request is received, or a longer period as extended under the FOI Act.

**Table E.11: Decisions on amendment applications**

| Decision                  | 2021–22      | % of total | 2022–23      | % of total     | % change* |
|---------------------------|--------------|------------|--------------|----------------|-----------|
| Granted                   | 1,119        | 91         | 1,072        | 89             | -4        |
| Amend record              | 1,023        | 83         | 993          | 82             | -3        |
| Annotate record           | 94           | 8          | 75           | 6              | -20       |
| Amend and annotate record | 2            | 0          | 4            | - <sup>†</sup> | 100       |
| Refused                   | 107          | 9          | 135          | 11             | 26        |
| <b>Total</b>              | <b>1,226</b> | <b>100</b> | <b>1,207</b> | <b>100</b>     | <b>-2</b> |

\* Percentage increase or decrease compared with 2020–21.

<sup>†</sup> Less than 1% when rounded to the nearest whole number.



In 2022–23, 87% of all amendment applications were decided within the applicable statutory timeframe, which is lower than 2021–22, when 91% of all amendment applications were decided within time. Ten percent of all amendment applications in 2022–23 were decided up to 30 days after the expiry of the statutory time frame, and 3% were decided more than 30 days after the time period expired. This directly reflects timeliness of decision-making within Home Affairs (which decided 10% of all amendment applications up to 30 days after the expiry of the applicable processing period, and 3% more than 30 days after the processing period expired).

## Internal review of amendment decisions

In 2022–23, 15 applications for internal review of amendment decisions were received by 4 agencies (4 more applications than in 2021–22, when 11 applications were made). Of these, 7 applications were made to Home Affairs, 6 to the OAIC, 1 to the AAT and 1 to Comcare. Ten internal review decisions were made during the reporting year, compared to 9 in 2021–22. Of these, 6 decisions granted the requested amendment or annotation (60%) and 4 decisions refused the requested alteration (40%). In 2021–22, 5 reviews granted the requested alteration or annotation (56%) and 4 refused the requested alteration (44%).

## Disclosure logs

All Australian Government agencies and ministers subject to the FOI Act are required to maintain an FOI disclosure log on a website. The disclosure log lists information that has been released to FOI applicants, subject to some exceptions (such as personal or business information). Information about agency and ministerial compliance with disclosure log requirements has been collected since 2012–13.

Australian Government agencies and ministers reported 2,493 new entries on disclosure logs during 2022–23, including 1,985 new entries for which documents are available for download directly from the agency or minister's website (80% of all new disclosure log entries), 29 new entries for which documents are available from another website (1% of all new entries), and 479 new entries for which the

documents are available by another means, usually upon request (19% of all new listings).

The total number of new entries published on disclosure logs in 2022–23 is 6% lower than 2021–22, when 2,647 new entries were added. This decrease may reflect the reduced number of FOI requests decided in 2022–23 (16% less than in 2021–22) and the increase in the number of requests refused.

There was a small increase in the proportion of new documents that members of the public can access directly from agency websites: 80% in 2022–23 compared with 79% in 2021–22. However, this is still less than 2020–21, when 83% of all documents were available to the public directly from agency websites.

Some agencies that added more than 20 new entries to their disclosure log in 2022–23 made all released documents available for direct download from the agency's website, or from another website. These agencies include Home Affairs (732), PM&C (98), DFAT (80), DCCEEW (76), Health and Aged Care (67), the OAIC (56), DISR (55), the Department of Agriculture, Fisheries and Forestry (DAFF) (35), ASIC (34), the Department of Employment and Workplace Relations (DEWR) (29), Treasury (29), the AEC (24), the AFP (24) and the ATO (24).

Each quarter, in addition to providing the number of new entries added to their disclosure logs, agencies are asked (where statistics are collected in relation to disclosure log webpages), to provide the number of unique visitors to their disclosure log and the number of page views. Only 15% of agencies registered on the FOI statistics database indicate they collect statistics on unique visitors and/or page views.

In 2022–23, agencies and ministers reported a total of 283,315 unique visitors to disclosure logs and 386,106 page views, which represents a 263% increase in unique visitors since 2021–22, and an 83% increase in total page views compared with 2021–22. The substantial increase in unique visitors is due to an increase in the number of unique views reported by Home Affairs (230,379, up 466% on 2021–22 when 40,699 were reported). The substantial increase in the number of page views is the result of an increase in the number of page views reported by Home Affairs (316,565, up 93% on 2021–22 when 163,333 were reported).

## Review of FOI decisions

Under the FOI Act, an applicant who is dissatisfied with the decision of an agency or minister on their initial FOI request has a number of avenues of review. The applicant can seek internal review with the agency or minister (except if the FOI request is deemed to have been refused because a decision has not been made within the statutory time period) or external merits review by the Information Commissioner (IC review). Information Commissioner decisions under s 55K are reviewable by the AAT. AAT decisions may be appealed on a question of law to the Federal Court. In addition, an applicant can complain at any time to the Information Commissioner about an agency's actions under the FOI Act.

Third parties who have been consulted in the FOI process also have review rights if an agency or minister decides to release documents contrary to their submissions. Consultation requirements apply for state governments (s 26A), commercial organisations (s 27), and private individuals (s 27A).

## Internal review

The Information Commissioner recommends and encourages FOI applicants to apply for an internal review before applying for IC review.

In 2022–23, 868 applications were made for an internal review of FOI decisions, 9% less than in 2021–22 (when 954 internal review applications were made). In 2022–23, 4% of all FOI requests determined led to applications for internal review, the same proportion as in 2021–22 and 2020–21, and slightly more than in 2019–20 when it was 3%.

The overall decline in total internal review applications in 2022–23 was driven by a 62% decrease in applications to Home Affairs (which received 68 internal review applications, down from 116 the previous year). That decrease reflects, in part, the 44% decrease in the number of FOI decisions made by Home Affairs during the year. However, Services Australia reported a 34% increase in internal review applications (from 65 in 2021–22, to 87 in 2022–23) which reflects a 42% increase in the number of FOI requests that agency finalised in 2022–23.

Of the 868 applications for an internal review, 381 (44%) were for review of decisions made in response

to requests for personal information and 487 (56%) were for review of decisions on other information requests. On the basis that 71% of all FOI decisions made in 2022–23 related to requests for access to personal information (and 45 of those requests were granted in full), this indicates that FOI applicants seeking access to personal information are less likely to seek internal review than those seeking to access 'other' (non-personal) information.

Agencies finalised 834 internal reviews in 2022–23, 14% fewer than in 2021–22. This reflects the smaller number of applications for internal review made during 2022–23. Of these:

- 486 (58%) affirmed the original decision
- 66 (23%) set aside the original decision and granted access in full
- 189 (8%) granted access in part
- 4 (0%) granted access after deferment
- 12 (1%) granted access in another form
- 13 (2%) resulted in lesser access
- 43 (5%) were withdrawn by applicants without concession by the agency
- 21 (3%) reduced the charges levied.

## IC review applications

Table E.12 (see page 161) provides a breakdown, by the top 20 agencies, of IC review applications received in 2022–23. There were 1,647 applications for IC review in 2022–23 (down 16% from 1,955 in 2021–22). However, it is worth noting that 2021–22 was characterised by the highest number of IC review applications received since IC review was introduced in November 2010. The OAIC therefore received the second highest number of IC review applications in its history in 2022–23.

The decrease in the number of IC review applications is primarily the result of a reduction in the number of applications for IC review of decisions made by Home Affairs (323 fewer IC review applications in 2022–23 than in 2021–22).

When an agency fails to make a decision on an FOI request within the statutory timeframes in the FOI Act, the request is deemed to have refused and the applicant may apply for IC review. In 2022–23,

2 agencies had large proportions of applications relating to deemed access refusal decisions; Home Affairs and the NDIA. Eighty five percent of all applications for IC review for which Home Affairs was the respondent related to decisions deemed to have been refused (594 of 699 applications) and 74% of all IC review applications relating to the NDIA were with respect to requests deemed to have been refused at the time of application (66 of 89).

As has been stated in past annual reports, it is generally the agencies that receive the most FOI requests that have the most IC review applications lodged against their decisions. In 2022–23, 14 of the 20 agencies in Table E.12 (top 20 by IC reviews received) are also in the top 20 agencies for the number of FOI requests received.

However, some agencies in Table E.12 have comparatively few IC applications lodged against their decisions, when expressed as a percentage of the total number of FOI requests they receive. These agencies include the AAT (1%), Services Australia (2%), the ATO (3%), Health and Aged Care (4%) and Veterans' Affairs (4%). IC review applications were filed with the OAIC in relation to 5% of all requests decided by ASIC, Defence, Home Affairs, DISR, NDIA and PM&C.

Some agencies are the subject of a comparatively large number of IC review applications when expressed as a percentage of the total FOI requests they receive. These include the Federal Court of Australia (38%), the Australian Public Service Commission (21%), the Commonwealth Ombudsman (21%), the OAIC (19%), the AFP (13%) and Comcare (11%).

There was a 10% increase in the number of IC reviews finalised by the OAIC in 2022–23 (1,519), compared with 2021–22 (when 1,376 were finalised). Since 2016–17, there have been year-on-year increases in the number of IC reviews finalised, and the number finalised by the OAIC in 2022–23 is the highest number on record.

In 2022–23, 1,451 IC reviews (96% of the total) were finalised without a formal decision being made under s 55K of the FOI Act. This is a slightly higher percentage than 2021–22 (when 93% of all IC reviews were finalised without a formal s 55K decision being made), 2020–21 (95%), 2019–20 (94%) and 2018–19 (91%).

In 2022–23, 128 IC reviews were declined under s 54W(a) (lacking in substance, failure to cooperate, or lost contact) (8% of the total reviews finalised) compared to 189 in 2020–21.

There were 94 IC reviews declined under s 54W(b) (decision to be considered by the AAT) compared with 69 in 2019–20 (a 36% increase). Of the 94 IC reviews declined under s 54W(b), 54 (57%) relate to FOI decisions made by the OAIC. Part 10.88 of the FOI Guidelines states that the Information Commissioner may decline to undertake a review under s 54W(b) if there may be a perceived or actual conflict of interest in the Commissioner undertaking review, including where the FOI request under review was made to, or decided by, the Information Commissioner or their delegate.

Sixty-six IC review applications were declined under s 54W(c) (failure to comply with a direction of the Information Commissioner). No IC review applications were declined under this provision in 2021–22.

Although the total number of IC review applications declined under s 54W<sup>8</sup> of the FOI Act increased from 259 in 2021–22 to 288 in 2022–23, the percentage of all IC reviews finalised under s 54W remained the same as in 2021–22 (19%). This percentage was 25% in 2020–21, 31% in 2019–20 and 30% in 2018–19.

In total, 879 IC reviews were closed under s 54R as withdrawn, an increase from 659 in 2021–22. Of these, 516 were finalised following a revised decision to provide access being made under s 55G of the FOI Act. Of these 516 IC reviews finalised as withdrawn, 456 involved an application for IC review of a deemed access refusal decision.

Of the 1,519 IC review applications finalised in 2022–23, 2% were declined under s 54W(a)(i) (frivolous, vexatious, misconceived, lacking in substance, or not made in good faith), 4% were declined under s 54W(a)(ii) (failure to cooperate), 3% were finalised under s 54W(a)(iii) (lost contact) and 6% under s 54W(b) (allow to go direct to the AAT).

<sup>8</sup> Section 54W of the FOI Act contains a number of grounds under which the Information Commissioner may decide not to undertake an IC review or not to continue to undertake an IC review.

**Table E.12: Information Commissioner review – top 20 agencies by IC review applications received 2022–23**

| Agency/minister                                   | FOI requests received | Access grant applications | Access refusal applications | Total IC reviews applications | % of FOI requests |
|---|-----------------------|---------------------------|-----------------------------|-------------------------------|-------------------|
| Department of Home Affairs                        | 13,095                | 0                         | 699                         | 699                           | 5                 |
| National Disability Insurance Agency              | 1,752                 | 0                         | 89                          | 89                            | 5                 |
| Australian Federal Police                         | 682                   | 0                         | 87                          | 87                            | 13                |
| Services Australia                                | 5,137                 | 1                         | 82                          | 83                            | 2                 |
| Department of Veterans' Affairs                   | 1,596                 | 0                         | 67                          | 67                            | 4                 |
| Office of the Australian Information Commissioner | 314                   | 1                         | 58                          | 59                            | 19                |
| Department of Defence                             | 830                   | 0                         | 45                          | 45                            | 5                 |
| Australian Taxation Office                        | 1,127                 | 0                         | 32                          | 32                            | 3                 |
| Commonwealth Ombudsman                            | 140                   | 0                         | 29                          | 29                            | 21                |
| Federal Court of Australia                        | 71                    | 0                         | 27                          | 27                            | 38                |
| Department of Foreign Affairs and Trade           | 375                   | 0                         | 27                          | 27                            | 7                 |
| Attorney-General's Department                     | 426                   | 0                         | 24                          | 24                            | 6                 |
| Administrative Appeals Tribunal                   | 1,571                 | 4                         | 18                          | 22                            | 1                 |
| Department of Health and Aged Care                | 524                   | 0                         | 19                          | 19                            | 4                 |
| Department of the Prime Minister and Cabinet      | 330                   | 1                         | 16                          | 17                            | 5                 |
| Comcare   | 131                   | 2                         | 13                          | 15                            | 11                |
| Australian Public Service Commission              | 70                    | 0                         | 15                          | 15                            | 21                |
| Australian Securities and Investments Commission  | 220                   | 0                         | 12                          | 12                            | 5                 |
| Prime Minister                                    | 79                    | 0                         | 11                          | 11                            | 14                |
| Department of Industry, Science and Resources     | 186                   | 0                         | 10                          | 10                            | 5                 |
| <b>Total top 20</b>                               | <b>28,656</b>         | <b>9</b>                  | <b>1,380</b>                | <b>1,389</b>                  | <b>5</b>          |
| Others  | 5,569                 | 10                        | 248                         | 258                           | 5                 |
| <b>Total</b>                                      | <b>34,225</b>         | <b>19</b>                 | <b>1,628</b>                | <b>1,647</b>                  | <b>5</b>          |

**Table E.13: Information Commissioner review outcomes**

| Information Commissioner decisions   | 2021–22      | % of 2021–22 total | 2022–23      | % of 2022–23 total |
|--|--------------|--------------------|--------------|--------------------|
| Section 54N – out of jurisdiction  | 313          | 23                 | 282          | 19                 |
| Section 54R – withdrawn  | 645          | 47                 | 797          | 52                 |
| Section 54R – withdrawn/conciliated  | 39           | –                  | 82           | 5                  |
| Section 54W(a)(i) – frivolous, vexatious, misconceived, lacking in substance, or not in good faith | 50           | 4                  | 23           | 2                  |
| Section 54W(a)(ii) – failure to cooperate  | 130          | 9                  | 58           | 4                  |
| Section 54W(a)(iii) – lost contact   | 9            | 1                  | 47           | 3                  |
| Section 54W(b) – refer AAT   | 69           | 5                  | 94           | 6                  |
| Section 54W(c) – failure to comply   |              | 0                  | 66           | 4                  |
| Section 55F – set aside by agreement   | 1            | 0                  | 1            | 0                  |
| Section 55F – varied by agreement  | 5            | 0                  | 1            | 0                  |
| Section 55K – affirmed by IC   | 57           | 4                  | 11           | 1                  |
| Section 55K – set aside by IC  | 36           | 3                  | 48           | 3                  |
| Section 55K – varied by IC   | 10           | 1                  | 9            | 1                  |
| Section 89M(2)(b) – refuse to consider   | 12           | 1                  | –            | –                  |
| <b>Total</b>   | <b>1,376</b> | <b>100</b>         | <b>1,519</b> | <b>100</b>         |

In 2022–23, individuals occupying the roles of Information Commissioner, FOI Commissioner and Assistant Commissioner made 68 decisions under s 55K of the FOI Act compared to 103 in 2021–22. Eleven of these decisions affirmed<sup>9</sup> the decision under review (16%), 48 set aside<sup>10</sup> the reviewable decision (71%) and 13 decisions were varied<sup>11</sup> (13%). All 11 decisions that affirmed the decision under

<sup>9</sup> The decision under review was upheld.

