

# *Strategic Review of the Office of the Information Commissioner*

*Department of Justice  
and Attorney-General*

*26 April 2017*



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***Subject: Strategic Review of the Office of the Information Commissioner***

Dear Susan

I am pleased to provide you with our final report detailing the findings and recommendations from our Strategic Review of the Office of the Information Commissioner (OIC) Queensland.

The objective of this Review was to analyse the efficiency and effectiveness of OIC functions, conducted under Section 186 of the *Right to Information Act 2009*. To inform this Review, we consulted with OIC staff, agency right to information and information privacy practitioners, and representatives of comparable bodies in other jurisdictions. Further, this Review was informed by research, resourcing and workload analysis, documentation review, and process evaluation.

The Review highlighted areas of good practice within OIC as well as initiatives that should be explored for further improvement. From the outset, it is vital to acknowledge that OIC provides a high quality and professional service across all of its functions. This is attributable to the knowledge and experience of OIC staff and their commitment to the vision and goals of OIC. The collaborative approach of leadership to develop OIC's strategic and operational plans, coupled with a focus on continuous improvement, also allows for proactive development of initiatives (both internal and external) that drive efficiency and efficacy in operations.

Notwithstanding, there are some areas where OIC's service delivery could be supported and strengthened. Our report details a range of recommendations along core focus areas that encompass the terms of reference set out for this Review. Our recommendations seek to enhance the efficiency, coordination and effectiveness of OIC into the future.

We wish to thank you and your team for your assistance and critical input to this Review. We also acknowledge and thank the Information Commissioners of NSW, Victoria and Northern Territory for the valuable insights that have informed our analysis.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Craig Fenton', written in a cursive style.

Craig Fenton  
Engagement Lead, PwC Consulting



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# 1 *Executive summary*

## 1.1 *Project overview*

This report outlines findings and recommendations from a Strategic Review of the Office of the Information Commissioner (this Review), undertaken pursuant to Section 186 of the *Right to Information Act 2009* (RTI Act).

OIC is responsible for promoting access to government-held information under the RTI Act, and protecting private information of the public under the *Information Privacy Act 2009* (IP Act). Section 186 of the RTI Act requires a strategic review of OIC to be conducted by a reviewer who is an ‘appropriately qualified person’. Section 186(9) of the RTI Act requires the strategic review to include:

- a review of the Information Commissioner’s functions; and
- a review of the Information Commissioner’s performance of the functions to assess whether they are being performed economically, effectively and efficiently.

This Review constitutes the first strategic review of OIC under the RTI Act. It includes assessment and recommendations of the functions and performance of OIC under the RTI Act and IP Act, to assess whether these functions are being performed economically, effectively and efficiently. The Review examined the structural and operational aspects of OIC, as well as its relationship with public sector entities and other key stakeholders.

The terms of reference for this review outlined a broad range of matters which were to be considered. These matters were grouped into four focus areas: Operational Practices, Legislative Alignment, Strategy and Culture, and Quality of Service. The findings and recommendations within this report have been aligned to these focus areas.

## 1.2 *Summary of findings*

### 1.2.1 *Operational practices*

- 1 **OIC’s External Review process is highly structured and clearly documented**, promoting effective application prioritisation and completion. A focus on collaboration and continuous improvement is evident within the practices of the function.
- 2 **The early resolution model developed is a highly effective approach that delivers positive outcomes to participants**, with around half of all applications being resolved at an early stage. The timely resolution of applications not resolved early remains a challenge, due to the highly variable nature of applications, and the reliance on applicants, agencies<sup>1</sup> and third parties for information and timely response, and the willingness of parties to negotiate.
- 3 **A resource shortfall presents an ongoing challenge to the sustainable management of external review application volumes**. Historical increases in application volume and complexity have not been met with an appropriate increase in the permanent staff base, resulting in a reliance on temporary and contractor positions to meet demand.

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<sup>1</sup> Agency is defined in section 14(1) of the RTI Act as a department or a local government or a public authority or a government owned corporation or a subsidiary of a government owned corporation. Section 17 of the IP Act clarifies that for the purpose of chapter 3 of the IP Act, ‘agency’ means anything that is an agency under the RTI Act

- 4 **OIC’s Privacy Advice and Complaint function is effective and highly regarded by stakeholders.** Agency feedback was consistently positive regarding the approach and outcomes of this function, however increases in complaint volume and emerging technology and privacy trends are highlighting scope and resource limitations.
- 5 **The Performance Monitoring and Reporting function has been enhanced through concerted effort and investment,** and future initiatives are planned to further increase the value and effectiveness of this service.

	Recommendation	Finding
a	OIC should receive additional permanent funding to allow for the creation of new permanent External Review positions, to effectively meet increased application volumes and complexity.	3
b	OIC should receive additional permanent funding to allow for the creation of a new permanent privacy position for a junior resource, to provide research, project and administrative support to the Privacy unit.	4

### 1.2.2 Legislative alignment

- 6 **The ability of OIC to accept privacy complaints at its discretion, without reference to a statutory time period, would allow a more effective use of resources.** The current requirement for an applicant to wait 45 days before a complaint can be made to OIC can be overly onerous for applicants in some cases. Providing OIC the ability to accept complaints at its discretion, with due regard to the effectiveness of the agency in handling the initial complaint, could result in better client outcomes and efficient use of resources.
- 7 **Responsibility for the collection and collation of agency compliance reporting could more effectively reside within OIC.** Shifting responsibility for the collation of rationalised RTI and IP Act performance metrics to OIC, with appropriate investment in process automation and resourcing, could provide more timely and valuable insight into the operation of the Acts across agencies.
- 8 **The inherent conflict in OIC’s dual advisory and decision making role is currently being managed appropriately and effectively,** within both internal operations and external engagement. A formal policy document can clarify measures in place and planned responses should instances of conflict arise.
- 9 **OIC’s role under the IP Act is clearly differentiated from other complaints agencies.** Stakeholders consulted were clear on the roles and responsibilities of OIC, and how they differ to those of other like bodies, with no evidence of overlap identified.

