



Our reference:

The Hon Mark Dreyfus KC MP
Attorney-General
Parliament House
CANBERRA ACT 2600

By email: [REDACTED]

Statement of intent

Dear Attorney-General

I am pleased to provide you with the OAIC's Statement of Intent in response to your Statement of Expectations for the Office of the Australian Information Commissioner (OAIC)

This is the first such Statement I have had the opportunity to prepare as Australian Information Commissioner. I am transmitting it at a time of considerable change for the OAIC, as we adopt a refreshed regulatory posture and organisational structure which will support this office to deliver on the Government's, the Australian Parliament's, and the Australian Community's expectations of the OAIC.

My fellow Commissioners and all the staff of the OAIC look forward to working diligently and collaboratively with you and your Department to provide regulatory expertise to advance Australians' information access and privacy rights, ensuring that they are protected and upheld, and that privacy harms to the community are minimised.

I have also provided a copy of this statement to the Secretary of your Department and will publish a copy of it on the OAIC's website.

Yours sincerely

Elizabeth Tydd
Australian Information Commissioner

30 October 2024

Office of the Australian Information Commissioner Statement of intent – 2024

The Office of the Australian Information Commissioner (OAIC) is an independent statutory agency in the Attorney-General's portfolio, established under the *Australian Information Commissioner Act 2010 (AIC Act)*. Our purpose is to promote and uphold privacy and information access rights.

How the OAIC will meet the Statement of Expectations

The Statement of Expectations calls on the OAIC to exercise all its functions and powers in good faith and to the best of its ability, and to place its primary focus on:

- minimising privacy harms to the community
- ensuring that Australians' information access and privacy rights are protected and upheld.

OAIC has a significant program of work underway to transform its organisation and allow it to deliver on these expectations, including:

- clear internal communication of expectations
- a new and focused organisational structure
- a more harm-focused regulatory posture and approach
- an organisational culture that supports regulator best practice.

The OAIC will deliver these initiatives progressively over the next 18 months, reporting on progress quarterly to the Department and the Attorney.

1. Clear communication of expectations and priorities

The Australian Information Commissioner will develop and communicate clear expectations to OAIC leadership, conveying key elements of the Statement of Expectations to OAIC staff.

These will be incorporated in the OAIC's Accountable Authority Instructions or another instrument to communicate that all staff within the OAIC are expected to contribute to support the OAIC to meet the Statement of Expectations. This is a new initiative within the OAIC and as such it will be accompanied by cultural and practical supports.

This will be supplemented by annual Commissioner Priorities to coordinate activity across the OAIC and support the achievement of the Statement of Expectations and OAIC’s delivery of its statutory functions.

OAIC’s Commissioner Priorities (2024-25)

FOI	PRIVACY	ENTERPRISE
<ol style="list-style-type: none"> 1. Promote Open Government to better serve the Australian community 2. Increase OAIC FOI regulatory and case management effectiveness 3. Uplift agency capability in the exercise of FOI functions 4. Make FOI compliance easier 	<ol style="list-style-type: none"> 1. Promote privacy in the context of emerging technologies and digital initiatives 2. Increase OAIC privacy case management effectiveness 3. Develop a cohesive regulatory and enforcement strategy 4. Improve compliance through articulating what good looks like 	<ol style="list-style-type: none"> 1. Design and build the future OAIC 2. Implement priority recommendations from the tech systems review 3. Ensure the OAIC maintains international and domestic commitments 4. Reform our approach to delivering legal services and reduce legal spend 5. Promote timely legislative reform and ensure it is informed by regulatory expertise

Our priorities will guide our approach to BAU work across the OAIC.
We will deliver all of our work in line with our 4 pillars.

2. New organisational structures and governance

The OAIC will move to a new organisational structure that will support it to be a more effective and harm-focused regulator. The OAIC will complete a transition to this new structure by early 2025. The new structure is intended to:

- **Focus on the core regulatory role of the OAIC:** resources will be balanced according to the regulatory priorities of the OAIC, which at this stage this require a shift of resourcing towards activities like case management which directly protect and uphold the information rights of the community.
- **Change the organisation’s risk posture:** moving towards a more harm-focused approach that considers risk in a proportionate manner that is not risk averse.
- **Ensure information sharing:** collective vigilance within the office and a deeper understanding of regulated entities will enhance the effectiveness of regulatory interventions aimed at harm reduction.
- **Fostering greater collaboration:** the OAIC will enhance collaboration within the OAIC and with partner agencies. This includes cross OAIC initiatives and greater co-regulatory engagement.

- **Respond to a changed authorising environment:** the cessation of terminating measures in 2024-25 requires the OAIC to more efficiently deliver on its regulatory mandate within a smaller and more focused structure.