<sup>10</sup> The decision under review was wrong or not the correct/preferable decision.

<sup>11</sup> The decision under review was altered or changed in some way, for example, access was refused on the basis of a different exemption than set out in the decision under review.

review were access refusals. In 2021–22, the Commissioners affirmed 55% of decisions, set aside 35% and varied 10%.

Three of the decisions affirmed (27%) were revised by the agency or minister under s 55G of the FOI Act during the IC review to give greater access to the documents sought. This was also the case with 21 of the 48 decisions set aside (44%) and 2 of the 9 decisions that were varied (22%).

The percentage of applications received by the OAIC that were out of jurisdiction or invalid decreased from 23% in 2021–22, to 19% of all applications in 2022–23.

## Administrative Appeals Tribunal review

An application can be made to the AAT for review of the following FOI decisions:

- a decision of the Information Commissioner under s 55K
- an IC reviewable decision (that is, an original decision or an internal review decision), but only if the Information Commissioner decides, under s 54W(b), that the interests of the administration of the FOI Act make it desirable that the IC reviewable decision be considered by the AAT directly.

In 2022–23, 54 applications for review of FOI decisions were made to the AAT. This is a 7% decrease from 2021–22, when 58 applications were made to the AAT.

Table E.14 provides a breakdown, by agency, of applications to the AAT in relation to FOI decisions in 2022–23. This data has been provided by the AAT.

As noted in the section on IC review applications, the Information Commissioner will decline to undertake an IC review of an FOI decision made by the OAIC due to a perceived or actual conflict of interest in reviewing a decision made by the Information Commissioner or their delegate. As a result, the only review option for these applicants lies with the AAT.

In 2022–23, 2 agencies sought review in the AAT of decisions made by the Information Commissioner under s 55K of the FOI Act – the Australian Research Council (1 application) and the Department of Climate Change, Energy, the Environment and Water (1 application).

Seventy-one applications remained outstanding with the AAT at the end of 2022–23. This is a 25% decrease on the number of applications outstanding at the end of 2021–22 (95).

Table E.15 shows the outcome of the 69 FOI reviews finalised by the AAT in 2022–23, compared with the previous reporting year. The AAT provided this data.

Of the 69 FOI reviews finalised by the AAT, 16 (23%) resulted in written decisions in 2022–23. The AAT affirmed the decision under review in 22 of 27 decisions (81%), while 5 were varied or set aside (19%).

Four of the 69 reviews finalised by the AAT in 2022–23 involved applications made by agencies against decisions made by the Information Commissioner under s 55K of the FOI Act. Two were varied/set aside by decision and 2 were varied/set aside by consent.

**Table E.14: AAT review by agency (respondent)**

| Respondent  | Applications |
|---|--------------|
| Australian Information Commissioner                             | 22           |
| Department of the Prime Minister and Cabinet                    | 7            |
| Attorney General's Department                                   | 4            |
| Department of Defence   | 3            |
| Department of Climate Change, Energy, the Environment and Water | 2            |
| Administrative Appeals Tribunal                                 | 1            |
| Australian Criminal Intelligence Commission                     | 1            |
| Australian Federal Police                                       | 1            |
| Australian Public Service Commission                            | 1            |
| Australian Taxation Office                                      | 1            |
| Commonwealth Ombudsman  | 1            |
| Department of Industry, Science and Resources                   | 1            |
| Department of Veterans' Affairs                                 | 1            |
| Inspector General of the Australian Defence Force               | 1            |
| Minister for Department of Home Affairs                         | 1            |
| Office of the Prime Minister of Australia                       | 1            |
| Services Australia  | 1            |
| The Treasury  | 1            |
| Therapeutic Goods Administration                                | 1            |
| Other (appeals by agencies against IC review decisions)         | 2            |
| <b>Total</b>  | <b>54</b>    |

**Table E.15: Outcomes of FOI reviews finalised by the AAT**

| AAT outcomes                         | Number in<br>2021–22 | % of total<br>2021–22 | Number in<br>2022–23 | % of total<br>2022–23 |
|--------------------------------------|----------------------|-----------------------|----------------------|-----------------------|
| Affirmed by consent                  | –                    | –                     | 4                    | 6                     |
| Varied/set aside/remitted by consent | 5                    | 8                     | 21                   | 30                    |
| Dismissed by consent                 | 19                   | 29                    | 3                    | 4                     |
| Withdrawn by applicant               | 10                   | 15                    | 5                    | 7                     |
| Decision affirmed                    | 17                   | 26                    | 22                   | 32                    |
| Decision varied/set aside            | 8                    | 12                    | 5                    | 7                     |
| Dismissed                            | –                    | –                     | 3                    | 4                     |
| Dismissed – non-reviewable decision  | 7                    | 11                    | 6                    | 9                     |
| <b>Total*</b>                        | <b>66</b>            | <b>100</b>            | <b>69</b>            | <b>100</b>            |

\* Percentages will always add to 100%, but the sum of rows may not appear to due to rounding.

## Impact of FOI on agency resources

To assess the impact on agency resources of their compliance with the FOI Act, agencies are asked to estimate the hours staff spent on FOI matters and the non-labour costs directly attributable to FOI, such as legal and specific FOI training costs. Agencies submit these estimates annually. Agency estimates may also include FOI processing work undertaken on behalf of a minister's office.

Agencies are also asked to report their costs of compliance with the Information Publication Scheme (IPS). To facilitate comparison with information in previous annual reports, IPS costs are not included in this analysis of the cost of agency compliance with the FOI Act, but are discussed separately.

The total reported cost attributable to processing FOI requests in 2022–23 was \$70.33 million, a 9% increase over the previous financial year's total of \$64.56 million. In 2021–22 there was a 5% increase in total FOI costs compared with the previous year.

The average staff days for each FOI request received in 2022–23 (3.5 days per request), was 6% higher than in 2021–22 and 2020–21 (when it was 3.3 days per request). The average cost for each request received was \$2,055 compared with \$1,886 in 2021–22, a 9% increase.

The 9% increase in total costs occurs in the context of a 16% decrease in the number of FOI requests decided by Australian Government agencies in 2022–23, which has resulted in the average cost for each request decided increasing 30% to \$3,313 per request. The average cost for processing each FOI request in 2021–22 was \$2,551. The increase in the total cost of administering FOI is the result of increases in both staff costs and non-labour costs. In 2022–23, staff costs were 8% higher than in 2021–22 and non-labour costs were 25% higher.

The total staff hours devoted to FOI was 6% higher in 2022–23 (903,492 hours) than in 2021–22 (851,290). The previous 2 years (2021–22 and 2020–21) both had very similar numbers of FOI hours worked.

**Table E.16: Average cost per request determined**

| Year    | Requests determined | Total cost (\$) | Total cost (% change) | Average cost/request determined (\$) | Change in average cost/request determined (%) |
|---------|---------------------|-----------------|-----------------------|--------------------------------------|---|
| 2022–23 | 21,228              | 70,328,374      | 9                     | 3,313                                | 30  |
| 2021–22 | 25,303              | 64,559,531      | 5                     | 2,551                                | 11  |
| 2020–21 | 26,680              | 61,484,795      | –4                    | 2,305                                | 6   |
| 2019–20 | 29,358              | 63,906,111      | 7                     | 2,177                                | 10  |
| 2018–19 | 30,144              | 59,844,953      | 15                    | 1,985                                | 20  |
| 2017–18 | 31,674              | 52,186,180      | 17                    | 1,648                                | 25  |
| 2016–17 | 34,029              | 44,787,154      | 9                     | 1,316                                | 6   |

Table E.16 sets out the average cost per FOI request determined (granted in full, in part or refused) for the past 5 years.

### Staff costs (FOI)

All agencies are asked to supply information about staff resources allocated to FOI.

Agencies provide estimates of the number of staff hours spent on FOI to enable the calculation of salary costs (and additional 60% related costs, which cover overheads such as computers, electricity and stationery), directly attributable to FOI request processing.

A summary of staff costs is provided in Table E.18, based on information provided by agencies and ministers, and calculated using the following median base annual salaries from Australian Public Service Commission public information:<sup>12</sup>

- FOI contact officer (officers whose duties included FOI work) \$83,700<sup>13</sup>

- Other officers involved in processing requests:
  - Senior Executive Service (SES) officers (or equivalent) \$220,052<sup>14</sup>
  - APS Level 6 and Executive Levels (EL) 1–2 \$122,044<sup>15</sup>
  - Australian Public Service (APS) Levels 1–5 \$67,368<sup>16</sup>
- Minister’s office:
  - Minister and advisers \$151,133<sup>17</sup>
  - Minister’s support staff \$67,368<sup>18</sup>

The total estimated staff costs of FOI in 2022–23, were \$65.34 million, 8% more than in 2021–22. While there were significant decreases in staff costs associated with ministers’ support staff (a 64% decrease), at the APS 6/EL1-2 levels (24% reduction in costs) and at APS 1-5 levels (20% reduction), these were offset by increases in the costs of FOI contact officers, SES staff and ministers and their advisers.

<sup>12</sup>Because salary levels differ between agencies, median salary levels have been used. These were published by the Australian Public Service Commission in its APS Remuneration Report 2022. These median levels are as at 31 December 2022.

<sup>13</sup>APS Level 5 base salary median.

<sup>14</sup>SES Band 1 base salary median.

<sup>15</sup>Executive Level 1 base salary median.

<sup>16</sup>APS Level 3 base salary median.

<sup>17</sup>Executive Level 2 base salary median.

<sup>18</sup>APS Level 3 base salary median.



**Table E.17: Total FOI staffing across all Australian Government agencies**

| Staffing                      | 2018–19 | 2019–20 | 2020–21 | 2021–22 | 2022–23 |
|-------------------------------|---------|---------|---------|---------|---------|
| Total staff hours             | 840,803 | 893,564 | 855,498 | 851,290 | 903,492 |
| % change in total staff hours | 13      | 6       | -4      | 0       | 6       |
| Total staff years             | 420.40  | 446.78  | 427.75  | 425.65  | 451.75  |
| % change in total staff years | 13      | 6       | -4      | -0      | 6       |

**Table E.18: Estimated staff costs of FOI in 2022–23 compared to 2021–22**

| Type of staff            | Staff years<br>2021–22 | Total staff costs<br>2021–22 (\$) | Staff years<br>2022–23 | Total staff costs<br>2022–23 (\$) | % change in total<br>staff costs |
|--------------------------|------------------------|-----------------------------------|------------------------|-----------------------------------|----------------------------------|
| FOI contact officers     | 317.7                  | 41,716,761                        | 362.7                  | 48,576,936                        | 16                               |
| SES                      | 15.6                   | 5,272,868                         | 17.2                   | 6,064,633                         | 15                               |
| APS Level 6 and EL 1–2   | 42.5                   | 8,142,873                         | 31.9                   | 6,223,561                         | -24                              |
| APS Levels 1–5           | 48.5                   | 5,165,715                         | 38.5                   | 4,150,192                         | -20                              |
| Minister and advisers    | 1.0                    | 228,524                           | 1.3                    | 314,961                           | 38                               |
| Minister's support staff | 0.3                    | 34,027                            | 0.1                    | 12,180                            | -64                              |
| <b>Total</b>             | <b>425.6</b>           | <b>60,560,767</b>                 | <b>451.7</b>           | <b>65,342,463</b>                 | <b>8</b>                         |

## Non-labour costs

Non-labour costs directly attributable to FOI in 2022–23 are summarised in Table E.19, including the percentage change from the previous financial year.

The total non-labour costs in 2022–23 were \$4.99 million,<sup>19</sup> which is 25% higher than the previous financial year (when total non-labour costs were \$4 million<sup>20</sup>).

The most significant increases in non-labour costs in 2022–23 relate to general administrative costs (up 74% on 2021–22) and 'other'<sup>21</sup> costs (up 247%).

<sup>19</sup>\$4,985,911.

<sup>20</sup>\$3,998,764.

<sup>21</sup>Other costs include costs not included in the other reporting categories.

Expenditure on total legal costs declined (5% less than in 2021–22) as did general legal expenses (down 8%); however, there was a 1% increase in litigation expenses. There was a 9% decrease in expenditure on FOI training.

The [FOIstats Guide](#), which provides information to assist agencies enter statistics relating to their FOI activity on the FOI statistics database says that the 'other' costs category is to be used for 'unusual costs [not covered by any other category of expenditure] for example a special access arrangement.' Further, the Guide indicates that agencies are to record contractor costs as staff (labour) costs at items 2 and 3 of the annual return.

The significant increase in 'other' costs in 2022–23 is the result of Home Affairs reporting \$1,517,079 in

**Table E.19: Identified non-labour costs of FOI 2018–19 to 2022–23**

| Costs                               | 2018–19          | 2019–20          | 2020–21          | 2021–22          | 2022–23          | % change * |
|-------------------------------------|------------------|------------------|------------------|------------------|------------------|------------|
| <b>Total legal costs</b>            | <b>1,931,760</b> | <b>1,631,269</b> | <b>2,088,755</b> | <b>3,165,875</b> | <b>3,003,802</b> | <b>-5</b>  |
| General legal advice costs          | 414,635          | 911,551          | 1,254,301        | 2,077,876        | 1,908,662        | -8         |
| Litigation costs                    | 1,517,125        | 719,718          | 834,454          | 1,087,999        | 1,095,140        | 1          |
| <b>General administrative costs</b> | <b>144,140</b>   | <b>136,634</b>   | <b>94,678</b>    | <b>91,920</b>    | <b>159,855</b>   | <b>74</b>  |
| <b>Training</b>                     | <b>385,745</b>   | <b>168,339</b>   | <b>276,042</b>   | <b>293,624</b>   | <b>268,237</b>   | <b>-9</b>  |
| <b>Other</b>                        | <b>263,206</b>   | <b>242,585</b>   | <b>348,097</b>   | <b>447,345</b>   | <b>1,554,017</b> | <b>247</b> |
| <b>Total Non-labour costs</b>       | <b>2,724,851</b> | <b>2,178,827</b> | <b>2,807,572</b> | <b>3,998,764</b> | <b>4,985,911</b> | <b>25</b>  |

\* Percentage change from 2021–22 to 2022–23.

other costs in 2022–23. This is a 1,063% increase on the amount Home Affairs reported for this category in 2021–22 (when it reported \$130,454).

