



## Freedom of Information Investigation Outcomes

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

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

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

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

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent’s response	Further action to be taken
Administrative Appeals Tribunal	<p>Whether the Agency complied with statutory timeframes (s 15(5)(b)).</p> <p>Whether the manner of the Agency’s response was satisfactory.</p> <p>Whether there was a delay in the release of material.</p> <p>Whether the manner in which the documents were released was irregular.</p> <p>Whether the released material included the personal information of other people.</p> <p>Whether the released material included duplicate material</p>	Personal	27 June 2024	While the investigation of some issues was outside the Information Commissioner’s jurisdiction with respect to complaint investigations, on balance the complaint was substantiated.	<p>Four recommendations made:</p> <ol style="list-style-type: none"> <li>1. The Tribunal provide the complainant with an explanation and an apology for the unsatisfactory handling of their FOI request</li> <li>2. The Tribunal put into practice and update its formal FOI guidance for staff, to: <ol style="list-style-type: none"> <li>i. provide both a statement of reasons and a schedule of documents to applicants where the request involves numerous documents or complex issues relating to exemptions</li> <li>ii. guidance to enhance the consistency of references regarding document types in decision letters</li> <li>iii. effect the prompt release of documents following an access decision</li> <li>iv. put in place a checking system to ensure prompt notification and rectification of any error messages/failed delivery messages</li> <li>v. notify applicants of the total number of emails to be sent and confirm receipt when sending multiple emails to applicants</li> <li>vi. facilitate and undertake an early assessment of the material and determine whether an extension of time is</li> </ol> </li> </ol>	Recommendations 1, 2 (ii)-(vi), (viii) and (ix) accepted and to be implemented.	

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response	Further action to be taken
	<p>Whether documents were missing from the release material.</p> <p>Whether the decision contained contradictory statements as to the existence or otherwise of documents which have not been released.</p> <p>Whether adequate searches were conducted.</p>				<p>required where there is substantial material to be considered</p> <p>vii. put in place a peer review system of secondary checking of access decisions and documents prior to release</p> <p>viii. highlight the privacy issues raised in this matter in the FOI procedures and when training FOI office</p> <p>ix. undertake reasonable searches for documents and conduct searches of the 'N' drive as a matter of course and consider using 'wildcards' when searching in appropriate cases.</p> <p>3. The Tribunal provide training to staff on the updated practices and corresponding amendments to its formal FOI guidance, as described above.</p> <p>4. The Tribunal provided the OAIC with:</p> <ol style="list-style-type: none"> <li>a copy of its updated FOI guidance, and</li> <li>confirmation that an apology has been provided to the complainant.</li> </ol> <p>One suggestion made: That in the redevelopment of its case management system the Tribunal consider options with respect to the automated generation of schedule content and reduction in duplication.</p>		
Comcare	<p>Whether the Agency was delayed in making the decision following the determination that third party consultation under s 27A of the FOI Act was not feasible</p> <p>Whether the Agency failed to adequately address the complainant's correspondence.</p> <p>Whether the Agency incorrectly changed the date of the FOI request.</p>	Personal	20 June 2024	The complaint was substantiated with respect to Issues 1 and 3.	<p>Two suggestions made:</p> <ol style="list-style-type: none"> <li>the Agency amend its FOI Procedure Manual at Part 13 'Making a decision' to include a requirement for the Agency's decision makers to act in good faith and apply best practice to provide applicants with access to information promptly within the statutory timeframe, in keeping with the objects of the FOI Act s 3(4) and FOI Guidelines, and</li> <li>the Agency provide training to staff on the amendments to the FOI Procedure Manual.</li> </ol>	Not applicable	Not applicable
Department of Veterans' Affairs	Whether the Department was incorrectly managing disclosure log access requests	Non-personal	13 March 2024	On balance, the complaint is substantiated. The Department has since taken reasonable steps to address the complainant's concerns. There are no current delays with the Department providing access to documents from its disclosure log.	<p>Two suggestions made:</p> <ol style="list-style-type: none"> <li>The Department is to provide quarterly updates to the OAIC – on 13 September 2024 and 13 March 2025 – about its timeliness in providing documents from its disclosure log. In providing this update, the Department should include details of any delays in providing access to documents from its disclosure log, whether the</li> </ol>	Not applicable.	Not applicable.

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response	Further action to be taken
					<p>Department is corresponding with FOI applicant in circumstances of delays, and the steps it is taking to ensure that delays do not continue to occur.</p> <p>2. The Department is to provide quarterly updates to the OAIC – 13 September 2024 and 13 March 2025 – regarding its progress in moving its disclosure log towards direct download.</p>		
Department of Industry, Science and Resources	Whether the Department ought to have consulted with the complainant prior to publishing documents on its disclosure log and third party websites	Personal	6 March 2024	On balance, the complaint is substantiated. The Department has since taken reasonable steps to address the complainant's concerns. The Department's approach in this matter does not reflect any systemic procedural concerns in how the Department processes requests.	<p>One suggestion made:</p> <ol style="list-style-type: none"> <li>The Department update its policies to highlight the need to carefully consider the requirement to consult having regard to the unique circumstances of each case prior to publishing documents on its disclosure log and/or third-party websites.</li> </ol>	Not applicable.	Not applicable.
Australian Federal Police	<p>Whether the AFP adequately communicated with the complainant while processing the request</p> <p>Whether there were delays in processing the request</p>	Non-personal	5 March 2024	<p>The complaint is substantiated.</p> <p>There were significant delays in processing the complainant's request of 14 June 2021 made under s 15 of the FOI Act.</p> <p>The AFP was not sufficiently responsive to complainant's emails to the AFP following the issue of a notice of intention to refuse.</p> <p>The AFP did not take reasonable steps during the practical refusal process to assist the complainant to revise the request so that the practical refusal reason no longer existed (see s 24AB of the FOI Act).</p>	<p>Three recommendations made:</p> <ol style="list-style-type: none"> <li>The AFP's FOI branch is to undergo training which highlights the requirement to comply with timeframes under the FOI Act, the appropriate circumstances to seek an extension of time, and the requirements to actively engage with FOI applicant during the request consultation process to assist them revise the scope of their request.</li> <li>The AFP is to conduct an assessment of all FOI requests received between 5 June 2023 and 5 December 2023 in which a practical refusal notice is sent to an applicant pursuant to s 24AB(2) to ensure that the statutory timeframes are being complied with and that the training has been effective.</li> <li>The AFP report the findings of the assessment to the OAIC highlighting any ongoing inefficiencies and the steps the AFP will endeavour to take to ensure that those inefficiencies are properly addressed.</li> </ol>	Accepted; to implement.	
National Disability Insurance Agency	<p>Whether the Agency complied with statutory timeframes (s 15(5)(b))</p> <p>Whether the Agency failed to provide timely responses to correspondence</p>	Personal	4 March 2024	<p>The complaint is substantiated.</p> <p>The Agency failed to comply with s15 of the FOI Act and failed to implement systems and processes sufficient to uphold its duties under the FOI Act.</p>	<p>Three recommendations made:</p> <ol style="list-style-type: none"> <li>The Agency must provide training to staff regarding the interaction between FOI and PIA requests, highlighting the importance of ensuring that the scope of the request is properly understood as well as engaging in flexible communication with applicants in a timely manner.</li> <li>The Agency undertake an assessment of all FOI requests which involve a request for 'personal' documents received between 5 May 2024 and 4 November 2024 to ensure that statutory timeframes are being complied with and that the training has been effective.</li> <li>The Agency report the findings of the assessment to the OAIC, highlighting its findings as well as what steps the Agency will endeavour to take to ensure that any concerns arising from the assessment are promptly addressed.</li> </ol>	Accepted; to implement.	

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response	Further action to be taken
					<p>Two suggestions made:</p> <ol style="list-style-type: none"> <li>1. As part of the above assessment, the Agency should also assess all PIA requests received between 5 May 2024 and 4 November 2024 to ensure that statutory timeframes are being complied with in accordance with the FOI Guidelines at [3.5].</li> <li>2. The Agency should look to improve its systems so that documents currently available through PIA requests are made directly downloadable; for example, through the Agency's myplace Portal. This will reduce delays and also increase resources within the Agency to assist with processing FOI requests.</li> </ol>		
Department of Veterans' Affairs	Whether the Department complied with statutory timeframes (s 15(5)(a))	Non-personal	4 March 2024	<p>The complaint was substantiated.</p> <p>The Department acknowledged its failing, apologised to the complainant, and implemented a revised approach to ensure future compliance.</p>	<p>One suggestion made:</p> <ol style="list-style-type: none"> <li>1. Monitor through provision of weekly reports the Department's adherence to statutory timeframes under the FOI Act.</li> </ol>	Not applicable.	Not applicable.
Department of Health and Aged Care	Whether the Department delayed in complying with a s 55K decision and providing the complainant with access to documents	Non-personal	1 March 2024	<p>The complaint was substantiated.</p> <p>The Department acknowledges that it failed to inform the complainant of the delays or issues in meeting the timeframe. The Department had taken numerous steps to improve its FOI processes since August 2021, including a comprehensive review of the FOI processes, procedures and resourcing, provision of training to all FOI officers, and a recruitment drive. It acknowledges that it could develop policies and guidelines for responding to s 55K decisions.</p>	<p>Three suggestions made:</p> <ol style="list-style-type: none"> <li>1. Where the Department anticipates that it may be unable to meet the statutory timeframe, especially after completion of an IC review, the Department should engage with the applicant as soon as possible to communicate the delay and assure the applicant that the agency remains committed to continuing to process the request as soon as possible.</li> <li>2. Where an incorrect FOI decision has been made, the Department should endeavour to engage with the applicant by telephone prior to sending the corrected decision to provide the applicant with further information and assistance to promote the object of the FOI Act.</li> <li>3. Where the Department has been unable to meet the statutory timeframe, the Department should ensure that correspondence to the applicant clearly reflects this and includes the appropriate review rights.</li> </ol>	Not applicable.	Not applicable.
Department of Health and Aged Care	Whether the Department took reasonable steps to ensure it understood the scope of the complainant's request, particularly as part of the internal review process	Non-personal	28 February 2024	The complaint was substantiated.	<p>Two recommendations made:</p> <ol style="list-style-type: none"> <li>1. As part of the assessment in respect of the Notice of completion of 22 January 2024, the Department's FOI area also assess whether the changes to the Department's practices and procedures have been effective in ensuring better compliance with the FOI Act and the Guidelines issued under s 93A of the FOI Act (FOI Guidelines), with a particular focus on the Department's internal review processing being a fresh and independent determination of the request. This includes: <ol style="list-style-type: none"> <li>i. the internal review decision-maker ensuring that the scope of the request has been properly understood and, if not, liaising further with the applicant,</li> </ol> </li> </ol>	Accepted; to implement.	