	Recommendation	Finding
c	OIC be given the legislative ability to accept privacy complaints at its discretion, without reference to a time period.	6
d	OIC be funded and supported to administer the collection and collation of performance reporting by agencies under the Acts. Reporting requirements should be rationalised to maximise value and minimise collection effort.	7
e	To address the perception of conflict of interest arising from performing the dual role of providing advice and making decisions, the OIC should formalise a Conflict of Interest policy to provide direction on how it manages the potential for conflict, and will respond in specific instances.	8



### 1.2.3 Strategy and culture

- 10 **OIC’s strategic contribution to promoting government accountability and transparency are understood and valued across local and national jurisdictions.** There is a strong sentiment across agencies that OIC has played a significant positive role in the promotion of RTI and Privacy principles.
- 11 **OIC has a clear strategic direction, and maintains a regular, effective and collaborative planning process.** Structured internal planning processes are in place that engage OIC staff and a clearly communicated and understood across the workforce.
- 12 **The core functions of OIC are clearly delineated and structured effectively within internal teams.** External Review, Privacy and Performance Monitoring teams possess clear reporting lines, effective management structures and an appropriate separation of functions, where required.
- 13 **A consolidated corporate service function would allow for more effective and focused resource use across OIC functions.** Grouping common activity such as stakeholder engagement and communications (internal and external) within a single corporate support function can deliver a more effective and focused business support model, and overcome existing structural limitations. The addition of finance and executive resources to this team would address a current gap in this support base.
- 14 **OIC has an engaged and collegiate workforce, with strong sense of purpose in their work, and a focus on positive outcomes for their clients.** A positive working culture exists within OIC, as a result of strong leadership, close working relationships and a clear connection with the purpose and importance of the OIC function.
- 15 **High levels of staff turnover and job uncertainty present challenges to workforce stability.** The specialised nature of OIC’s core activity, coupled with the relatively small workforce and reliance on temporary staffing arrangements, limits job certainty and career progression opportunities.

	Recommendation	Finding
f	OIC restructure its corporate support services to consolidate all corporate services (including the Information and Assistance and Training and Stakeholder Relations teams) into the existing corporate services function, and provisions for an enhanced corporate services leadership role, finance officer role and executive support role be established.	13
g	OIC develop and implement an appropriately funded career progression strategy, in coordination with broader resource uplift needs identified in this Review. (Recommendations a, b, f).	15

### 1.2.4 Quality of Service

- 16 **The OIC website, guidelines and educational material are effective in providing guidance and promoting awareness on how to interpret and administer the RTI Act and IP Act.** The annotated legislation is a highly valued source of reference and information for agencies. The relative infrequency of written determination is being supported by ‘Case Summaries’ that provide the context and rationale behind the informal OIC decisions.
- 17 **The agencies appreciate the quality and effectiveness of training delivered by OIC.** The existing training approach and resources can be complemented by a more targeted offering, to help meet the needs of larger agencies with maturing requirements.
- 18 **The Information Assistance and Privacy advisory services regularly exceed customer expectations and have improved the relationship between OIC and agencies.** OIC customer service capability is well regarded by agencies. There is a consistent view that the enquiry and advisory staff are highly efficient in responding to requests and directing clients to appropriate knowledge sources.

- 19 **Limited visibility of application status information restricts the ability of agencies to anticipate and manage their workloads.** Agencies find it difficult to adequately plan and manage their workload in response to sudden OIC case related requests. An opportunity to provide agencies with more visibility of application status and impending commitments such as through an enhanced reporting mechanism, should be explored.
- 20 **OIC appropriately invests in initiatives and activities to engage remote and indigenous communities and agencies,** with the aim to improve compliance with the legislation and increase awareness of information rights and responsibilities. These efforts can be more focused through a formalised engagement strategy.
- 21 **RTI decisions are clear and concise, and present a valuable source of information and reference for agency staff.** The quality and clarity of these decisions is valued by agency decision makers. The agencies recognise the improved clarity and conciseness of decisions made post 2009, and approve the use of natural language in determinations.

	Recommendation	Finding
h	A formal training and engagement needs analysis should be conducted across agencies, and an appropriate training and stakeholder engagement strategy be developed and suitably funded.	17, 18
i	The potential for automated application status reports to be produced and distributed to agencies should be explored.	19
j	A formalised remote communications and engagement strategy should be created to help OIC further engage remote communities and agencies.	20

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## 2 *Background and approach*

### 2.1 *The role of OIC*

The OIC is an independent statutory body that reports directly to the Queensland Parliament. Its vision is ‘an informed Queensland that values and respects information rights and responsibilities.’<sup>2</sup> OIC plays a critical role in supporting the integrity and accountability of government agencies across the Queensland public sector, and promoting information flow and transparency between agencies and the community.

In 2009, the Parliament passed the RTI Act and IP Act, repealing the *Freedom of Information (FOI) Act 1992*. The RTI Act and IP Act were designed to promote easy and improved access to public sector information while simultaneously protecting personal information. OIC’s primary responsibilities under the RTI and Act IP Act are to:

- review decisions made by Queensland Ministers and government agencies by employing an impartial and fair review process
- accept and mediate privacy complaints in a timely and effective manner
- provide information and assistance to agencies to comply with law and promote awareness of RTI Act and IP Act
- monitor and report on the performance of the public sector agencies in compliance with the RTI Act and IP Act.

The Information Commissioner is supported by two other statutory office holders appointed by the Governor-in-Council: the Right to Information Commissioner and the Privacy Commissioner. The Information Commissioner is accountable for the performance of OIC to the Parliamentary Legal Affairs and Community Safety Committee (LACSC).

Every year, the Committee examines OIC’s annual report tabled in the Legislative Assembly and, if appropriate, comments upon and discusses any aspect of the report, including budget and functional performance. Additionally, every five years an independent strategic review of OIC and all its functions is required. This Review constitutes the first Strategic Review for OIC under the RTI Act.

### 2.2 *OIC service areas*

#### 2.2.1 *External Review service*

The External Review service is responsible for conducting independent, fair and timely reviews of decisions made under the RTI Act and IP Act. The External Review team accepts applications and conducts merits review of applications lodged by applicants who are unsatisfied by the decision made by public sector agencies to release or amend government held information. Also, during the review process, the OIC assesses the reasonableness of steps taken by agencies to identify and locate documents requested by applicants. Depending on the complexity of the application, OIC finalises an application either informally or through a formal written determination.

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<sup>2</sup> Office of the Information Commissioner, Strategic Plan 2016-2020

The External Review service area has 14 Full –time equivalent (FTE) staff,<sup>3</sup> and is led by the RTI Commissioner, supported by three Assistant Commissioners who head the Early Resolution and Assessment Team (EART) and Review Teams respectively. The EART and Review Teams are further supported by review officers at various levels. All teams (EART and Review) strive to resolve applications informally. In the event that a satisfactory outcome cannot be achieved, the OIC makes a formal written determination.

Specifically, the External Review function within OIC focuses on:<sup>4</sup>

- resolving applications using flexible approaches
- ensuring quality resolution and decision making services by maintaining comprehensive case and knowledge management systems
- determining External Review applications through formal written decisions.

The key activities of the External Review service area are assessed against a defined set of key performance indicators. The table below provides the performance snapshot of OIC’s External Review Service area for the financial year 2015-2016.<sup>5</sup>

Service standard KPIs (2011–16)	Target 2015-16	Performance 2015-16
Percentage of applicants satisfied with the conduct of the review	70%	72%
Percentage of agencies satisfied with the conduct of External Review	75%	91%
Median days to finalise a review	90 days	98 days
Percentage of open reviews at the end of reporting period that are more than 12 months old	0%	6%
Number of reviews finalised	300	407
Percentage of reviews resolved informally compared to reviews resolved by written determination	75%	88%
Percentage of review applications finalised to received	100%	112%

The findings and recommendations of this Review as they relates to the External Review Service are detailed in section 3.1.1.

