Figure 55 | Feedback from OAIC staff about their connections to work

Purpose	Leadership	Inclusion
Employee connection to the organisation's mission, purpose and strategy	Employee perceptions of vision, commitment and support of the organisation's leaders	Employee sense of belonging and perceived safety in bringing whole of self to work
80 per cent of staff are proud to work for the OAIC. 89 per cent feel committed to the OAIC's goals. - Staff identified the following sources of pride: - commitment and dedication to the values of upholding privacy and FOI - interesting work that delivers a positive community impact - working with smart, dedicated colleagues in a respectful and collegiate manner.	- The results of the APS Census indicate that the majority of OAIC staff are happy with the leadership of their immediate supervisor. - The APS Census revealed staff generally have a positive attitude towards their immediate SES manager. - Staff perceptions about the leadership of the OAIC's broader SES cohort are less positive than in 2022 – although the OAIC's results are still better than Census benchmarks. - Feedback from staff workshops about the OAIC's Executive team was more mixed (see section 7.3 for further details). - Some staff noted that the OAIC prioritises delivery and technical skills over other leadership capabilities.	86 per cent of staff feel that the OAIC supports and actively promotes an inclusive workplace culture – an increase of 10 per cent from the 2022 APS Census results.
"We work across a wide variety of subject-matter areas and are able to achieve significant influence within government and industry despite being a small agency with limited resources." *"Most staff are committed to upholding the principles of information privacy and access."*	*"My immediate supervisor is excellent, but there is a high degree of micromanagement and pressure to complete work rapidly and/or in certain ways from more senior SES."*	

Key   ▮ Current strength   ▮ Potential room for improvement   ▮ More significant room for improvement

Source: Analysis of Census data, Stay Survey data and feedback from staff workshops

Many OAIC staff feel motivated and challenged by their work, but some also feel that there are limited opportunities to progress their careers within the agency

Most staff feel motivated and challenged by their work – although staff undertaking more repetitive work tend to feel less engaged. Given the relatively small size of the agency, its specialist nature and its modest investment in learning and development, many staff feel that there are limited opportunities to learn and grow at the OAIC. They are generally positive about the culture within their teams.

Figure 56 | Feedback from OAIC staff about career opportunities

Career path	Job role	Team culture
Career mobility, advancement and development opportunities available within the organisation	Construct of the role promoting motivation, including focus, design and organisational fit	The behaviours and values espoused and exhibited by teams and wider workforce
• While most staff feel that their supervisor is interested in their development, many noted in the workshops that there are limited opportunities to grow at the OAIC. • They feel that this is due to limited career pathways and investment in learning and development, which they attribute to the OAIC being a small agency. • 64 per cent of Stay Survey respondents agreed that they have opportunities to grow and develop as a professional – with the lowest scores in the Dispute Resolution and Major Investigations branches. • There is also a perception among some staff that internal expression of interest processes for acting opportunities are not fair or transparent.	• Many staff feel motivated and challenged by their jobs. • 83 per cent of respondents to the Stay Survey agreed that they feel challenged at work. • Some staff – particularly in the FOI Branch – reported that their jobs can feel boring and repetitive.	• Most workshop participants spoke positively about the culture within their immediate teams. • Almost all Stay Survey respondents (97 per cent) agreed that they enjoy working with the people in their branch. • Staff were more critical in their appraisal of the culture of the broader agency. • Some noted that the OAIC's culture expects and normalises long hours and a willingness to 'go the extra mile', and that a drive for perfection can have positive and negative impacts on staff.
"There is] no career pathway here. [It is] too small an agency for advancement opportunities. No opportunity to get any qualifications. Doing work below my skillset."	*"I am extremely proud of the complex and challenging work that we do. I am also proud to work with such a dedicated team."* *"[We do] very interesting, engaging and intellectually stimulating work."*	*"The culture of working long hours is expected and admired."*

Key ▮ Current strength ▮ Potential room for improvement ▮ More significant room for improvement

Source: Analysis of Census data, Stay Survey data and feedback from staff workshops

While most staff feel the OAIC cares about their wellbeing, many feel overworked

Most staff feel the agency cares about wellbeing, although many also feel stressed and overworked. The latter sentiment is more common in the FOI and Corporate branches.

The Strategic Review team heard multiple comments in staff workshops about lack of access to contemporary, fit-for-purpose digital infrastructure.

Figure 57 | Feedback from OAIC staff about the employee experience

Wellbeing	Infrastructure
The focus on work-related safety and creation of a culture fostering wellbeing	The physical and digital resources available for employees to perform their roles

• The OAIC scores well on APS Census questions related to promoting and communicating wellbeing. • Some staff in the workshops noted a mismatch between what is said and done around ensuring staff wellbeing. • The proportion of staff who agreed or strongly agreed that they felt burnt out by their work increased in the 2023 APS Census results. • In the 2023 results, the instances of staff who said they always or often find their work stressful also increased. • 'Excessive workload/competing priorities' was overwhelmingly identified as the most common challenge faced by staff who responded to the November 2023 Stay Survey. • Some staff in the workshops noted that they feel that there is an imbalance in the allocation of resources and workloads across the agency. Staff in the FOI Branch in particular highlighted feeling constantly understaffed.	• Only 38 per cent of OAIC staff who responded to the APS Census agreed that their workgroup has the tools and resources they need to perform well – substantially below the APS benchmark and other similar agencies. • Staff in the workshops consistently identified that the OAIC's current systems and digital infrastructure are no longer contemporary or fit for purpose and they generate substantial inefficiencies across the agency (see section 8.1 for further details).
"The OAIC needs to acknowledge the chronic levels of understaffing and pressure it places on staff. Most evenings there are staff online well into the evenings; this mirrors the behaviour and working ethic of its SES who do this religiously." *"It is a continual battle each day with an excessive workload and insufficient resources in the section."*	*"We don't work with the technology we have efficiently and our processes seem cumbersome."* *"We have so many processes that are manual in nature – we're not always embracing automation and efficiencies in our processes across the agency."* *"[Our] corporate systems need large investment, currently very inefficient and use a huge amount of staff time when they could be automated."* *"We adopt new technologies, though it takes a long time to get clearance. By this time the technology is no longer new."*

Key ▮ Current strength   ▮ Potential room for improvement   ▮ More significant room for improvement

Source: Analysis of Census data, Stay Survey data and feedback from staff workshops

The OAIC struggles to compete with other employers on the basis of salary

The OAIC's remuneration is low compared with many other agencies. It is well behind equivalent state government and private sector roles, particularly in the legal and technology sectors. The OAIC therefore needs to compete in the labour market on other factors such as purpose and workplace conditions.

The majority of staff appreciate the OAIC's flexible work environment, but many are concerned about their workload. Feedback from the past two staff surveys administered by the agency indicated that heavy workloads and long hours were factors behind the high staff turnover discussed earlier in this chapter (see Table 11).

Figure 58 | Feedback from OAIC staff about how they are rewarded and recognised

Compensation	Conditions
The fixed and variable remuneration for employees	Work settings, including flexibility and work–life balance
• Only 41 per cent of OAIC staff feel they are fairly remunerated (for example, salary and superannuation) for the work they do – well below all APS Census benchmarks. • Current OAIC pay scales are in the lower third of APS agencies. This makes it hard for the OAIC to compete with other agencies, other jurisdictions (particularly the NSW Government) and private sector companies (particularly private law firms). • The impacts of the OAIC's relatively low remuneration are particularly acute for the high proportion of Sydney-based staff – with the city's high cost of living.	• There is strong support for and uptake of flexible working across the OAIC, with 79 per cent of staff working away from the office or from home (22 per cent greater than the APS average). • Several staff and leaders questioned the potential downsides of flexible working. • Only 64 per cent of Stay Survey respondents agreed that they have a good work–life balance, with the lowest scores in the Corporate Branch. • 43 per cent of APS Census respondents said their workloads are well above capacity (well above all Census benchmarks).
"Equivalent-level positions elsewhere are better paying than at the OAIC, particularly in state agencies and the private sector."	*"The workload here is insane. I know the OAIC is seeking additional resources but I'm having to work really long hours to keep on top of the most urgent work. I am aware that my predecessors have all burnt out and left."*

Key ▪ Current strength   ▪ Potential room for improvement   ▪ More significant room for improvement

Source: Analysis of Census data, Stay Survey data and feedback from staff workshops

7.3 Culture and leadership

The OAIC has a culture that values delivery, technical excellence, getting the details right and managing risks to the agency

The Terms of Reference for the Strategic Review do not explicitly reference culture. The Strategic Review team is, however, able to make some observations about the agency's culture through its consideration of organisational capability, along with engagement with staff across all branches and the desktop review of APS Census and other survey data.

The team observed that the OAIC appears to place a premium on delivery, being technically expert, getting the details right and managing risk. These observed values manifest in constructive and less constructive ways throughout the agency – as outlined in Figure 59.

Figure 59 | Observed organisational values and their positive and negative manifestations

Value	Constructive manifestations	Less constructive manifestations
Delivery	• Staff are committed to the work of the OAIC. • Staff take pride in doing a good job and 'going the extra mile'.	• Some leaders set unrealistic expectations for what staff can achieve. • Prioritisation decisions are not being made in a timely manner and everything is treated as equally important.
Technical excellence	• The OAIC is able to deal with complex and diverse matters. • Staff are committed to their own development. • Staff are respected for their expert knowledge. • The OAIC is sought out as a thought leader.	• Softer skills are overlooked or undervalued. • Perfectionism is encouraged.
Getting the details right	• The OAIC makes decisions or provides advice that is able to withstand external scrutiny or challenges.	• The level of effort invested in matters is not proportional to the associated risks. • Decisions take longer than they need to. • Leaders engage in micromanagement, which undermines trust.
Managing risks to the agency	• The OAIC makes decisions or provides advice that is able to withstand external scrutiny or challenges. • The OAIC operates in compliance with its guiding legislation.	• Leaders in the agency are less inclined to innovate and try new things. • Decisions take longer than they need to.

Source: Analysis of Stay Survey data and feedback from staff workshops

Given some of the behaviours these observed values appear to drive in the OAIC, it will be important to explore some of these issues further. The Strategic Review sees great value in staff and leaders across the agency engaging in the deliberate and considered exercise of articulating the agency's core values and describing the type of inclusive and high-performing culture that will enable it to effectively and efficiently deliver on its priorities. This exercise should also consider the sorts of behaviours that will enable and inhibit the OAIC's desired values and future culture.

Leadership needs to evolve to reflect the agency's increased size, scale and geographic footprint

Feedback from staff workshops affirmed the high levels of regard that staff have for the technical abilities of the OAIC's Executive and noted the significant challenges the Executive team has faced over the past four years.

While staff are positive about the Executive team's technical abilities, they consistently highlighted several leadership behaviours that they considered not well suited to the OAIC's increased size, scale and geographic footprint. These behaviours and their impacts on staff are summarised in Figure 60, using the DRIVE framework embedded in the Secretaries' Charter of Leadership Behaviours..[60]

Figure 60 | Observed leadership behaviours and impacts on staff

Value	Observed behaviours	Impacts on staff
Be Dynamic	There is risk-aversion, caution and reactiveness around decision-making.	Many staff noted that risk aversion is hindering the OAIC's ability to grow and become more innovative.
Be Respectful	Not applicable.	
Have Integrity	Leaders are reticent to engage in, communicate or adhere to forward planning.	Some ACs noted their lack of awareness of or inability to influence strategic priorities and that Executive meetings leave limited space for considering strategy.
Value others	There is a mismatch between what is said and done around ensuring staff wellbeing.	Some staff noted an apparent lack of awareness of and concern for staff working long hours, and that this is increasing the risks of burnout.
Empower people	A desire to frequently get into matters of detail and striving for levels of quality are perceived as unnecessary.	Many staff feel they are being micromanaged and that this can result in them feeling disempowered and second guessing themselves.