In its annual return, Home Affairs states this amount relates to ‘contractor costs and ICT costs such as software licenses, software support and specialist IT equipment’.

As noted earlier in this Appendix, in 2022–23 Home Affairs introduced changes to make greater use of the Privacy Act to provide access to personal information. This resulted in a large increase of the number of FOI requests being withdrawn and subsequently processed as requests for access under the Privacy Act. It says that \$1,440,072 of the \$1,517,079 it has reported as ‘other’ expenditure relates to labour hire costs which were primarily used for work done on requests subsequently processed administratively under the Privacy Act. Home Affairs says that one section within the Department performed these duties, and it is not able, within the time given to provide information for this Appendix, to specifically identify FOI costs.

In terms of general legal expenses, the AFP reported spending \$142,972 in this category (an 8,825% increase on the amount it reported in 2021–22, \$1,602) and the Norfolk Island Regional Council reported \$141,000 in general legal expenses (last reporting year it reported spending \$150,000).

The ATO reported the largest spend across the Australian Government on FOI litigation at \$341,510 (a 112% increase on 2021–22 when it reported \$161,461). Services Australia had the next highest expenditure in this category with \$280,649 (an 18% decrease on FOI litigation compared with 2021–22 when it spent \$341,353) and the NDIA had \$247,967 (a 33% increase on 2021–22’s \$186,638).

Data provided by the AAT (Table E.14) indicates that some of these legal and litigation expenses may be due to applications relating to FOI decisions in 2022–23.

Defence, which consistently spends the most of any agency on FOI training, spent \$167,193 in 2022–23 (this was \$154,175 in 2021–22).

### Average cost per FOI request

The average number of staff days for each FOI request received in 2022–23 was 3.5 days, which is a 6% increase on 2021–22 (which had the same average number of staff days per request as in 2020–21).

As in previous years, the average staff days per FOI request differed significantly across agencies, from 0.03 (the Australian Charities and Not-for-Profits Commission for the second year in a row) to 51 days (the Digital Transformation Agency).

**Table E.20: Agencies with average cost per FOI request decided greater than \$10,000**

| Agency  | Requests decided | Average cost per request (\$) |
|---|------------------|-------------------------------|
| Digital Transformation Agency   | 4                | 86,130                        |
| Australian Transport Safety Bureau  | 6                | 33,189                        |
| Department of Employment and Workplace Relations                          | 90               | 24,735                        |
| National Emergency Management Agency                                      | 6                | 19,546                        |
| Department of Education   | 24               | 17,774                        |
| Australian Bureau of Statistics   | 15               | 15,898                        |
| Screen Australia  | 1                | 15,286                        |
| Norfolk Island Regional Council   | 20               | 14,269                        |
| National Offshore Petroleum Safety and Environmental Management Authority | 15               | 14,248                        |
| Fair Work Ombudsman   | 44               | 14,237                        |
| National Indigenous Australians Agency                                    | 18               | 13,848                        |
| Department of Industry, Science and Resources                             | 106              | 12,604                        |
| Comcare   | 84               | 12,575                        |
| Australian Digital Health Agency  | 9                | 12,196                        |
| Department of Climate Change, Energy, the Environment and Water           | 126              | 12,093                        |
| Department of Agriculture, Fisheries and Forestry                         | 74               | 11,607                        |
| Bureau of Meteorology   | 19               | 10,771                        |
| Australian Broadcasting Corporation                                       | 29               | 10,478                        |
| Clean Energy Regulator  | 26               | 10,259                        |

In the last reporting period, the National Archives of Australia had the highest average staff days per request (24) but this year that figure was 9.3 days for each request received (on average). This improvement in productivity was achieved in the context of National Archives receiving 170% more FOI requests in 2022–23 (35) than in 2021–22 (13).

The overall average cost per request received was \$2,055, 9% higher than in 2021–22 when it was \$1,886.

Generally, the agencies with the highest average cost per request are small agencies that do not receive many FOI requests. As a result, they do not have the opportunity to develop the processing efficiencies that agencies with higher volumes of FOI requests do.

## Impact of the Information Publication Scheme on agency resources

Agencies are required to provide information about the costs of meeting their obligations under the IPS.

The total reported cost attributable to compliance with the IPS in 2022–23 was \$1,210,393, 22% more than 2021–22 (\$979,011). This increase comes after 2 years of decreased expenditure on IPS (in 2021–22 expenditure was 1% less than in 2020–21, when it was \$990,278, which was 20% less than the previous year.

The Department of Education reports that its Web Services Team had 8 staff (including web publishers and developers providing support) involved in work on the Department's IPS in 2022–23. This totalled 800 hours of IPS work during the year. The Department observes that this is approximately 50% of the figure reported by the former Department of Education, Skills and Employment for 2021–22 when 7 staff spent 1,531 hours on IPS work.

## Staff costs (IPS)

Table E.21 shows the total reported IPS staffing across Australian Government agencies compared to last financial year.

**Table E.21: Total IPS staffing in 2021–22 and 2022–23**

| Staffing   | 2021–22 | 2022–21 | % change |
|--|---------|---------|----------|
| Staff numbers: 75–100% time on IPS matters       | 7       | 13      | 86       |
| Staff numbers: less than 75% time on IPS matters | 275     | 258     | -6       |
| Total staff hours                                | 14,575  | 17,729  | 22       |
| Total staff years                                | 7.3     | 8.9     | 22       |

## Non-labour IPS costs

Reported IPS non-labour costs for all agencies totalled \$1,840 in 2022–23, an 84% decrease on expenditure in 2021–22, when non-labour costs were reported as \$11,787. Only 4 agencies (of the 273 agencies required to maintain an IPS entry) reported any non-labour expenditure on their IPS during 2022–23.

There was a 26% increase in general administrative expenses associated with IPS administration in 2022–23 and a 91% decrease in training costs.

Three agencies reported a total of \$840 on general administrative costs associated with IPS compliance (the Australian Council, the Bureau of Meteorology and Food Standards Australia New Zealand). One agency reported spending \$1,000 on training costs associated with IPS (the Australian Financial Security Authority). No agencies reported any expenditure on general legal advice or litigation associated with their IPS.

**Table E.22: Estimated staff costs in relation to the IPS in 2022–23**

| Type of staff*         | Staff years | Salary costs (\$) | Related costs (\$) (60%) | Total staff costs (\$) |
|------------------------|-------------|-------------------|--------------------------|------------------------|
| IPS contact officers   | 8.3         | 694,417           | 416,650                  | 1,111,067              |
| SES                    | 0.1         | 17,494            | 10,496                   | 27,991                 |
| APS Level 6 and EL 1–2 | 0.2         | 23,493            | 14,096                   | 37,590                 |
| APS Levels 1–5         | 0.3         | 19,941            | 11,965                   | 31,905                 |
| <b>Total</b>           | <b>8.9</b>  | <b>755,346</b>    | <b>453,207</b>           | <b>1,208,553</b>       |

\* IPS contact officers are officers whose usual duties include IPS work. The other rows cover other officers involved in IPS work.

## Appendix F: Survey results and methodology

### Performance summary

The Office of the Australian Information Commissioner (OAIC) developed and conducted its first annual stakeholder survey this year (for more information on the methodology employed see the Methodology section on page 178). This survey is intended to measure the OAIC's performance on six measures in accordance with the key activities outlined in the *Corporate plan 2022–23*.

An index score has been calculated for each of the six performance measures, based on the average performance rating of the relevant sub-measures. Index scores have been re-proportioned so that scores range from 0 to 100, with 100 representing the highest possible score.

Scores for each performance measure are summarised in the table below.

With an index score of 67, the effective contribution to the regulation of the Consumer Data Right (CDR) represents a relative strength for the OAIC. Index scores for all remaining performance measures are rated similarly (between 58 and 61); the exception being the average rating of the extent to which the OAIC's regulatory activities are risk based and data driven – this is markedly lower at 51.

### Performance measures results

The OAIC's performance can be further analysed by evaluating stakeholder ratings for the sub-measures that constitute the index scores achieved for each of the six performance measures. The following sections provide a more detailed breakdown of the index scores, including a summary of the results achieved for the sub-measures that underpin each performance area.

**Table F.1: OAIC performance measure index results 2023**

| Key activity  | Performance measure  | Score |
|---|--|-------|
| Influence and uphold privacy and information access rights frameworks | Effectiveness of the OAIC's contribution to the regulation of the Consumer Data Right as measured by stakeholder feedback  | 67    |
| Advance online privacy protections for Australians                    | Effectiveness of the OAIC's contribution to the advancement of online privacy protections and policy advice as measured by stakeholder feedback  | 61    |
| Encourage and support proactive disclosure of government information  | Effectiveness of the OAIC's advice and guidance on the operation of the FOI Act and the Information Publication Scheme in supporting government agencies to provide public access to government held information as measured by stakeholder feedback | 60    |
| Contemporary approach to regulation                                   | Stakeholder assessment of the extent to which the OAIC's regulatory activities demonstrate a commitment to continuous improvement and building trust   | 60    |
|   | Stakeholder assessment of the extent to which the OAIC's regulatory activities demonstrate collaboration and engagement  | 58    |
|   | Stakeholder assessment of the extent to which the OAIC's regulatory activities are risk based and data driven  | 51    |

# 1 – Influence and uphold privacy and information access rights frameworks

| Performance measure   | Target                   | Score    |
|---|--------------------------|----------|
| Effectiveness of the OAIC’s contribution to the regulation of the Consumer Data Right as measured by stakeholder feedback | Baseline to be developed | 67 / 100 |

The overall index score for the OAIC’s contribution to the regulation of the Consumer Data Right (CDR) is 67 out of 100. The performance target in this first year of the Stakeholder Survey was to develop a baseline from which future performance can be measured; this target has been achieved by the OAIC in 2023.

Effectiveness of the OAIC’s contribution to the regulation of the CDR is measured through an external stakeholder survey. The index measure has been constructed based on the average performance rating for the seven sub-measures that underpin this performance area (see Figure 1). Each of these

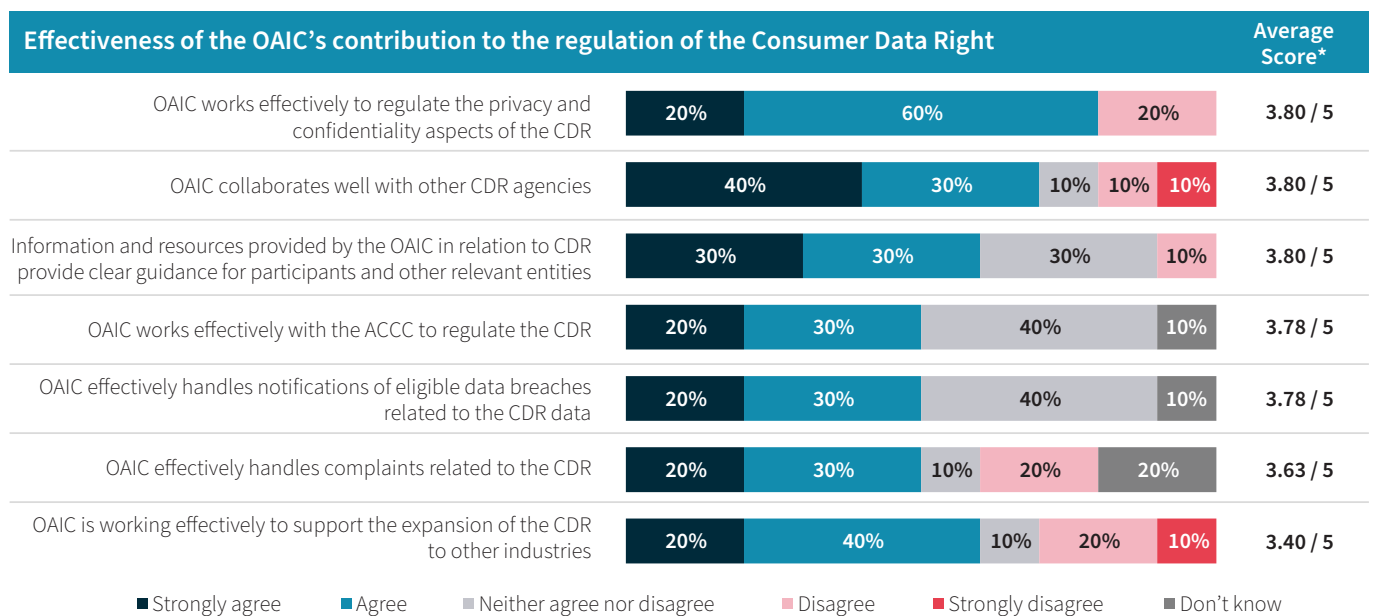
sub-measures use a 5-point scale, ranging from (5) strongly agree to (1) strongly disagree.

Reported results are based on the ratings provided by stakeholders whose professional role involves regular engagement with the OAIC’s CDR function. In total, 10 stakeholders met this definition. Due to the small sample size caution should be taken when interpreting the results and they should be viewed as indicative only.

The highest average score achieved by the OAIC (3.80 out of 5) in terms of this performance measure relates to:

- OAIC working effectively to regulate the privacy and confidentiality of aspects of the Consumer Data Right.
- OAIC collaborating well with other Consumer Data Right agencies.
- information and resources provided by the OAIC in relation to the Consumer Data Right providing clear guidance for participants and other relevant entities.

**Figure F.1: Sub-measure ratings for the effectiveness of the OAIC’s contribution to the regulation of the Consumer Data Right**



Base: 2023 CDR Stakeholders n=10. Caution low base. | Source: D1 To what extent to do agree or disagree with the following statements? | \*Average excludes don't know responses

The second highest average score achieved (3.78 out of 5) are in terms of:

- OAIC working effectively with the ACCC to regulate the Consumer Data Right.
- OAIC effectively handling notifications of eligible data breaches related to Consumer Data Right data.

The lowest rated sub-measures relate to the effective handling of CDR complaints (3.63 out of 5), and how effective the OAIC is at supporting the expansion of the CDR to other industries (3.40 out of 5). It is worth noting that both ratings are still higher than the mid-point of 3.