### *2.2.2 Privacy Advice and Complaint Mediation service*

The aim of the Privacy Advice and Complaint Mediation service is to provide an independent, timely and fair privacy complaint mediation service and assist agencies to achieve compliance with privacy principles.

OIC accepts a privacy complaint from an individual if the complainant believes that their personal information has not been dealt with in accordance with the privacy principles defined in the IP Act. Currently an applicant must wait 45 business days before they can lodge a privacy complaint with the OIC. The OIC usually decides to accept or reject the complaint within 14 days and endeavours to finalise the complaint within 90 days. If the OIC is unable to negotiate an acceptable outcome between the parties, the applicant can request that OIC refer

<sup>3</sup> Please refer to OIC organisational chart in Appendix 4.2

<sup>4</sup> Office of the Information Commissioner, 2015-16 Annual Report

<sup>5</sup> Office of the Information Commissioner, 2015-16 Annual Report

the complaint to Queensland Civil and Administrative Tribunal (QCAT). There are currently four FTEs allocated to this function.<sup>6</sup>

The portfolio of Privacy Advice and Complaint Mediation services include:<sup>7</sup>

- promoting within agencies a culture that recognises the benefit of early resolution of privacy complaints through mediation
- engaging with complainants to explain the process and manage expectations
- providing independent expert advice and assistance to agencies
- promoting agencies' early engagement of OIC privacy services
- conducting reviews and providing recommendations on both specific and systemic matters
- determining whether it is in the public interest to approve waiver applications through formal written decisions.

The key activities of the Privacy Advice and Complaint Mediation service area are assessed against a defined set of key performance indicators. The table below provides the performance snapshot of Privacy and Complaint Mediation service area for the financial year 2015-2016.<sup>8</sup>

Service standard KPIs (2011–16)	Target 2015-16	Performance 2015-16
Percentage of complainants satisfied with the mediation service	70%	Insufficient meaningful data <sup>9</sup>
Percentage of agencies satisfied with the privacy complaint mediation service provided	75%	100%
Percentage of privacy complaints finalised to received	100%	107%
Mean average days to make a decision whether to accept a privacy complaint	14 days	22 days
Mean average days to finalise an accepted privacy complaint	90 days	83 days

The findings and recommendations of this Review as they relate to the Privacy and Complaint Mediation Service are detailed in section 3.1.2.

### 2.2.3 Assistance and Monitoring service

The objective of the Assistance and Monitoring service area of OIC is to improve agencies' practices in right to information and information privacy, and promote greater awareness of RTI Act and IP Act in the community and within government. There are currently 9.6 FTEs working within the Assistance and Monitoring service.<sup>10</sup> The Assistance and Monitoring service area comprises of the Information and Assistance team (I&A), Training

<sup>6</sup> Please refer to OIC organisation chart in Appendix 4.2

<sup>7</sup> Office of the Information Commissioner, 2015-16 Annual Report

<sup>8</sup> Office of the Information Commissioner, 2015-16 Annual Report

<sup>9</sup> Low response rate to surveys was observed resulting in insufficient data for meaningful analysis

<sup>10</sup> Please refer to OIC organisational chart in Appendix 4.2.

and Stakeholder Relations (TSR) team and Performance Monitoring and Reporting (PMR) team. The I&A team is responsible for supporting agencies and the community by providing information on how to interpret RTI Act and IP Act. It employs multiple channels including an enquiry service, online tools and education materials such as guidelines and other knowledge resources.

The TSR Team is responsible for coordinating OIC’s training, communication and marketing activities with the aim to promote principles and practices of right to information and right to privacy across government and community.

The PMR team is responsible for the audit, investigation and assessment of public sector agencies to ensure compliance with appropriate application of the provisions of RTI Act and IP Act.

Assistance and Monitoring service areas include:<sup>11</sup>

- providing training, tools and practical resources
- monitoring, auditing and reporting on agencies’ compliance with the legislation
- building key partnerships and networks, informing agencies and the community about information rights and responsibilities
- providing information and assistance to the community and agencies through authoritative online resources and enquiry service advice
- advising and influence key stakeholders on emerging trends and issues of significance
- assisting agencies to increase the flow of information to the community by encouraging information rich websites with clear pathways to access information.

The table below provides the performance snapshot of Assistance and Monitoring Service area for the financial year 2015-2016.<sup>12</sup>

Service standard KPIs (2011–16)	Target 2015-16	Performance 2015-16
Percentage of agencies satisfied with the information and assistance provided by OIC	80%	100%
Percentage of agencies satisfied with the quality of information provided	75%	100%
Number of training activities provided	30	35
Number of people trained	500	9,295
Percentage of course participants satisfied with sessions	75%	99%
Number of awareness activities conducted	190	421
Number of enquiry (written and oral) responses	2500	4,686
Number of website visits	80,000	144,458

<sup>11</sup> Office of the Information Commissioner, 2015-16 Annual Report

<sup>12</sup> Office of the Information Commissioner, 2015-16 Annual Report



Service standard KPIs (2011–16)	Target 2015-16	Performance 2015-16
Number of monitoring and compliance activities	10	69

The findings and recommendations of this Review as they relate to Assistance and Monitoring service area are detailed in sections 3.1.3, 3.4.1 and 3.4.2.

### *2.2.4 Corporate and Executive service*

The Corporate and Executive service team assists the Information Commissioner on a range of strategic and operational issues. This service area advises the leadership team on matters of corporate governance, corporate services, management of the Registry team and executive communications.

Internally, the area is responsible for developing HR policies, financial statements and managing business support functions such as ICT services and facilities. Externally, Corporate and Executive service manages OIC’s relationship with external agencies such as Parliamentary Services, Queensland Treasury, Department of Justice and Attorney-General and Queensland Audit Office. There are currently four FTE positions allocated to this function.<sup>13</sup>

The findings and recommendations of this Review regarding the Corporate and Executive Service area are detailed in section 3.3.2.

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<sup>13</sup> Please refer to OIC organisational chart in Appendix 4.2.

## 2.3 Approach

### 2.3.1 Context of strategic review

This Review constitutes an assessment of the performance of the OIC to determine whether its functions are being performed economically, effectively and efficiently. The Review has examined all structural and operational aspects of OIC, as well as its relationship and communications with public sector entities and other relevant stakeholders. It was supported by detailed data analysis, comprehensive document review and end-to-end process evaluation. The findings of this Review highlight areas of good practice within OIC as well as opportunities that should be explored for further improvement.