Source: Analysis of Stay Survey data and feedback from staff workshops; Secretaries' Charter of Leadership Behaviours.

As the OAIC continues to grow and its remit and geographic footprint become more diverse, it will be important for the agency to take a more intentional approach to articulating the sorts of leadership behaviours that will successfully enable the agency's desired future culture (see Recommendation 15).

RECOMMENDATION 7 | 7

The OAIC further consider its current culture and how it manifests in organisational values and behaviours, clearly articulate its desired future culture and leadership, and consider the documentation and supports that will enable the desired future culture.

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[60] https://www.apsc.gov.au/initiatives-and-programs/learning-and-development/secretaries-charter-leadership-behaviours

7.4 Sourcing external capabilities

The OAIC currently relies on external legal providers to undertake a range of core activities

In recent years, the OAIC has substantially increased its spending on external legal support, from $1.1 million in FY20 to $5.7 million in FY23, as the agency has shifted focus to enforcement and increased its litigation activities.

Some activities currently completed or facilitated by external legal providers include:

- repeatable, non-specialised work such as document review is completed by legal secondees

- document and evidence storage (a capability that the OAIC currently lacks due to systems limitations)

- witness examination recordings for assessments and major investigations, to ensure that recordings are held locally and according to OAIC timeframes.

The OAIC uses secondees from external legal providers to supplement teams requiring surge capacity due to increases in litigation activity. To date, the OAIC has struggled to recruit ongoing staff to perform tasks equivalent to those undertaken by external secondees. These secondees have come at a significant premium relative to the costs associated with employing ongoing staff at comparable levels.

The shift from external legal providers for document and evidence storage to in-house solutions is currently under consideration by the Systems Review team. This shift would enable the OAIC to better control the type and capacity of the systems it uses, and the frequency of upgrades and other changes. Senior staff also expressed a desire to transition document and evidence storage systems internally to ensure access to data, suggesting the potential for cost savings.

Use of external legal support should be reassessed, with cost savings redirected to growing internal capability where appropriate

As the OAIC continues to grow and facilitate more enforcement activity, spending should be redirected to setting up and growing internal functions for the long term rather than using the short-term fix provided by external legal spend – s 47C In particular, there are opportunities for the OAIC to complete some of the non-litigation work currently undertaken by external legal providers. It is acknowledged that many of the challenges related to the OAIC's EVP, as outlined in section 7.2, will be relevant considerations in growing the agency's internal legal function.

Some OAIC staff expressed a desire to undertake witness examinations to provide greater control over these actions, and to move the control of evidence in-house. The Strategic Review was not able to determine whether there was a strong case for witness examinations to be brought in-house. This proposal should be considered further if the number of investigations continues to grow.

RECOMMENDATION 8

8

The OAIC reduce the amount of investigations work outsourced to external legal providers that can be performed more efficiently or effectively in-house, and develop its internal functions covering the same activities.

8 Processes and systems

The extent to which processes and systems are efficient and contemporary will play a critical role in the OAIC's ability to respond effectively and efficiently to the likely continuing growth in the volume and complexity of its core statutory work. This chapter assesses the agency's current processes and systems, and identifies opportunities to refine key processes in ways that should yield significant efficiencies and enable the agency to deliver on its updated strategic plan (see chapter 4).

Figure 61 | Relevant questions from the Terms of Reference

- How can the OAIC best respond to the likely continuing growth in the volume and complexity of its core statutory work?
- How can resource allocation be optimised to maximise efficiency and support the OAIC's statutory functions?

Figure 62 | Summary of key findings

- The OAIC has made significant efforts to identify efficiencies and improve its processes in recent years, which has made them more contemporary and fit for purpose.
- The Strategic Review identified several areas where current processes and systems are still falling short of what best practice looks like for an efficient and effective regulator.
- The current approach to case management is characterised by an inconsistent and over-conservative assessment of risk, with current clearance processes leading to drawn-out approvals.
- There are significant opportunities to improve the intake and triage of matters and to introduce workflows to ensure that work is being done by the right staff and with the right level of effort.
- These changes have the potential to reduce the time and resources required to effectively address privacy and FOI matters. The Strategic Review estimates that the recommended process improvements for IC reviews could reduce the average cost to action a review by approximately 15 per cent, while the average cost to address privacy complaints could fall by up to 23 per cent.
- There is a lack of clear guidance in some operational areas, which is preventing staff (particularly new staff) from consistently following more efficient processes. It is also creating risks related to key steps being inadvertently missed.
- A range of supporting measures will help to realise greater efficiencies. To ensure consistent practices are adopted across the OAIC, process manuals and guidance should be implemented or updated.
- The OAIC has recognised that its current systems are not supporting staff to do their work efficiently and that significant changes are required. The agency has commissioned an internally led Systems Review to analyse all current systems and make recommendations regarding the implementation of fit-for-purpose replacements.
- System changes will enable greater efficiencies to be realised, as process changes will require updated or renewed systems to maximise efficiencies. Any future changes to the OAIC's systems will be considered as part of the internally led Systems Review.

Figure 63 | Strategic Review recommendations

> 9. The OAIC streamline processes for managing FOI and privacy matters to effectively respond to anticipated growth in the volume of matters. This should include right-sizing the time and regulatory effort required for case resolution, to maximise efficiency and support the OAIC's statutory functions. In order of priority, reforms should focus on:
>
> > a. introducing more effective risk-based triaging
> >
> > b. implementing workflows to ensure cases are actioned more efficiently.
>
> This should be complemented by regular updates to supporting materials to drive consistent practices, and systems changes as recommended by the Systems Review.

The analytical framework for the Strategic Review articulates three criteria for the OAIC's processes and systems, as set out in Figure 64. These criteria were used to test the suitability of current processes and systems to achieve the OAIC's purpose and future functionality, and to develop our recommendations.

Figure 64 | Assessing the suitability of the OAIC's processes and systems

CRITERIA	TEST
Maximises efficiency	To what extent do the OAIC's processes and systems support the efficient delivery of its functions?
Maximises effectiveness	To what extent do the OAIC's processes and systems enable the achievement of the agency's intended outcomes and performance metrics?
Consistently applied	To what extent are the OAIC's processes and systems well documented, understood across the agency, and consistently applied?

The Strategic Review analysed processes related to IC reviews and privacy complaints to identify potential reforms to enhance their efficiency and effectiveness

The Strategic Review assessed a selection of the OAIC's current processes against the best practice criteria outlined in Figure 64. The analysis focused on IC reviews and privacy complaints as they involve processes that consume a substantial proportion of the agency's total effort, and best help the review team to understand the causes of extensive backlogs in cases that have emerged over time (see page 30). The specific processes analysed are summarised in Table 12.

Major investigations were not included in the analysis as they are classified as larger privacy CIIs or data breach notifications, generally with specific terminating funding attached to complete the investigation.

The Strategic Review involved a combination of quantitative and qualitative analysis. The analysis methods included process mining, the creation of process blueprints and effort allocation through staff interviews, and the validation of results with team leaders. See Appendix H for a detailed description of the process mining and blueprint methodologies.

Table 12 | Processes analysed in the Strategic Review

PRIVACY PROCESSES	FOI PROCESSES
• Privacy complaints	• IC Reviews
• Data breach notifications	• FOI complaints
• CIIs	• CIIs
• Privacy assessments	
• CDR assessments	

8.1 The OAIC's current processes and systems

Key processes and functions are derived from the OAIC's statutory responsibilities

The OAIC's core statutory functions are the management of the Privacy Act across the public and private sectors and oversight of the operation of the FOI Act.[61] The most significant processes in terms of collective resourcing are those associated with privacy complaints and IC reviews (as discussed further in chapter 2). There is no statutory timeframe for completion of these processes.

The five-stage privacy complaints process involves up to four teams

Privacy complaints follow a process performed by four separate teams: Early Resolution, Conciliation, Investigation and Determination. Each team completes a version of the stages that are relevant to their individual roles in the process, as outlined in Figure 65. The Early Resolution team receives and registers complaints and attempts to resolve the most straightforward matters. If early resolution isn't possible, the complaint is transferred to the Conciliation or Investigation team, depending on the specific circumstances. The matter is then progressed before ultimately being resolved through a determination, if appropriate. Similar to IC reviews, many privacy complaints are resolved before reaching a determination and this can be because:

- They are assessed to be invalid (for example because the information at the centre of the complaint does not fall within the definition of 'personal information' as per the legislation), or

- the complainant hasn't contacted the relevant organisation or agency that mishandled their information before lodging a complaint with the OAIC.

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[61] OAIC, What we do, https://www.oaic.gov.au/about-the-OAIC/what-we-do

Figure 65 | Privacy complaints case process

	1. RECEIVE	2. TRIAGE AND ALLOCATE	3. GATHER INFO AND ASSESS	4. ACTION	5. CLOSE
Early Resolution	Receive and register complaint	Assess and allocate the complaint to case officer	Review complaint and gather information	Determine and clear outcome	Close case or allocate to Conciliation or Investigation teams
Conciliation	Receive complaint from queue or Early Resolution team	Assess and allocate the complaint to conciliator	Review complaint and complete pre-conciliation activities	Complete conciliation	Close case or allocate to Investigation teams
Investigation	Receive complaint by referral from Early Resolution or Conciliation team	Assess and allocate the complaint to investigator	Gather information	Determine and clear decision	Close case or allocate to Determination team
Determination	Receive complaint from Investigation team	Assess and allocate to the case officer	Draft a preliminary view	Draft and clear determination	Publish determination

Source: OAIC privacy complaint process workflows

IC reviews can pass through up to three stages

IC reviews follow a process that is largely dictated by the procedural requirements outlined in Part VII of the FOI Act. This includes levels of delegation to clear and complete process steps, as well as specific steps that must be undertaken during an IC review. This process can cover up to three stages – as outlined in Figure 66. Not all cases require the full three stages – a material share are closed before reaching the decision and finalisation stage. This can be for reasons including:

- the matter is deemed not to be an IC review (for example, if the time for making a decision on a request for access to a document has expired and an applicant has not been given a notice of decision.[62])

- the application is declined (for example, if the review is deemed to be lacking in substance, misconceived, not made in good faith, vexatious or frivolous), or

- the applicant withdraws their application.

Figure 66 | IC review case process

1. INTAKE AND EARLY RESOLUTION	2. CASE MANAGEMENT	3. DECISION AND FINALISATION
Receive and triage application	Review material	Draft decision
Assess application	Complete preliminary views and procedural fairness steps	Clear decision
Request and receive documents	Determine decision	Publish decision

Source: OAIC IC review process workflows

The OAIC has made efforts to identify efficiencies and improve processes and enabling structures

In recent years, the OAIC has reformed processes and restructured teams to make them more contemporary, efficient and fit for purpose.