Qualitative analysis of verbatim responses collected in response to the effectiveness of the OAIC's contribution to the regulation of the CDR reveal that stakeholders who provided positive ratings (satisfied or very satisfied) mention the OAIC working collaboratively to engage with stakeholders in developing the CDR framework. Positive sentiments also include mention of the quality and timeliness of the OAIC's contribution towards the CDR. However, stakeholders who rated the OAIC's performance negatively in this area (dissatisfied or very dissatisfied) describe the OAIC's regulation of the CDR as impractical, saying the OAIC could be more strategic and targeted in its approach.

## 2 – Advance online privacy protections for Australians

| Performance measure   | Target                   | Score    |
|---|--------------------------|----------|
| Effectiveness of the OAIC's contribution to the advancement of online privacy protections and policy advice as measured by stakeholder feedback | Baseline to be developed | 61 / 100 |

The overall index score for the OAIC's contribution to the advancement of online privacy protections and policy advice is 61 out of 100. The performance target in this first year of the Stakeholder Survey was to develop a baseline from which future performance can be measured; this target has been achieved by the OAIC in 2023.

Effectiveness of the OAIC's contribution to the advancement of online privacy protections and policy advice is measured through an external stakeholder survey. The index measure has been constructed based on the average performance rating for the eight sub-measures that underpin this performance area (see Figure 2). Each of these sub-measures use a 5-point scale, ranging from (5) strongly agree to (1) strongly disagree.

Reported results are based on the ratings provided by stakeholders whose professional role involves regular engagement with the OAIC's privacy function.

The highest average scores achieved by the OAIC in terms of this performance measure relate to:

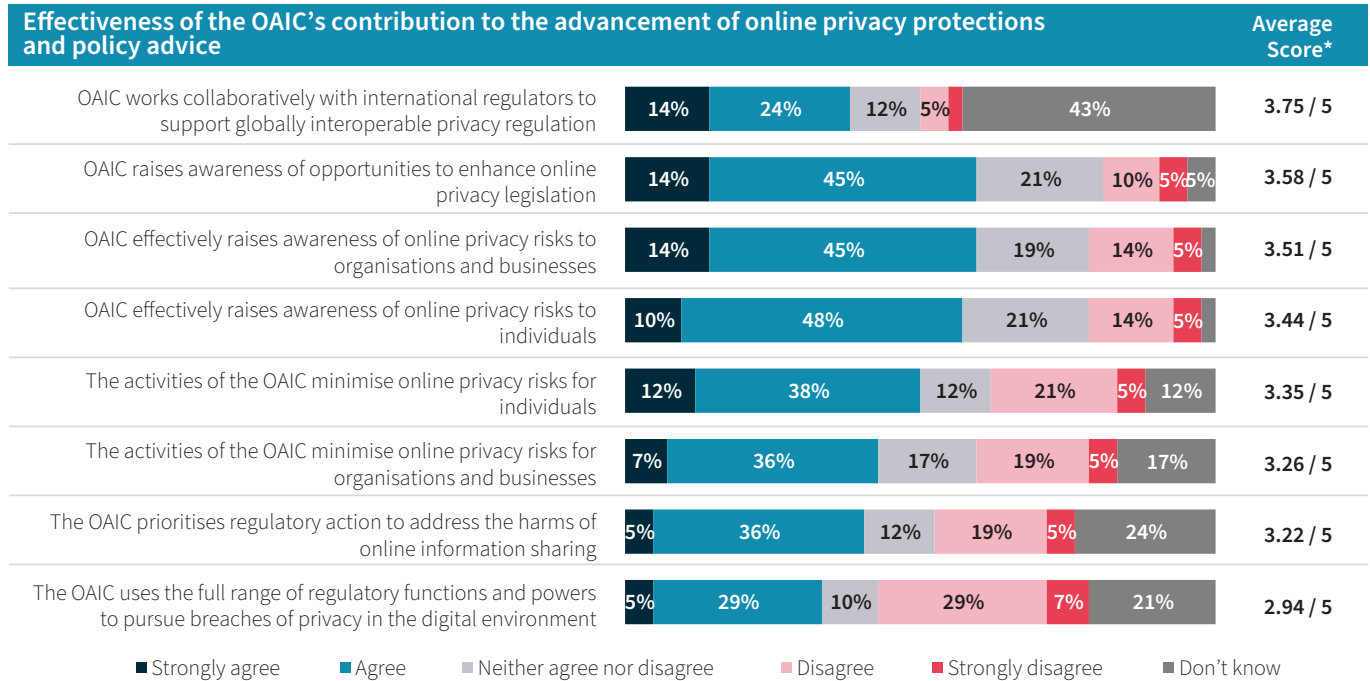
- OAIC works collaboratively with international regulators to support globally interoperable privacy regulation (3.75 out of 5)
- OAIC raises awareness of opportunities to enhance online privacy legislation (3.58 out of 5)
- OAIC effectively raises awareness of the online privacy risks to organisations and businesses (3.51 out of 5).

It is worth noting that reported averages do not take into account the proportion of don't know responses. The proportion of stakeholders who said they don't know in response to the statement 'the OAIC works collaboratively with international regulators to support globally interoperable privacy regulation' is high relative to other sub-measures (43%).

All remaining sub-measures have exceeded the mid-point of 3, with the exception of 'the OAIC uses the full range of regulatory functions and powers to pursue breaches of privacy in the digital environment' (2.94 out of 5). This means, on balance, slightly more stakeholders rated this statement negatively than positively.

Qualitative analysis of verbatim responses in relation to the effectiveness of the OAIC's contribution to the advancement of online privacy protections and policy advice suggests the issue of under-funding and OAIC being under-resourced is a factor impeding performance in this aspect. Stakeholders who rated OAIC positively (satisfied or very satisfied) say the OAIC provides good advice despite being inadequately resourced and mention the quality of online resources

**Figure F.2: Sub-measure ratings for the effectiveness of the OAIC’s contribution to the advancement of online privacy protections and policy advice**



Base: 2023 PrivacyStakeholders n=42. | Source: E1 To what extent to do agree or disagree with the following statements? | \*Average excludes don't know responses

Note: Percentage labels for values of 3% or less have been removed to improve chart legibility.

and guidelines material on privacy as a strength. Others describe the OAIC as actively engaging with agencies in advocating for privacy reform and the work done towards the Privacy Act Review.

Stakeholders who gave negative or neutral ratings (neither satisfied nor dissatisfied or very dissatisfied) also mention the issue of under-funding as an underlying factor of the OAIC not being responsive enough when it comes to policy advice on privacy. Others mention that the OAIC is not prominent and does not feature enough in public debate about privacy. Some stakeholders raised that the OAIC’s explanations provided are often not written in plain language that is easy for all to understand.

### 3 – Encourage and support proactive disclosure of government information

| Performance measure  | Target                   | Score    |
|--|--------------------------|----------|
| Effectiveness of the OAIC’s advice and guidance on the operation of the FOI Act and the Information Publication Scheme in supporting government agencies to provide public access to government-held information as measured by stakeholder feedback | Baseline to be developed | 60 / 100 |



The overall index score for the OAIC’s advice and guidance on the operation of the Freedom of Information (FOI) Act and the Information Publication Scheme (IPS) in supporting government agencies to provide public access to government held information is 60 out of 100. The performance target in this first year of the Stakeholder Survey was to develop a baseline from which future performance can be measured; this target has been achieved by the OAIC in 2023.

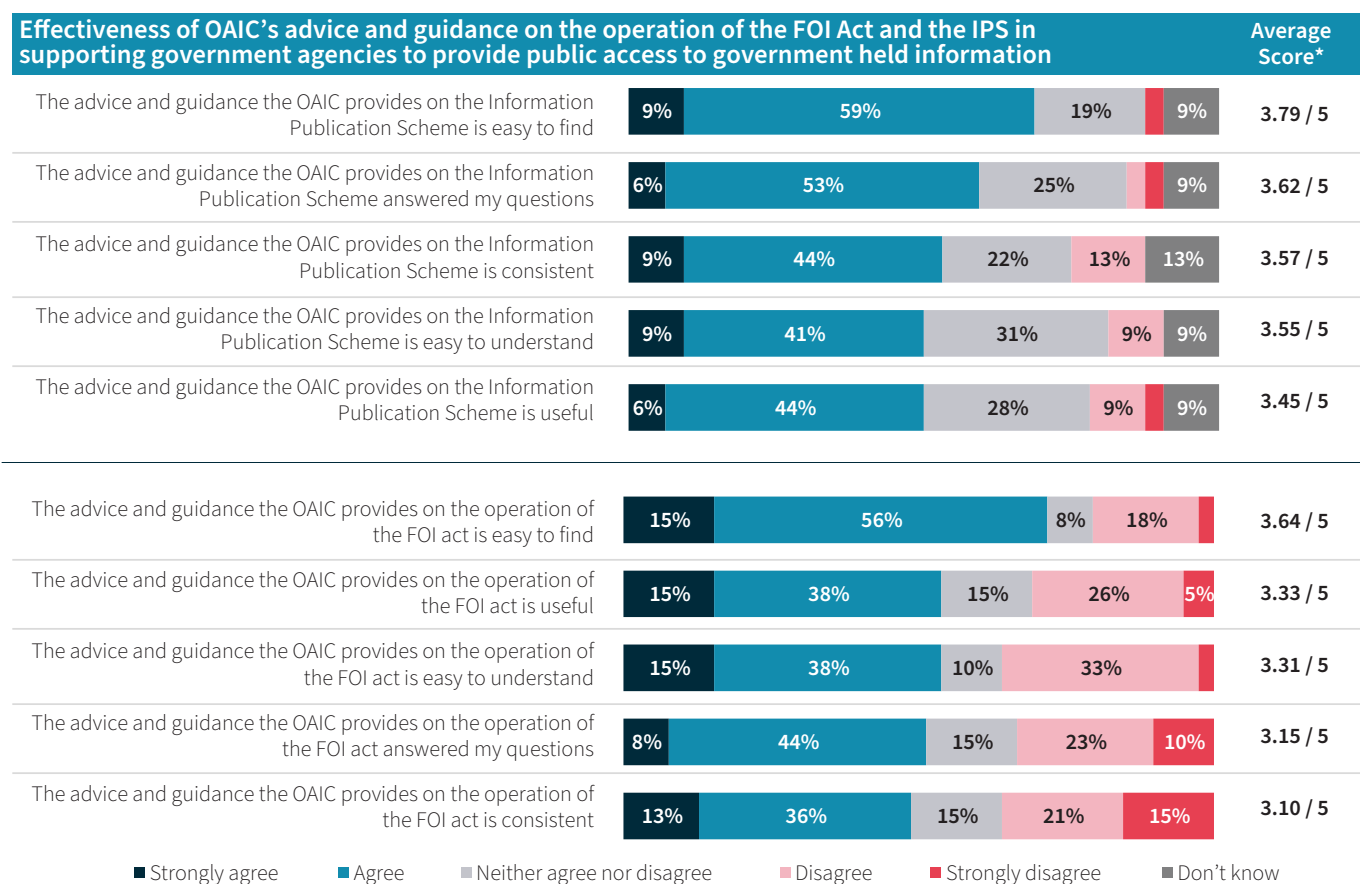
Performance in this area is measured through an external stakeholder survey. The index measure has been constructed based on the average performance

rating for the 10 sub-measures that underpin this performance area (see Figure 3). Five of these sub-measures relate to the FOI Act, and the other five relate to the IPS. Each of these sub-measures use a 5-point scale, ranging from (5) strongly agree to (1) strongly disagree.

Reported results are based on the ratings provided by stakeholders whose professional role involves regular engagement with the OAIC’s FOI function.

Overall, average ratings of the advice and guidance provided to stakeholders for the IPS, are higher than those for the FOI Act. In both instances being easy to

**Figure F.3: Sub-measure ratings for the effectiveness of the OAIC’s advice and guidance on the operation of the FOI Act and the IPS in supporting government agencies to provide public access to government-held information**



Base: 2023 FOI Stakeholders: FOI n=39 IPS n=32. | Source: F1. To what extent do you agree or disagree with the following statements about the advice and guidance the OAIC provides on the operation of the Freedom of Information (FOI) Act? F2. To what extent do you agree or disagree with the following statements about the advice and guidance the OAIC provides on the Information Publication Scheme? | \*Average excludes don't know responses

Note: Percentage labels for values of 3% or less have been removed to improve chart legibility.

find has been rated highest (3.79 out of 5 for IPS, and 3.64 out of 5 for FOI). The remaining sub-measures for IPS are rated similarly, between 3.45 and 3.62.

The lowest rated sub-measures for the OAIC’s advice and guidance provided to stakeholders regarding the FOI Act relate to how well the advice and guidance answered questions (3.15 out of 5), and the consistency of advice and guidance (3.10 out of 5). However, with a score exceeding the mid-point of 3, it is worth noting that both sub-measures are rated more positively than negatively.

Qualitative analysis of verbatim responses collected in relation to the effectiveness of the OAIC’s advice and guidance on the operation of the FOI Act shows that where positive ratings are provided (satisfied or very satisfied) stakeholders mention that guidance material is clear and comprehensive, and easy to use. The FOI Guidelines are generally deemed useful resources.

Stakeholders who rated OAIC negatively (dissatisfied or very dissatisfied) point to underfunding of the OAIC as hampering its ability to operate effectively in terms of the FOI Act. Some described lengthy response times, saying the OAIC’s response is too slow. Others mentioned that the guidance they have received could be confusing at times, stemming from inconsistency of advice, and that it can be hard to contact OAIC staff for further discussion.

Verbatim reflecting on the effectiveness of OAIC’s advice and guidance on the operation of the IPS include mentions of the information being clear, straightforward, and easy to locate. Some mention that there is duplication of accessible information and that the IPS could be more effective if revised to focus more on providing an approach to indexing information already available on agencies’ websites. Some stakeholders feel this function of the OAIC is not well promoted, and believe this is no longer a priority of the OAIC. Others describe the IPS as being out-dated and not fit-for-purpose.

## 4 – Contemporary approach to regulation

There are three performance measures which have been used to assess the OAIC’s effectiveness in conducting its business on the key activity: ‘contemporary approach to regulation’. The three performance measures are:

- Stakeholder assessment of the extent to which the OAIC’s regulatory activities demonstrate a commitment to continuous **improvement and building trust**.
- Stakeholder assessment of the extent to which the OAIC’s regulatory activities demonstrate **collaboration and engagement**.
- Stakeholder assessment of the extent to which the OAIC’s regulatory activities are **risk based and data driven**.