### 2.3.2 Consulted parties

In accordance with the Terms of Reference for this Review, a broad representation of stakeholders were consulted, including the OIC Executive and functional teams, Queensland Government agencies, councils, public universities and media. A full stakeholder consultation list is included as Appendix 4.1 to this report.

### 2.3.3 Issue grouping

The terms of reference for this review outlined a broad range of matters which were to be considered. These matters were grouped into four logical focus areas: Operational Practices, Legislative Alignment, Strategy and Culture and Quality of Service. The four areas provided a structured framework for performing interviews and workshops with relevant stakeholders. The findings of this Review are presented within these areas.

Item	Terms of Reference	Area
a	Current and alternative External Review methodologies and processes, including alternate dispute resolution; and case and knowledge management	Operational Practices
b	Whether there is a conflict, or perceived conflict, between OIC roles in: (i) providing advice about how to interpret, administer and comply with the legislation; and (ii) making determinations on applications under the legislation and reporting to the Parliamentary Committee on agency compliance	Legislative Alignment
c	Current and alternative methodologies and processes for promoting access to public sector information and protecting personal information held by public sector agencies	Operational Practices
d	Current and alternative strategies used to improve the quality of practice in right to information and information privacy in public sector agencies, including the provision of resources and training to agencies, and monitoring and reporting on agencies compliance with the legislation	Operational Practices
e	The quality and clarity of decisions by the Commissioner and delegates and their effectiveness in providing guidance on the interpretation and administration of the RTI Act and IP Act	Quality of Service
f	Community and agency access to OIC, including awareness of, and access to, OIC by Indigenous Queenslanders and members of the community and agencies in remote locations	Quality of Service
g	The quality of and clarity of OIC guidelines and educational material on the RTI Act and IP Act, including in relation to the public interest test set out in section 49 of the RTI Act	Quality of Service
h	Appropriate protocols for communication by and with OIC, including with other agencies and the public	Quality of Service

Item	Terms of Reference	Area
i	The strategic direction and the operation of OIC, including the organisational structure, skill profile and/or culture of OIC and whether it is adequate for OIC to effectively discharge its functions	Strategy and Culture
j	The impact upon the operations of OIC of the RTI Act and the IP Act and whether any amendments to either Act are necessary or desirable to enhance operational effectiveness	Legislative Alignment
k	The effectiveness of existing processes and methodologies in fulfilling the legislative mandate of OIC, having regard to the contemporary accountability requirements of Queensland's Government agencies	Operational Practices
l	Examination of trends in the workload of OIC, including an examination of current and past methodologies relating to practices and procedures employed	Operational Practices
m	The standard and quality of service provided by OIC to agencies, Ministers, complainants, applicants and other participants	Quality of Service
n	The level of resourcing available to OIC and whether this resourcing is adequate and appropriately used to discharge the functions and objectives	Operational Practices
o	Differentiation of the function of OIC under the IP Act from other complaints agencies, and how this difference can be used to minimise duplication, if any, of investigative resources and promote the role of OIC in the community	Legislative Alignment
p	Any other matters which impact on the strategic direction, economy, efficiency and effectiveness of OIC	Strategy and Culture

## 3 Findings

### 3.1 Operational practices

This section addresses issues in relation to the following terms of reference:

Item	Terms of Reference
a	Current and alternative External Review methodologies and processes
c	Current and alternative methodologies and processes for promoting access to public sector information and protecting personal information held by public sector agencies
d	Strategies used to improve the quality of practice in right to information and information privacy in public sector agencies, including the provision of resources and training to agencies, and monitoring and reporting on agencies compliance with the legislation
k	Existing processes and methodologies in fulfilling the legislative mandate
l	Examination of trends in the workload of OIC and methodologies to manage workload
n	The level of resourcing available to OIC and whether this resourcing is adequate and appropriately used to discharge the functions and objectives

#### 3.1.1 Process efficiency and effectiveness – External Review

This Review evaluated the External Review process to highlight areas of good practice and uncover opportunities for improvement. This analysis was complemented by extensive consultations with OIC staff and external stakeholders.

##### Key findings

#### 1 OIC's External Review process is highly structured, clearly documented and promotes effective application prioritisation and completion.

OIC External Review process is comprehensively documented in OIC's Review Officer Manual. This document reflects the current review process within OIC and details mode of contact and correspondence protocols with parties. The review process has three distinct phases – Early Resolution, Informal Resolution and Formal Decision. The team roles, responsibilities and handover procedure and criteria are clearly articulated and understood by review officers. The team meets regularly to manage its workload throughout the process and there is extensive collaboration between the review officers and leadership to continually identify solutions for fast resolution of applications. The process is firmly established within OIC and a focus on continuous improvement is evident.

External Review applicant and agency satisfaction standards have been consistently met since 2011-2012,<sup>14</sup> highlighting review process efficacy and staff capability. The timeliness of application finalisation has been less consistent; in 2015-2016 47% of applications were finalised within 90 days, and 1.5% exceeded the formal completion target of 12 months.<sup>15</sup> The 2015-16 OIC applicant survey revealed that

<sup>14</sup> Office of the Information Commissioner, 2015-16 Annual Report

<sup>15</sup> Office of the Information Commissioner, 2015-16 Annual Report

only 58%<sup>16</sup> of applicants were satisfied by the time taken to resolve the external review application. It should be noted that the timeliness and efficiency of an External Review relies heavily on the agility of applicants and agencies to respond to OIC's requests. Delays primarily occur when participants provide incomplete or late documentation. Other factors, such as insufficient or irrelevant submissions, communication delays, and extension requests, are largely outside of OIC's control, and can result in delay at any stage of the process.

It is noted that the introduction of the File Catalyst system to allow for the electronic transfer of documentation between agencies and OIC, has improved the document receipt process. Internal consultations highlighted that some agencies submit relevant application and client documents to OIC in a highly structured and referenced manner. This approach enables OIC to process applications in a more targeted and efficient way, with less time spent on document review and classification. There may be an opportunity for OIC to build on the benefits of this structured approach, for example by creating best practice templates and guidelines to encourage appropriate documentation lodgement practice from all agencies.

**2 The Early Assessment and Resolution Team (EART) and the Review Teams deliver positive outcomes for customers whilst operating under technology and operational constraints.**

OIC has implemented a review model that is looked to as a source of good practice by other jurisdictions for its effectiveness.<sup>17</sup> The Early Resolution model places concerted effort on resolving applications quickly and informally to the satisfaction of all parties. This approach is highly effective and in 2015-16 yielded a 50% success rate<sup>18</sup> in resolving applications at an early stage.

When the Early Resolution team determines that a quick resolution cannot be achieved, the application is assigned to one of two review teams to carry out further investigation. These matters often involve more complex applications that include third party consultations and large volumes of documents. The assigned review team conducts a detailed review of an application and attempts to resolve the matter by formulating a Preliminary View for distribution to parties. Over the last 5 years, OIC has closed between 84% and 91%<sup>19</sup> of External Reviews informally without the need for formal written determination.