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response	Further action to be taken
					<ul style="list-style-type: none"> <li>ii. the internal review decision-maker being satisfied that the appropriate procedural steps have been followed by the original decision-maker (such as internally liaising with the appropriate departmental staff, appropriate searches have been undertaken, proper sampling has been undertaken where appropriate, consulting with the applicant where appropriate, documentation has been recorded of the processes, etc.) and if not, ensuring that these steps are undertaken, and</li> <li>iii. the internal review decision-maker seeks further information from the applicant, or third parties, where appropriate, and</li> <li>iv. the internal review decision-maker is satisfied that they are making the correct and preferable decision.</li> </ul> <p>2. As soon as practicable, but no later than 2 weeks after the assessment, the Department report the results of the assessment referred to in paragraph (a) to the Oaic.</p>		
Department of Health and Aged Care	Whether the Department took reasonable steps to assist the complainant revise the request so that the practical refusal reason no longer existed	Non-personal	28 February 2024	The complaint was substantiated.	<p>No recommendations were made.</p> <p>The recommendations made to the Department on 22 January 2024 (see below) adequately address the identified deficiencies specific to this complaint. Therefore, no further formal recommendations were made in response to this complaint.</p> <p>The Oaic will monitor compliance in response to Notice on completion of 22 January 2024.</p>	Not applicable.	Not applicable.
Comcare	<p>Whether Comcare should have notified the Information Commissioner of its request for an extension of time</p> <p>Whether Comcare followed proper procedures in issuing the Charges Notice in respect of only a portion of the request</p> <p>Whether Comcare adequately communicated with the</p>	Non-personal	27 February 2024	The complaint was substantiated.	<p>Eight recommendations made:</p> <ol style="list-style-type: none"> <li>1. Comcare update its draft FOI Charges policy to better reflect the FOI Act, <i>Freedom of Information (Charges) Regulations 2019</i> (Charges Regulations) and the Guidelines issued under s 93A of the FOI Act (FOI Guidelines) by including a statement confirming that a FOI applicant cannot be found liable to pay a charge for a portion or part of a request.</li> <li>2. Comcare finalise its FOI Charges Policy, make it available to FOI officers and publish a copy on Comcare's 'Request access to information' webpage<sup>1</sup> and Information Publication Scheme (IPS) in accordance with the FOI Guidelines at [4.51].</li> <li>3. Comcare update its FOI Procedure Manual to better reflect the FOI Act, the Charges Regulations and the FOI Guidelines by including: <ul style="list-style-type: none"> <li>i. a statement under the heading 'Charges' which directs FOI officers to the FOI Charges Policy for</li> </ul> </li> </ol>	Accepted; to implement.	

<sup>1</sup> [Request access to information | Comcare](#)

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response	Further action to be taken
	complainant regarding the Charges Notice				<p>further guidance on exercising the discretion to find a person liable to pay a charge, as well as reducing or not imposing a charge</p> <ul style="list-style-type: none"> <li>ii. a paragraph under the subheading 'FOI timeframes' (p 21) which explains the expectation of clear communication with FOI applicants regarding timeframes, particularly in circumstances where the timeframe varies on multiple occasions</li> <li>iii. an inclusion under the subheading 'FOI timeframes' (p 21) which explains that any extension of time agreed by the parties under s 15AA of the FOI Act must be reported to the OAIC as soon as practicable, but preferably within 1 business day, and</li> </ul> <ol style="list-style-type: none"> <li>4. Once updated, Comcare publish its FOI Procedure Manual to its 'Request access to information'<sup>2</sup> webpage and IPS in accordance with the FOI Guidelines at [4.51].</li> <li>5. Comcare provide a copy of the updated FOI Procedure Manual to the OAIC for consideration.</li> <li>6. Comcare undertake a review of all of its decisions made since 28 February 2020 to the date of this notice to ensure that all agreements made under s 15AA have been reported to the OAIC.</li> <li>7. Comcare assess all charges made since 27 June 2024 to 27 February 2025 to identify whether its FOI officers are making decisions consistent with the updated FOI Procedure Manual.</li> <li>8. Comcare report the results of the assessment referred to in recommendation (f) to the OAIC as soon as practicable after its completion, highlighting the feedback and ongoing improvements in its practices and procedures over the 8-month period.</li> </ol> <p>One suggestion:</p> <ol style="list-style-type: none"> <li>1. Before finalising the FOI Charges Policy, Comcare gives careful consideration as to whether it is appropriate to reference a \$25 charge at [25] of the FOI Charges Policy having regard to the FOI Act, the Charges Regulations, the FOI Guidelines and the recent IC review decisions involving charges, particularly 'ABX' and <i>Department of Veterans' Affairs (Freedom of information)</i> [2022] AICmr 57. Noting, the discretion to not impose a charge in circumstances where the cost of calculating the charge is likely to exceed the amount of the charge itself.</li> </ol>		

<sup>2</sup> Request access to information | Comcare



Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response	Further action to be taken
Australian Broadcasting Corporation	Whether the ABC acknowledge, or processed, the complainant's five (5) FOI requests	Personal	27 February 2024	The complaint was substantiated.	Four recommendations made: <ol style="list-style-type: none"> <li>1. The ABC is to provide the complainant with a statement of reasons in response to the complainant's five (5) FOI requests and, if relevant, provide access to the relevant documents to accompany those reasons.</li> <li>2. The ABC's FOI area assess all requests received since 1 May 2020 up to 27 February 2024 to identify any other requests received by the ABC that have not been processed in accordance with the FOI Act and are therefore considered deemed pursuant to s 15AC of the FOI Act.</li> <li>3. The ABC is to acknowledge and process all outstanding requests identified as part of the assessment referred to in recommendation (b). I confirm this process is not required in respect of any deemed decisions which were subsequently finalised through the IC review process, or for which the ABC subsequently provided a statement of reason on its own accord.</li> <li>4. The ABC report the results of the assessment referred to in recommendation (b) and (c) to the OAIC, highlighting: the number of cases identified, the issuance of a statement of reasons against each identified case, and any relevant feedback from the applicant in each case.</li> </ol>	Accepted; to implement.	
Services Australia	Whether there were deliberate delays by Services Australia  Whether the Charges Notice was 'void' on the basis that the delegate did not sign the document  Whether the Charges Notice was issued out of time  Whether the exercise of the discretion to impose by Services Australia was properly done	Non-personal	27 February 2024	Services Australia's decision to extend the processing time under s 15(6) of the FOI Act did not comply with the FOI Act or FOI Guidelines.  The Charges Notice was not 'void' on the basis that the delegate failed to sign it.  It was legally open to Services Australia to issue a Charges Notice; however, in doing so, Services Australia did not engage in practices appropriate to advancing the objects of the FOI Act, and particularly, to facilitate and promote public access to information, promptly and at the lowest reasonable cost (s 3(4) of the FOI Act).	Four recommendations made: <ol style="list-style-type: none"> <li>1. Services Australia must update its policies, training manuals, and/or guidance material to accurately reflect the FOI Act and FOI Guidelines in respect of charges, to include: <ol style="list-style-type: none"> <li>i. FOI officers must consider whether it is appropriate to find an FOI applicant liable to pay a charge before issuing a notice pursuant to s 29(1) of the FOI Act ('Charges Notice')</li> <li>ii. FOI officers must only issue a Charges Notice in circumstances where they have undertaken sampling and have obtained an accurate estimate of the charge, and</li> <li>iii. FOI officers must document their reasons for justifying the imposition of a charge where it has previously been decided that a practical refusal reason exists but either through consultation or Information Commissioner (IC) review, the practical refusal reason no longer exists or is found not to exist.</li> </ol> </li> <li>2. Services Australia is to provide formal training supported by documentation to its staff engaged in processing FOI requests with a particular focus on: <ol style="list-style-type: none"> <li>i. the guiding principles of the charges framework, including the discretionary nature of charges, and</li> <li>ii. processes following IC review, with specific regard to the objects of the FOI Act.</li> </ol> </li> </ol>	Accepted; to implement.	