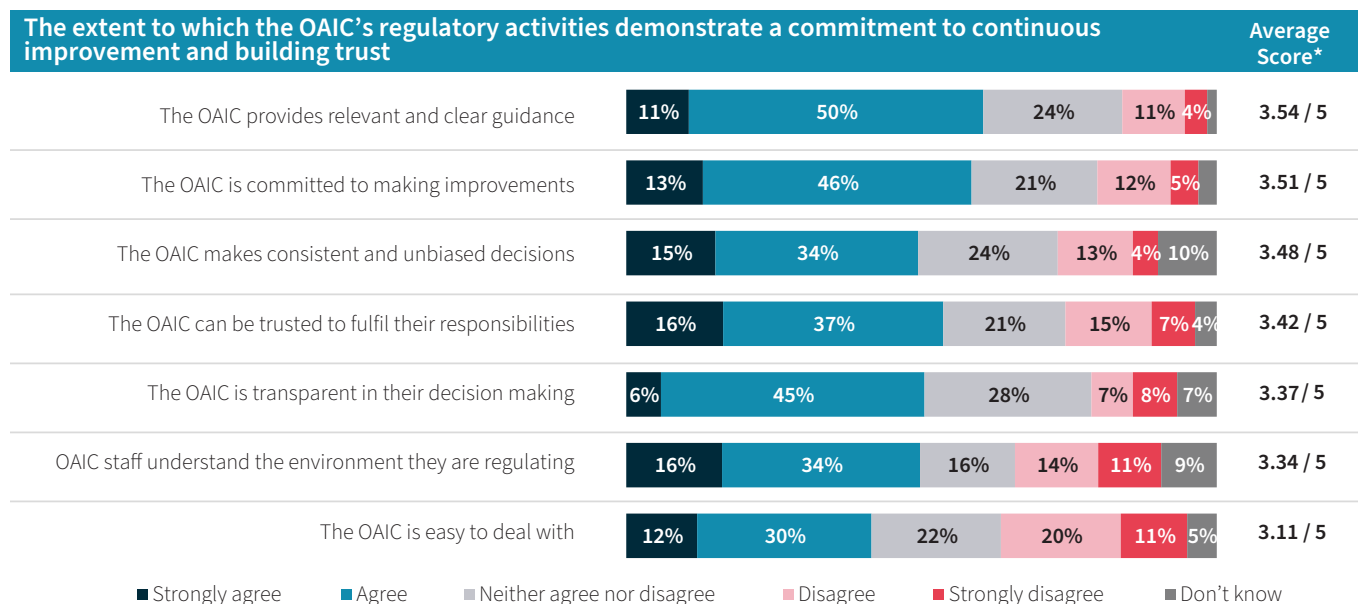
These performance areas have been measured through an external stakeholder survey. The index measure has been constructed based on the average performance rating for the sub-measures that underpin each of the 3 performance areas. Each of these sub-measures use a 5-point scale, ranging from (5) strongly agree to (1) strongly disagree.

The performance target for all 3 performance measures was to develop a baseline from which future performance can be measured. This has been achieved by the OAIC in 2023.

| Performance measure  | Target                   | Score    |
|--|--------------------------|----------|
| Stakeholder assessment of the extent to which the OAIC’s regulatory activities demonstrate a commitment to continuous improvement and building trust | Baseline to be developed | 60 / 100 |

The overall index score for stakeholder perceptions of the extent to which the OAIC’s regulatory activities demonstrate a commitment to continuous improvement and building trust is 60 out of 100. This represents the highest rated performance measure under the key activity: ‘contemporary approach to regulation’.

**Figure F.4: Sub-measure ratings for the extent to which the OAIC’s regulatory activities demonstrate a commitment to continuous improvement and building trust**



Base: 2023 All Stakeholders n=100 | Source: G1a. To what extent do you agree or disagree with the following statements? | \*Average excludes don't know responses

Note: Percentage labels for values of 3% or less have been removed to improve chart legibility.

The highest average scores achieved by the OAIC in terms of this performance measure relate to:

- The OAIC provides relevant and clear guidance (3.54 out of 5)
- The OAIC is committed to making improvements (3.51 out of 5)
- The OAIC makes consistent and unbiased decisions (3.48 out of 5).

Stakeholder ratings are notably weaker for perceptions of the OAIC being easy to deal with (3.11 out of 5).

Qualitative analysis of verbatim comments about the OAIC’s regulatory activities demonstrating commitment to continuous improvement and building trust, refer to the active reviews undertaken by the regulator. It is acknowledged that the OAIC has been more active in consulting with agencies on its guidelines but could still do more. Stakeholders who rated OAIC negatively on this aspect (dissatisfied or very dissatisfied) flag that commitment is undermined when the OAIC is faced with on-going resourcing issues, and that there is not enough staff to handle the

volume of enquiries received. Some mentioned the OAIC as functioning reactively rather than proactively because of resourcing challenges.

| Performance measure   | Target                   | Score    |
|---|--------------------------|----------|
| Stakeholder assessment of the extent to which the OAIC’s regulatory activities demonstrate collaboration and engagement | Baseline to be developed | 58 / 100 |

The overall index score for stakeholder perceptions of the extent to which the OAIC’s regulatory activities demonstrate collaboration and engagement is 58 out of 100.

Stakeholders provided the highest average scores for the OAIC being transparent in its decision making (3.56 out of 5), and consulting with the stakeholder organisations when appropriate (3.46 out of 5).

Lowest average scores have been given for the following sub-measures:

- The OAIC understands the particular issues relating to me as a stakeholder (3.17 out of 5)
- The OAIC takes a collaborative approach to addressing issues (3.17 out of 5)
- The OAIC offers a range of consultative mechanisms to ensure stakeholders can be involved (3.16 out of 5).

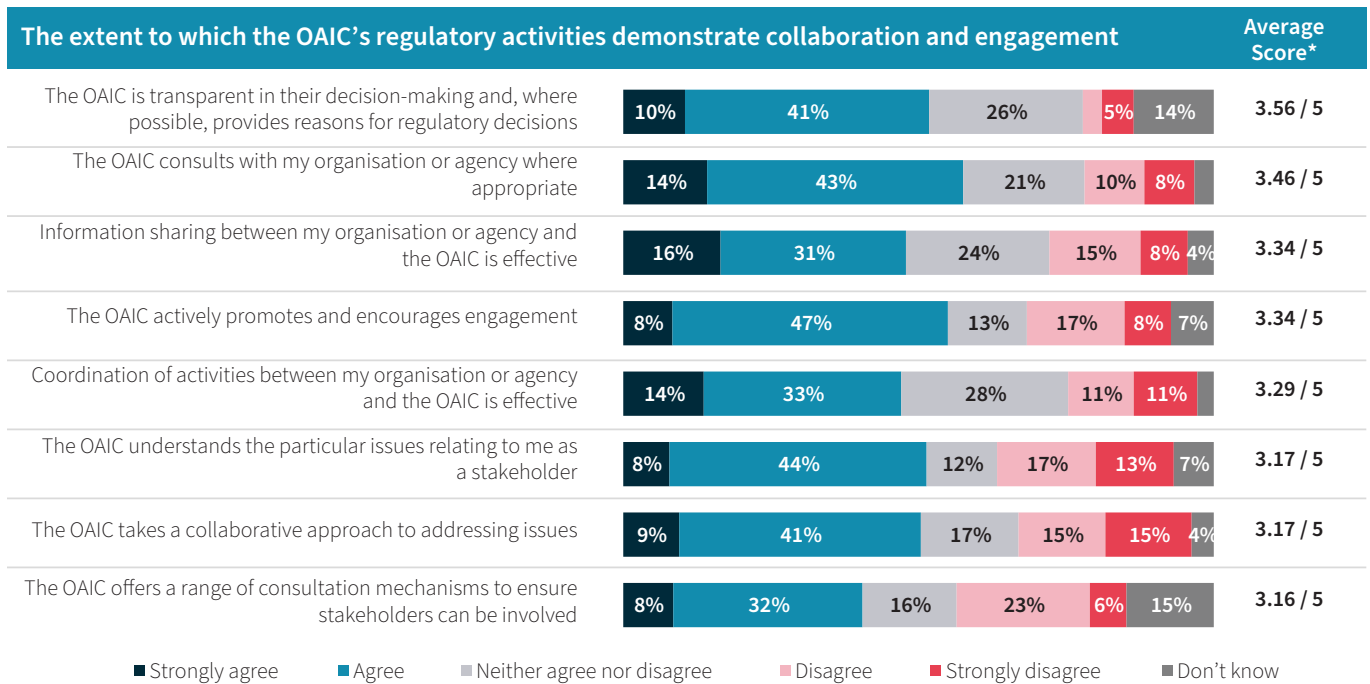
Qualitative analysis of verbatim responses in relation to the extent to which the OAIC’s regulatory activities demonstrate collaboration and engagement refer to the number of published reports as evidence of consultation and collaboration. Some mention, based on their own interactions, that they are satisfied with the level of engagement they experienced with the OAIC. Stakeholders who rated the OAIC negatively on this aspect (dissatisfied or very dissatisfied) include mention of the transactional nature of interactions, and that the OAIC has not been proactive in their outreach to stakeholders. Others described their engagement as being inconsistent at times.

| Performance measure   | Target                   | Score    |
|---|--------------------------|----------|
| Stakeholder assessment of the extent to which the OAIC’s regulatory activities are risk based and data driven | Baseline to be developed | 51 / 100 |

The overall index score for stakeholder perceptions of the extent to which the OAIC’s regulatory activities are risk based and data driven is 51 out of 100. This represents the lowest rated performance measure under the key activity: ‘contemporary approach to regulation’.

The highest rated sub-measure by some margin relates to perceptions of the OAIC working with stakeholders to encourage voluntary compliance (3.51 out of 5). The second highest-rated is perceptions of understanding emerging issues and changes impacting regulated sectors (3.14 out of 5).

**Figure F.5: Sub-measure ratings for the extent to which the OAIC’s regulatory activities demonstrate collaboration and engagement**



Base: 2023 All Stakeholders n=100 | Source: G1b. To what extent do you agree or disagree with the following statements? | \*Average excludes don't know responses

Note: Percentage labels for values of 3% or less have been removed to improve chart legibility.

There are two sub-measures with an average rating below the mid-point of 3. This means that, on balance, ratings are more negative than positive. The two sub-measures are:

- The OAIC prioritises resources to the areas of highest risk or harm (2.96 out of 5)
- The OAIC is actively involved in reducing regulatory burden on stakeholders (2.65 out of 5).

Qualitative analysis of stakeholder comments collected in response to the extent to which the OAIC’s regulatory activities are risk based and data driven, reveal this is a challenging dimension for some to provide commentary on. Many mention not being in a position to adequately provide evidence or an informed perspective on this aspect, reflecting the relatively high proportion of don’t know responses on these sub-measures. Stakeholders refer to limited resources impacting OAIC’s ability to be fully efficient in its operations. Some suggest that the OAIC is not consulting broadly enough to completely understand the risk factors involved in the operational realities of agencies and industry.

## Methodology

### Stakeholder Survey 2023

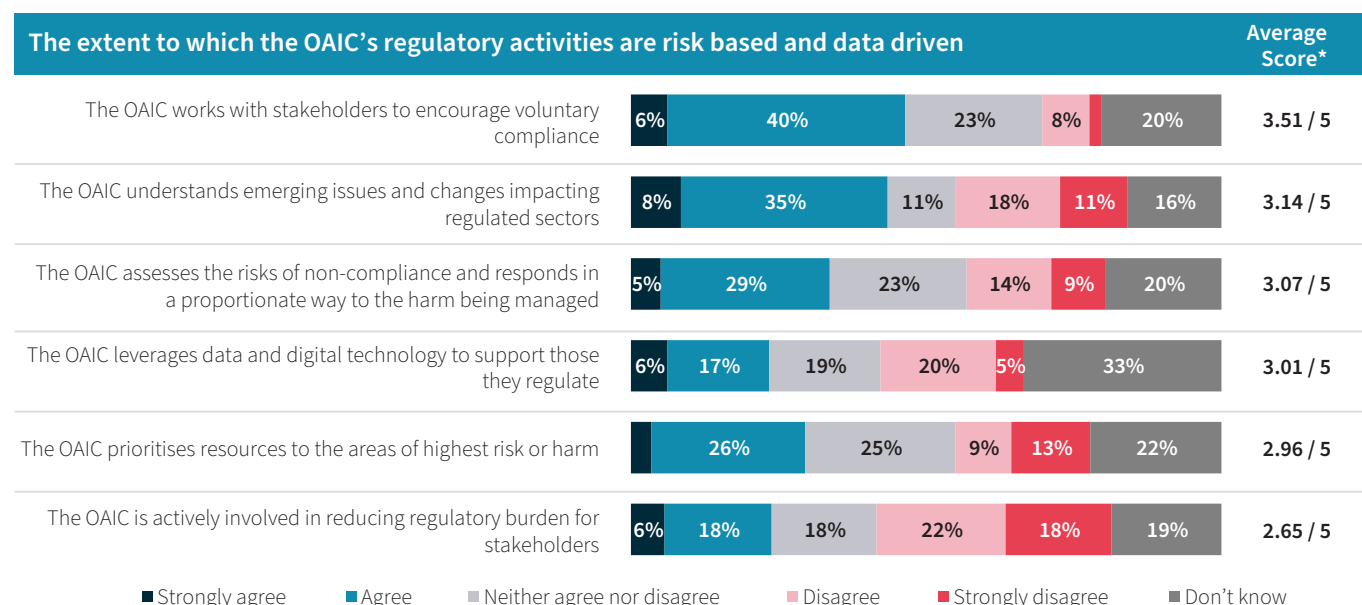
The OAIC has used a quantitative stakeholder survey to measure performance against targets for key activity areas. The OAIC engaged an independent research organisation to design and administer the survey.

#### Developing the survey tool

The stakeholder survey was developed by the independent research organisation in close consultation with the OAIC and its stakeholders.

Prior to the development of the survey tool, foundational qualitative interviews were undertaken with 10 stakeholders selected by the OAIC. In-depth interviews were conducted by senior researchers, with each lasting approximately 30 minutes. The purpose of these interviews was to understand the nature of the interactions between the OAIC and the stakeholders, from the stakeholder perspective.

**Figure F.6: Sub-measure ratings for the extent to which the OAIC’s regulatory activities are risk based and data driven**



Base: 2023 All Stakeholders n=100 | Source: G1c. To what extent do you agree or disagree with the following statements? | \*Average excludes don't know responses

Note: Percentage labels for values of 3% or less have been removed to improve chart legibility.

The research organisation developed a survey tool, informed by the findings of the foundational interviews. Following survey development, a further 10 interviews were conducted with a different set of stakeholders to ensure that the survey tool was fit for purpose and working as intended. As a result of these interviews, several changes to the survey tool were implemented to improve its functionality. The survey tool was then reviewed and approved by the OAIC.

### Survey implementation

A census approach was taken to sampling, meaning that every relevant stakeholder was provided with the opportunity to respond to the survey.

Approximately 600 stakeholders were sent an email by the OAIC inviting them to take part in the survey. The fieldwork period ran from 14 June to 28 June 2023.