Notwithstanding its high success rate during informal resolution, the Review found that OIC could explore the viability of shortening the early resolution process in certain cases to enable faster outcomes for applicants and agencies. OIC is mandated by the legislation to endeavour to resolve applications informally.<sup>20</sup> There was a consistent agency sentiment that certain types of applications are unlikely to benefit from extensive efforts at informal resolution stage.<sup>21</sup> In such circumstances, prolonged attempts at early resolution may not be the most efficient use of OIC and agency resources. It is suggested that OIC review its prioritisation framework to identify such applications, and expedite them for formal determination in a timelier manner.

In support of its well-defined case management process, OIC uses a custom case management application. This historically had workflow and reporting limitations. However, recent upgrades to the system have improved operational workflow management, information retrieval capability and visibility on file status. Workflow reporting limitations still exist, and a spreadsheet-based case tracker tool is used to monitor application progress separate to the case management system. Future system enhancements are planned to introduce a more efficient mechanism for progress monitoring.

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<sup>16</sup> Office of Information Commissioner, 2015-16 Applicant survey results

<sup>17</sup> Based on interviews with information commissioners in New South Wales, Victoria and Northern Territory

<sup>18</sup> Based on data provided by OIC

<sup>19</sup> Office of the Information Commissioner, 2015-16 Annual Report

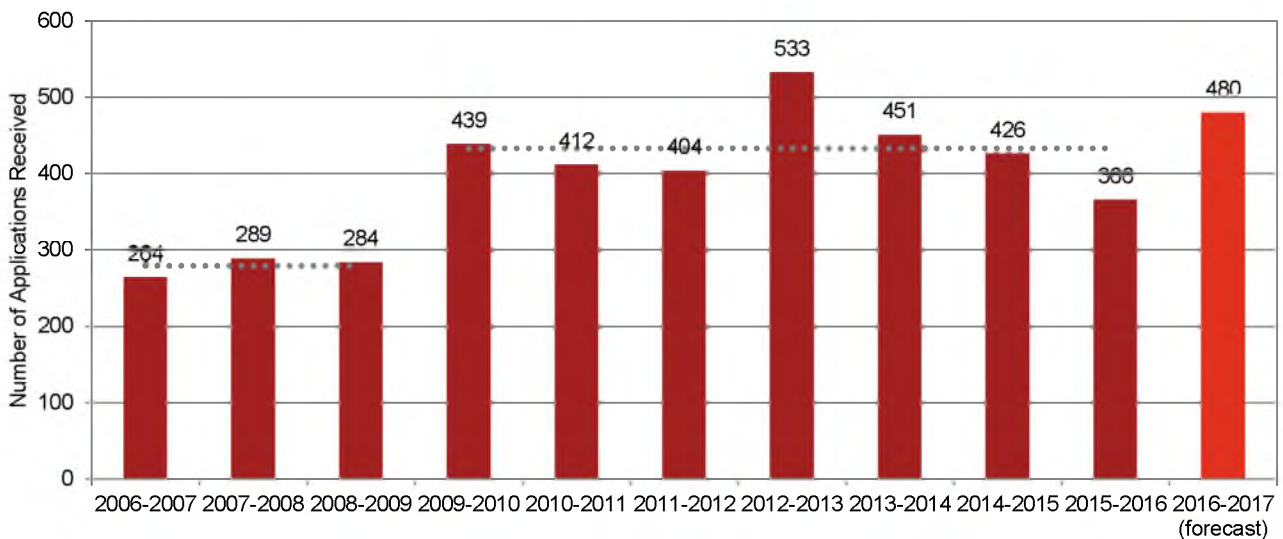
<sup>20</sup> Section 90 of the RTI Act

<sup>21</sup> Examples provided include "compliance issues" where applicants remained non-compliant with agency policy obligations, such as a continued refusal to provide the personal identification required for information release

**3 A resource shortfall presents an ongoing challenge to the sustainable management of RTI application volumes.**

Resource management presents a significant challenge to OIC. After the introduction of the RTI Act and IP Act in 2009, OIC has experienced an average 55% increase in the number of applications received (Figure 1). This demand has been sustained over the last 6 years and is predicted to rise in the future.<sup>22</sup> This increase in External Review volume has not been met by an associated increase in OIC permanent staff.<sup>23</sup>

**Figure 1 Number of RTI applications received by OIC**



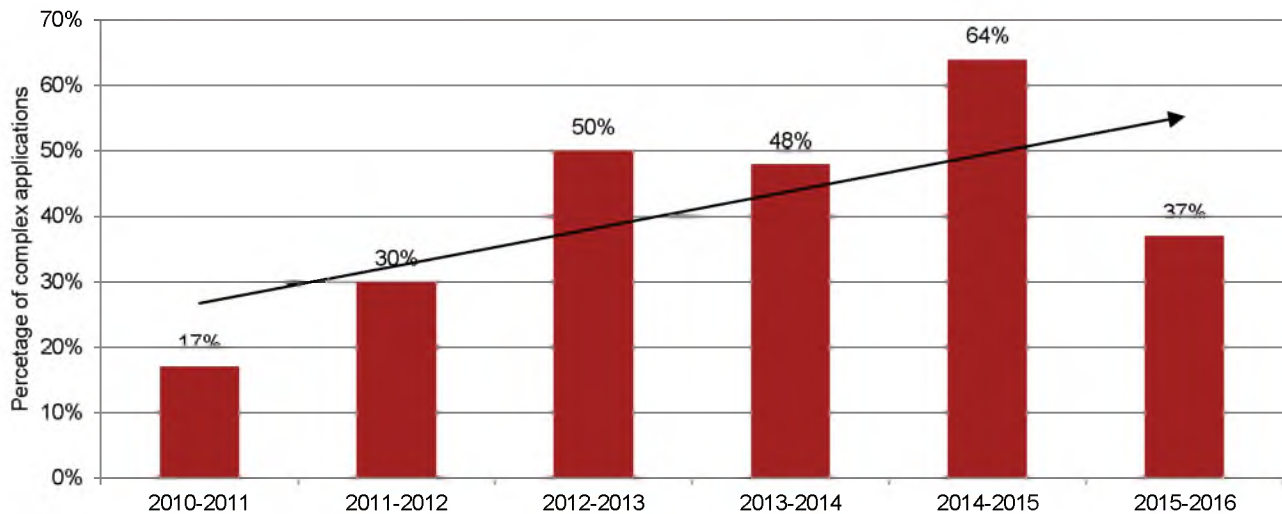
Analysis also shows that the proportion of complex applications<sup>24</sup> has displayed an upward trend over the past six years (Figure 2).<sup>25</sup> The increased volume of complex applications, in combination with a step change in the number of applications received, has increased the workload of OIC staff. A corresponding increase in permanent FTE has not occurred.

<sup>22</sup> Based on PwC future projections using data provided by OIC.