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[62] OAIC, FOI Guidelines, https://www.oaic.gov.au/freedom-of-information/freedom-of-information-guidance-for-government-agencies/foi-guidelines/part-3-processing-and-deciding-on-requests-for-access#deemed-decisions

For privacy matters, the OAIC's processes have been re-examined to understand potential efficiency improvements, resulting in the introduction of a series of measures. The Dispute Resolution Branch has developed a Complaints Continuum Committee to build collaboration between teams addressing privacy complaints and enable complaints to progress between teams appropriately and without delay.

Efforts have also been made to reduce current and avoid future backlogs. This includes the development of a 'sprint' queue with dedicated staff in the Early Resolution team that action low-risk straightforward matters. Clearance procedures are being reassessed to ensure they are appropriate, and this evaluation is ongoing.

IC review processes have been refined and documented for easy reference, in addition to the cross-skilling of staff and the automation of matter intake through the use of smart forms. The FOI Branch structure has also been changed to reflect these process updates, introducing a team dedicated to IC reviews and draft decisions. The new structure more effectively supports processes and has helped increase the number of IC reviews actioned each year.

The current approach to case management is characterised by an inconsistent and over-conservative assessment of risk

The OAIC's privacy complaint and IC review processes reflect an approach that does not adequately differentiate matters by level of harm or complexity. Most privacy complaints finalised in 2023 resulted in a finding of 'not a valid complaint' or 'no breach', as reflected in Figure 67. Those matters resulting in a 'not a valid complaint' finding are often resolved in the early stages of the process and could be completed though an earlier rejection letter. Similarly, most IC review outcomes reflect that reviews are withdrawn (section 54R) or assessed as out of jurisdiction (section 54N) under the Privacy Act.

Figure 67 | Privacy complaint outcomes (2023)
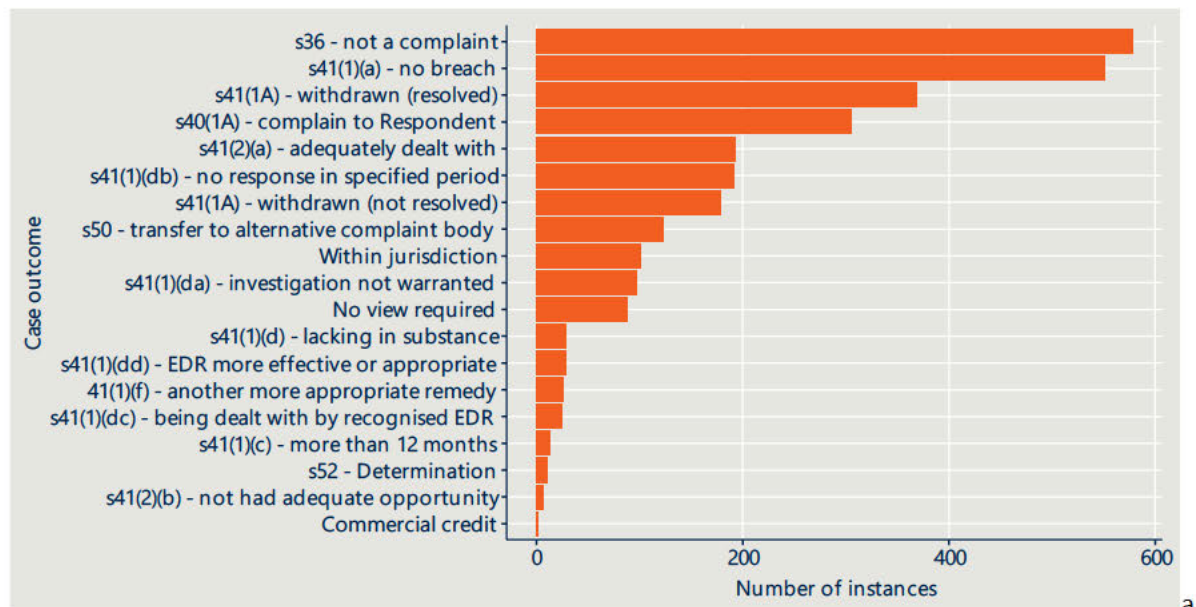
Source: Nous analysis of OAIC case data

The simplicity or complexity of a privacy complaint or an IC review doesn't alter the approach taken in dealing with it. This is because there is not an appropriate assessment of the steps or staff required to resolve each matter. This may lead to an overinvestment of time spent addressing low-risk matters.

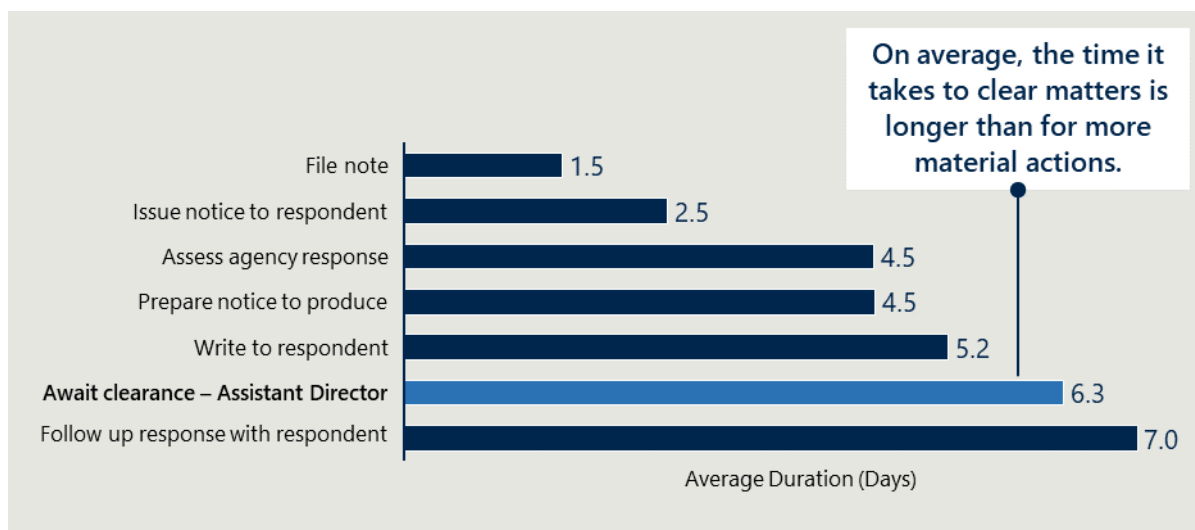## Current clearance processes are leading to drawn-out approvals

Drawn-out approvals hamper the pace of operations and add to the complexity of processes. Process analysis revealed that clearance processes for IC reviews and privacy complaints processes often result in extended approval time, slowing the time taken to complete tasks. This was affirmed by junior APS4-6 level staff in the Dispute Resolution and FOI Branches, who reflected that a large share of privacy complaints cases and IC reviews follow a one-size-fits-all approach for clearance due to a perceived risk aversion in senior management that expects all matters – regardless of risk – to be reviewed in the same way. Staff noted that this approach has contributed to bottlenecks during approval processes, which are typically required when correspondence is sent to the applicant or respondent, or decisions are being finalised. This is especially evident when matters need to be passed between different teams.

"Approvals take a long time – too many layers – meaning that so much time that could be used to work on things is wasted on waiting for those above to sign off on things."

OAIC staff member

Data on approval times for IC reviews (shown in Figure 68) shows that on average it takes longer for a matter to be approved than it does for staff to complete more material tasks. A similar pattern of relatively long approval times was observed across privacy complaints and reflected in feedback from staff in relation to other key processes. This points to a broader trend across the agency.

Figure 68 | Average time taken to complete key IC review actions

On average, the time it takes to clear matters is longer than for more material actions.

Action	Average Duration (Days)
File note	1.5
Issue notice to respondent	2.5
Assess agency response	4.5
Prepare notice to produce	4.5
Write to respondent	5.2
Await clearance – Assistant Director	6.3
Follow up response with respondent	7.0

Source: Nous analysis of OAIC case data

Current clearance processes for privacy complaints and IC reviews are inconsistent with the Optimal Management Structures guidance for APS agencies. The guidance recommends that decision-making should occur at the lowest appropriate level and that closest to the issues, to reduce the number of steps required. This speeds up decision-making and reduces bottlenecks.

The OAIC has recognised that its current systems do not support staff to work efficiently

The OAIC's current systems are not fit for purpose and do not adequately support staff to complete work efficiently. Staff are not supported by current technology systems due to growing gaps and inefficiencies. This impacts their ability to effectively work in a hybrid environment and complete processes efficiently.

Staff across all branches provided feedback to the Strategic Review that the agency's current systems are a source of frustration and do not support effective and efficient workflows. Staff noted that systems are not sufficiently integrated and used in different ways from person to person, which can lead to inconsistent data management practices and a lack of centralised information. Some expressed a desire to receive and share resources and evidence more easily and access information more effectively.

"[We need] more streamlined IT systems, chosen with our work in mind."

OAIC staff member

The OAIC recently commissioned a Systems Review to analyse all current systems and make recommendations regarding the implementation of a fit-for-purpose document and case management system. The Systems Review occurred in parallel with the Strategic Review.

8.2 Opportunities to enhance processes and systems

While the OAIC has improved some processes to resolve inefficiencies, there are opportunities to streamline processes further. The agency will need to continue to advance its processes to address growing demand as privacy breaches become more common and complex, and calls for government transparency grow, as outlined in chapter 3. The Strategic Review has identified opportunities to improve processes and systems by adopting a risk-based approach, improving clearance processes, refining and updating guidance materials, and introducing systems that support the application of workflows. Each of these is discussed below.

There are opportunities to improve intake and triage practices and processes

The Strategic Review identified opportunities to significantly improve current intake and triage practices and processes. The OAIC's intake practices and processes comprise all activities related to receiving and registering a new case, determining whether it is in the OAIC's jurisdiction, and an initial assessment of the validity of the case. The OAIC's triage practices and processes relate to evaluating, categorising and prioritising cases.

Improving the intake and triaging of matters will enhance the agency's ability to identify issues earlier, to take appropriate action. For example, improved intake practices and processes will identify instances where the evidence collected in relation to a matter is insufficient for it to be triaged effectively, so more information can be immediately requested from the applicant.

Reforming triage practices and processes will see more proactive use of the discretion available to the OAIC to filter matters that are best managed by other government bodies. It will also better enable the agency to identify problems at an earlier stage. This includes identifying information gaps related to the matter, or broader systemic issues that are emerging and need a coordinated response. Through early detection of issues, risks can be mitigated sooner, and problems can be addressed before matters progress too far through the process, to the point where they require significant rework.

The key change required to improve the effectiveness of the triage practices and processes is having more experienced staff (in terms of time in roles related to specific processes and at certain APS levels). Their experience will bring a deeper understanding of common issues that can arise further in the process if not addressed at intake. They will be better able to quickly discern the nature and urgency of a case, and to

identify solutions or routes for resolution that might not be evident to less experienced staff at the intake stage. As a result, the OAIC will be more likely to address and settle matters early, improving operational efficiency and effectiveness.

Allocating more experienced staff to conduct triage activities should also see matters effectively filtered according to their complexity and potential harm, allowing an evaluation of the most appropriate workflow for each case. By matching cases with optimal handling processes, the OAIC can ensure that resources are allocated efficiently, and cases are directed to the teams or individuals best equipped to handle them. Additional guidance and policy materials will need to be developed to support the individuals tasked with triage roles.