Of the 600 stakeholders who were sent an invitation, 104 completed the survey – representing a response rate of 17%. A sample of 104 has a maximum margin of error of +/- 8.7% when adjusted for population size. The total sample is comprised of 3 stakeholder groups based on which function each stakeholder primarily works with the OAIC on:

- Consumer Data Right (n=10)
- Freedom of Information (n=47)
- Privacy (n=45).

Two stakeholders did not associate themselves with any of the three stakeholder groups. As all stakeholders on the list qualify for the survey, no screeners were implemented.

Due to the small sample size (n=10), caution should be taken when interpreting results based solely on Consumer Data Right stakeholders. Results for a sample of this size should be viewed as indicative only. Sample sizes for Freedom of Information and Privacy stakeholders are considerably larger, meaning results for these groups are more reliable. When adjusted for population size, the maximum margin of error for Freedom of Information stakeholders is +/-13.7%, while the maximum margin of error for Privacy stakeholders is +/-14.1%.

Data has been weighted to be representative of the resources that have been dedicated to each of the

3 stakeholder groups. The decision to use weighting was made to assist in comparing results over time, increasing confidence that any observed results are due to ‘real’ changes as opposed to changes in sample composition.

The specific weighting targets are included in Table F.2:

**Table F.2: Weighting targets**

| Stakeholder group      | Weighting target |
|------------------------|------------------|
| Consumer Data Right    | 32%              |
| Freedom of Information | 21%              |
| Privacy                | 47%              |

Respondents that did not associate themselves with a stakeholder group were left unweighted (i.e. they were given a weight of 1).

It should be noted that weights only have an impact on results where 2 or more stakeholder groups are combined. This means they only apply to the 3 performance measures under the key activity: ‘contemporary approach to regulation’.

### Measuring performance

In this first year of the survey, the objective was to establish a baseline for the OAIC’s performance with an on-going target of incremental improvement in each area over time.

The survey tool was developed with sections specifically designed to evaluate stakeholders’ experience of the OAIC across 6 areas of the OAIC’s Performance Measurement Framework.

Each section includes a set of sub-measures presented as a list of statements for stakeholders to rate their agreement with using a 5-point scale, ranging from (1) strongly disagree to (5) strongly agree. A ‘don’t know’ answer option was included in case stakeholders did not feel qualified to provide a meaningful rating for any of the sub-measures presented. Stakeholders were asked sections in relation to the functions of the OAIC they are familiar with. Sections relating to the general function of the OAIC were asked of all stakeholders.

The summary (Table F.3) outlines each of the 6 performance measures covered in the Stakeholder Survey and the sub-measures comprising each aligned according to Key Activities outlined in the *Corporate plan 2022–23*.

Index measures were constructed for each performance target. Index scores are calculated based on average stakeholder ratings for relevant sub-measures. They have then been converted to scores out of 100, with 100 representing the highest possible score and 0 representing the lowest.

Table F.3: Survey sub-measures comprising each performance measure in accordance with key activities outlined in the Corporate plan 2022–23

| Influence and uphold privacy and information access rights frameworks   | Advance online privacy protections for Australians  | Encourage and support proactive disclosure of government information  | Contemporary approach to regulation   |   |   |
|---|---|---|---|---|---|
| Effectiveness of the OAIC's contribution to the regulation of the Consumer Data Right as measured by stakeholder feedback   | Effectiveness of the OAIC's contribution to the advancement of online privacy protections and policy advice as measured by stakeholder feedback   | Effectiveness of OAIC's advice and guidance on the operation of the FOI Act and the Information Publication Scheme in supporting government agencies to provide public access to government held information as measured by stakeholder feedback.   | Stakeholder assessment of the extent to which the OAIC's regulatory activities demonstrate a commitment to continuous improvement and building trust  | Stakeholder assessment of the extent to which the OAIC's regulatory activities demonstrate collaboration and engagement   | Stakeholder assessment to the extent to which the OAIC's regulatory activities are risk based and data driven   |
| <ul style="list-style-type: none"> <li>The OAIC works effectively with the ACCC to regulate the Consumer Data Right</li> <li>The OAIC works effectively to regulate the privacy and confidentiality aspects of the Consumer Data Right</li> <li>The OAIC collaborates well with other Consumer Data Right agencies</li> <li>The information and resources provided by the OAIC in relation to Consumer Data Right provide clear guidance for participants and other relevant entities</li> <li>The OAIC is working effectively to support the expansion of the Consumer Data Right to other industries</li> <li>The OAIC effectively handles notifications of eligible data breaches related to the Consumer Data Right data</li> <li>The OAIC effectively handles complaints related to the Consumer Data Right</li> </ul> | <ul style="list-style-type: none"> <li>The OAIC raises awareness of opportunities to enhance online privacy legislation</li> <li>The OAIC works collaboratively with international regulators to support globally interoperable privacy regulation</li> <li>The OAIC prioritises regulatory action to address the harms of online information sharing</li> <li>The OAIC uses the full range of regulatory functions and powers to pursue breaches of privacy in the digital environment.</li> <li>The OAIC effectively raises awareness of online privacy risks to individuals</li> <li>The OAIC effectively raises awareness of online privacy risks to organisations and businesses</li> <li>The activities of the OAIC minimise online privacy risks for individuals</li> <li>The activities of the OAIC minimise online privacy risks for organisations and businesses</li> </ul> | <ul style="list-style-type: none"> <li>The advice and guidance is easy to find</li> <li>The advice and guidance is easy to understand</li> <li>The advice and guidance answered my questions</li> <li>The advice and guidance is useful</li> <li>The advice and guidance is consistent</li> </ul> | <ul style="list-style-type: none"> <li>The OAIC provides relevant and clear guidance</li> <li>OAIC staff understand the environment they are regulating</li> <li>The OAIC is easy to deal with</li> <li>The OAIC makes consistent and unbiased decisions</li> <li>The OAIC is transparent in their decision making</li> <li>The OAIC is committed to making improvements</li> <li>The OAIC can be trusted to fulfil their responsibilities</li> </ul> | <ul style="list-style-type: none"> <li>The OAIC actively promotes and encourages engagement</li> <li>The OAIC takes a collaborative approach to addressing issues</li> <li>Coordination of activities between my organisation or agency and the OAIC is effective</li> <li>Information sharing between my organisation or agency and the OAIC is effective</li> <li>The OAIC consults with my organisation or agency where appropriate</li> <li>The OAIC offers a range of consultation mechanisms to ensure stakeholders can be involved</li> <li>The OAIC is transparent in their decision-making and, where possible, provides reasons for regulatory decisions</li> <li>The OAIC understands the particular issues relating to me as a stakeholder</li> </ul> | <ul style="list-style-type: none"> <li>The OAIC works with stakeholders to encourage voluntary compliance</li> <li>The OAIC accesses the risks of non-compliance and responds in a proportionate way to the harm being managed</li> <li>The OAIC prioritises resources to the areas of highest risk or harm</li> <li>The OAIC understands emerging issues and changes impacting regulated sectors</li> <li>The OAIC is actively involved in reducing regulatory burden for stakeholders</li> <li>The OAIC leverages data and digital technology to support those they regulate</li> </ul> |
| <p><b>SURVEY METRICS</b></p>  |   |   |   |   |   |



## Appendix G: Shortened forms

| Shortened form | Expanded term  |
|----------------|--|
| AAO            | Administrative Arrangements Order                          |
| AASB           | Australian Accounting Standards Board                      |
| AAT            | Administrative Appeals Tribunal                            |
| ABN            | Australian business number                                 |
| ABS            | Australian Bureau of Statistics                            |
| ACCC           | Australian Competition and Consumer Commission             |
| ACMA           | Australian Communications and Media Authority              |
| ACT            | Australian Capital Territory                               |
| ADHA           | Australian Digital Health Agency                           |
| ADJR Act       | <i>Administrative Decisions (Judicial Review) Act 1977</i> |
| AEC            | Australian Electoral Commission                            |
| AFCA           | Australian Financial Complaints Authority                  |
| AFP            | Australian Federal Police                                  |
| AGD            | Attorney-General's Department                              |
| AGS            | Australian Government Solicitor                            |
| AHRC           | Australian Human Rights Commission                         |
| AIAC           | Association of Information Access Commissioners            |
| AIC Act        | <i>Australian Information Commissioner Act 2010</i>        |
| AICmr          | Australian Information Commissioner                        |
| ANMM           | Australian National Maritime Museum                        |
| ANAO           | Australian National Audit Office                           |
| APP            | Australian Privacy Principle                               |
| APPA           | Asia Pacific Privacy Authorities                           |
| APRA           | Australian Prudential Regulation Authority                 |
| APS            | Australian Public Service                                  |
| APSC           | Australian Public Service Commission                       |

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| Shortened form                              | Expanded term   |
|---|---|
| ARC   | Australian Research Council   |
| ARCA  | Australian Retail Credit Association  |
| ASIC  | Australian Securities and Investments Commission  |
| ATO   | Australian Taxation Office  |
| AustLII                                     | Australasian Legal Information Institute  |
| AUSTRAC                                     | Australian Transaction Reports and Analysis Centre  |
| Australian Government Agencies Privacy Code | Privacy (Australian Government Agencies – Governance) Code 2017                               |
| CDR   | Consumer Data Right   |
| CDR Rules                                   | Competition and Consumer (Consumer Data Right) Rules 2020                                     |
| CPR   | Commonwealth Procurement Rules  |
| CII   | Commissioner-initiated investigation  |
| CSRN  | Cyber Security Regulator Network  |
| CSS   | Commonwealth Superannuation Scheme  |
| DAFF  | Department of Agriculture, Fisheries and Forestry   |
| DCCEEW                                      | Digital Citizen and Consumer Working Group  |
| Defence                                     | Department of Defence   |
| DESE  | Department of Education, Skills and Employment  |
| DEWR  | Department of Employment and Workplace Relations  |
| DFAT  | Department of Foreign Affairs and Trade   |
| DISER                                       | Department of Industry, Science, Energy and Resources   |
| DISR  | Department of Industry, Science and Resources   |
| DITRDCA                                     | Department of Infrastructure, Transport, Regional Development and Communications and the Arts |
| DP-REG                                      | Digital Platform Regulators Forum   |
| DSA   | Data Store Administrator  |
| EA  | Enterprise Agreement  |
| EDR scheme                                  | external dispute resolution scheme  |
| EL  | Executive Level   |
| EOT   | extension of time   |

| Shortened form           | Expanded term  |
|--------------------------|--|
| ePIP                     | Practice Incentives Program eHealth Incentive  |
| EU                       | European Union   |
| EWON                     | Energy & Water Ombudsman New South Wales   |
| Finance                  | Department of Finance  |
| FOI                      | freedom of information   |
| FOI Act                  | <i>Freedom of Information Act 1982</i>   |
| FOI Commissioner         | Freedom of Information Commissioner  |
| FRR                      | Public Governance, Performance and Accountability (Financial Reporting) Rule 2015                                  |
| FTE                      | full-time equivalent   |
| GPA                      | Global Privacy Assembly  |
| GST                      | goods and services tax   |
| Health and Aged Care     | Department of Health and Aged Care   |
| Home Affairs             | Department of Home Affairs   |
| IAA                      | Immigration Assessment Authority   |
| IC                       | Information Commissioner   |
| ICO                      | UK Information Commissioner's Office   |
| ICON                     | Information Contact Officers Network   |
| ICT                      | information and communications technology  |
| Information Commissioner | Australian Information Commissioner, within the meaning of the <i>Australian Information Commissioner Act 2010</i> |
| IAID                     | International Access to Information Day  |
| IPS                      | Information Publication Scheme   |
| KC                       | King's Counsel   |
| KMP                      | key management personnel   |
| MOU                      | memorandum of understanding  |
| My Health Records Act    | <i>My Health Records Act 2012</i>  |
| NDB                      | Notifiable Data Breaches   |
| NDB scheme               | Notifiable Data Breaches scheme  |
| NDIA                     | National Disability Insurance Agency   |

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| Shortened form         | Expanded term   |
|------------------------|---|
| NOPSEMA                | National Offshore Petroleum Safety and Environmental Management Authority |
| OAIC                   | Office of the Australian Information Commissioner                         |
| OCF                    | OAIC Consultation Forum   |
| ODC                    | OAIC Diversity Committee  |
| PAW                    | Privacy Awareness Week  |
| PGPA Act               | <i>Public Governance, Performance and Accountability Act 2013</i>         |
| PGPA Rule              | Public Governance, Performance and Accountability Rule 2014               |
| PIA                    | privacy impact assessment   |
| PM&C                   | Department of Prime Minister and Cabinet                                  |
| PNR                    | passenger name record   |
| Privacy Act            | <i>Privacy Act 1988</i>   |
| PSS                    | Public Sector Superannuation Scheme                                       |
| PSSap                  | Public Sector Superannuation Scheme accumulation plan                     |
| RAC                    | Regulatory Action Committee   |
| ROU                    | right of use  |
| SDO                    | Service Delivery Office   |
| SES                    | Senior Executive Service  |
| STHA                   | state and territory health authority                                      |
| TAP                    | Talking about performance   |
| Telecommunications Act | <i>Telecommunications Act 1997</i>  |
| TIO                    | Telecommunications Industry Ombudsman                                     |
| Treasury               | Department of the Treasury  |
| UNESCO                 | United Nations Educational, Scientific and Cultural Organization          |
| Veterans' Affairs      | Department of Veterans' Affairs   |
| WHS Act                | <i>Work Health and Safety Act 2011</i>                                    |

## Appendix H: Correction of material errors

The errors to be corrected in the *Office of the Australian Commissioner Annual Report 2021–22* are listed below.

1. On pages 8, 11 and 36, the number of privacy complaints (2,544) is replaced by 2,546.
2. On pages 11, 21 and 36 the number of privacy complaints closed (2,203) is replaced by 2,206.
3. On pages 12 and 33 the number of privacy enquires (10,931) is replaced by 10,927.
4. On pages 8, 13 and 47, the number of privacy complaints (215) is replaced by 216.
5. On pages 8, 14, 44, 151 and 152, the number of Information Commissioner review applications (1,995) is replaced by 1,955. This number corrects the previous erratum which indicated 1,956. The further correction follows updates to the OAIC's case management database.
6. On page 154, the 2021–2022 figures in table E.13: Information Commissioner Review Outcomes is replaced by the figures in this year's E.13 (page 162). The total listed for Information Commissioner reviews finalised (1,392) is replaced by 1,376 on pages 8, 14, 21, 43, 44 and 153. An earlier erratum indicated 1,377, but a 2021–22 review was subsequently reopened.
7. On page 54 the number of ICON members (over 630) is replaced by: approximately 490 active members.
8. On pages 120 to 130, 2022 workforce tables are replaced by the 2022 tables on pages 125–134 of this year's report.