<sup>23</sup> Analysis based on FTE data provided by OIC. OIC’s permanent establishment increased by less than 1 FTE in 2010-11, and has since decreased below the 2009 level with public service wide FTE decreases in 2012. FTE allocated to the External Review function increased by 24% in 2010, however this was as a result of internal staff reallocation

<sup>24</sup> An application is considered complex due to multiple factors. Complexity is driven by volumes of documents, sufficiency of search issues at the agency level, participants seeking multiple/lengthy extensions of time and parties not interested in negotiating a settlement and requiring a formal written decision

<sup>25</sup> The rationale for a decrease in application complexity in 2015-16 could not be determined at the time of this review

**Figure 2 Percentage of complex applications received by OIC<sup>26</sup>**

Since 2010, OIC has regularly employed temporary resources, funded by cash reserves,<sup>27</sup> to manage this increase in demand and complexity. Temporary staffing has allowed OIC to keep transaction volumes stable, however this approach has significant shortcomings, including:

- short term positions cause instability in client service standards and result in high staff turnover rate. The churn rate of OIC staff is around 33%, significantly exceeding industry standard of 15-20%<sup>28</sup>
- temporary staffing limits the creation of permanent roles and associated promotional opportunities
- a constant focus on hiring and on-boarding staff diverts substantial time and resources

This Review supports the recommendation of a recent Parliamentary Committee report on OIC, that a demand management solution to meet additional demand be secured. Given the historical and anticipated increase in application volume, increasing case complexity and drawbacks of a temporary staffing model, this Review supports the need for additional resources. The current temporary staffing positions relied upon within External Review should be formalised into two permanently funded, full-time positions. In addition to the two formalised FTE positions, OIC has identified the need for another two permanent staff positions to address current and anticipated demands, and this Review validates this finding. All additional resource should be deployed within the context of an appropriately funded career progression strategy, as detailed further in section 3.3.3.

### **Recommendation**

- OIC should receive additional permanent funding to allow for the creation of new permanent External Review positions, to effectively meet increased application volumes and complexity.

<sup>26</sup> PwC analysis of OIC data report – “Percentage of Complex Matters Finalised in Each Quarter”

<sup>27</sup> With the exception of FY 2014-2015 when the approval to access cash reserves was not granted

<sup>28</sup> AHRI survey, HR Pulse, 2015

### 3.1.2 *Process efficiency and effectiveness – Privacy Advice and Complaint Mediation*

OIC provides a privacy advice, mediation and compliance service in line with its obligations under the IP Act. This includes the provision of advice to agencies and individuals on their privacy rights and responsibilities, and the acceptance and mediation of privacy complaints that have been unresolved at an agency level.

#### **Key findings**

#### **4 The Privacy Advice and Complaint mediation process effectively supports OIC to discharge its legislative requirements, but faces scope challenges from emerging technology trends.**

OIC's Privacy unit is highly knowledgeable and respected by stakeholders, and the team leverages its extensive experience and strong relationships with agencies to encourage the timely resolution of complaints. Agencies hold the strong view that OIC plays an important and valuable role in the mediation of complaints. In 2016, 100% of agencies were satisfied with the Privacy and Complaint Mediation process.<sup>29</sup>

The performance of the Privacy unit against its KPIs has been satisfactory, suggesting the current mediation process is efficient and effective. It is noted, however, that the current 14 day target to accept privacy complaints is not consistently achieved.<sup>30</sup> This difference in performance against target is largely attributable to a small number of complex and lengthy mediation cases.<sup>31</sup> The time taken to finalise a privacy complaint is impacted by a number of factors, including the type of complaint, level of participation and timeliness of responses from concerned parties. These factors are unpredictable and vary with individual complaint. Despite the difference between target and performance, OIC considers this 14 day target appropriate to drive internal productivity and service delivery standards, and this Review supports this position.

The volume of privacy complaints has increased by 62% since 2013-2014,<sup>32</sup> attributed to the increasing use of digital technologies and heightened consumer awareness.<sup>33</sup> OIC anticipates further increase in the volume and complexity of privacy complaints and the nature of advice sought, due to emerging technology trends such as big data and analytics, smart devices and rapid adoption of social media platforms.<sup>34</sup> To manage these risks effectively, consultations indicated that the privacy team requires additional support to proactively research privacy trends, consolidate global insights and update privacy toolkits. To this end, this Review recommends OIC should receive additional permanent funding for a junior resource to provide research, project and administrative support to the Privacy unit.

#### **Recommendation**

- b. OIC should receive additional permanent funding to allow for the creation of a new permanent privacy position for a junior resource to provide research, project and administrative support to the Privacy unit.

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<sup>29</sup> Office of the Information Commissioner, 2015-16 Annual Report

<sup>30</sup> According to Office of the Information Commissioner 2015-16 and 2014-15 Annual Reports, it took OIC 22 and 19 mean average days respectively to accept or reject a privacy complaint

<sup>31</sup> Office of the Information Commissioner, 2015-16 Annual Report

<sup>32</sup> Office of the Information Commissioner, 2015-16 Annual Report

<sup>33</sup> Based on the views of OIC and their peer organisations from other jurisdictions

<sup>34</sup> These risks have been identified in Office of the Information Commissioner 2015-16 Annual Report and are also specified in the Office of the Information Commissioner Strategic Plan 2016-2020



### 3.1.3 *Process efficiency and effectiveness – Performance Monitoring and Reporting*

The Assistance and Monitoring service of OIC is responsible for improving agencies' practices in right to information and information privacy. A key function within this service area is the Performance Monitoring and Reporting (PMR) function, which monitors and reports on agency compliance with the RTI Act and IP Act.

#### ***Key findings***

#### **5 Concerted effort and investment in the Performance, Monitoring and Reporting function is enhancing the value and effectiveness of this service.**

Historically the Performance, Monitoring and Reporting (PMR) function of OIC has regularly exceeded its KPIs.<sup>35</sup> OIC was referenced by other jurisdictions as a leader in developing best practice compliance procedures, having first developed public surveys and desktop audits that have been replicated by other jurisdictions.

OIC has taken steps to further improve its audit methodology to better align to Australian auditing standards and bring rigour into the compliance process. In 2016, OIC appointed an acting Director to the PMR function, on a secondment basis from the Queensland Audit Office. This approach has introduced significant benefits to this service offering, with OIC reporting an improvement in the quality and timeliness of audits. Internally, the PMR function reported increased performance and greater collaboration under new leadership.

OIC has planned several initiatives to further enhance its compliance and audit capabilities. These include a new audit planning process that accounts for emerging risks and trends, a balanced program of audit activities through targeted audits based on agency RTI and IP maturity, and a new a project management approach to deliver compliance reviews.