Formalising workflows for IC reviews and privacy complaints will ensure that work is being done by appropriate staff and with the right level of effort

Structured workflows show how work should be performed and which staff have the suitable experience to carry out certain tasks. They are commonly used by regulators performing case management.

The Strategic Review recommends that the OAIC introduce workflows to ensure that the appropriate levels of effort are applied to each matter. Triage activities will only be effective if connected to structured workflows that outline separate processes for matters according to the risk identified.

"There is a lot of double handling when matters are reallocated. The lack of clear and consistent processes makes it very difficult to pick up where someone has left off."

OAIC staff member

The OAIC would benefit from introducing workflows for IC reviews and privacy complaints to separate these matters by risk. This should result in more straightforward and low-risk IC review matters (for example, searches or charges) and privacy complaints (for example, inadvertent disclosure of a personal email address in direct marketing material) being addressed through a more proportionate application of effort. By reducing the time and resources required to effectively address lower-risk matters, the time and expertise of staff will be freed up to focus on higher-risk matters and the agency's other strategic priorities, outlined in chapter 4.

For each workflow, the decision-making procedures, level of decision documentation required, and time spent drafting decisions should reflect the level of risk. For example, this will ensure that matters are not escalated unnecessarily for clearance by senior staff where they are low risk, which in turn should reduce the time to resolution for straightforward cases. Another efficiency improvement that can be enabled by workflows includes introducing template decisions for low-risk cases. As a result of greater clarity covering the steps involved in each workflow, proportionate effort will be directed towards low-risk cases, increasing the time available to address high-risk or complex cases.

The introduction of workflows will mean that certain matters are addressed with less overall effort. However, this doesn't mean that the process will be less thorough or will lead to more mistakes. In contrast, effort will be saved on cases that are routine and straightforward so that it can be freed up for staff and the OAIC Executive to focus on higher-impact tasks.

Improved intake and triage processes resulting in structured workflows can reduce the time and resources required to effectively address privacy and FOI matters

To understand the impact of improving intake and triage processes and introducing workflows, the Strategic Review quantified the reduction in cost for two key processes performed by the OAIC: privacy complaints and IC reviews. The impacts of these improvements have been divided into:

- the share related to improved intake and triage that will increase the number of matters resolved early

- the share related to adopting workflows that will ensure matters are addressed by appropriate staff with the necessary level of effort.

The Strategic Review estimates that the recommended process improvements for privacy complaints could reduce the average cost to action each complaint by approximately 22 per cent:

- Reforming the intake and early resolution of matters is estimated to reduce the average cost per complaint by approximately 2 per cent. This is achieved by escalating the level of staff performing these activities, to bring forward the decline or transfer of matters to alternative complaint bodies (under section 35A of the Privacy Act) that are otherwise likely to be declined further in the process.

- The introduction of structured workflows is estimated to reduce the cost per complaint by 20 per cent. These workflows will separate complaints and ensure that high-risk matters are actioned more thoroughly, while low-risk matters can be actioned efficiently in fewer steps and by staff at an appropriate lower level. For example, workflows will reflect a more dynamic approach to cases that bypasses conciliation (including the initial conciliation efforts of the Early Resolution team and the more extended conciliation performed later by the Conciliation team) for high-risk complaints where the parties are unlikely to agree.

The potential improvements to privacy complaints identified by the Strategic Review are summarised in Figure 69.

**Figure 69 | Privacy complaint efficiency improvements**
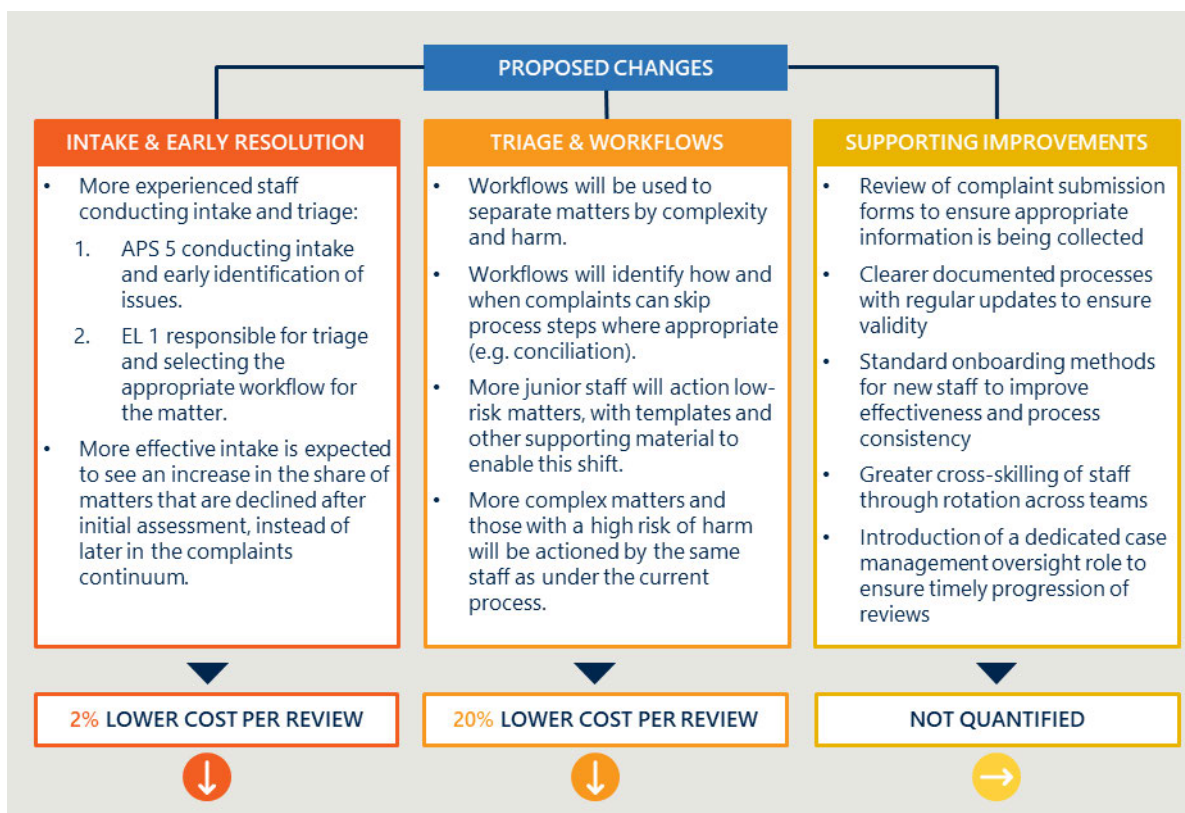
Source: Nous analysis of process efficiency improvements

IC review process improvements could reduce the average cost to action a review by approximately 15 per cent:

- The cost reduction associated with improved intake and early resolution of reviews is quantified at approximately 2 per cent. This includes greater use of section 54W(b) of the FOI Act for the most complex matters where consideration by the AAT would be more appropriate.

- The bulk of the cost reduction for reviews (approximately 13 per cent) reflects the triage of matters into predefined workflows. IC reviews would be separated into routine matters (for example, simple charges, searches and practical refusals) and complex matters. Routine matters would be actioned by more junior staff members and would require only Assistant Commissioner approval.[63]

The potential improvements to IC reviews identified by the Strategic Review are summarised in Figure 70.

Figure 70 | IC review efficiency improvements
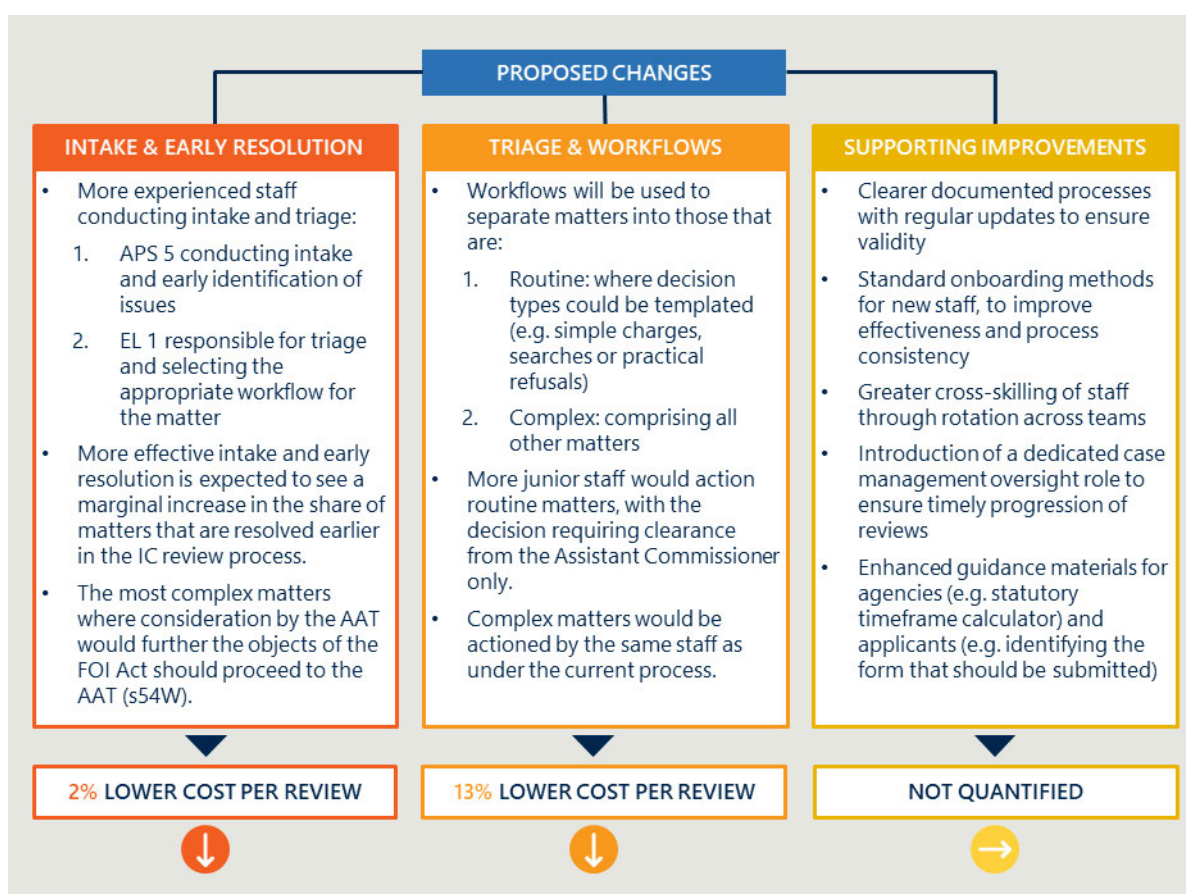
Source: Nous analysis of process efficiency improvements

Further efficiency improvements are possible by supporting changes such as having clearly documented processes with regular refresh cycles, a dedicated case management oversight role and greater cross-skilling of staff across process steps. Clearances should also be continually reassessed to understand where they could be made more effective by occurring at a lower level (for example, at EL1 level) for less complex and low-risk matters. This may require changes to delegations where legislation permits lower-level staff to make decisions.

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[63] Under the current IC review process, approval is sought from the FOIC for all reviews.