## Appendix I: List of requirements

| PGPA Rule reference | Description  | Requirement                      | Part of report (page number) |
|---------------------|--|----------------------------------|------------------------------|
| <b>17AD(g)</b>      | <b>Letter of transmittal</b>   |                                  |                              |
| 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                        | 2                            |
| <b>17AD(h)</b>      | <b>Aids to access</b>  |                                  | 3                            |
| 17AJ(a)             | Table of contents (print only).  | Mandatory                        | 196                          |
| 17AJ(b)             | Alphabetical index (print only).   | Mandatory                        | 194                          |
| 17AJ(c)             | Glossary of abbreviations and acronyms.  | Mandatory                        | 189                          |
| 17AJ(d)             | List of requirements.  | Mandatory                        | 1                            |
| 17AJ(e)             | Details of contact officer.  | Mandatory                        | 1                            |
| 17AJ(f)             | Entity's website address.  | Mandatory                        | 1                            |
| 17AJ(g)             | Electronic address of report.  | Mandatory                        | 1                            |
| <b>17AD(a)</b>      | <b>Review by accountable authority</b>   |                                  |                              |
| 17AD(a)             | A review by the accountable authority of the entity.   | Mandatory                        | 8                            |
| <b>17AD(b)</b>      | <b>Overview of the entity</b>  |                                  |                              |
| 17AE(1)(a)(i)       | A description of the role and functions of the entity.   | Mandatory                        | 7                            |
| 17AE(1)(a)(ii)      | A description of the organisational structure of the entity.   | Mandatory                        | 15                           |
| 17AE(1)(a)(iii)     | A description of the outcomes and programmes administered by the entity.   | Mandatory                        | 7                            |
| 17AE(1)(a)(iv)      | A description of the purposes of the entity as included in corporate plan.   | Mandatory                        | 7                            |
| 17AE(1)(aa)(i)      | Name of the accountable authority or each member of the accountable authority.   | Mandatory                        | 15                           |
| 17AE(1)(aa)(ii)     | Position title of the accountable authority or each member of the accountable authority.   | Mandatory                        | 15                           |
| 17AE(1)(aa)(iii)    | Period as the accountable authority or member of the accountable authority within the reporting period.  | Mandatory                        | 123                          |
| 17AE(1)(b)          | An outline of the structure of the portfolio of the entity.  | Portfolio department – mandatory | 15                           |

| PGPA Rule reference | Description   | Requirement              | Part of report (page number) |
|---------------------|---|--------------------------|------------------------------|
| 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 | Not applicable               |
| <b>17AD(c)</b>      | <b>Report on the performance of the entity</b>  |                          |                              |
|                     | <i>Annual performance statements</i>  |                          |                              |
| 17AD(c)(i); 16F     | Annual performance statement in accordance with paragraph 39(1)(b) of the Act and section 16F of the Rule.  | Mandatory                | 21                           |
| <i>17AD(c)(ii)</i>  | <i>Report on financial performance</i>  |                          |                              |
| 17AF(1)(a)          | A discussion and analysis of the entity's financial performance.  | Mandatory                | 80                           |
| 17AF(1)(b)          | A table summarising the total resources and total payments of the entity.   | Mandatory                | 119                          |
| 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 | Not applicable               |
| <b>17AD(d)</b>      | <b>Management and accountability</b>  |                          |                              |
|                     | <i>Corporate governance</i>   |                          |                              |
| 17AG(2)(a)          | Information on compliance with section 10 (fraud systems).  | Mandatory                | 65                           |
| 17AG(2)(b)(i)       | A certification by accountable authority that fraud risk assessments and fraud control plans have been prepared.  | Mandatory                | 2                            |
| 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                | 2                            |
| 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                | 2                            |
| 17AG(2)(c)          | An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance.  | Mandatory                | 63                           |
| 17AG(2)(d) – (e)    | A statement of significant issues reported to Minister under paragraph 19(1)(e) of the Act that relates to noncompliance with Finance law and action taken to remedy noncompliance.   | If applicable, mandatory | Not applicable               |

| PGPA Rule reference | Description  | Requirement              | Part of report (page number) |
|---------------------|--|--------------------------|------------------------------|
|                     | <i>Audit Committee</i>   |                          |                              |
| 17AG(2A)(a)         | A direct electronic address of the charter determining the functions of the entity's audit committee.  | Mandatory                | 65                           |
| 17AG(2A)(b)         | The name of each member of the entity's audit committee.   | Mandatory                | 66                           |
| 17AG(2A)(c)         | The qualifications, knowledge, skills or experience of each member of the entity's audit committee.  | Mandatory                | 66                           |
| 17AG(2A)(d)         | Information about the attendance of each member of the entity's audit committee at committee meetings.   | Mandatory                | 66                           |
| 17AG(2A)(e)         | The remuneration of each member of the entity's audit committee.   | Mandatory                | 66                           |
|                     | <i>External scrutiny</i>   |                          |                              |
| 17AG(3)             | Information on the most significant developments in external scrutiny and the entity's response to the scrutiny.   | Mandatory                | 67                           |
| 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 | 67                           |
| 17AG(3)(b)          | Information on any reports on operations of the entity by the AuditorGeneral (other than report under section 43 of the Act), a Parliamentary Committee, or the Commonwealth Ombudsman.  | If applicable, mandatory | Not applicable               |
| 17AG(3)(c)          | Information on any capability reviews on the entity that were released during the period.  | If applicable, mandatory | Not applicable               |
|                     | <i>Management of human resources</i>   |                          |                              |
| 17AG(4)(a)          | An assessment of the entity's effectiveness in managing and developing employees to achieve entity objectives.   | Mandatory                | 69                           |
| 17AG(4)(aa)         | Statistics on the entity's employees on an ongoing and nonongoing basis, including the following:<br>(a) statistics on fulltime employees;<br>(b) statistics on parttime employees;<br>(c) statistics on gender<br>(d) statistics on staff location.   | Mandatory                | 124                          |
| 17AG(4)(b)          | Statistics on the entity's APS employees on an ongoing and nonongoing basis; including the following:<br>• Statistics on staffing classification level;<br>• Statistics on fulltime employees;<br>• Statistics on parttime employees;<br>• Statistics on gender;<br>• Statistics on staff location;<br>• Statistics on employees who identify as Indigenous. | Mandatory                | 72, 128                      |



| PGPA Rule reference | Description   | Requirement              | Part of report (page number) |
|---------------------|---|--------------------------|------------------------------|
| 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 <i>Public Service Act 1999</i> .  | Mandatory                | 135                          |
| 17AG(4)(c)(i)       | Information on the number of SES and nonSES employees covered by agreements etc identified in paragraph 17AG(4)(c).   | Mandatory                | 135                          |
| 17AG(4)(c)(ii)      | The salary ranges available for APS employees by classification level.  | Mandatory                | 135                          |
| 17AG(4)(c)(iii)     | A description of nonsalary benefits provided to employees.  | Mandatory                | 73                           |
| 17AG(4)(d)(i)       | Information on the number of employees at each classification level who received performance pay.   | If applicable, mandatory | Not applicable               |
| 17AG(4)(d)(ii)      | Information on aggregate amounts of performance pay at each classification level.   | If applicable, mandatory | Not applicable               |
| 17AG(4)(d)(iii)     | Information on the average amount of performance payment, and range of such payments, at each classification level.   | If applicable, mandatory | Not applicable               |
| 17AG(4)(d)(iv)      | Information on aggregate amount of performance payments.  | If applicable, mandatory | Not applicable               |
|                     | <i>Assets management</i>  |                          |                              |
| 17AG(5)             | An assessment of effectiveness of assets management where asset management is a significant part of the entity's activities.  | If applicable, mandatory | Not applicable               |
|                     | <i>Purchasing</i>   |                          |                              |
| 17AG(6)             | An assessment of entity performance against the <i>Commonwealth Procurement Rules</i> .   | Mandatory                | 74                           |
|                     | <i>Reportable consultancy contracts</i>   |                          |                              |
| 17AG(7)(a)          | A summary statement detailing the number of new reportable consultancy contracts entered into during the period; the total actual expenditure on all such contracts (inclusive of GST); the number of ongoing reportable consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting period on those ongoing contracts (inclusive of GST). | Mandatory                | 75                           |
| 17AG(7)(b)          | A statement that “ <i>During [reporting period], [specified number] new reportable consultancy contracts were entered into involving total actual expenditure of \$[specified million]. In addition, [specified number] ongoing reportable consultancy contracts were active during the period, involving total actual expenditure of \$[specified million]</i> ”.  | Mandatory                | 75                           |
| 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                | 75                           |

| PGPA Rule reference | Description  | Requirement              | Part of report (page number) |
|---------------------|--|--------------------------|------------------------------|
| 17AG(7)(d)          | A statement that “Annual reports contain information about actual expenditure on reportable consultancy contracts. Information on the value of reportable consultancy contracts is available on the AusTender website.”  | Mandatory                | 75                           |
|                     | <i>Reportable non-consultancy contracts</i>  |                          |                              |
| 17AG(7A)(a)         | A summary statement detailing the number of new reportable non-consultancy contracts entered into during the period; the total actual expenditure on such contracts (inclusive of GST); the number of ongoing reportable non-consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting period on those ongoing contracts (inclusive of GST).  | Mandatory                | 76                           |
| 17AG(7A)(b)         | A statement that “Annual reports contain information about actual expenditure on reportable non-consultancy contracts. Information on the value of reportable non-consultancy contracts is available on the AusTender website.”  | Mandatory                | 75                           |
| 17AD(daa)           | <i>Additional information about organisations receiving amounts under reportable consultancy contracts or reportable non-consultancy contracts</i>   |                          |                              |
| 17AGA               | Additional information, in accordance with section 17AGA, about organisations receiving amounts under reportable consultancy contracts or reportable non-consultancy contracts.  | Mandatory                | 76                           |
|                     | <i>Australian National Audit Office access clauses</i>   |                          |                              |
| 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 AuditorGeneral 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 | Not applicable               |
|                     | <i>Exempt contracts</i>  |                          |                              |
| 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 | Not applicable               |
|                     | <i>Small business</i>  |                          |                              |
| 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                | 76                           |
| 17AG(10)(b)         | An outline of the ways in which the procurement practices of the entity support small and medium enterprises.  | Mandatory                | 76                           |

| PGPA Rule reference | Description  | Requirement              | Part of report (page number) |
|---------------------|--|--------------------------|------------------------------|
| 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 Government Payments to Small Business are available on the Treasury’s website.”  | If applicable, mandatory | Not applicable               |
|                     | <i>Financial statements</i>  |                          |                              |
| 17AD(e)             | Inclusion of the annual financial statements in accordance with subsection 43(4) of the Act.   | Mandatory                | 80                           |
|                     | <i>Executive remuneration</i>  |                          |                              |
| 17AD(da)            | Information about executive remuneration in accordance with Subdivision C of Division 3A of Part 23 of the Rule.   | Mandatory                | 123                          |
| <b>17AD(f)</b>      | <b>Other mandatory information</b>   |                          |                              |
| 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 | Not applicable               |
| 17AH(1)(a)(ii)      | If the entity did not conduct advertising campaigns, a statement to that effect.   | If applicable, mandatory | 77                           |
| 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 | Not applicable               |
| 17AH(1)(c)          | Outline of mechanisms of disability reporting, including reference to website for further information.   | Mandatory                | 77                           |
| 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                | 77                           |
| 17AH(1)(e)          | Correction of material errors in previous annual report.   | If applicable, mandatory | 186                          |
| 17AH(2)             | Information required by other legislation.   | Mandatory                | 77                           |



# Index

## A

- AAT (Administrative Appeals Tribunal) 45, 139, 162–164
- abbreviations 182–185
- ACCC (Australian Competition and Consumer Commission) 9, 25, 26, 40, 48, 49
- access to documents, requests for 137–142
- accreditation of conciliators 72
- Action Committee 51
- address of OAIC 1
- Administrative Appeals Tribunal (AAT) 45, 139, 162–164
- Administrative Arrangements Orders (AAOs) 137
- adoption leave 73
- advertising 77
- advice to individuals, government and business 10, 16, 22, 25, 38
- Aged Care Quality and Safety Commission 139
- algorithms 9, 40
- appropriations 108–109
- APPs (Australian Privacy Principles) 27, 29
- APSJobs Mobility Portal 71
- Asia Pacific Privacy Authorities (APPA) forum 49
- assessments
  - CDR 25–26
  - compliance 51–52
- assets 100–105, 113, 116
- Association of Information Access Commissioners (AIAC) 56
- Attorney-General's Department (AGD) 140, 143
- audit
  - external 67
  - internal 65–66
  - privacy practices 16
- Audit and Risk Committee 65–66, 67
- Auditor-General reports 67
- auditor's report 81–82
- Australian Bureau of Statistics (ABS) 140
- Australian Capital Territory (ACT)
  - Government 136
  - public sector agencies 37
- Australian Communications and Media Authority (ACMA) 40, 49
- Australian Community Attitudes towards Privacy Survey 10
- Australian Competition and Consumer Commission (ACCC) 9, 25, 26, 40, 48, 49
- Australian Digital Health Agency (ADHA) 48, 50
- Australian Electoral Commission (AEC) 140
- Australian Federal Police (AFP) 140
- Australian Financial Complaints Authority (AFCA) 29, 30
- Australian Government Investigations Standards 2022 50
- Australian Government Privacy Impact Assessment (PIA) register assessment 52
- Australian Information Commissioner Act 2010* (AIC Act) 7, 9, 64
- Australian Information Commissioner and Privacy Commissioner 8–10, 15, 64
- Australian National Audit Office (ANAO) 67, 76
- Australian National Maritime Museum 36
- Australian Privacy Principles (APPs) 27, 28, 29
- Australian Prudential Regulation Authority (APRA) 9, 49
- Australian Public Service Net Zero 2030 77–78
- Australian Research Council (ARC) 138, 139
- Australian Retail Credit Association (ARCA) 39
- Australian Securities and Investments Commission (ASIC) 49
- Australian Taxation Office (ATO) 139, 142
- Australian Transaction Reports and Analysis Centre (AUSTRAC) 142
- Australia's Disability Strategy 2021–2031* 77

## B

- Better Together Committee 73
- branches 16–17
- Bureau of Meteorology 140, 151
- business continuity plans 74
- Buy Now Pay Later (BNPL) products 39