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response	Further action to be taken
Department of Industry, Science and Resources	<p>Whether the Department imposed charges which were disproportionate to the work required to process the requests</p> <p>Whether the Department did not properly scrutinise the charge determined by the Australian Government Solicitor calculator (charges calculator)</p>	Non-personal	26 February 2024	<p>The complaint was substantiated.</p> <p>The Department did not properly scrutinise the data input into the charges calculator and therefore cannot be satisfied that it represented an accurate preliminary assessment of charge.</p>	<p>3. Services Australia's FOI area assess all charges decisions made since 6 August 2020 up to 23 February 2024. The assessment should seek to identify whether Services Australia had, throughout that period, made other charges decision in a manner inconsistent with ss 3(4) and 29 of the FOI Act, and which may need to be revisited in light of the outcome of this FOI complaint, and</p> <p>4. Services Australia report the results of the assessment referred to in recommendation c to the OAIC, highlighting the feedback and ongoing improvements in its practices and procedures since the implementation of the recommendations outlined above.</p> <p>Four recommendations made:</p> <ol style="list-style-type: none"> <li>1. The Department is to amend its FOI Procedural Manual to state that there is an expectation when using a charges calculator that the FOI officer undertake sampling to ensure that the data input provides an accurate estimate.</li> <li>2. The Department is to providing training to its FOI officers to ensure they are aware of the expectation to undertake sampling when using a charges calculator.</li> <li>3. The Department's FOI area is to undertake a review of all Charges Notices and Charges Decisions issued 26 February 2024 and 26 August 2024 to ensure that the amendments to the FOI Procedural Manual have been effectively implemented into the Department's practices and procedures.</li> <li>4. The Department report the results of the assessment referred to in paragraph (c) to the OAIC. The report should also include steps the Department is seeking to take to address circumstances where a charge was imposed using a charges calculator and sampling was not undertaken.</li> </ol> <p>Two suggestions made:</p> <ol style="list-style-type: none"> <li>1. The Department is to upload the documents relevant to the complainant's third request of 1 December 2020 (Department reference 67625) onto its disclosure log, or provide submissions to the OAIC outlining the reasons why these documents cannot be included on the disclosure log</li> <li>2. If relevant, the Department is to advise the OAIC the documents have been uploaded to the disclosure log and provide a link to the relevant documents.</li> </ol>	Accepted; to implement.	
Department of Health and Aged Care	Whether the Department provided adequate assistance to complainant so that she could pay a charge and secure release of documents requested	Non-personal	26 February 2024	<p>The complaint was substantiated.</p> <p>The Department acted inconsistently with the FOI Act, the <i>Freedom of Information (Charges) Regulations 2019</i> and the FOI Guidelines in respect of finding the complainant liable to pay a charge.</p>	<p>Two recommendations made:</p> <ol style="list-style-type: none"> <li>1. The Department is to update its FOI Guidelines/Procedure Manual such that it better reflects the charges process in accordance with the FOI Act and/or FOI Guidelines. In particular, the amendments should highlight the discretionary nature of charges, the expectation that sampling will occur when using a charges calculator, and</li> </ol>	<p>Recommendations accepted; to implement.</p> <p>Suggestions not accepted.</p>	



Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response	Further action to be taken
	under s 15 of the FOI Act				<p>the ongoing obligation of the Department to continue to be satisfied that the charge should be imposed.</p> <p>2. The Department's FOI branch is to undergo training to ensure compliance with the updated FOI Guidelines / Procedure Manual. Evidence of the training is to be created and retained by the Department.</p> <p>Two suggestions made:</p> <ol style="list-style-type: none"> <li>1. The Department give consideration to providing the complainant with a full refund of the deposit (\$60)</li> <li>2. The Department is to provide an update to the OAIC as soon as practicable as to whether a full refund has been, or will be, provided.</li> </ol>		
Services Australia	Whether Services Australia is imposing charges on FOI applicants to deter them from perusing their requests	Non-personal	23 February 2024	The complaint was substantiated.	<p>Four recommendations made:</p> <ol style="list-style-type: none"> <li>1. Services Australia must update its policies, training manuals, and/or guidance material to accurately reflect the FOI Act and FOI Guidelines in respect of charges, to include: <ol style="list-style-type: none"> <li>i. FOI officers must consider whether it is appropriate to find an FOI applicant liable to pay a charge before issuing a notice pursuant to s 29(1) of the FOI Act ('Charges Notice')</li> <li>ii. FOI officers must only issue a Charges Notice in circumstances where they have undertaken sampling and have obtained an accurate estimate of the charge, and</li> <li>iii. FOI officers must document their reasons for justifying the imposition of a charge where it has previously been decided that a practical refusal reason exists but either through consultation or Information Commissioner (IC) review, the practical refusal reason no longer exists or is found not to exist.</li> </ol> </li> <li>2. Services Australia is to provide formal training supported by documentation to its staff engaged in processing FOI requests with a particular focus on: <ol style="list-style-type: none"> <li>i. the guiding principles of the charges framework, including the discretionary nature of charges, and</li> <li>ii. processes following IC review, with specific regard to the objects of the FOI Act.</li> </ol> </li> <li>3. Services Australia's FOI area assess all charges decisions made since 6 August 2020 up to 23 February 2024. The assessment should seek to identify whether Services Australia had, throughout that period, made other charges decision in a manner inconsistent with ss 3(4) and 29 of the FOI Act, and which may need to be revisited in light of the outcome of this FOI complaint, and</li> <li>4. Services Australia report the results of the assessment referred to in recommendation c to the OAIC, highlighting the feedback and ongoing improvements in its practices</li> </ol>	Accepted; to implement.	

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response	Further action to be taken
Services Australia	<p>Whether Services Australia undertook a proper consideration of the issues as part of the internal review process</p> <p>Whether it was best practice for the original decision-maker and internal review decision-maker to be of the same classification level</p> <p>Whether Services Australia's 'vetting process' was appropriate</p> <p>Whether Services Australia properly informed the complainant of his review rights and/or timeframes for review</p>	Personal	23 February 2024	<p>Services Australia gave proper consideration to the issues raised by the complainant in his request for an internal review.</p> <p>The original decision-maker and internal review decision-maker were the same classification level, which is not best practice.</p> <p>The vetting process of Services Australia in reviewing the draft internal review decision should be improved to better reflect the objects of the FOI Act.</p> <p>Services Australia properly informed the complainant of his review rights and the timeframes for seeking review.</p>	<p>and procedures since the implementation of the recommendations outlined above.</p> <p>Two suggestions made:</p> <ol style="list-style-type: none"> <li>1. Services Australia update its practices to ensure that an appropriately authorised more senior officer conducts the internal review, as per best practice.</li> <li>2. Services Australia implement systems to reflect the intent of the FOI Act to facilitate prompt access to information at the lowest reasonable cost by ensuring that properly authorised officers are responsible for decision making under the FOI Act.</li> </ol>	Not applicable.	Not applicable.
Department of Health and Aged Care	<p>Whether the Department took reasonable steps to assist the complainant revise the request so that the practical refusal reason no longer existed</p> <p>Whether, as a result of not engaging in the request consultation process, the Department was unable to properly identify the documents within the scope of the FOI request</p>	Non-personal	22 January 2024	The complaint was substantiated.	<p>Two recommendations were made:</p> <ol style="list-style-type: none"> <li>1. The Department's FOI area is to assess all FOI decisions made since 22 January 2024 and 22 July 2024 to seek to identify whether the changes to the Department's practices and procedures have been effective in ensuring better compliance with the FOI Act and the FOI Guidelines, with a particular focus on assisting FOI applicants during the practical refusal process.</li> <li>2. As soon as practicable, but not later than 2 weeks after the assessment, the Department report the results of the assessment to the OAIC and also provide copies of the Department's relevant FOI Guidelines, policies and procedures.</li> </ol>	Accepted; to implement.	

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response	Further action to be taken
NBN Co Ltd	Whether NBN was required to publish a decision to the 'Right to Know' website after administrative access to requested documents was provided	Non-personal	22 January 2024	The complaint was substantiated	<p>Three recommendations were made:</p> <ol style="list-style-type: none"> <li>1. NBN is to develop FOI procedures and/or guidelines which provides clear guidance to FOI officers about processing requests in accordance with the FOI Act and FOI Guidelines, including processing and releasing documents through administrative access.</li> <li>2. As soon as practicable, provide copies/links to the OAIC of the information described at paragraph (a).</li> <li>3. NBN is to provide training for its FOI staff to ensure they are aware of, and properly utilise, the FOI procedures and/or guidelines prepared.</li> </ol> <p>Two suggestions were made:</p> <ol style="list-style-type: none"> <li>1. NBN is to update its FOI webpage to include information about administrative access requests in accordance with the FOI Act and FOI Guidelines.</li> <li>2. As soon as practicable, provide a link to the OAIC of the updated webpage.</li> </ol>	Accepted; to implement.	
Australian Taxation Office	<p>Whether the ATO processed the request in a manner which was improper</p> <p>Whether the ATO did so as a way of delaying access to documents required for separate legal proceedings</p>	Personal	18 December 2023	Neither aspect of the complaint was substantiated.	No recommendations made.	Not applicable.	Not applicable.
Department of Industry, Science and Resources	Whether the Department should have transferred the request under s 16 rather than refusing the request under s 24A, on the basis that no documents exist	Non-personal	8 December 2023	<p>The Department attempted to facilitate transfer of the complainant's request under s 16 of the FOI Act and the appropriate agency refused to accept the transfer. The Department therefore had no option but to process the request, making its original decision that no documents exist under s 24A of the FOI Act.</p> <p>However, the Department did not give consideration to the possible transfer of the request under s 16 of the FOI Act early enough in the processing of the request. The amount of time remaining to process the request was a relevant consideration of the appropriate agency to its decision not to accept transfer of the request.</p> <p>The Department also did not seek the applicant's agreement to an extension of the statutory processing timeframe under s 15AA of the FOI Act,</p>	<p>No recommendations were made.</p> <p>The Department acknowledged that it should have attempted transfer of the request to the receiving agency at an earlier stage of the processing of the request and because the Department had also already implemented remedial measures in relation to its processing of FOI requests where transfer under s 16 is contemplated.</p>	Not applicable.	Not applicable.