3. Harm-focused regulatory posture

The OAIC will shift its regulatory posture and decision making to ensure it is focused on minimising privacy harms and protecting and upholding Australians' information rights. On 11 June 2024, the OAIC's Strategic Regulatory Committee endorsed a *Statement of Regulatory Approach* to guide the OAIC's regulatory decision making.

OAIC Statement of Regulatory Approach

The OAIC's regulatory approach uses both encouragement and deterrence to promote and protect privacy and information access rights. We apply a proactive and harm-focussed approach to prioritise our efforts. We take regulatory action to encourage and support compliance by regulated entities and to address high-risk matters with the greatest potential for harm.

We will be more likely to take regulatory action in response to issues:

- that create a risk of substantial harm to individuals and the community, especially to vulnerable people and groups
- that concern systemic harms or contraventions
- where our action is likely to change sectoral or market practices, or have an educative or deterrent effect
- that are subject to significant public interest or concern
- where our action will help clarify aspects of policy or law, especially newer provisions of the Acts we administer.

We take regulatory action in a consistent, transparent and proportionate manner. When deciding on which regulatory tools to use, and how to use them, we:

- identify the risks of harm we are responding to, and the likelihood and possible consequences of those risks
- respond in ways that are proportionate, consistent with the expectations of the community and the Government, and manage risks to adequately protect the public
- take timely and necessary action
- seek to minimise regulatory burden and cost.

4. Culture and capabilities

The OAIC will develop an organisational culture and capabilities that support regulator best practice. During 2024, the OAIC will embed its Four Pillars, as guiding principles that articulate the Commissioners' operational expectations. These principles will support the OAIC to regulate in a risk-based and strategic manner.

OAIC's Four Pillars



Proactive

We adopt a risk-based, education and enforcement-focused posture



Proportionate

We prioritise our regulatory effort based on risk of harm to the community



Purpose-driven

We focus on harms and outcomes, and are driven by evidence and data



People focused

We preserve expertise and talent. We make the best use of our resources and maximise opportunities for our people

How the OAIC will demonstrate progress

The OAIC intends to review its key performance indicators during 2024-25, informed by the Statement of Expectations. It will also report quarterly to the Attorney-General and to the Department on its progress against the Statement of Expectations and the initiatives described in this Statement of Intent.

Contribution to the Government's policy priorities and objectives

The Statement of Expectations requires the OAIC to observe and contribute to seven listed Government priorities and objectives. OAIC will contribute to each of these priorities through the effective delivery of its regulatory services.

The OAIC will have regard to your expectation of prioritisation of **regulatory functions**, driving more efficient processes to ensure that it can perform effectively. OAIC will apply the **principles of regulator best practice**, by focusing on continuous improvement and building credibility and trust, being risk-based and data driven, and enhancing collaboration and engagement. It will support the Government's **regulatory reform agenda**, considering how the exercise of its regulatory functions can boost productivity, and account for the impacts of this regulation on individuals as well as businesses.

The OAIC will advance **innovation and regulatory change** to respond to its changing environment.

The OAIC will also work to contribute to Government priorities relevant to our functions. It will focus on privacy **in the online environment and emerging technologies** to address privacy harms online, including opaque information sharing practices or terms and conditions of online services. It will also seek to raise awareness of privacy risks and provide guidance to individuals, organisations and agencies about how to protect personal information online. The OAIC will continue **supporting privacy reform** through contributions to the reform process, working closely with your Department to provide regulatory expertise. In exercising functions connected with **Consumer Data Right, Digital ID and other specialist privacy regulatory roles**, the OAIC will consider its regulatory role from holistic perspective.

The four change initiatives above will contribute to these priorities and objectives.

	1: Expectations	2: Structure	3: Posture	4: Culture
Prioritisation of regulatory functions	✓	✓	✓	✓
Privacy in the online environment and emerging technologies	✓	✓	✓	✓
Supporting privacy reforms	✓	✓		
Consumer Data Right, Digital ID and other specialist privacy regulatory roles	✓	✓	✓	
Regulatory reform agenda	✓	✓	✓	✓
Principles of regulator best practice	✓	✓	✓	✓
Innovation and regulatory change	✓	✓		✓

Engagement with the regulated community

The OAIC notes your expectations that it implement principles of regulator best practice, and will consider this in its engagement with the regulated community. Accordingly, the OAIC will:

- seek opportunities to engage and consult genuinely with stakeholders
- be receptive to feedback and diverse stakeholder views
- seek to increase transparency in decision-making processes, and
- provide up-to-date, clear and accessible guidance and information to assist regulated entities with compliance.

Engagement with Government and the Department

The OAIC will support you and the Government to respond promptly to privacy and freedom of information matters. OAIC will work collaboratively with your Department and offer the OAIC's regulatory knowledge and expertise when you or your Department are considering changes to policy and legislation that impact on privacy and freedom of information.