## C

- cabinet matters 36–37
- Cambridge Analytica 21
- cash flow 89–90
- CDR *see* Consumer Data Right (CDR)
- Census Roadmap 10, 72
- change management 71
- charges for FOI requests 152, 153

chief financial officer's statement 83  
 Clearview AI Inc 55  
 Codes and Regulation Working Group (DP-REG)  
     40  
 collaboration  
     CDR 26  
     with domestic and international regulators  
         49  
     OAIC's approach 47  
     stakeholder assessment 48–50  
     with stakeholders 50  
 Commissioner-initiated investigations (CIIs) *see*  
     *also* Information Commissioner (IC) reviews  
         Dispute Resolution branch 16  
         FOI 16  
         Major Investigations branch 16  
         privacy 21, 31  
 committees 63–64, 65–66, 73–74  
 Commonwealth Ombudsman reports 67  
*Competition and Consumer Act 2010* 25, 26  
 complaints  
     FOI *see* freedom of information complaints  
     privacy *see* privacy complaints  
 compliance 16  
 conciliation  
     APP complaint 29  
     privacy 27  
 conciliators, accreditation 72  
 consultants 75–76  
 Consultation Forum (OCF) 73  
 Consumer Data Right (CDR)  
     Assessment 25–26  
     enforcement 16  
     expansion 26  
     governance forums 56  
     overview 9, 25–26  
     privacy aspects 25  
     risk management 51  
     stakeholder assessment 52  
     website 26  
 contract expenditure 75–76  
 Corporate branch 16  
 corporate governance 63–66  
 Corporate plan 64  
 corruption 65  
 COVID-19 vaccinations 73  
 COVIDSafe Assessment Program 16, 52, 53  
 credit ban process 39

credit reporting  
     complaints 28–29  
     online privacy protection 38–39  
 cyber-attacks *see* data breaches  
 Cyber Security Regulator Network (CSRN) 22, 48, 49

## D

data analysis 51  
 Data and Research Working Group (DP-REG) 40  
 data breaches  
     Commissioner-initiated investigations (CIIs) 31  
     impact 8  
     investigations into 21  
     notifiable *see* Notifiable Data Breaches (NDBs)  
     OAIC response 9, 10  
     overview 12  
     Regulations amended 53  
     response to 9  
 Data Standards Body 48  
 decision making 51  
 Department of Finance Service Delivery Office 136  
 Department of Foreign Affairs and Trade (DFAT) 155  
 Department of Health and Aged Care 140  
 Department of Home Affairs  
     amendment of personal records 157–158  
     FOI requests 45, 138, 139–141, 145, 151,  
         154–155, 157, 158–160  
     passenger name records 52, 136  
 Department of Veterans' Affairs 35, 45, 138, 139,  
     141, 142  
 Deputy Secretaries Data Group 48  
 digital health assessments 52  
 Digital Identity System 52  
 digital platform regulation 9, 38  
 Digital Platform Regulators Forum (DP-REG)  
     chair 22, 48  
     Digital Technology Working Group 40  
     membership 15, 38, 55  
     overview 9, 40  
 disability reporting 77  
 disclosure logs 158  
 disclosure of government information 41–45,  
     173–175  
 Dispute Resolution branch 16  
 dispute resolution (EDR) schemes, external 22,  
     29–31, 51  
 diversity 74, 77  
 Diversity Committee (ODC) 74

**E**

EDR schemes 22, 29–31, 51  
 emergency response training 74  
 emissions 78  
 employees *see* staff  
 enabling legislation 64  
 Energy & Water Ombudsman NSW (EWON) 30  
 energy sector 25, 26  
 engagements program 57  
 enquiries  
     FOI *see* freedom of information enquiries  
     privacy *see* privacy enquiries  
 Enterprise Agreement 72, 73  
 equity 87–88  
 evacuation exercise 74  
 Executive Committee 64  
 executive remuneration 121–123  
 exempt contracts 76  
 expenses 94–96  
 extensions of time 16, 42  
 external audit 67  
 external dispute resolution (EDR) schemes 22,  
     29–31, 51  
 external events 57  
 external scrutiny 67  
 eyesight testing 73

**F**

Facebook 21, 57  
 facial recognition technology 10, 31  
 fair value measurement 115  
 Fair Work Ombudsman (FWO) 140  
 Falk, Angelene (Australian Information  
     Commissioner and Privacy Commissioner) 8–10,  
     15  
 Federal Court applications 67–68  
 finance sector privacy complaints 28  
 Finance Team 71  
 financial assets 100–101  
 financial instruments 114–115  
 financial performance 94–99  
 financial position 85–86, 100–107  
 financial risks 113  
 financial statements 80–116  
 flexible working arrangements 73  
 Flextime 73  
 FOI *see* freedom of information (FOI)  
 FOI branch 16

*FOI Statistics Guide* 137

fraud 65

Fraud Control Plan and Risk Assessment 65

Fraud Control Policy and Guidelines 65

freedom of information (FOI)

    bill scrutiny 22

    business rules 48

    complaints *see* freedom of information

        complaints

    enquiries *see* freedom of information

        enquiries

    exemptions 146, 149–150

    Federal Court applications 67–68

    guidance to agencies 8

    IC reviews *see* Information Commissioner (IC)

        reviews

    impact on agency resources 164–168

    processing statistics 45

    requests *see* freedom of information requests

    statistics 51, 137–169

*Freedom of Information Act 1982* (FOI Act) 25, 31,  
     64

*Freedom of Information (Charges) Regulations 1982*  
     35

Freedom of Information Commissioner 15

freedom of information complaints

    compared to IC review 42

    compliance 16

    overview 13, 22

    release of information 41

    timely resolution 37

freedom of information enquiries

    Dispute Resolution branch 16

    from the public 58

    government guidance 43–44

    number and nature 60

    overview 13

*Freedom of Information Regulatory Action Policy*  
     47

freedom of information requests

    charges for 152–153

    number finalised 145–147

    practical refusal 149, 151

    processing costs 45

    refused 146

    response time 152, 154–156

    statistics 138–156

funding 8–9, 108–109. *see also* income

## G

Gadigal Language naming of meeting rooms 74  
Global Privacy Assembly (GPA)  
    Digital Citizen and Consumer Working Group (DCCWG) 22, 49  
    membership 9, 55  
governance 63–66  
Government agencies, engagement with 48  
government information  
    disclosure of 41–45, 173–175  
    sharing 48  
grants 77  
greenhouse gas emissions 78  
Guide to Privacy Regulatory Action 48

## H

Hardiman, Leo (Freedom of Information Commissioner) 15  
healthcare providers 48, 50  
health data matching 52  
Health, Safety and Wellbeing Committee 74  
home-based work 73, 74  
hybrid work 10, 69, 71, 73

## I

ICON network 48  
IC reviews *see* Information Commissioner (IC) reviews  
Immigration Assessment Authority (IAA) 140  
inclusive workforce 74, 77  
income 84, 97–99. *see also* funding  
independent reviews of EDR schemes 30  
independent stakeholder survey 10  
influenza vaccinations 73  
information access  
    enquiries 37  
    rights 25–37, 171–172  
information and communication technology services 71  
Information Commissioner (Australian Information Commissioner and Privacy Commissioner) 8–10, 15  
Information Commissioner (IC) reviews  
    finalisation time 34–37  
    FOI branch 16  
    FOI complaints compared to 42  
    highlights 22  
    overview 8, 158–160

    procedures reviewed 44  
    statistics 14

Information Contact Officer Network (ICON) 43, 44, 55  
*Information Matters* newsletter 43, 57  
Information Publication Scheme (IPS) 16, 43–44, 77, 164, 168–169, 174–75  
insurance sector privacy complaints 28  
internal audit 65–66  
internal review 45, 158, 159–162  
International Access to Information Day (IAID) 22, 43, 44, 55  
International Association of Privacy Professionals 72  
international collaboration 9, 49, 50  
International Conference of Information Commissioners 9, 48, 55  
International Day of People with Disability 74  
international regulators 49, 55  
*International Strategy* 16  
International Women's Day 74  
investigative functions 50–51

## K

key activities 7, 25–60  
key management personnel remuneration 111, 121

## L

Latitude Group 21  
lawyers' practising certificates 72  
Learnhub learning management system 71  
Legal and Constitutional Affairs Legislation Committee for Senate and Budget Estimates 67  
legislation 16, 25, 64  
lending sector 25  
letter of transmissal 2  
liabilities 107, 110, 111, 113, 114, 115, 116  
LinkedIn 57  
list of requirements 187–192  
Lunar New Year 74

## M

Major Investigations branch 16, 71  
Mardi Gras 74  
market research 77  
maternity leave 73



media enquiries 57  
 media scanning 51  
 Medibank Private data breach 21, 39  
 Medlab Pathology (Australian Clinical Labs) 21  
 meeting rooms, naming 74  
 memorandums of understanding 77, 136  
 mental health 74  
 Metropolitan Local Aboriginal Land Council 74  
 Micro and Extra Small Agency Session 55–56  
 Minister 25, 64  
 Multicultural Access and Equity Plan 74  
 multicultural activities 74  
*My Health Records Act 2012* 31, 33  
 My Health Record scheme 33, 48, 50, 52

## N

NAIDOC Week 74  
 National Action Plan 48  
 National Data Advisory Council 15  
 National Data Commissioner 48  
 National Data Commissioner Advisory Council 48  
 National Disability Insurance Agency (NDIA) 45, 139, 141  
 National Mediator Accreditation System 72  
 National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) 140  
 National Reconciliation Week 74  
 Net Zero 2030 policy 77–78  
 newsletter 43, 57  
 non-bank lending sector 25  
 non-financial assets 102–105  
 Notifiable Data Breaches (NDBs). *see also* data breaches  
   administering 16  
   case study 32  
   *Privacy Legislation Amendment (Enforcement and Other Measures) Act 2022* 40  
   reports received 32  
   timely resolution 32–34

## O

objectives of the OAIC 91  
 ‘OneOAIC’ culture 73  
 online privacy protections 38–40, 172–173  
 Open by Design 9  
 Open Government Partnership 48  
 Operations Committee 51, 64

Optus data breach 21, 39, 53  
 outcome structure 7  
 overview 8–14

## P

parental leave 73  
 Parliamentary committees 67  
 Passenger Name Records (PNR) 52, 136  
 payables 106  
 penalties 9, 16  
 People and Culture team 71  
 performance  
   highlights 21–22  
   management 71  
   results 23–24  
   statement 21–24  
   summary 21  
   survey results and methodology 170–181  
 personal information requests 137  
 personal privacy exemption 45  
 personal records, amendment of 157–158  
 portfolio structure 64  
 ‘practical refusal’ 149, 151–152  
 Practice Incentives Program eHealth Incentives (ePIP) program 52  
 privacy  
   APPs 27, 28, 29  
   assessments 53–54  
   auditing 16  
   bill scrutiny 22  
   breaches 16  
   case study 53  
   complaints *see* privacy complaints  
   Dispute Resolution branch 16  
   EDR schemes 30  
   enquiries *see* privacy enquiries  
   global environment 49  
   information access rights 171–172  
   online protection 38–40, 172–173  
   rights 25–37  
   *Privacy Act 1988*  
     investigation 16  
     OAIC functions and powers 25, 64  
     Privacy Commissioner-initiated investigations 31  
     privacy complaints 27  
     review 9, 22, 38, 39  
 Privacy and Data Protection Award 55

Privacy (Australian Government Agencies Governance) Code 2017 52

Privacy Authorities Australia 55

Privacy Awareness Week (PAW) 10, 22, 49–50, 55

Privacy Commissioner (Australian Information Commissioner and Privacy Commissioner) 8–10, 15

privacy complaints
 

- case studies 28–29
- Dispute Resolution Branch 16
- EDR schemes 29–30
- by issue 28
- overview 9, 11, 21
- by sector 28
- timely resolution 27

privacy enquiries
 

- from the public 58
- overview 12
- timeliness 37

Privacy Legislation Amendment (Enforcement and External scrutiny Other Measures) Bill 2022 67

*Privacy Legislation Amendment (Enforcement and Other Measures) Act 2022* 40, 47

Privacy Legislation Amendment (Enforcement and other Measures) Bill 2022 48

*Privacy Regulatory Action Policy* 47

Privacy Safeguard Guidelines 25

procurement 75–76

professional and personal development 73

professional membership assistance 72

program structure 7

psychosocial hazards in the workplace 74

psychosocial wellbeing policy 73

public enquiry line 58–60

*Public Governance, Performance and Accountability Act 2013* (PGPA Act) 64

public information service 37

purpose of the OAIC 7, 18

## R

regulation 9, 27, 46–60, 175–178

Regulation and Strategy branch 16

Regulatory Action Committee (RAC) 47–48

Regulatory Action Policy 48

related party disclosures 112

release of government information 41–45, 173–175

remuneration
 

- executive 121–123

key management personnel 111

office holders and SES officers 73

Reserve Bank of Australia (RBA) 140

Resolution Institute membership 72

resource statement 119–120

responsible minister 64

revenue see funding; income

reviews
 

- AAT 162–164
- case studies 35–37
- FOI decisions 159–160
- IC see Information Commissioner (IC) reviews
- internal 45, 159–162

Risk Appetite Statement 65

risk management
 

- best practice 47
- financial 113
- overview 64–65

Risk Management Policy and Framework 65

Robodebt scheme 68

Royal Commission into the Robodebt Scheme 68

## S

safety arrangements 74

scrutiny, external 67

security and access policy template 50

Security Policy Framework 16

Senate Economics Legislation Committee 67

Senate Legal and Constitutional Affairs Legislation Committee 67

Senior Executive Service remuneration 121

Services Australia 45, 52, 139, 141

SES officers' salaries 73

shortened forms 182–185

small business support 76

Social Committee 74

social media 57

'soft enquiries' framework 39

speeches program 57

sponsorship 25

staff 69–74
 

- employee benefits 73, 110–111
- FOI costs 165–166
- hybrid work 10, 69, 71, 73
- IPS costs 168–169
- remuneration see remuneration
- statistics 70
- training see training

turnover 70  
 workforce statistics 124–135  
 workplace relations 72  
 stakeholder engagement activities 55  
 stakeholder survey  
   CDR 26  
   performance measurement 46–47, 51–52  
   survey results and methodology 170–181  
 statistics  
   collecting 16  
   currency 22  
   FOI processing 45  
   workforce 124–135  
 strategic advice 16  
 structure of the OAIC 15–17  
 study assistance 72, 73  
 survey *see* stakeholder survey  
 Sydney WorldPride 74

**T**

‘Talking about performance’ (TAP) performance management framework 71  
 taxation 93  
 Telecommunications Industry Ombudsman (TIO) 30–31  
 Telecommunications Regulations 2021 53  
 telecommunications sector privacy complaints 28  
 telephone enquiries 58–60  
 Tertiary Education Quality and Standards Agency 35  
 time extensions 16, 42

timeliness  
   FOI complaint resolution 37  
   NDB resolution 32–34  
   privacy enquiries 37  
   regulatory outputs 27  
 time off in lieu 73  
 training  
   EDR schemes 30  
   fraud and corruption 65  
   learning and development 71  
 Treasury Laws Amendment (Consumer Data Right) Bill 2022 67  
 trust 46, 47  
 Twitter 57

**V**

Veterans’ Affairs 139, 141, 142  
 vexatious applicant declarations 16, 42  
 vision of the OAIC 18

**W**

Wear It Purple Day 74  
 website 1  
 wellbeing support 74  
 Women’s Day 74  
 workforce *see* staff  
 workforce capability adviser 71  
 Workplace Diversity Strategy 74  
*Workplace Health and Safety Act 2011* 74  
 workstation assessments 74





# Annual report 2022–23

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