A lack of clear guidance in some operational areas is leading to inconsistent practices, which causes inefficiencies

Outdated or difficult-to-access guidance documents, such as process manuals, are currently contributing to inconsistent practices by the OAIC's case management staff. The lack of clear guidance prevents staff – particularly new staff – from consistently following more efficient processes. It contributes to risk because necessary steps might inadvertently be missed.

Different teams also take differing approaches to document storage. As a result, collaboration between teams can be challenging and staff require additional time to become fully effective when moving between teams. This has particularly impacted teams that have experienced high turnover, including the FOI and Dispute Resolution branches and legal team.

While the Dispute Resolution Branch has developed some workflows as part of processes, these are not always followed because they are outdated or staff are unaware of their existence. The Strategic Review's analysis of OAIC case data covering privacy complaints and IC reviews supports the finding of inconsistent practices across operational areas. The Review team analysed the consistency with which cases are actioned, using modelling of the trace coverage ratio to understand the steps followed by staff in addressing privacy complaints.

The trace coverage ratio shows the relationship between the number of different steps taken to action a matter (that is, traces) and the number of cases where this sequence of steps has been adopted. Only 10 per cent of privacy complaints that result in a finding of 'not a valid complaint' are actioned using a similar sequence of steps (at least half of the same steps), as reflected in Figure 71. A similar result was found when analysing data on the steps followed to resolve IC reviews. Processes that adhere closely to a standard set of steps would have higher ratio values, reflecting a more consistent approach.

> "A lot of people are 'choosing their own adventure', which makes them feel empowered, but is not conducive to organisational cohesion or performance."
>
> OAIC staff member

> "Some policies and procedures are extremely outdated, and some are no longer fit for purpose. [There is] no cycle of regular review and update occurring."
>
> OAIC staff member

Figure 71 | Trace coverage ratio for privacy complaints with 'not a valid complaint' outcome
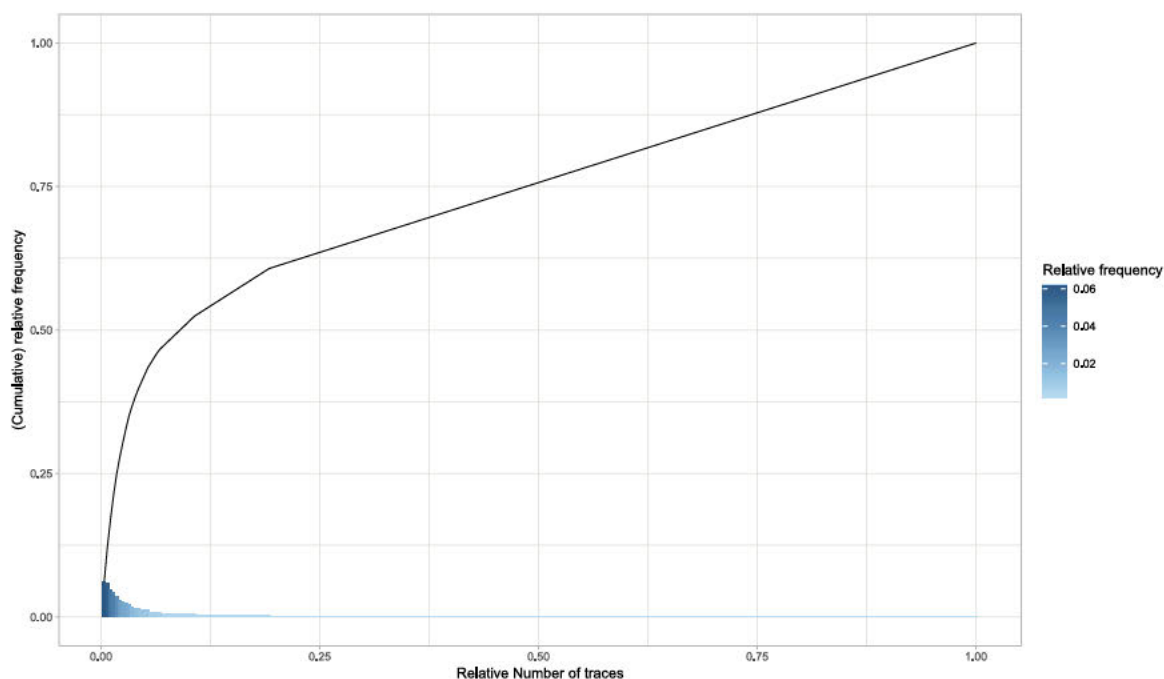
Source: Nous analysis of OAIC case data

A range of supporting measures will enable greater efficiencies

To ensure that more consistent processes and practices are adopted across the OAIC, key process manuals and guidance should be implemented or updated. This will be vital to effectively integrating the suggested process changes within teams. Updated manuals will clearly describe current process steps to enable common understanding across staff. Consistent practices will increase opportunities for collaboration within and between teams and reduce uncertainty, improving role clarity and avoiding unnecessary duplication of effort.

Regular updates to these documents will be key to maintaining their relevance as processes evolve, new staff join and the OAIC grows. Clear instructions will reduce frictions and re-skilling when staff move between OAIC teams, and ensure new staff can be onboarded efficiently.

Processes that ensure consistent use of systems will provide the OAIC with data that will enable more effective iteration of processes and understanding of workflows, creating a virtuous cycle for continuous improvement.

These measures will be important to support initiatives beyond processes and systems, including to clarify regulatory harms and risks that the OAIC is focused on (chapter 4), governance to support sign-offs that are appropriate without acting as barriers (chapter 5), and a structure that enables consistency and collaboration (chapter 6).

The culture change opportunities outlined in chapter 7 will be critical to empowering staff and driving greater efficiencies. Staff will need to take the right sort of risks and feel supported to do so, with an acceptance that occasional mistakes can be made as part of the new approach. The OAIC's leadership will need to support staff through this transition and provide guidance.

RECOMMENDATION 9

9

The OAIC streamline processes for managing FOI and privacy matters to effectively respond to anticipated growth in the volume of matters. This should include right-sizing the time and regulatory effort required for case resolution, to maximise efficiency and support the OAIC's statutory functions. In order of priority, reforms should focus on:

- introducing more effective risk-based triaging
- implementing workflows to ensure cases are actioned more efficiently.

This should be complemented by regular updates to supporting materials to drive consistent practices, and systems changes as recommended by the Systems Review.

System changes will enable greater efficiencies

Process changes will require updated or new systems to maximise efficiencies. Without them, staff will continue to be affected by the system gaps discussed above. Based on engagements with staff, systems should:

- enable efficient gathering of evidence, including audio and video evidence and large volumes of documents

- facilitate best practice case processes, including clear workflows for each case type and the ability to easily update processes and workflows as necessary

- enable straightforward access to existing OAIC information, including process and policy guides and prior case results

- support a more streamlined intake process, by automating parts of intake, including submission of FOI complaints or IC review applications via online forms and designing forms to prevent formatting issues

- support data collection covering processes and staff workflows and associated work effort.

> "There is a lot of good intention by management but ultimately, we need to ensure that we have the appropriate technology to deal with large-scale and complex investigations and legal proceedings in an efficient and effective manner. We currently do not have this."
>
> OAIC staff member

Any future changes to the OAIC's systems will be considered as part of the internally led Systems Review that occurred in parallel to the Strategic Review. The Strategic Review team has been working closely with the Systems Review team to share findings. At the time of drafting this report, the Systems Review team was finalising an assessment to identify what new systems are required and how best to implement them, including staff training on appropriate use and updates to relevant policies and guidance documentation. These changes, in combination with the process changes identified above, will enable the OAIC to complete case work more efficiently and navigate workflows more effectively.

9 Resourcing and resource allocation

As an independent statutory agency, the OAIC is resourced through government appropriations to oversee government information policy functions, access to government-held information and promote data protection in the public and private sectors. This chapter examines the OAIC's current resourcing. It considers whether resourcing is sufficient and applied efficiently, and recommends changes to better enable the agency to achieve its purpose and future functionality.

Figure 72 | Relevant questions from the Terms of Reference

- To what extent is the OAIC's resourcing suitable to achieve its purpose and future functionality?
- How can resource allocation be optimised to maximise efficiency and support the OAIC's statutory functions?

Figure 73 | Summary of key findings

- The OAIC's resourcing has increased substantially in recent years to support the growth in workload and the resulting increase in staff. **s 47C** The agency's total resourcing (ongoing and terminating funding) has increased from $10 million to $46 million over the past ten years. This includes a 117 per cent increase in ongoing funding over the same period.
- This additional funding has come with a range of additional responsibilities. The bulk of this funding has been provided to allow the OAIC to deliver specific additional activities or functions (for example, My Health Record regulation, CDR, Digital ID and specific investigations).

ALLOCATION OF FUNDING AND EFFORT

- Internal allocation of funding for the OAIC's privacy functions outweighs funding for the FOI functions by a factor of approximately 3.5 to 1.0.
- Staff workloads are currently spread across a range of critical, strategic and supporting functions. Half of the OAIC's effort is currently directed towards performing critical functions. The Strategic Review considers this allocation to be appropriate given the agency's legislative obligations and its requirements under specific funding measures.
- The OAIC's corporate functions are appropriately resourced given the agency's size. Comparisons between the size of the OAIC's corporate functions and averages across the Government reflect that the branch is appropriately resourced to perform its corporate functions effectively.

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EFFICIENT USE OF FUNDING AND EFFORT

- The Strategic Review has identified opportunities for the OAIC to use its current funding more efficiently. Reforming key processes will enable more matters to be resolved with existing resources (see chapter 8).

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s 47C

EFFICIENT USE OF FUNDING AND EFFORT

s 47C

9.1 Current resourcing levels

The OAIC's total resourcing (ongoing and terminating funding) has increased significantly over the past ten years, from $10 million to $46 million, enabling the agency to hire staff to manage its growing workload. This includes a 117 per cent increase in ongoing funding over the same period, and a considerable funding increase since 2019 for both ongoing base and terminating functions. The growth reflects the increase in the OAIC's workload and responsibilities, as outlined in chapter 2. This includes ongoing funding for supporting the introduction and privacy function of CDR across three sectors of the economy, terminating funding for managing privacy functions of new government initiatives (Digital ID and My Health Record), and the commencement of major investigations into Optus, Medibank and Latitude.

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[65] The Review benchmarked the internal and external OAIC's legal functions against the average internal legal expenditure share of total expenditure by ACCC, ASIC, AUSTRAC, APRA and ATO between 2017-18 and 2021-22 as outlined in the Commonwealth Legal Services Expenditure Report.