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<sup>35</sup> Office of the Information Commissioner, Annual Report 2015-16, 2015-14, 2014-13, 2012-13, 2011-12

## 3.2 Legislative alignment

This section addresses the issues in relation to the following terms of reference:

Item	Terms of Reference
b	Conflict, or perceived conflict, between OIC roles in providing advice
j	The impact upon the operations of OIC of the RTI Act and the IP Act
o	Differentiation of the function of OIC under the IP Act from other complaints agencies, and how this difference can be used to minimise duplication

### 3.2.1 RTI and IP Act effectiveness

At the time of this Review, the appropriateness and effectiveness of the RTI Act and the IP Act was being considered in detail in a concurrent review being undertaken by the Queensland Government.<sup>36</sup>

This Review does not seek to assess the policy and legal principles being considered in the government's review to a similar level of depth and detail, but rather focuses on the specific elements of the Acts that impact the operations of OIC. The findings below are made in relation to OIC's ability to manage its workload in a timely and effective manner.

#### Key findings

#### 6 The ability for OIC to accept privacy complaints at its discretion, without reference to a statutory time period, would allow a more effective use of resources.

Section 166 of the IP Act currently prevents privacy complaints being made to the Information Commissioner within 45 business days of initial complaint to the relevant agency. Both OIC and agencies considered this an onerous period of time that needs to elapse before a matter can be referred to OIC. An applicant who receives a timely response to their complaint may be obliged to wait for over two months before they can apply to the Information Commissioner. Early submission must be declined by OIC, a process that results in time imposts and complainant frustration.

The corollary of this is that the Information Commissioner is obliged to review complaints submitted after 45 business days, regardless of the manner in which an agency is handling the initial complaint. Where an agency is effectively managing a complaint, lodgement with OIC is considered premature, with resource implications.

#### 7 Responsibility for the collection and collation of agency compliance reporting can more effectively reside within OIC.

It is a requirement of the current legislation that the administering Minister prepare an annual report on the operation of the RTI Act and IP Act.<sup>37</sup> Responsibility for the collation of this information currently lies with the Department of Justice and Attorney-General. Once a year, agencies are given a two week window of time in which to collate and submit the information necessary to inform this report.

The time and resources required to collect and submit performance data is significant, and its value is uncertain; both OIC and agencies did not consider it a meaningful representation of their activities under the Acts. The metrics reported on, and the distance in time from recording to publication, limit the value this information provides to effective planning and management of activity.

<sup>36</sup> Review of the *Right to Information Act 2009* and *Information Privacy Act 2009*, Department of Justice and Attorney-General

<sup>37</sup> Section 185 of the RTI Act and section 194 of the IP Act

This Review recommends that OIC be given responsibility for the collection and collation of performance reporting under the Acts. This provides an opportunity to review both the metrics reported on<sup>38</sup> and the process through which they are collected, to maximise value and timeliness, and minimise collection effort.<sup>39</sup> The collection and collation of relevant Privacy Act metrics at an agency level can also be incorporated into this process. Adequate resourcing to take on responsibility for this activity should be provided to OIC as part of this change in responsibility.

### **Recommendations**

- c. OIC be given the legislative ability to accept privacy complaints at its discretion, without reference to a time period.
- d. OIC be funded and supported to administer the collection and collation of performance reporting by agencies under the Acts. Reporting requirements should be rationalised to maximise value and minimise collection effort.

### **3.2.2 OIC role clarity and independence**

#### **Key findings**

#### **8 The inherent conflict in OIC's dual advisory and decision making role is managed appropriately and effectively, within both internal operations and external engagement.**

This Review considered the extent to which conflict, or the perception of conflict, exists between OIC's role as a source of advice and guidance on legislative compliance, and its power to make subsequent determinations on applications.

Despite the inherent tension between these roles, agencies and other external stakeholders consulted were consistent in their view that the potential for conflict was addressed effectively within the structure and practices of OIC. The independent nature of OIC, and the rationale for its separation of functions, was understood and appreciated by agencies. Stakeholders interviewed made frequent references to the professionalism with which OIC representatives engage with them, such that no perceptions of conflict are created.

Internally, a clear demarcation between advice and decision making is maintained to restrict potential conflict. These functions have separate reporting structures, and the sensitivities between these duties are well understood and professionally respected. OIC emphasises, and agencies understand, that all guidance and advice is not to be considered legal advice. Disclaimers to this effect accompany the provision of email and phone advice. Further, the non-specific nature of advice guards OIC from the potential for future conflicts in the review process.

It is noted that OIC does not have a specific policy or guiding document that sets out how it manages the potential for conflict of interest. There is value in establishing such a policy, to provide information to external stakeholders on the approach and measures in place to mitigate against conflict. Clear advocacy of such policy will assist OIC to proactively manage instances where agency or applicants may dispute the independence of its advisory and decision making function in future.

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<sup>38</sup> Revision of performance standards and measures should address the extent to which current service metrics contribute to the core objectives of the RTI Act and IP Act - promoting the right to government information and protecting personal information. Detailed guidance on effective planning, measuring and monitoring of results, and public reporting can be found in *A Guide to the Queensland Government Performance Management Framework* provided by Department of Premier and Cabinet in 2015

<sup>39</sup> For example, The New South Wales Information and Privacy Commission collates relevant agency metrics information through a digital platform which largely automates collection and reporting effort. (<http://www.ipc.nsw.gov.au/ipc-gipa-tool>)

**9 OIC's role under the Privacy act is clearly differentiated from other complaints agencies, and no evidence of duplication was identified.**

This review found that, from an agency perspective, OIC was clearly differentiated from similar government bodies. No perception of overlap or duplication was determined with like bodies, such as the Queensland Ombudsman, Queensland Audit Office, QCAT and the Anti-Discrimination Commission.

This Review did not consider potential issues with community complainants identifying the correct body to submit their privacy complaints to. To help clarify the nature of privacy complaints that OIC handles, OIC has a structured online checklist that an applicant must satisfy before a privacy complaint can be made.

***Recommendation***

- e. To address the perception of conflict of interest arising from performing the dual role of providing advice and making decisions, the OIC should formalise a Conflict of Interest policy to provide direction on how it manages the potential for conflict, and will respond in specific instances.

### 3.3 Strategy and culture

This section addresses the issues in relation to the following terms of reference:

Item	Terms of Reference
i	The strategic direction and the operation of OIC, including the organisational structure, skill profile and/or culture of OIC
p	Any other matters which impact on the strategic direction, economy, efficiency and effectiveness of OIC

#### 3.3.1 Strategic direction

##### Key findings

##### 10 OIC's strategic contribution to promoting government accountability and transparency are understood and valued across local and national jurisdictions.

Agencies report that the effectiveness of OIC in discharging its functions has significantly advanced the maturity of RTI and privacy practices across the Queensland agency landscape. Nationally, other jurisdictions consider OIC a progressive organisation in the promotion of right to information and privacy principles, and its strategic initiatives and operational practices are looked to as sources of good practice.