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response	Further action to be taken
				<p>which may have facilitated the appropriate agency's agreement to accept transfer of the request, and</p> <p>The Department did not take reasonable steps to assist the complainant to direct their request to the appropriate agency during the processing of the request.</p>			
Digital Transformation Agency	<p>Whether, in issuing the charges notice, the Agency was acting in accordance with the 'lowest reasonable cost' principle</p> <p>Whether the Agency's process for considering if it was in the general public interest to waive the charge was consistent with the FOI Act and Guidelines</p> <p>Whether the Agency considered the payment of the charge (in part or in full) waived his review rights</p>	Non-personal	6 December 2023	<p>The Agency, at the time of processing the complainant's FOI request, did not properly comply with its obligations under s 29 of the FOI Act.</p> <p>The Agency did not engage in practices appropriate to advancing the objects of the FOI Act, and particularly, to facilitate and promote public access to information, promptly and at the lowest reasonable cost (s 3(4) of the FOI Act).</p>	<p>Four recommendations were made:</p> <ol style="list-style-type: none"> <li>1. The Agency prepare and promulgate formal guidance for staff to determine whether an FOI applicant is liable to pay a charge, in accordance with s 29 of the FOI Act, the <i>Freedom of Information (Charges) Regulations 2019</i> (Charges Regulations), and the FOI Guidelines. The Agency is to provide a copy of the formal guidance to the OAIC.</li> <li>2. The Agency ensure that all relevant staff have received training in relation to the formal guidance referred to in recommendation a. The Agency is to provide confirmation to the OAIC that all relevant staff have received this training.</li> <li>3. The Agency's FOI area assess all charges decisions made since 1 July 2019 up to 28 November 2023. The assessment should seek to identify whether the Agency had, throughout that period, made other charge decisions in a manner inconsistent with ss 3(4) and 29 of the FOI Act, and which may need to be revisited in light of the outcome of this complaint.</li> <li>4. The Agency report the results of the assessment referred to in recommendation c to the OAIC as soon as practicable after its completion, highlighting the feedback and ongoing improvements in its practices and procedures since the implementation of the recommendations outlined above.</li> </ol>	Accepted; to implement.	
Department of Home Affairs	<p>Whether the Department delayed processing the complainant's FOI request</p> <p>Whether the substance of the information released by the Department did not</p>	Non-personal	30 November 2023	<p>The Department did not comply with s 15(5)(b) of the FOI Act when processing the complainant's FOI request dated 29 March 2021, and</p> <p>The Department misunderstood the scope of the complainant's revised request, resulting in the Department initially providing access to a document which did not meet the terms of the complainant's revised request and resulted in further delays in processing the request.</p>	<p>No recommendations were made.</p> <p>The OAIC did not make any formal recommendations on the basis that similar issues to those raised in this complaint have already been considered and addressed as part of the Commissioner Initiated Investigation into the Department of Home Affairs (CII),<sup>3</sup> as well as in other FOI complaints.<sup>4</sup> The OAIC is continuing to monitor the Department's compliance with statutory timeframes to ensure that the recommendations of the CII and other complaints are implemented and operationalised.</p>	Not applicable.	Not applicable.

<sup>3</sup> See report available at [Commissioner initiated investigation into the Department of Home Affairs | OAIC](#).

<sup>4</sup> See the OAIC's [Freedom of Information Investigation Outcome's](#) table, specifically the Notice on Completions of 25 November 2021 and 3 May 2023.

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response	Further action to be taken
	meet the terms of the complainant's revised request				Two suggestions were made: <ol style="list-style-type: none"> <li>The Department update its <i>Processing non-personal Freedom of Information requests Procedural Instruction (Procedural Instruction)</i> at [1.4] to contemplate a flexible approach to informal consultation, including emails and telephone calls, to reflect the approach set out in the <i>Guidelines issued under s 93A of the FOI Act (FOI Guidelines)</i> at [3.53].</li> <li>The Department update its Procedural Instrument at p17 under the sub-heading 'Practical Refusal considerations' to include guidance for officers undertaking the sampling exercise in accordance with FOI Guidelines at [3.121].</li> </ol>		
Comcare	Whether the Agency complied with its obligations under s 11C of the FOI in relation to publication of information in its disclosure log  Whether the Agency complied with its obligations under s 8(2) of the FOI in relation to publication of information on IPS	Non-personal	27 July 2023	At the time of processing the complainant's request, the Agency complied with its obligations under s 11C of the FOI Act.  The Agency's practices in relation to the publication of information under ss 8(2) and 11C of the FOI Act could be improved	One recommendation was made: <ol style="list-style-type: none"> <li>That, in the absence of any overriding legal obligation, the Agency publish the Claims Manual on the IPS in accordance with s 8(2)(j) of the FOI Act.</li> </ol> Three suggestions were made: <ol style="list-style-type: none"> <li>The Agency is to implement technical solutions to support publishing documents for direct access through the disclosure log webpage in an accessible format.</li> <li>The Agency is to update the OAIC on expected timeframes for completion of information being published directly on the Agency's disclosure log webpage in an accessible format.</li> <li>The Agency consider placing a notification on its website advising it has launched a project to provide a single source of information to replace the Claims Manual in an accessible format for publication on the Information Publication Scheme (IPS), with an expected timeframe for completion.</li> </ol>	Recommendation implemented. Suggestions not implemented – exploring implementation.	No further action to be taken
Department of Prime Minister and Cabinet	Whether misinterpretation of FOI request resulted in misdirection of request to incorrect Department  Adequacy of the Department's policies and procedures to	Non-personal	14 June 2023	The Department, at the time of processing the complainant's FOI request, did not engage in practices appropriate to advancing the objects of the FOI Act, and particularly, to facilitate and promote public access to information, promptly and at the lowest reasonable costs (s 3(4) of the FOI Act). This is in circumstances where the Department: <ul style="list-style-type: none"> <li>did not engage in early consultation with the complainant before making a judgement, in the first instance, as</li> </ul>	Four recommendations were made: <ol style="list-style-type: none"> <li>The Department create formalised written policies and/or procedures to distinguish between FOI requests made to the Department and the PMO.</li> <li>The Department create formalised written policies and/or procedures to rectify situations where a FOI request has been misdirected.</li> </ol>	Acknowledged; Recommendations implemented. Suggestions not implemented. Exploring implementation of Suggestion 2.	No further action to be taken.

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response	Further action to be taken
	<p>distinguish FOI requests received via shared email between the Department and the Office of the Prime Minister (PMO)</p> <p>Failure to consider transferring the FOI request</p> <p>Whether the Department's practices are consistent with the objects of the FOI Act in particular s 3(4) and relationship between ss 16 and 24AB of FOI Act</p>			<p>to whether the FOI request was directed to the Department or the PMO, nor before it commenced a formal request consultation process under s24AB of the FOI Act. This is not consistent with the requirements of the FOI Guidelines, particularly 3.55, 3.69, 3.72 and 3.128, and ought to have at least considered the exercise of its discretion conferred by</p> <ul style="list-style-type: none"> <li>s 16 of the FOI Act to transfer the complainant's FOI request to the PMO, which it was not precluded from doing.</li> </ul>	<ol style="list-style-type: none"> <li>The Department update any internal guidance to reflect the opinion and conclusions reached in this investigation about the relationship between ss 16 24AB of the FOI Act.</li> <li>The Department advise the OAIC of implementation of each recommendation.</li> </ol> <p>Two suggestions were made:</p> <ol style="list-style-type: none"> <li>The Department use separate email addresses for FOI requests directed to the Department and PMO to avoid potential misdirect.</li> <li>The Department require applicants to specify (in an online form) whether their FOI request is intended for the Department or PMO to avoid the potential for misdirection.</li> </ol>		
Department of Health and Ageing	<p>Whether it is appropriate for the Department to notify a complainant it will consider a FOI request withdrawn if a response to its correspondence is not received within a specified timeframe under s15(5)</p> <p>Whether a 14 day consultation processes in the terms of s24AB of the FOI was appropriate and notification the FOI request would be deemed withdrawn if a response was not received within 2 days</p>	Non-personal	19 May 2023	<p>It was inappropriate for the Department to state in correspondence that if the complainant did not reply to its correspondence within 2 days, the complainant's FOI request would be considered withdrawn.</p> <p>It is contrary to s 15(5) of the FOI Act to treat a request as 'withdrawn' if an applicant does not respond to correspondence from the Department within a specified timeframe.</p> <p>The Department did not engage in a practical refusal process for likely exempt documents under s24AB and therefore a 14 day consultation period was not required. In issue was whether it was appropriate for the Department to advise the complainant it would deem the FOI request withdrawn if it did not receive a response within 2 days. For the reasons outlined above, it was inappropriate for the Department to state it would deem the FOI request withdrawn within a specified timeframe.</p>	<p>Five recommendations were made:</p> <ol style="list-style-type: none"> <li>The Department issue a statement to staff engaged in processing FOI requests highlighting the Department's obligation under the FOI Act to process requests that comply with the formal requirements prescribed by ss 15(2) and (2A) and that, other than in the circumstances prescribed by s 24AB(7), an FOI request cannot be proactively taken by the Department to have been withdrawn.</li> <li>The Department provide general training to its staff engaged in processing FOI requests with a particular focus on the obligation to process FOI requests and the limited circumstances in which a FOI request is, under the FOI Act, taken to have been withdrawn.</li> <li>The Department update its policies, training manuals and/or guidance material as appropriate.</li> <li>The Department undertake an audit of the processing of FOI requests received in the 6 month period following the implementation of the above recommendations to ascertain if there have been any other instances of an applicant being told that their FOI request would be taken to be withdrawn if a response to its correspondence is not received within a specified timeframe.</li> <li>The Department report the audit results to the OAIC.</li> </ol>	Recommendations implemented.	No further action to be taken.



Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response	Further action to be taken
Department of Home Affairs	<p>Whether the Department failed to assist the complainant to revise an FOI request under s 24AB(3) in relation to a practical refusal request consultation process</p> <p>Whether the Department acted consistent with the objects of the FOI Act</p>	Personal	3 May 2023	At the time of processing the complainant's FOI request, the Department failed to fulfil its duties under s 24AB(3). More particularly, the Department through its contact officer failed to take reasonable steps to assist the complainant to revise their FOI request so that the practical refusal reason which the Department said existed ceased to exist. This failure was inconsistent with the objects of the FOI Act, particularly the object in s 3(4) to facilitate and promote public access to information promptly and at the lowest reasonable cost. The Department could have avoided this failure and better promoted the object of the Act had it adequately taken into account, and acted consistently with, the Guidelines issued under s 93A of the FOI Act (particularly paragraphs 3.131 and 3.133).	<p>Four recommendations were made:</p> <p>1. The Department prepare and promulgate formal guidance for staff about the conduct of the request consultation process. The guidance should reflect the requirements of s 24AB of the FOI Act including the duty imposed by s 24AB(3). The guidance should also reflect the FOI Guidelines and promote direct contact (that is, contact in person, by telephone or by web-based meeting rather than by email or other writing) with FOI applicants, particularly where that contact is requested by the applicant or where the circumstances of the particular matter suggest that the statutory purpose of the consultation process will be better achieved by such contact.</p> <p>2. The Department ensure that all relevant staff have received training in relation to the formal guidance referred to in recommendation 1.</p> <p>3. The Department undertake an audit of all request consultation processes conducted in the period commencing on the date of this notice and ending 6 months (2 November 2023) after that date. The audit should assess whether the Department has, throughout that period, maintained practices which are consistent with the formal guidance referred to in recommendation 1.</p> <p>4. The Department report the results of the audit referred to in recommendation 3 to the OAI as soon as practicable after its completion and no later than 2 weeks after the audit report has been completed, even if the report has not been considered by the Department's Audit Committee at that time.</p>	Recommendations 1 and 2 implemented. Recommendations 3 and 4 noted by Department.	No further action to be taken
Department of Veterans' Affairs	Whether a notice of decision under s 26 of the FOI Act should include the signature, name and position of the person who has made the decision	Non-personal	22 June 2022	There was a period of time during which the Department was clearly non-compliant with the requirements of s 26(1)(b) of the FOI Act. The Department has altered its earlier practice so that the given name, position number and designation of the relevant staff member is included in a decision. In the Department's specific circumstances, this altered practice is reasonable and results in the giving of valid notices under s 26.	<p>No recommendations were made.</p> <p>One suggestion was made:</p> <p>1. The Department review its capacity to enable the direct downloading of relevant information by persons who wish to obtain it and, absent a technical or resource barrier to doing so, implement a direct download facility so as to improve this aspect of the Department's information access processes.<sup>5</sup></p>	Not applicable.	Not applicable.

<sup>5</sup> Suggestion made under s 87(d) of the FOI Act.

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response	Further action to be taken
	Compliance with Disclosure log obligations			The Department is complying with the requirements of s 11C(3) of the FOI Act.			
Australian Federal Police	<p>Compliance with statutory timeframes for processing FOI request</p> <p>Documents relevant to the request not appropriately stored</p> <p>Handling of documents relevant to the request</p>	Non-personal	17 June 2022	<p>The AFP's failure to ensure that documents were stored in accordance with AFP records management procedures resulted in the AFP failing to process the complainant's FOI request within the statutory timeframe prescribed by s 15(5)(b) of the FOI Act.</p> <p>It does not appear that there existed, or exist, sufficient escalation processes and procedures in place to enable the AFP's FOI team to address circumstances of the kind which impacted on the processing of the complainant's FOI request.</p> <p>Remainder of the FOI complaint outside of the jurisdiction of the FOI Act.</p>	<p>One recommendation was made:</p> <ol style="list-style-type: none"> <li>The AFP update its relevant information management guidance to include appropriate escalation points for the AFP FOI team to follow where AFP personnel have not followed processes and procedures which then impacts on the processing of FOI requests.</li> </ol> <p>Two suggestions were made:</p> <ol style="list-style-type: none"> <li>That the AFP consider whether it would be possible, within any resource or other applicable constraints, to implement a process to create digital backups of all hard copy documents which may be the subject of an FOI request and, if considered possible, to implement that process.</li> <li>That the AFP take appropriate action to ensure that it can in any relevant case secure timely compliance by its officers and employees with policies and requirements concerning the handling of documents which may be the subject of an FOI request. This might include, for example, the implementation of a process to ensure that hard copy documents are returned to the Records Management Unit when an officer is posted overseas. It might also include the exercise of formal powers, such as a power to give or make directions applicable to employees or officers, to formally impose appropriate obligations on employees or officers in relation to documents which may be the subject of an FOI request (ie, if those formal obligations do not already exist in connection with an employee's employment or an officer's engagement).</li> </ol>	Accepted and implemented.	No further action to be taken.

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response	Further action to be taken
Australian Electoral Commission	Assistance provided to applicant during the consultation process  Compliance with the timeframe for notification of the Commission's decision as set out in the related Information Commissioner decision	Non-personal	15 June 2022	At the time of processing the FOI request, when corresponding with the complainant, the Commission did not engage in practices appropriate to advancing the objects of the FOI Act.  The Commission did not comply with the timeframe set out in the Information Commissioner review decision and so failed to comply with s 55N of the FOI Act	Four recommendations were made: 1. Update the Commission's proposed FOI processing procedure and guide to decision making process and procedure document to reflect the opinions and conclusions reached in this investigation in relation to each of the two matters investigated. 2. Provide to the OAIC a copy of the FOI processing procedure and guide to decision making process and procedure document as updated in accordance with recommendation 1. 3. Provide to the OAIC an update on the implementation of training of the FOI team which the Commission indicated it would undertake following the 2022 general election. 4. Provide a formal apology to the complainant as proposed by the Commission.	Accepted and implemented.	No further action to be taken.
National Disability Insurance Agency	Acknowledgment of FOI requests in accordance with statutory timeframes  Documents relevant to requests sent to incorrect postal address	Non-personal	15 June 2022	The NDIA failed to acknowledge the complainant's FOI requests within the statutory timeframes set out in s 15(5)(a) of the FOI Act.  The documents requested by the complainant under the FOI Act being sent to the incorrect postal address, despite the complainant's notification of the change of address being provided to the NDIA, resulted in a failure to comply with s 15(5)(b) of the FOI Act.	No recommendations were made.	Not applicable.	Not applicable.
Australian Skills Quality Authority	Whether required assistance was provided to the applicant during the consultation process	Non-personal	14 June 2022	The purported consultation process was more appropriately considered in the related IC review process. ASQA was not under any obligation to conduct a request consultation process under s 24AB of the FOI Act in relation to the internal review application. The internal review applicant to revise the scope of the request was reasonable in the circumstances.	Three suggestions were made: Update policies and procedures to include: 1. Section 24AB of the FOI Act does not apply in the context of an internal review process. 2. An informal consultation process similar to that prescribed by s 24AB generally will, however, be appropriate where an internal review process raises the likelihood of practical refusal under s 24 of the FOI Act. 3. The informal consultation process referred to in (2) above must occur within the period prescribed by s 54C(3) of the FOI Act or such further time, if any, as is allowed under s 54D of the FOI Act. <sup>6</sup>	Not applicable.	Not applicable.
Veterans' Review Board	Compliance with statutory timeframes for processing FOI request	Personal	14 March 2022	The VRB did not comply with the statutory processing period.  The non-compliance was attributable to an isolated IT fault which has been rectified, and that once the VRB was made aware of the FOI request by the OAIC, it took reasonable steps to process the FOI request.	No recommendations were made.	Not applicable.	Not applicable.

<sup>6</sup> Suggestions made under s 87(d) of the FOI Act.

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response	Further action to be taken
Australian Trade and Investments Commission	Extending the processing under s 15(6) of the FOI Act to conduct third party consultation and imposing a charge	Personal and non-personal	2 March 2022	Complaint not substantiated.	No recommendations were made.	Not applicable.	Not applicable.
National Disability Insurance Agency	Reasonable assistance provided to the applicant to lodge a valid FOI request	Personal	10 February 2022	The NDIA had not documented, operationalised processes and procedures to provide reasonable assistance to applicants under s 15(3) of the FOI Act	Two recommendations were made: 1. That the NDIA establish, document and operationalise a mechanism whereby individuals who contact the agency by telephone can discuss the complexities of their FOI request or potential FOI request with a suitably qualified officer. That officer may be a member of the FOI team or the NCC.  2. That the NDIA's website be adjusted to provide clear advice to individuals regarding how they can initiate telephone contact with a suitably qualified officer in relation to their FOI request or their potential FOI request.	Accepted and implemented.	No further action to be taken.
Services Australia	Search and retrieval processes and identification of documents within the scope of a request	Personal	10 February 2022	At the time of the complainant's original FOI request, the documented search and retrieval processes that Services Australia had in place did not specifically draw officers' attention to the requirement to identify relevant call recordings. resulted in the omission of relevant call recordings from the agency's original FOI decision in this case.  The changes made to Services Australia's search and retrieval template, to specifically refer to call recordings, will reduce the likelihood of call recordings being omitted from responses to FOI requests made to the agency in the future.	One recommendation was made: 1. To review the training provided to officers undertaking search and retrieval activities in response to FOI requests to ensure it includes guidance regarding the requirement to identify and retrieve call recordings in response to FOI requests, and the process for same. <sup>7</sup>	Accepted and implemented.	No further action to be taken.
Attorney-General's Department	Acceptance of transfers under s 16 of the FOI Act	Non-personal	13 December 2021	The Department did not correctly apply the statutory test in s 16(1) of the FOI Act when it agreed to accept the transfer of an FOI request from the Attorney-General.	Two recommendations were made: 1. The Department update its <i>AGD FOI Procedures Manual: Standard procedures for processing FOI requests to the Attorney-General's Department</i> in relation to the matters required to be considered in accepting the transfer of FOI requests, including but not limited to: i. whether the transferring agency demonstrated that it took reasonable steps to search for documents that are the subject of the FOI request and the Department is reasonably satisfied that either:	Accepted and implemented.	No further action to be taken.