Figure 76 | OAIC resourcing profile
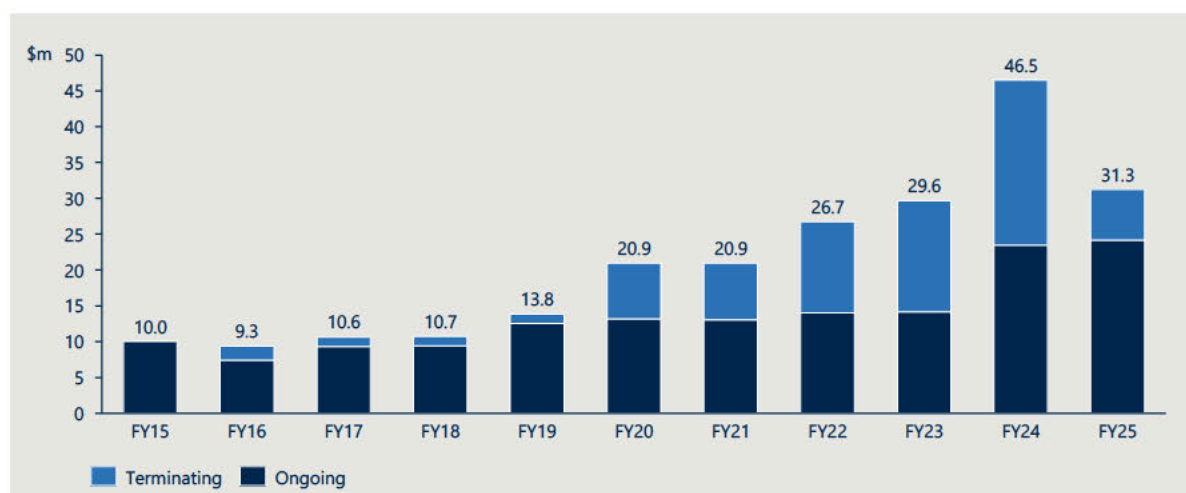
Source: Budget Measures: Budget Paper 2 2022-23 (March), Budget Measures: Budget Paper 2 2022-23 (October), Budget Measures: Budget Paper 2 2023-24, OAIC Portfolio Budget Statement 2023

The increase in the OAIC's resourcing has enabled the agency's workforce headcount to grow from 79 in 2010 to 162 in 2023. With these resources, the OAIC has been funded to undertake new responsibilities and achieve many of its performance measures.

Terminating funding measures accounted for half of the OAIC's total funding in 2023-24, as outlined in Table 13. These measures include funding for short-term functions and functions such as major investigations that currently have no ongoing base funding.

**Table 13 | Current OAIC terminating measures**

Measure	Description	Budget allocation	FY Terminating
Next Steps for Digital ID	To provide ongoing privacy assurance for the Digital ID program	$1.1 million for one year	2023-24
My Health Record	To regulate the privacy aspects of the My Health Record system	$4.8 million over two years	2024-25
CDR Enhancement	To support the continued operation of CDR in the banking, energy and non-bank lending sectors	$3.3 million over two years	2024-25
Stronger privacy enforcement (terminating portion)	To support a standalone Privacy Commissioner, enhance data and analytics capability, and progress enforcement and investigations actions	$10.7 million over two years (part of a $44.3 million measure)	2026-27
Privacy and social media	To undertake its privacy and regulatory functions, including in relation to social media and other platforms	$17 million over two years	2023-24
Optus	To investigate and respond to the Optus data breach	$5.5 million over two years	2023-24

Source: Budget Measures: Budget Paper 2 2022-23 (March), Budget Measures: Budget Paper 2 2022-23 (October), Budget Measures: Budget Paper 2 2023-24

The OAIC's Major Investigations Branch is currently funded through a specific Optus investigation budget measure and other stronger privacy enforcement funding to facilitate the Medibank, Australian Clinical Labs and Latitude Financial investigations. These measures are scheduled to terminate in June 2024. Staff expressed concerns that the uncertainty of this funding has implications for staffing, and forward planning of investigations.

The OAIC has a relatively high proportion of terminating funding when compared to other regulators – as illustrated in Figure 77. OAIC leaders and staff note that the relatively high proportion of terminating funding has posed challenges related to longer-term planning and capability building.

Figure 77 | Percentage of terminating budget measures for similar government regulators
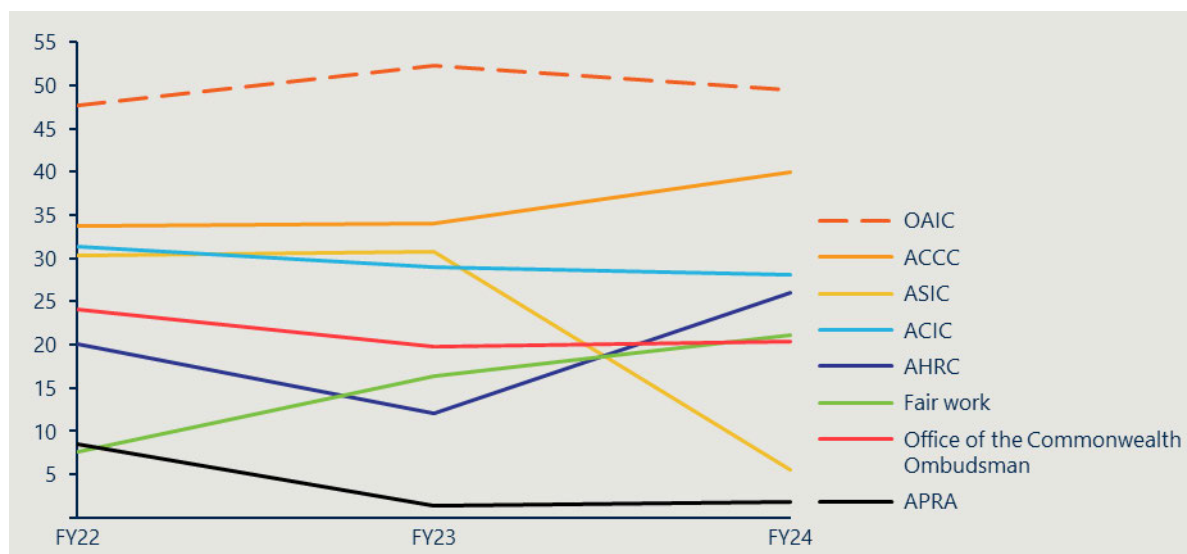
Source: Portfolio Budget Statements 2023-24 and Budget Measures: Budget Paper 2 2022-23 (March), Budget Measures: Budget Paper 2 2022-23 (October), Budget Measures: Budget Paper 2 2023-24

9.2 Allocation of funding and effort

Internal allocation of funding for privacy functions outweighs funding for FOI functions by a factor of approximately 3.5 to 1.0

The OAIC allocates the largest share of its funding to covering overheads, which includes the external legal expenditure managed by the internal legal team. Figure 78 shows the total funding allocated to each branch for 2022-23. Further information on the share of funding allocated to internal and external legal expenditure can be found in Figure 81.

The OAIC branches charged with privacy functions account for the largest share of funding overall.[66] Internal funding for the agency's privacy functions outweighs funding for FOI functions by a factor of approximately 3.5 to 1.0. This reflects a combination of the different scales of the respective regulated communities for privacy and FOI, and the scope of legislative responsibilities associated with each area.

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[66] These include the Regulation and Strategy, Dispute Resolution and Major Investigations branches, which complete policy, strategic, case management and investigation functions. Regulation and Strategy also completes work unrelated to privacy, such as CDR and Digital ID.

FOI work is completed by the FOI Branch, while privacy work is completed in the Dispute Resolution, Regulation and Strategy, and Major Investigations branches.[67]

Figure 78 | OAIC branch funding for 2022-23
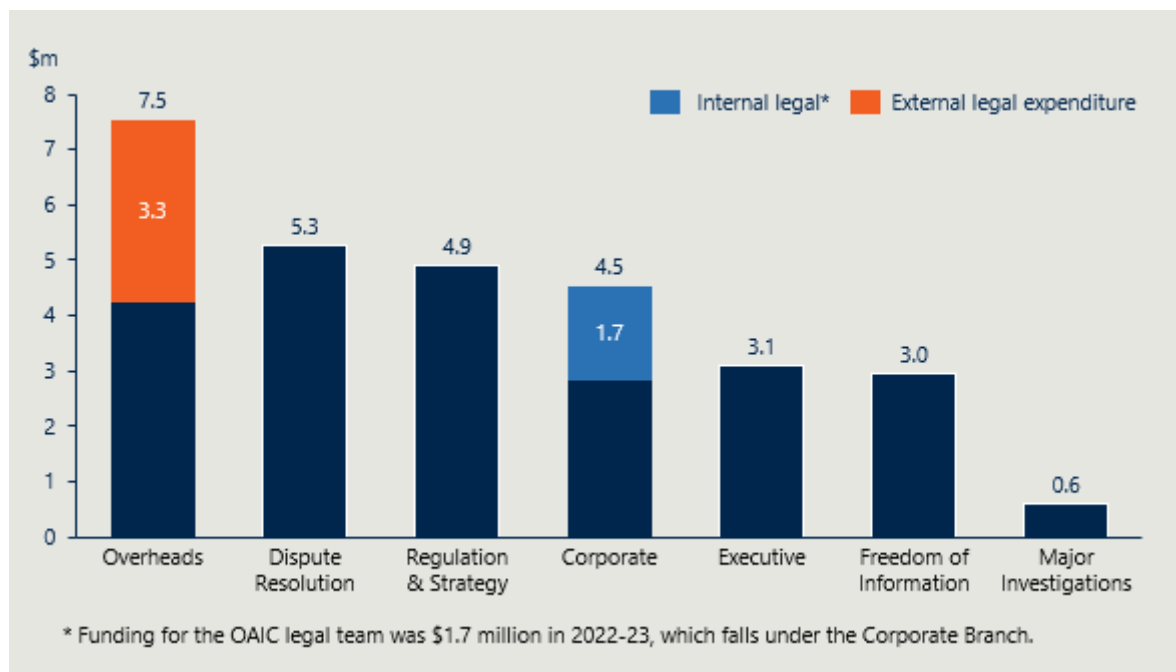
Source: Nous analysis of OAIC financial data

Staff workloads are spread across a range of critical, strategic and supporting functions

The Strategic Review team worked with the OAIC to assess how staff effort is currently split across its critical, strategic and supporting functions (as described in Figure 9 in chapter 2). This analysis – the results of which are shown Figure 79 – found that half of the OAIC's efforts are directed towards performing the critical functions where the agency is legislatively required to address incoming demand. The majority – approximately 60 per cent – of effort is related to case management for privacy complaints, FOI complaints and IC reviews.

The Strategic Review considered that the concentration of effort directed towards the OAIC's critical functions is appropriate given the agency's legislative obligations and requirements under specific funding measures.

The agency's remaining effort is split evenly between strategic functions, where the OAIC has greater discretion, and supporting efforts related to its corporate functions. The agency's allocation of effort to strategic functions primarily falls into two groups:

- performing investigations, assessments and related monitoring work in the Dispute Resolution, FOI, and Regulation and Strategy branches

- developing advice, regulatory guidance and policy submissions in the Regulatory and Strategy Branch.

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[67] IC reviews, FOI complaints and FOI regulatory guidance is completed by staff in the FOI Branch. Privacy complaints and investigations are performed in the Dispute Resolution Branch. Assessments, regulatory guidance, education, policy submissions and advice covering privacy are completed in the Regulation and Strategy Branch.

Figure 79 | Approximate allocation of effort across the agency's functions.[68]

CRITICAL	STRATEGIC	SUPPORTING
50% of FTE	25% of FTE	25% of FTE

Source: Nous OAIC Workforce Allocation Survey and analysis

Case management functions make up a large share of the OAIC's critical functions. An overview of the FTE resources allocated to functions that relate to case management are summarised in Table 14. These FTE are approximations based on staff responses to a Workforce Allocation Survey, collected as part of the Strategic Review.

