

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S DEPARTMENT

Group 3

Question No. 73

Senator Ludwig asked the following question at the hearing on 24 February 2014:

You've previously spoken about agencies 'gaming' the system. Can you please detail those instances that let to that view for the committee?

- i. Have you expressed this view to the minister or the government more broadly to drive greater resources for your agency?

The answer to the honourable senator's question is as follows:

The Information Commissioner was asked a similar question by Senator Rhiannon at the Estimates hearing of this Committee on 24 February 2014.

In response the Commissioner referred to an observation he had made in a speech in November, 'Freedom of Information: 2010-2013', that is published on the OAIC website:

<http://www.oaic.gov.au/news-and-events/speeches/foi-speeches/freedom-of-information-2010-2013>:

A ... concern is that agencies may seek to game the system by denying access in the expectation that review applications will sit in an OAIC queue (a perception that we counter by active management of cases from the date of receipt).

The Commissioner explained (in answer to Senator Rhiannon's question) that is difficult in the context of the large complaint and IC review application caseload the OAIC receives each year to highlight particular instances as examples of 'gaming the system'. An agency may also expect to be accorded procedural fairness on the specific issue of whether its actions should be characterised in that way. Consequently, the Commissioner's objective in raising this issue was to highlight the concern that agencies may seek to take advantage of any delays in OAIC finalisation of cases, and to note that the OAIC is alert to the danger and acts to avoid that development.

- i. The OAIC's views on the workload pressures it faces within its current budgetary allocation have been raised a number of times in answers to questions in Senate estimates hearings.

The OAIC's concerns have been raised in liaison meetings that the Commissioners periodically hold with the Attorney-General's Department.