<sup>7</sup> Suggestion made pursuant to s 87(d) of the FOI Act.

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response	Further action to be taken
					<ul style="list-style-type: none"> <li>○ the transferring agency is not in possession of the documents within the scope of the request (s 16(1)(a)) or</li> <li>○ the transferring agency or minister has indicated why, and the Department agrees, that the subject matter is more closely connected to the functions of the Department (s 16(1)(b))</li> </ul> <ul style="list-style-type: none"> <li>ii. where the Department accepts a transfer under s 16(1), it should record the reasons why it has accepted the transfer, including (where relevant) how the agency demonstrated it is not in possession of the documents or why it considers the subject matter to be more closely connected to the functions of the Department</li> <li>iii. the option of transferring or accepting the transfer of part of an FOI request in accordance with s 16(3A) of the FOI Act.</li> </ul> <p>2. The Department provide a report to the Office of the Australian Information Commissioner (OAIC) on the implementation of the amended procedures relevant to accepting the transfer of FOI requests under s 16 of the FOI Act. This may take the form of a report following a review of matters transferred to the Department to ensure that the amended procedures have been implemented.</p>		
Australian Digital Health Agency	<p>Acknowledgment of FOI requests in accordance with statutory timeframes</p> <p>Extending the processing under s 15(6) of the FOI Act to conduct third party consultation</p> <p>Delay in responding to FOI request</p>	Non-personal	2 December 2021	<ul style="list-style-type: none"> <li>• The ADHA failed to acknowledge one FOI request within the period required by s 15(5)(a) of the FOI Act.</li> <li>• The ADHA reasonably formed the view that consultation with a third party was required and notified the complainant of the extension of the processing period for this purpose as required by the FOI Act.</li> <li>• The ADHA attempted to delay the processing of the FOI request, when it corresponded with the complainant to advise them that they must submit a new FOI request to a different email address in order for the request to be valid, when the original request was validly made.</li> </ul>	<p>Four recommendations were made:</p> <ol style="list-style-type: none"> <li>1. The ADHA review its internal policies, procedures and practices to clarify that the processing periods for valid FOI requests commence from the day the request is received by the agency, even if the request is not sent to the FOI team until a later day, and that FOI request are not invalid only because they were not sent to the email address specified pursuant to s 15(2A).</li> <li>2. The ADHA review its processes and procedures to ensure that FOI requests are acknowledged within 14 days of receipt and that decisions are provided within the relevant statutory processing period.</li> <li>3. The Chief Executive Officer issue a statement to all staff, highlighting the ADHA's obligations under the FOI Act and pro-disclosure emphasis of the Act, this statement should encourage and support staff in meeting their obligations under the FOI Act, to facilitate and promote public access to information, promptly and at the lowest reasonable cost.</li> <li>4. The ADHA appoint a member of the Executive to be the agency's Information Champion, to foster and promote compliance with the objectives and requirements of the FOI Act.</li> </ol>	Accepted and implemented.	No further action to be taken.

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response	Further action to be taken
Department of Home Affairs (17 matters)	Compliance with statutory timeframes for processing FOI request	Personal	25 November 2021	The Department did not comply with the statutory processing period.	Four recommendations were made: 1. The Department prepare and implement an operational manual for processing FOI requests for personal information to be approved by the Information Champion. The operational manual is to include, at a minimum, the steps that will be taken to ensure compliance with statutory processing requirements. Consistent with the requirements of the Information Publication Scheme, the operational manual should be made publicly available by the Department on its website. 2. The Department ascertain the additional resources (human or otherwise) anticipated to be required in order to meet statutory timeframes (taking account of the improvements through implementing recommendation 1) and provide an action plan to meet those requirements. 3. The Department: i. undertake and complete training on the operational manual for FOI Section staff and other staff (both decision makers and other staff who assist decision makers). ii. ensure that online training in processing FOI requests for personal information is available to all staff of the Department, and iii. ensure that new staff joining the FOI Section are trained in relation to the operational manual within 2 weeks of commencing in the FOI Section. 4. The Department undertake an audit of the processing of FOI requests for personal information to assess whether Recommendations 1, 2 and 3 have been implemented and operationalised and whether those actions have been sufficient to address the issues identified in these complaints. The audit is to be undertaken by either the Department's internal auditors or by an external auditor, as determined by the Department. A copy of the audit report should be provided to the OAIC.	Noted by the Department.	
Department of Foreign Affairs	Compliance with statutory processing periods  Administrative access arrangements  Exercising a discretion to impose a charge  Incorrect refund form provided	Non-personal	11 November 2021	The Department did not comply with the statutory processing period.  No adverse findings or recommendations made in relation to remaining issues.	Three recommendations were made: 1. The Department appoint an Information Champion. The Information Champion may be supported by an information governance board to provide leadership, oversight and accountability necessary to promote and operationalise the Department's compliance with the FOI Act. 2. The Department should develop and implement a compliance action plan include an explanation and assessment of the reasons for non-compliance with the statutory processing period for the 2019-20 and 2020-21 financial years and proposals to improve compliance, including in relation to: a. adequacy of resources b. training c. operational improvements and	Accepted and implemented.	No further action to be taken.



Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response	Further action to be taken
					<p>d. proposals for how the Department will comply with the statutory processing period in relation to any backlog of outstanding FOI requests as well as new requests.</p> <p>3. The Department should provide an implementation report, including statistical evidence and analysis to demonstrate the effectiveness of the implementation of the compliance action plan in recommendation 2 and whether the reasons for non-compliance identified in the compliance action plan have been rectified.</p>		
Australian Federal Police	Compliance with statutory timeframes for processing FOI request	Personal	27 October 2021	<p>The AFP did not comply with the statutory processing timeframe which is attributable to:</p> <ul style="list-style-type: none"> <li>the failure of business areas to provide documents at issue to the FOI section and/or the time taken in the subsequent processing by the FOI section.</li> <li>the AFP's late consideration of whether an extension of time is required in relation to the processing of FOI requests.</li> </ul>	<p>Two recommendations were made:</p> <ol style="list-style-type: none"> <li>The AFP should develop and implement a compliance action plan and provide a copy of that plan to the OAIC. The compliance action plan should include an explanation and assessment of the reasons for non-compliance with the statutory processing period for the 2019-20 and 2020-21 financial years and proposals to improve compliance, including in relation to: <ul style="list-style-type: none"> <li>adequacy of resources</li> <li>training</li> <li>operational improvements and</li> <li>proposals for how the AFP will comply with the statutory processing period in relation to any backlog of outstanding FOI requests as well as new requests.</li> </ul> </li> <li>The AFP should provide an implementation report to the OAIC, providing statistical evidence and analysis to demonstrate the effectiveness of the implementation of the compliance action plan in recommendation 1 and whether the reasons for non-compliance identified in the compliance action plan have been rectified.</li> </ol>	Accepted and implemented.	No further Action to be taken.
Department of Veterans' Affairs	Compliance with statutory timeframes for processing FOI request	Personal	19 October 2021	The Department complied with the statutory processing timeframes.	No recommendations were made.	Not applicable.	Not applicable.
Department of Veterans' Affairs	Compliance with statutory timeframes for processing FOI request	Personal	12 October 2021	The Department did not comply with the statutory processing period due to an internal administrative error identifying the FOI request where the FOI request had delay in providing it to the FOI team.	<p>No recommendations were made.</p> <p>Given the steps that the Department took upon becoming aware of the FOI request, including engaging with and providing an explanation to the complainant, processing the request and apologising to the complainant, no recommendations were made.</p>	Accepted.	No further Action to be taken.
Services Australia	Compliance with Information Publication Scheme (IPS)  Imposition of charges for documents held on	Non-personal	7 October 2021	Services Australia complied with the Act when it listed titles of operational documents on its IPS. However, Services Australia's process of requiring individuals to lodge an FOI request for access to documents is only appropriate where the agency has a robust and reliable process to routinely	<p>Two recommendations were made:</p> <ol style="list-style-type: none"> <li>Develop and implement a system to ensure that: <ul style="list-style-type: none"> <li>decisions taken by business areas in relation to the publication of operational information are consistent with Part II of the FOI Act, and</li> </ul> </li> </ol>	Accepted and implemented.	No further action to be taken.