Table 14 | FTE allocation for key processes

Key process	Type	Effort (FTE)
Privacy complaints	Critical	33.2
IC reviews	Critical	13.6
CIIs	Strategic	7
FOI complaints	Critical	4.7
Privacy assessments	Strategic	4.5
Data breach notifications	Critical	3.2
CDR assessments	Strategic	2.1

Source: Nous OAIC Workforce Allocation Survey and analysis

Corporate functions are appropriately resourced given the agency's size

Comparisons between the size of the OAIC's corporate functions and averages across Government regulators reflect that the branch is appropriately resourced to perform its corporate functions effectively (Table 15). The relatively large size of the OAIC's Strategic Communications team reflects that additional education functions are performed by these staff, including conducting and publishing the annual Australian Community Attitudes to Privacy Survey, and website publication activities.

As outlined in chapter 2, the Corporate Branch is still in the establishment stage with additional effort required to develop new processes and procedures before the branch can transition to delivering business-as-usual services to the agency.

Table 15 | OAIC corporate function compared to other Government agencies (share of total FTE)

	People & Culture	Finance	Corporate Services	Strategic Comms	Corporate (exc. Legal)
OAIC	2.9%	2.3%	2.3%	3.4%	14.8%
Government average	2.4%	2.1%	2.8%	1.7%	13.8%

Source: OAIC FTE data; Nous internal government benchmarking

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[68] The definitions for each function category are outlined in chapter 2.

However, staff workloads, turnover and wellbeing appear to differ across the Corporate Branch, reflecting additional pressure on certain teams. Considering this finding, the OAIC should consider the allocation of funding across the Corporate Branch, as well as which functions will be responsible for leading the implementation of the Strategic Review's recommendations.

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9.3 Efficient use of funding

The OAIC is not using its current funding as efficiently as it could be

As described at the start of this chapter, the OAIC's funding has increased significantly in recent years to support the agency to meet growing demand. Despite this large increase, the OAIC has found it challenging to address case volumes, as reflected by the emergence of backlogs described in chapter 2. In some instances, resources have been used to address straightforward cases in an attempt to resolve cases more quickly.

By achieving greater efficiency in the exercise of its critical functions – where half of the agency's current resourcing is directed – the OAIC will be better placed to meet future demand.

Reforming key processes will enable more matters to be resolved with existing resources

As discussed in chapter 8, several potential process reforms will enable the OAIC to operate more efficiently and effectively. These reforms should enable the OAIC's current workforce to complete a greater number of cases by applying a risk-based approach.

If the reforms are implemented, the Strategic Review estimates that approximately 240, or 12 per cent more, IC reviews could be completed with current funding than in 2022-23. For privacy complaints, improved processes will enable the OAIC to complete 380 more complaints with current funding, or approximately 15 per cent more cases than in 2022-23.

These changes will lead to less staff effort needed to action a given case. The savings are quantified in detail in Table 16, which provides the implied FTE saving if the OAIC is resourced to achieve its performance measures in 2024-25.[69] Two-thirds of the efficiencies that can be realised by the agency relate to improvements identified for the privacy complaints and IC review processes.

Table 16 | Estimated process improvement savings.[70]

Branch	Process	Implied FTE saving
Dispute Resolution	Privacy complaints	7.5
Dispute Resolution	Notifiable data breaches	1.5
Dispute Resolution	CIIs	1.5
FOI	IC reviews	3.5
FOI	FOI complaints	0.5
Regulation and Strategy	Privacy assessments	1.0
Regulation and Strategy	CDR assessments	0.5
	Total	16

Source: Nous analysis of process efficiency impact

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The Australian Cyber Security Strategy notes that the acceleration of cyber attacks will lead to more frequent and large-scale data breaches containing personal information.[72] As the regulator of privacy in Australia, the OAIC is best placed to investigate and respond to these breaches, with stronger, more timely enforcement actions to deter non-compliance and reduce significant harms. s 47C

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[72] Australian Cyber Security Strategy, Department of Home Affairs, 2023.

Appendix A   Implementation of recommendations

The recommendations made by this Strategic Review are wide ranging and touch all elements of the OAIC's operating model. Substantial time and resources will be required to make the recommended shifts. The importance of the OAIC's work and the opportunities to strengthen its approach through the recommendations of the Strategic Review mean that implementation should begin as soon as practically possible.

The breadth of the recommendations means that significant dependencies exist between them. Careful planning and sequencing will be required to ensure that the implications and timing of change to one part of the OAIC's operating model are carefully considered.

Details of the sequencing, dependencies and timing of the required changes to implement the recommendations of the Strategic Review will be articulated as part of an Implementation Plan that will follow the Strategic Review report. The Implementation Plan will also consider the options to deliver implementation, for example a dedicated implementation team within the OAIC, or allocation of responsibility for certain implementation activities to individual Commissioners or existing teams.

Key implementation considerations that are relevant to all recommendations are set out in section A.1. Specific considerations for each of the Strategic Review recommendations are set out in A.2.

A.1   Overarching implementation considerations

There are a number of implementation considerations that are relevant for all recommendations of the Strategic Review:

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- The OAIC will need to consider whether recommendations are best delivered by a dedicated implementation team or by existing teams – or a combination of the two.

- Many of the recommendations require staff training so it will be important to sequence this in a way that is consistent with prioritisation of the different recommendations and not overwhelming for staff.

- Changes will need to be implemented thoughtfully and with care. The OAIC and its staff have been through significant changes over the past few years – as noted earlier – and staff will face further changes with the commencement of the new Commissioners.

- Clear and regular communications from the Commissioners and the OAIC's executive leadership team about the timing, expectations and intended outcomes will be critical to ensure maximum buy-in and mitigate the risks of change fatigue.

A.2   Specific implementation considerations

Strategy, regulatory posture and approach

> The OAIC shift its regulatory posture to be more risk-based, with a greater focus on enforcement and education activities, to ensure its effectiveness as a regulator in response to its changing operating environment.
>
> The OAIC further consider its role in providing advice to government on whole-of-government reforms so that advice and submissions provided are more consistently informed by the OAIC's updated posture and regulatory priorities. This will likely result in the OAIC developing fewer and more targeted submissions to reforms and inquiries.

Timing and phasing

Recommendations 1 and 2 will likely take 12-18 months to implement and should occur over three phases:

- Phase 1: Laying the groundwork by updating the strategic plan and regulatory approach documents and generating staff buy-in for regulatory posture shift.

- Phase 2: Consideration of how staff effort will change across the OAIC and planning for internal movement and training and the recruitment of staff (where required).

- Phase 3: Begin phased transition of new staff effort allocation and new roles. Support staff as they take on new roles and ways of working under the new regulatory posture and approach.

Implementation considerations

- What will be required for staff capability uplift for staff moved to different roles (e.g. from case management to education and guidance).

- Linking up implementation of regulatory posture with process efficiency and culture changes.

Risks

- Staff may revert to less efficient ways of working because the associated culture change and process reform recommendations have not been implemented successfully.

- Staff may feel change fatigue because all staff will be working differently, if not in different roles then with new approaches involved in taking a proactive posture and being more risk-based.

Dependencies

- Implementation of culture recommendation 7 to support the transition to a risk-based approach.

- Implementation of process recommendation 8 so that effort across assessing and deciding matters is more efficient, supporting the transition to new allocation of effort under the updated regulatory posture.

Governance

> 3. The OAIC adopt a Commissioner-directed governance model to achieve the agency's purpose and future functionality, where Commissioner time is reserved for critical value-adding activities and supports are in place to enable Commissioners to effectively perform their roles.

Timing and phasing

Recommendation 3 will likely take 3-6 months to implement. Implementation should occur across two phases:

- Phase 1: Set up Governance Board and Committees and develop operational supports.
- Phase 2: Conduct staff training in the operation of the new governance structure, and in preparing concise briefings and strong decision recommendations.

Implementation considerations

- Processes, tools and templates required to support staff in working under the new governance model.
- Timing and sequencing of staff training in relation to governance and regulatory posture shift.

Risks

- The introduction of more formal processes around governance may initially result in slower decision-making.
- Decisions being made at more junior levels may result in decisions that are less able to withstand external scrutiny.

Dependencies

- Implementation of recommendation 1 so that the decisions progressing through the governance model relate to the highest-risk matters.
- Implementation of culture recommendation 7 to cultivate a healthy risk appetite and support transition to new governance model.
- Implementation of process recommendation 8 to ensure effective triage of matters so that low-risk matters do not progress for decision by Commissioners.

Structure

> 4. After a final decision is made by the Government on the Privacy Act Review recommendations, and the incoming Privacy Commissioner and FOI Commissioner have commenced, the OAIC update its structure to achieve the agency's purpose and future functionality in ways that will enable it to deliver on its new regulatory posture.

Timing and phasing

Recommendation 4 will likely take 6-12 months to implement. Implementation should occur across three phases:

- Phase 1: Select and refine preferred structure option and design new structure to a team level.

- Phase 2: Develop detailed team by team transition plans.

- Phase 3: Transition staff to new structure.

Full implementation of this recommendation should be deferred until all new Commissioners have started, so they can be involved in shaping key decisions.

Implementation considerations

- Whether additional training may be required to implement the new structure (e.g. if moving to a functional model, staff may require training in both FOI and privacy processes).

- How best to establish coordination and collaboration between the new branches at the outset.

Risks

- Confusion and lack of clarity over reporting lines and coordination between teams and branches during the transition to the new structure.

- Timing of the move to a new structure will occur after staff have already endured a lot of change and as they are transitioning to a new regulatory posture which may result in change fatigue.

Dependencies

- Implementation of recommendation 1 so that teams are set up to focus their efforts on the highest-risk matters and the new structure prioritises enforcement and education activities.

- Implementation governance recommendation 3 so that the new structure can align with the governance approach.

- Implementation of process recommendation 8 to ensure new teams are working efficiently.

Workforce capability and skills

5. The OAIC refresh its strategic workforce plan and learning and development strategy to identify the roles and skills needed to deliver its updated regulatory posture, achieve its purpose and future functionality and respond effectively to the likely continuing growth to the volume and complexity of its core statutory workload.

6. The OAIC develop a consistent, enterprise-wide induction program to ensure consistencies of practice, supporting the agency to achieve its purpose and future functionality and respond effectively to the likely continuing growth to the volume and complexity of its core statutory workload.

Timing and phasing

Recommendations 5 and 6 will likely take 6-12 months to implement. Implementation should occur across three phases:

- Phase 1: Refresh strategic workforce plan to identify training and recruitment requirements for delivery of the updated regulatory posture.

- Phase 2: Refresh learning and development strategy and induction program in preparation for upskilling of existing staff and recruitment of new staff.

- Phase 3: Conduct training and recruitment in accordance with new strategic workforce plan, learning and development strategy and induction program.

Considerations

- The capacity of the People and Culture team to refresh the strategic workforce plan, learning and development strategy and induction program while also recruiting, inducting and arranging training for staff.

Risks

- Challenges attracting staff with requisite specialised capabilities and skillsets (cyber security, understanding of AI) may hinder recruitment efforts.

- Insufficient resources available to implement the updated learning and development strategy.

Dependencies

- Implementation of recommendation 1 to inform which roles and skills are required to deliver the updated regulatory posture.

Culture and leadership

> 7. The OAIC further consider its current culture and how it manifests in organisational values and behaviours, clearly articulate its desired future culture and leadership, and consider the documentation and supports that will enable the desired future culture.

