

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

Program: Office of the Australian Information Commission

Question No. AE17/074

Senator Pratt asked the following question at the hearing on 28 February 2017:

- 1) How many FOI request reviews is your office working on at today's date?
- 2) How many of these are overdue?
- 3) What is your current backlog of FOI reviews?
- 4) How long, on average, does it take your office to process a review?
- 5) How many appeals of FOI requests sent to Government Ministers is your office currently working on?
- 6) How many reviews of FOI requests sent to Government Ministers are because of a 'deemed refusal' because the Minister hadn't bothered to respond at all?
- 7) In your opinion, do Government Ministers tend to rely on a 'practical refusal reason' as an excuse not to process requests?
- 8) In your opinion, do Government Ministers display contempt of the FOI Act?
- 9) In your opinion, does the Attorney-General display contempt of the FOI Act?
- 10) Does your office have sufficient resources to handle FOI requests efficiently?
- 11) How important are FOI requests to a functioning democracy and to ensure that the Government is held accountable?

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

- 1) At 28 February 2017 the Office of the Australian Information Commissioner (OAIC) had 345 IC Review applications open.
- 2) There is no statutory time limit on finalising an IC Review. The OAIC aims to finalise 80% of IC Review applications within 12 months. In the 2015-16 financial year, the OAIC finalised 87% of IC Reviews within 12 months.
- 3) As per question one, there are 345 applications open. However, these will be in different stages of the OAIC's processes.
- 4) The table below shows the time taken by the OAIC to close IC reviews, current at 23/2/2017.

Year	Received	Closed						Still open	Average days to close
		less than 3 months	3 to 6 months	6 to 12 months	% closed in 12 months	over 12 months			
2011	417	69 (16%)	56 (13%)	118 (28%)	58%	174 (42%)	0	359	
2012	487	111 (23%)	65 (13%)	133 (27%)	63%	178 (37%)	0	329	
2013	507	107 (21%)	84 (17%)	185 (36%)	74%	131 (26%)	0	266	
2014	443	162 (37%)	146 (33%)	97 (22%)	92%	38 (8%)	0	151	
2015	428	125 (29%)	113 (26%)	132 (31%)	86%	49 (14% [^])	9	183#	
2016	554	125 (23%)*	122 (22%)*	63 (11%)*	56%*	2*	242	123*	

Table notes:

[^] Includes those 2015 matters still open, as they will be more than 12 months when closed

Will increase marginally as the final 9 from 2015 are closed

* All of these figures will increase as the rest of the applications received in 2016 are closed

- 5) As at 29 March 2017, the OAIC had 10 applications for IC Review from Minister's decisions open.
- 6) As at 29 March 2017, 7 of the 10 (at answer five) are 'deemed refusals'.
A 'deemed refusal' does not mean that no activity has been undertaken by the Minister (through their office) to process the request. It means that a decision was not provided to the applicant within the processing times provided for in the FOI Act.
- 7) See the second paragraph of the answer to question six.
- 8) See the second paragraph of the answer to question six.
- 9) See the second paragraph of the answer to question six.
- 10) The OAIC is allocated funding through the Australian Government budget process each year and allocates those resources to most effectively and efficiently manage the range of functions Parliament has conferred on the OAIC through legislation including the *Freedom of Information Act 1982* and the *Privacy Act 1988 (Cth)*.

The OAIC continues to look to find efficiencies to improve its timeliness in exercising all its functions.

- 11) The role the Freedom of Information Act 1982 plays in Australian democratic life is best set out in the objects of that Act at sections 3 and 3A:

Section 3: Objects - general

(1) The objects of this Act are to give the Australian community access to information held by the Government of the Commonwealth, by:

- (a) requiring agencies to publish the information; and
- (b) providing for a right of access to documents.

(2) The Parliament intends, by these objects, to promote Australia's representative democracy by contributing towards the following:

- (a) increasing public participation in Government processes, with a view to promoting better-informed decision-making;
- (b) increasing scrutiny, discussion, comment and review of the Government's activities.

(3) The Parliament also intends, by these objects, to increase recognition that information held by the Government is to be managed for public purposes, and is a national resource.

(4) The Parliament also intends that functions and powers given by this Act are to be performed and exercised, as far as possible, to facilitate and promote public access to information, promptly and at the lowest reasonable cost.

Section 3A - Objects - information or documents otherwise accessible

Scope

(1) This section applies if a Minister, or an officer of an agency, has the power to publish, or give access to, information or a document (including an exempt document) apart from under this Act.

Publication and access powers not limited

- (2) The Parliament does not intend, by this Act, to limit that power, or to prevent or discourage the exercise of that power:
- (a) in the case of the power to publish the information or document--
despite any restriction on the publication of the information or document
under this Act; and
 - (b) in the case of the power to give access to the information or
document--whether or not access to the information or document has been
requested under section 15.