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response	Further action to be taken
	the IPS requested under the FOI Act			consider whether the reasons for not publishing the documents continue to apply.	<ul style="list-style-type: none"> <li>ii. decisions taken by business areas not to publish particular OBPs are periodically reviewed to determine whether the reasons for non-publication continue to apply to the OBP.</li> </ul> <p>2. Develop and implement systems and processes to ensure that, where Services Australia exercises its discretion to impose a charge under s 29, that decision is consistent with both the relevant statutory provisions, the FOI Guidelines and its obligations under Part II of the FOI Act.</p>		
Department of the Prime Minister and Cabinet	Compliance with statutory timeframes for processing an FOI request	Non-personal	5 October 2021	The Department did not comply with the statutory processing timeframe.	<p>Two recommendations were made:</p> <ol style="list-style-type: none"> <li>1. The Department appoint an Information Champion. The Information Champion may be supported by an information governance board to provide leadership, oversight and accountability necessary to promote and operationalise the Department's compliance with the FOI Act.</li> <li>2. The Department provide training to FOI Section staff and relevant Senior Executives about the obligations under the FOI Act to comply with statutory processing periods.</li> </ol>	Accepted findings. Response received.	No further action to be undertaken.
Department of Veterans' Affairs	Compliance with statutory timeframes for processing FOI requests  Compliance with s 29 of the FOI Act	Non-personal	24 September 2021	<p>The Department did not comply with the statutory processing timeframes in relation to three FOI requests.</p> <p>The Department did not comply with s 29(6) in relation to one FOI request</p>	<p>One recommendation was made:</p> <ol style="list-style-type: none"> <li>1. The Department develops and makes available to staff an operational manual for processing FOI requests that should include, at a minimum, the steps that will be taken to ensure compliance with statutory processing requirements, including in relation to: <ul style="list-style-type: none"> <li>i. meeting processing timeframes under the FOI Act</li> <li>ii. the steps to be taken when notifying an applicant of the imposition of a charge, including the obligation to provide a decision in accordance with s 29(6).</li> </ul> </li> </ol>	Accepted; to implement.	No further action to be undertaken.
Australian Building and Construction Commission	Extending the statutory processing period to conduct third party consultation and related communication with the FOI applicant  Transfer of FOI requests under s 16 of the FOI Act	Non-personal	22 September 2021	<p>It was open to the ABCC to extend the processing timeframe for the FOI request to conduct consultation with third parties under s 27A of the FOI Act, even in circumstances where the subsequent consideration of the documents resulted in a conclusion that consultation was not necessary because the documents initially considered in scope were found to be outside the scope of the request. However, it was not open to the ABCC to extend the timeframe in circumstances where the documents had not been identified or considered against the requirements of s 27A.</p> <p>The consent of the FOI applicant is not required for the transfer of a request under s 16 of the FOI Act.</p>	<p>Three recommendations were made:</p> <ol style="list-style-type: none"> <li>1. The ABCC should provide guidance to FOI officers to ensure that, prior to extending the processing periods as permitted by s 15 of the FOI Act, proper consideration is given to the statutory prerequisites to the exercise of that power.</li> <li>2. That the ABCC review its correspondence with FOI applicants to ensure that it is clear, accurate and not misleading.</li> <li>3. That the ABCC implement systems and processes to ensure that the ABCC understands and adheres to FOI processing timeframes.</li> </ol>	Accepted and implemented.	No further action to be taken.

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response	Further action to be taken
Services Australia	Compliance with Information Publication Scheme (IPS)  Where Services Australia has decided not to publish the document – the reason why it is considered exempt should be published	Non-personal	17 September 2021	Services Australia was not required to list the applicable FOI Act exemption against the title of an unpublished document.  Services Australia complied with the Act when it listed titles of operational documents on its IPS.  However, the agency's reliance on requests from the public to reconsider earlier decisions not to publish those documents, in the absence of a more systematic process, is not consistent with the ongoing obligations under Part II of the FOI Act.	One recommendation was made:  1. Develop and implement a system to ensure that:  i. decisions taken by business areas in relation to the publication of operational information are consistent with Part II of the FOI Act, and  ii. decisions taken by business areas not to publish particular OBPs are periodically reviewed to determine whether the reasons for non-publication continue to apply to the OBP.	Accepted and implemented.	No further action to be taken.
Department of Foreign Affairs and Trade	Impartiality of the Internal Review decision maker	Non-personal	17 September 2021	No evidence before the Commissioner which supported the complainant's contentions.	No recommendations were made.	Not applicable.	Not applicable.
Services Australia	Compliance with Information Publication Scheme (IPS)  Imposition of charges for documents held on the IPS requested under the FOI Act	Non-personal	8 September 2021	At the time of the complaint, Services Australia did not meet its obligation to publish operational information as required by s 8(2)(j).  Services Australia failed to have adequate systems and processes in place to confirm that business areas were appropriately considering their IPS obligations at the time that Operational Blueprints (OBPs) were created or to ensure that documents appropriately categorised under s 8C were regularly reviewed to consider whether s 8C continued to apply.  Services Australia did not deliberately withhold documents that were required to be published under the IPS for the purpose of improperly imposing a charge in relation to access requests for those documents, as alleged in the complaint.	Two recommendations were made:  1. Develop and implement a system to ensure that:  i. decisions taken by business areas in relation to the publication of operational information are consistent with Part II of the FOI Act, and  ii. where a decision is taken not to publish an OBP – either because it does not comprise operational information or is exempt under s 8C of the FOI Act – that decision is recorded  iii. decisions taken by business areas not to publish particular OBPs are periodically reviewed to determine whether the reasons for non-publication continue to apply to the OBP.  2. Services Australia staff adheres to current internal policies to consider the potential administrative release of OBPs in response to access requests before considering whether a charge should be applied under s 29 of the FOI Act for access to those materials.	Accepted and implemented.	No further action to be taken.
Department of Defence	The Department's consultation process conducted during the processing of an FOI request	Personal information	17 February 2021	The Department's FOI manual sets out the procedure for conducting consultations with third parties. The Department did not consult with the complainant where it was 'possible to consult' and 'reasonably practicable' to do so.	One recommendation was made:  1. Issue a statement to staff engaged in processing FOI requests highlighting the Department's obligations under the FOI Act to consider whether a person might reasonably wish to make a contention that the document is conditionally exempt under s 47F of the FOI Act (s27A(1)(b)). The statement should highlight the importance of following the Department's processes and procedures when processing and making decisions on FOI requests where third party information is contained within documents that fall within the scope of an FOI request.	Accepted and implemented.	No further action to be taken.

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response	Further action to be taken
Department of Defence	Collection of charges amounts	Non-personal	17 December 2020	The Department's process that required an invoice to be raised before allowing a FOI applicant to make a payment in order to recommence the processing period is inefficient and does not facilitate and promote public access to information, promptly and at the lowest reasonable cost.	Two suggestions were made: 1. Update its guidance to ensure that, where there has been an overpayment of a charges amount, the FOI applicant is to receive a refund in accordance with regulation 10(4)(a) of the FOI Charges Regulations. 2. The Department adjust the way it administers charges to: i. Provide payment options at the time of issuing a preliminary charges notice and ii. Accept payment of the charge as notification in writing by the applicant of acceptance of the charge. <sup>8</sup>	Accepted and suggestions implemented.	No further action to be taken.
Department of Home Affairs  This investigation was a Commissioner Initiated Investigation under s 69(2) of the FOI Act.  A copy of the Report is available <a href="#">here</a> .	Compliance with statutory timeframes for processing FOI request for non-personal information	Non-personal	11 December 2020	The information considered in this investigation indicates that the Department does not have adequate governance and systems of accountability in place to ensure compliance with statutory time frames for processing FOI requests for non-personal information.  The other key findings from my investigation may be summarised as follows:  a. In a general sense, a greater degree of senior level support and leadership for embedding policies, procedures and systems of accountability for compliance with the statutory processing periods in the FOI Act, would assist the Department in meeting the statutory processing period requirements of the FOI Act.  b. With regard to the Department's FOI Section:  I. There is evidence that not all of the staff within the FOI Section are available to assist in the processing of FOI requests for non-personal information which has contributed to delays in processing these FOI requests.  II. The policies and processes that the Department has in place for the FOI Section do not address the steps required, both in relation to escalation and finalisation of decisions, where delays are contributed to by business areas of the Department or third parties.	Four recommendations were made:  <b>1. Appoint an Information Champion</b>  The Information Champion may be supported by an information governance board to provide leadership, oversight and accountability necessary to promote and operationalise compliance by the Department.  <b>2. Operational Processes and Procedures</b>  The Department prepare and implement an operational manual for processing FOI requests for non-personal information to be approved by the Information Champion referred to in <b>Recommendation 1</b> and at a minimum:  (a) specify the steps that will be taken to ensure compliance with statutory processing requirements (as set out in more detail in Part 5),  (b) specify the steps that will be taken to ensure compliance with section 6C of the FOI Act and the processes to be adopted to request documents from contracted service providers, and  (c) include a short form guidance note to assist business areas in processing FOI requests for non-personal information.  Consistent with the requirements of the Information Publication Scheme, the operational manual should be made publicly available by the Department on its website.  The steps that will be taken to ensure compliance with section 6C of the FOI Act, as referred to in subparagraph (c), should be replicated in all other policies of the Department which relate to contractual requirements for procurement by the Department.	Accepted and implemented	No further action to be taken.

<sup>8</sup> Suggestions made pursuant to s 87(d) of the FOI Act.

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response	Further action to be taken
				<p>III. The policies and processes that the Department has in place for FOI requests for non-personal information do not adequately address use of the provisions of the FOI Act which enable an agency to seek an extension of time in processing FOI requests.</p> <p>c. With regard to the business areas of the Department:</p> <p>I. The Department has implemented an approach for processing FOI requests for non-personal information that requires significant engagement by the staff in the business areas to which a relevant FOI request relates. The training and resources made available to those staff does not facilitate processing FOI requests within the FOI Act statutory processing periods.</p> <p>II. The Department's processes for consulting with senior staff, the Department's Media Operations and Minister's Office in relation to FOI requests limits the ability of the Department to meet FOI Act statutory processing periods.</p> <p>There are inadequate policies and procedures in place to support compliance with the requirements of section 6C of the FOI Act.</p>	<p><b>3. Training</b></p> <p>The Department:</p> <p>i. undertake and complete training for FOI Section staff and other staff (both decision makers and other staff who assist decision makers), and</p> <p>ii. ensure that online training in processing FOI requests for non-personal information is available to all staff of the Department.</p> <p>New staff joining the FOI Section should be trained within 2 weeks of commencing in the FOI Section.</p> <p><b>4. Audit of Compliance</b></p> <p>The Department undertakes an audit of the processing of FOI requests for non-personal information to assess whether <b>Recommendations 2 and 3</b> have been implemented and operationalised and whether those actions have been sufficient to address the issues identified in this CII. The audit should be undertaken either by the Department's internal audit committee or by an external auditor, as determined by the Department. A copy of the audit report is to be provided to the OAIC.</p>		
The Australian National University (the ANU)	Compliance with statutory timeframes. Communication regarding the processing delays	Personal information	14 September 2020	<p>The statutory timeframe was not extended by agreement under s 15AA, or as a result of consultation (ss 15(6), 15(8), 26A, 27, 27A), or under ss 15AB or 15AC.</p> <p>The ANU exceeded the statutory processing period by 26 days without authority.</p> <p>The ANU updated the complainant about the processing of the request and provided reasons for the delay.</p>	<p>Two recommendations were made:</p> <p>1. The ANU should update its 'Guideline 1.15: Freedom of Information processing checklist' and 'Guideline 1.18: Freedom of Information request processing timeframes' to require staff to conduct an early assessment of whether an extension of time may be required and if so, to seek agreement from the FOI applicant to extend the processing period under s 15AA.</p> <p>2. The ANU should update its 'Guideline 1.15: Freedom of Information request processing checklist' and 'Guideline 1.18: Freedom of Information request processing timeframes', to require staff to consider whether it is appropriate to seek an extension of time pursuant to s 15AB where an applicant has not agreed to extend the statutory processing period under s 15AA, or to seek an extension of time from the Information Commissioner under s</p>	Accepted and implemented.	No further action to be taken.