Timing and phasing

Recommendation 7 will likely take 3-6 months to implement. Implementation should occur across three phases:

- Phase 1: Conduct workshops with the OAIC's executive leadership team to reflect on culture feedback from the Strategic Review and consider the agency's desired future culture and leadership behaviours.

- Phase 2: Work with staff across the OAIC to co-design a Values and Behaviour Charter that articulates the agency's core values and the behaviours that will enable and hinder the OAIC's future culture. The Values and Behaviour Charter should be informed by engagement and conversations with staff across the OAIC, the results from the latest APS Census and OAIC Stay Survey and feedback from external stakeholders.

- Phase 3: Develop a Charter of Leadership Behaviours that articulates and reinforces the agency's desired future culture and consider what supports may be required to enable the OAIC's leaders to lead more effectively.

The full implementation of these recommendations should be deferred until all new Commissioners have started, so they can be involved in shaping key decisions.

Considerations

- How and when to engage with staff in relation to desired future culture.

- How and when to involve the new Information Commissioner in shaping the OAIC's new values, culture and leadership behaviours.

- How to measure progress over time.

Risks

- Inadequate engagement with staff may result in a lack of buy-in.

- Resistance across all levels of the OAIC to doing things differently.

Sourcing external capabilities

> 8. The OAIC reduce the amount of investigations work outsourced to external legal providers that can be performed more efficiently or effectively in-house, and develop its internal functions covering the same activities.

Timing and phasing

Recommendation 8 will likely take 12 months to implement. Implementation should occur across two phases:

- Phase 1: Identify activities currently completed by external legal providers to be brought in house.

- Phase 2: Allocate staff to complete those activities and provide them with appropriate training as required.

Considerations

- Understanding what training is required to support the shift (e.g. in conducting witness examinations).

- Understanding and managing the impacts that retraining and moving staff to new functions may have on the ability to carry out existing functions.

- Considering the impact of investigating and litigating against more large entities on the nature of work that can be performed more efficiently or effectively by external legal providers.

Risks

- Inability to recruit ongoing staff to perform equivalent tasks to external providers due to specialisation of skills and/or the OAIC's employee value proposition.

Dependencies

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Processes and systems

> 9. The OAIC streamline processes for managing FOI and privacy matters to effectively respond to anticipated growth in the volume of matters. This should include right-sizing the time and regulatory effort required for case resolution, to maximise efficiency and support the OAIC's statutory functions. In order of priority, reforms should focus on:
>   - introducing more effective risk-based triage
>   - implementing workflows to ensure cases are actioned more efficiently.
>
>   This should be complemented by regular updates to supporting materials to drive consistent practices, and systems changes as recommended by the Systems Review.

Timing and phasing

Recommendation 9 will likely take 6 months to implement. Implementation should occur across three phases:

- Phase 1: Refine and test process improvements with staff to finalise the new design.

- Phase 2: Identify associated process documentation and conduct an impact assessment of stakeholders who might be affected by the changes.

- Phase 3: Implement new processes by training staff and updating process guidance documentation.

Considerations

- A staged shift from old to new processes and systems will need to take place so the OAIC can remain effective at addressing matters throughout the transition.

- Existing procedure and onboarding documentation will need to be replaced or updated with branches taking a more holistic approach to the consistency and storage of these documents.

- External stakeholders which are expected to be impacted by the process changes will need to be contacted in advance.

- Process improvements should be monitored and assessed throughout implementation to ensure the changes are effective.

Risks

- Significant change across systems and processes leads to disruption within case management teams that contributes to delays in addressing matters.

Dependencies

- The implementation of new systems identified through the Systems Review project will need to be considered when finalising new processes to ensure that the processes factor in what is feasible with new systems.

Appendix B   Details of the Strategic Review

This Appendix sets out the details of the Strategic Review including its Terms of Reference, data sources and stakeholders engaged.

B.1   Terms of Reference for the Strategic Review

A strategic review of the Office of the Australian Information Commissioner (OAIC) will ensure the OAIC is well positioned to deliver on its statutory functions as the national privacy and information access regulator into the future.

Scope

The reviewer should consider, report, and make recommendations about how the OAIC can ensure it is best positioned to deliver on its functions as the national privacy and information access regulator and respond to future challenges. Recommendations should cover:

- the extent to which the OAIC's

    - organisational capability,

    - structure,

    - governance, and

    - resourcing

    - are suitable to achieve the OAIC's purpose and future functionality, or require amendment;

- how resource allocation can be optimised to maximise efficiency and support the OAIC's statutory functions;

- how the OAIC can best respond to the likely continuing growth to the volume and complexity of its core statutory workload;

- how to ensure the effectiveness of the OAIC as a regulator in responding to changing technology, the growth of the digital economy and increasing cyber-crime; and

- the role of the OAIC in providing advice and reports to government about privacy, information access and information management.

Contextual information

The reviewer must have regard to relevant contextual matters, about which the OAIC will provide the reviewer with relevant background, including:

- potential changes to the functions of the OAIC arising from the Government's response to the Privacy Act Review;

- the operation of FOI laws;

- evolving community expectations about privacy and information access, and expectations that the OAIC will take a strong enforcement posture.

Recommendations

The reviewer must identify recommendations that can be implemented within the existing legislative framework, but may make recommendations that require legislative change where the reviewer considers necessary.

Activities

As a minimum, the reviewer should examine relevant documents and data, conduct interviews with OAIC executives, staff, and key external stakeholders, and examine the capabilities and arrangements of a selection of analogous agencies in Australia and elsewhere.

Timeframe

Interim report by **22 January 2024**. Final report by **19 February 2024**.

B.2   Review data sources

Review Data Sources

The Strategic Review considered a wide range of data sources, as summarised below.

Source	Description
Resolve case activity data for IC reviews and privacy complaints	• All cases completed in FY2022-23 • Informed the process mining analysis
OAIC Financial reports	• Internal budgets including monthly financial statements, internal budget history and government resourcing
OAIC Staff	• Staff interviews • Workshops • Focus groups
Legislation	Including: • Privacy Act • FOI Act • AIC Act • PGPA Act
Process Workflows	• OAIC process workflow documentation for IC reviews, privacy complaints, CIIs (FOI and Privacy), NDBs, FOI complaints and Privacy and CDR assessments • Tested and validated with OAIC staff
Document Review	• Review of over 150 OAIC documents including policy, guidance and risk documents, senate estimates briefs, previous reports and analysis. • Statistical information including staff headcount, APS survey responses. • This review also included publicly available documentation including annual reports, corporate plans, online resources and guidelines.

B.3   Stakeholder engagement

B.3.1   Engagement with OAIC staff

Engagement with OAIC staff included interviews, workshops and focus groups held over the course of the project. Many staff were engaged multiple times as part of the Strategic Review.

Type of Engagement	Staff Engaged
Executive interviews and workshops	• All members of the OAIC executive – individual or small group interviews • Several workshops with OAIC executive team
Staff Workshops	Engagement with 85 staff across all OAIC branches: • Corporate Branch • Major Investigations Branch • Dispute Resolution Branch • FOI Branch • Regulation and Strategy Branch • Regulation and Strategy (CDR) Branch
Focus Groups	• 25 staff from all branches were represented (many of these staff had been previously engaged through the workshops)
Process Mapping interviews	• Interviews with Assistant Commissioners, Directors and Assistant Directors across the OAIC

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Appendix C   Overview of the OAIC's functions and roles

The OAIC has a range of statutory functions under several pieces of legislation. In chapter 2, the OAIC's functions are mapped as critical, strategic and supporting. Table 18 provides additional detail about the OAIC's statutory functions, the area they relate to, whether they are mandatory or discretionary under the legislation, and any specific requirements that apply in respect of how or when the OAIC may or must exercise them. The below table is not intended to be exhaustive but covers key statutory functions performed by the OAIC.

Table 18 | OAIC's statutory functions

Function	Legislative requirement	Area	Type	Requirements
IC review	*Freedom of Information Act 1982* - Part VII	FOI	Mandatory	The Commissioner must make a decision in relation to an IC review under s 55K. The procedure is outlined in Division 6 of the FOI Act.
Privacy complaint	*Privacy Act 1988* - s 36	Privacy	Mandatory	The Commissioner may or must decide not to investigate in certain circumstances outlined in s 41 of the Privacy Act.
Assess FOI complaints	*Freedom of Information Act 1982* - s 69	FOI	Mandatory	The IC must investigate a complaint made under s 70.
Administer the NDB Scheme	*Privacy Act 1988* - Part IIIC	Privacy	Mandatory	The OAIC must receive and process notifications of eligible data breaches (s 26WK). If the Commissioner believes there has been an eligible data breach then the Commissioner may direct the entity to prepare a statement to the impacted individuals (s 26WR).
Assess Extension of Time applications	*Freedom of Information Act 1982* - s 15AC	FOI	Mandatory	The IC must decide whether an extension of time application will be accepted (s 15AB).
Vexatious applicant declaration applications	*Freedom of Information Act 1982* - s 89K	FOI	Mandatory	The IC must declare whether a person is judged to be a vexatious applicant (s 89K).
Administer the Information Publication Scheme	*Freedom of Information Act 1982* - Part 2, s 7A	FOI	Mandatory	The IC must review the operation of the scheme in each agency (s 8F).

Function	Legislative requirement	Area	Type	Requirements
Monitor and manage the privacy and confidentiality functions (CDR)	*Competition and Consumer Act 2010 - Part IVD*	CDR	Mandatory	The IC must promote compliance with the privacy safeguards (s 56EQ).
Approve code development	*Competition and Consumer Act 2010 - Part IVD*	CDR	Mandatory	The IC must analyse and report about an instrument proposing to designate a sector (s 56AF).
Ensure proper financial management and reporting	*Public Governance, Performance and Accountability Act 2013*	NA	Mandatory	The IC is the accountable authority and must abide by the duties (including those under s 36 relating to budgeting) outlined in the PGPA Act.
Adhere to public service employment standards	*Public Service Act 1999*	NA	Mandatory	The IC is the accountable authority and must abide by the duties outlined in the Public Service Act.
Ensure workplace health and safety compliance	*Work Health Safety Act 2011*	NA	Mandatory	The IC is the accountable authority and must abide by the duties outlined in the WHS Act.
Produce regulatory guidance for privacy legislation	*Privacy Act 1988 - Part IV s 28*	Privacy	Discretionary	The Commissioner may publish guidelines under s 28.
Perform strategic functions relating to information management in government	*Australian Information Commissioner Act 2010 - s 7*	Information Management	Discretionary	The IC is empowered to report to the Minister on information management in government under s 7.
Conduct CDR assessments	*Competition and Consumer Act 2010 - s 56ER*	CDR	Discretionary	The IC may conduct an assessment relating to the management and handling of CDR data.
Initiate privacy investigations	*Privacy Act 1988 - s 40(2)*	Privacy	Discretionary	The Commissioner may, on their own initiative, investigate an act or practice.
Conduct FOI investigations	*Freedom of Information Act - s 69*	FOI	Discretionary	The IC may investigate an action taken by an agency in the performance of functions, or the exercise of powers, under the FOI Act.
Conduct FOI monitoring	*Australian Information Commissioner Act 2010 – s 8*	FOI	Discretionary	The Commissioner is empowered to monitor compliance by agencies with the FOI Act.