



Australian Government

Office of the Australian Information Commissioner

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Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Clarification to Hansard – Inquiry into the operation of Commonwealth Freedom of Information laws public hearing on 29 August 2023

Dear Committee Secretary

I write to you to provide clarification of evidence I gave to the Senate Legal and Constitutional Affairs References Committee in the inquiry into the operation of Commonwealth Freedom of Information (**FOI**) laws public hearing on Tuesday, 29 August 2023.

Evidence of Ms Angelene Falk, Australian Information Commissioner and Privacy Commissioner, Office of the Australian Information Commissioner (OAIC).

On page 58 of the transcript, in response to a question from Senator Shoebridge on the subject of the three-commissioner model, I said:

Ms Falk: There are 35 pieces of legislation in addition to the Privacy Act under which the OAIC has to regulate privacy.

I wish to clarify that there are approximately 35 pieces of regulation that confer privacy-related functions, powers or responsibilities on the Information Commissioner, or confer obligations that require certain bodies to consult with the Information Commissioner on privacy matters.

On page 61 of the transcript, in response to a question from Senator Shoebridge on whether I had knowledge of the former FOI Commissioner's concerns about the alleged narrative presented to the Federal Court in the Patrick matter, I said:

Ms Falk: No, I did not, and he was instructing on the matter for nine months during his term.

I wish to clarify that the former FOI Commissioner was authorised to instruct in the matter of *Rex Patrick v Australian Information Commissioner* from 29 April 2022. The

former FOI Commissioner remained involved in the matter until his notification of resignation by email on 6 March 2023.

On page 62, in response to a question from Senator Shoebridge on the total headcount for the agency, I said:

Ms Falk: The ASL for last financial year was—for 2022-23, the ASL cap was 163 and for this year it's 192.

I wish to clarify that the ASL cap for the year ended 2023 was 167.

On page 63 of the transcript, in response to a question from Senator Shoebridge regarding my response to a question at Senate estimates on the resignation of the former FOI Commissioner, I said:

Ms Falk: It did come to mind. I took the question relating to what was acutely in my mind at the time, which was learning about a very senior person leaving the organisation through an email, forwarding me a LinkedIn statement.

I wish to clarify that it was my intention to state “It did **not** come to mind.”

On page 64 of the transcript, in response to a question from Senator Shoebridge where the Senator said “...you just told us that the corporate headcount was 20. Is that right?” I said:

Ms Falk: The ASL for last financial year was 20. The allocation was 22.4.

I wish to clarify that in error, I was not referring to corporate staffing. Rather, I was referring to the actual ASL of 20 of the FOI Branch at 30 June 2023. The allocation of 22.4 staff represented the 2022-23 internal budget allocation for FOI.

To answer Senator Shoebridge’s question, the actual ASL for the Corporate Branch last financial year was 20 plus 10.4 legal (total ASL 30.4). The internal budget allocation was 23.9 plus 12.6 legal (total of 36.5 allocated staff).

Further information on these matters will be provided to the Committee as appropriate in answer to Questions on Notice.

Yours sincerely

Angelene Falk
Australian Information
Commissioner Privacy Commissioner

10 October 2023