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response	Further action to be taken
					15AC where a decision about an FOI request has not been provided to the applicant within the statutory processing period.		
Airservices Australia	Acknowledgment of FOI requests in accordance with statutory timeframes  Taking reasonable steps to conduct searches for documents within scope of the FOI request  Withholding documents which fell within the scope of the FOI request  Compliance with s 26 of the FOI Act	Personal information	23 April 2020	At the time of the request, Airservices did not have a formalised process by which employees could access their personnel records.  Airservices did not comply with ss 15(5)(a) and 26 of the FOI Act.  During the processing of the request Airservices did not take reasonable steps to identify documents within the scope of the request.  Airservices reduced the scope of the FOI request without agreement from the applicant.	Four recommendations were made:  1. Airservices to issue a statement to all staff reminding them of their obligations under the FOI Act 2. Airservices to establish a general FOI training program for inclusion in its induction process and finalise policies which outline the procedures to follow when processing an FOI request. 3. Airservices to write to each FOI applicant within the past 12 months of which the FOI complaint was made and advise them of their review rights. 4. Airservices to conduct an audit within 6 months to track compliance of: i. Policies and procedures and ii. Section 26 Notices	Accepted and implemented.	No further action to be taken.
Services Australia <sup>9</sup>	Consultation process under s 24AB of the FOI Act and internal review process	Personal information	18 February 2020	Consultation process was more appropriately considered in the related IC review process and subsequent decision by the Information Commissioner under s 55K of the FOI Act. Services Australia's internal review process complied with s 54C of the FOI Act.	No recommendations were made.	Not applicable.	Not applicable.
Department of Home Affairs	Compliance with statutory processing periods <sup>10</sup>	Non-personal information	19 December 2019	The Department did not comply with s 15(5)(b) of the FOI Act.	No recommendations were made.  The Information Commissioner deferred making any recommendations until the outcome of the Commissioner Initiated Investigation into the Department of Home Affairs' compliance with statutory processing periods for non-personal FOI requests. <sup>11</sup>	Not applicable.	No further action to be taken pending the outcome of the CII.

<sup>9</sup> At the time this investigation commenced the responsible department was the Department of Human Services. On 29 May 2019, the Administrative Arrangements Order established Services Australia.

<sup>10</sup> This investigation combined 11 FOI complaints made under s 70 of the FOI Act. Due to the overlapping issue raised in each FOI complaint the Information Commissioner progressed all 11 complaints together.

<sup>11</sup> Each FOI request forms a case study in the Commissioner Initiated Investigation into the Department of Home Affairs compliance with statutory processing periods for non-personal requests for information.



Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response	Further action to be taken
Services Australia <sup>1213</sup>	<p>Approach to the interpretation of the scope of FOI requests</p> <p>Approach to processing FOI requests relating to the OCI System</p> <p>Compliance with s 24AB of the FOI Act</p> <p>Combining FOI requests under s 24(2) of the FOI Act</p> <p>Imposition of a charge</p> <p>Payment of charges</p> <p>Disclosure Log content</p> <p>Delays in the provision of documents</p>	Non-personal and personal	5 December 2019	<p>Services Australia took a narrow approach to requests for information and did not attribute the plain English meanings to the terms used by applicants when that meaning was ascertainable in satisfaction of paragraph 15(2)(b) of the Act.</p> <p>Services Australia did not comply with the request consultation process under s 24AB.</p> <p>Services Australia did not take into consideration relevant public interest factors when deciding if applying charges is appropriate</p> <p>At the time the decisions were made in the relevant FOI requests, Services Australia's processes for collecting charges imposed under the FOI Act were inconsistent with the objects of the Act</p> <p>Services Australia did not comply with its obligations under s 11C(6) of the FOI Act in relation to the maintenance of its disclosure log.</p> <p>Services Australia did not have clear guidance for its FOI officers on:</p> <ol style="list-style-type: none"> <li>timeliness to respond to request for assistance during consultation process</li> <li>consideration of whether it is appropriate to transfer requests under s 16 once a scope has been revised</li> <li>appropriate response times for the provision of documents on the disclosure log</li> <li>combining of requests under s 24(2) of the FOI Act, and</li> <li>making a decision to impose a charge.</li> </ol>	<p>Seven recommendations were made:</p> <ol style="list-style-type: none"> <li>A statement is provided to staff highlighting Services Australia's obligations under the FOI Act and the pro disclosure emphasis in the Act. This statement should encourage and support staff in meeting their obligations under the FOI Act, to facilitate and promote public access to information, promptly and at the lowest reasonable cost.</li> <li>Services Australia take an approach to interpreting the scope of FOI requests in accordance with its obligations under s 15(3) of the FOI Act in a manner that as far as possible, seeks to facilitate and promote public access to information.</li> <li>Services Australia develop a policy that provides that where information that is subject to multiple FOI requests, it is uploaded onto the disclosure log as soon as practicable.</li> <li>Services Australia update its FOI manual to include references to recent Information Commissioner decisions and FOI Guidelines on: <ol style="list-style-type: none"> <li>the imposition of charges</li> <li>the interpretation of scope and s 24AB process.</li> </ol> </li> <li>Services Australia update its FOI manual to include guidance about: <ol style="list-style-type: none"> <li>consideration of s 16 transfers once the scope has been revised</li> <li>the provision of documents as soon as practicable under s 11A</li> <li>responding to requests for documents held on the disclosure log which are otherwise not readily available, within five working days.</li> <li>where there are multiple requests for the same subject matter, implement a process through which they can identify and utilise work previously undertaken.</li> <li>when it is appropriate to combine requests under s 24(2).</li> <li>factors to consider whether to impose a charge, including factors set out in the Guidelines issued under s 93A of the Act.</li> </ol> </li> </ol>	Accepted and implemented.	No further action to be taken.

<sup>12</sup> At the time this investigation commenced the responsible department was the Department of Human Services. On 29 May 2019, the Administrative Arrangements Order established Services Australia.

<sup>13</sup> This investigation combined three FOI complaints made under s 70 of the FOI Act. Due to the overlapping issues raised in each FOI complaint the Information Commissioner progressed all three complaints under one investigation.

Respondent agency	Issue(s)	Type of FOI request	Date of Notice on completion	Outcome	Recommendations or suggestions	Respondent's response	Further action to be taken
					<p>6. Services Australia within six months<sup>14</sup> of these conclusions conduct audits on the following and report back to the OAIC:</p> <p>a. The adherence to the FOI processing manual by FOI officers in relation to matters the subject of recommendations four and five above.</p> <p>7. Services Australia ensure processes are in place to assist applicants through the s 24AB consultation process.</p>		
Services Australia <sup>15</sup>	Acknowledgment of FOI requests in accordance with statutory timeframes	Personal and non-personal information	22 November 2019	Delay in acknowledging the FOI requests was due to the complainant sending the FOI request as part of 'shared' correspondence addressed to the aged care pension claims nominated PO Box rather than addressed to the FOI or central PO Box, and human error in categorising the documents as FOI requests at the mail sorting stage.	<p>Two recommendations were made:</p> <ol style="list-style-type: none"> <li>To provide general FOI training to the external providers tasked with opening and categorising correspondence to assist in the identification of FOI requests sent to general Departmental post boxes.</li> <li>To review and update its guidance material in line with the findings of the investigation.</li> </ol>	Accepted and implemented.	No further action to be taken.
Australian Federal Police	Compliance with statutory processing timeframes	Non-personal information	22 November 2019	The AFP did not comply with the statutory processing periods in processing 34.44% of FOI requests in the 2017-18 financial year and 53.08% in the 2018-19 financial year.	<p>Three recommendations were made:</p> <ol style="list-style-type: none"> <li>A statement to be issued to all staff highlighting the AFP's obligations under the FOI Act.</li> <li>A review of its guidance relating to early assessment of whether an extension of time or consultation may be required.</li> <li>A review and update its guidance material in line with the findings of the investigation.</li> </ol>	Accepted and implemented.	No further action to be taken.
Department of the Prime Minister and Cabinet	Compliance with statutory processing timeframes	Non-personal information	22 November 2019	The Department did not comply with the statutory processing periods in processing 35.56% of FOI requests in the 2017-18 financial year and 72.65% in the 2018-19 financial year.	<p>Four recommendations were made:</p> <ol style="list-style-type: none"> <li>A statement to be issued to all staff highlighting the Department's obligations under the FOI Act.</li> <li>FOI requests are processed in accordance with the objects of the FOI Act.</li> <li>The development of policies and procedures in relation to administrative access.</li> <li>Conduct a review and audit of the Department's FOI processing guidance material and its compliance with statutory timeframes.</li> </ol>	Accepted and implemented.	No further action to be taken.

<sup>14</sup> On 8 July 2020, the Information Commissioner granted an extension of time to respond to recommendation six until 30 October 2020.

<sup>15</sup> At the time this investigation commenced the responsible department was the Department of Human Services. On 29 May 2019, the Administrative Arrangements Order established Services Australia.