In support of this, OIC maintains a strong focus on emerging themes and issues within the RTI and Privacy arena. Conversations with OIC leadership have demonstrated their focus on staying abreast of emerging technology and policy-driven trends and issues. This is of particular importance in regards to information privacy given the radically changing digital landscape, and OIC team are looked to as a source of advice and authority as novel issues arise. A notable example is the contribution OIC has played in relation to the introduction of new digital formats, such as CCTV digital video, body worn cameras and drones, through its issue-themed review on camera surveillance.<sup>40</sup>

##### 11 OIC has a clear strategic direction, and maintains a regular, effective and collaborative planning process.

Structured internal planning processes are in place that engage OIC staff and are clearly communicated across the workforce. OIC staff are formally engaged with the annual strategy formulation process, and are responsible for co-creating the strategic and operational plans. As a result, the focus areas and goals from these plans are well understood by staff.

While the strategic and operational plan currently reflects OIC's roles and responsibilities under the Acts closely, they can be considered transactional in nature, and there is potential to enhance these plans into more action-orientated tools. The regular planning process could be enhanced through the inclusion of more specific actions and multi-year initiatives to further the effective delivery of OIC strategy and goals.

#### 3.3.2 Organisational structure

##### Key findings

##### 12 The primary functions of OIC are clearly delineated and structured effectively within internal teams.

<sup>40</sup> Office of the Information Commissioner, 2015-16 Annual Report

The External Review team-based structure, with separate early resolution and review teams, is an effective model for application handling and decision making. The concerted effort of the Early Assessment and Resolution Team in particular is noted as highly effective in the informal resolution of matters. This model is highly regarded by other jurisdictions for its efficiency and effectiveness in resolving applications in a timely manner. Matters that cannot be resolved through an early intervention, progress to review teams following a structured prioritisation and allocation process, and existing reporting lines and management structure are appropriate to best manage this workflow. The Privacy function and the PMR function are similarly well structured, and appropriately delineated from other core functions. The PMR function is similarly well structured, and appropriately delineated from other core functions. As detailed in section 3.1.3, within the PMR function, the creation of a permanent PMR Director role would provide leadership and focus on continuous improvement within this function.

**13 A consolidated corporate service function can allow for more effective and focused resource use across OIC functions.**

As currently structured, the I&A and TSR teams provide a shared service offering to the specialised functional OIC teams (External Review, Privacy, PMR), however are located outside of the existing corporate service function. Based on our experience, relocating these functions to report into corporate services will allow a more targeted and efficient use of resources, introduce more appropriate reporting lines, and promote more effective collaboration across the corporate services function. This change will likely require a reclassification of the existing corporate services manager role into a director role, so as to reflect increase in management responsibility and accountability.

The OIC does not have a permanent finance officer, and it is recommended that this be addressed to ensure the timely and accurate provision of finance advice into management decision making, budgeting and planning purposes. More transactional administrative activity, including Finance and HR services, payroll, operational HR support, timekeeping, finance reporting and auditing were recently transferred to the Corporate Administrative Agency.<sup>41</sup> There remains a need for more timely and value adding financial advice and insight, and this can be more effectively met by an in-house finance officer.

The introduction of executive support should also be considered, to allow the Executive team to focus more fully on value adding internal activity and external engagement. The OIC commissioners are currently burdened with numerous administrative tasks that could be effectively handled by a dedicated executive support resource. This need was identified by Commissioners, and reinforced by OIC staff more broadly.<sup>42</sup> Agency representatives highlighted the value of more personal interaction with the Commissioners, and a shared resource in an executive support role will allow for more time to focus on strategic priorities.

**Recommendation**

- f. OIC restructure its corporate support services to consolidate all corporate services (including the Information and Assistance and Training and Stakeholder Relations teams) into the existing corporate services function, and provisions for an enhanced corporate services leadership role, finance officer role and executive support role be established.

**3.3.3 Culture assessment**

**14 OIC has an engaged and collegiate workforce, with a strong sense of purpose in their work, and a focus on positive outcomes for their clients.**

This Review found that strong leadership and internal relationships, and a clear commitment to the goals of underlying Acts, foster a 'sleeves rolled up' culture within OIC that overcomes inherent resource limitations. Staff interviews and workforce survey results evidence a positive, collegiate and supportive culture. Staff are engaged and empowered in the discharge of their responsibilities, and there is a clear sense of purpose derived from furthering the objectives of the RTI Act and IP Act.

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<sup>41</sup> A state government entity established to provide a range of corporate support services to Queensland Government agencies

<sup>42</sup> Based on OIC stakeholder consultations

External agency and stakeholder feedback has consistently reinforced these themes, and emphasised the professionalism of OIC staff. OIC culture promotes a consistently high standard of customer service, while maintaining due regard for the principles of fairness, due process and natural justice.

**15 High levels of staff turnover and job uncertainty present challenges to workforce stability**

A consistent theme in staff interviews was the impact that limited career progression opportunities has on workforce culture, and OIC's ability to retain valued staff. The specialised nature of OIC functions require highly knowledgeable, experienced, and suitably trained resources, however the small size of the organisation limits promotional opportunities.

OIC's historically high staff turnover rates<sup>43</sup> impact the stability of the culture internally and its ability to sustainability meet its targets. This further affects external stakeholders; agency interviews reinforced the importance of knowledgeable and consistent case management, and the delays and rework that a changing workforce introduce.

Replacing temporary position with permanent staff brings distinct benefits to an organisation (Refer to section 3.1.1). This Review recommends OIC develop an appropriate career progression strategy<sup>44</sup> for the retention and development of current and new resources. The strategy needs to be suitably funded and supported by relevant performance metrics aligned to OIC's vision and goals.

**Recommendation**

- g. OIC develop and implement an appropriately funded career progression strategy, in coordination with broader resource uplift needs identified in this Review (Recommendations a, b, f).

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<sup>43</sup> See Section 5.1.1 – Staff turnover rates reported at ~33%

<sup>44</sup> The Freedom of Information Commissioner Victoria has an appropriately funded and effective career progression strategy that can be looked to as a source of reference

## 3.4 Quality of service

This section addresses the issues in relation to the following terms of reference:

Item	Terms of Reference
e	Quality and clarity of decisions by the Commissioner and delegates
f	Community and agency access to OIC by Indigenous Queenslanders and remote agencies
g	The quality of and clarity of OIC guidelines and educational material on the RTI Act and IP Act
h	Appropriate protocols for communication by and with OIC, including with other agencies and the public
m	Standard and quality of service provided by OIC to agencies

### 3.4.1 Content and knowledge dissemination

OIC promotes awareness and understanding of the RTI Act and IP Act in the community and across government. Content and advice on recommended practice and emerging trends is provided through multiple channels, including online materials, webinars, face to face training, practitioner forums, conferences and advisory services.

#### Key findings

**16 The agencies value the usefulness of guidelines and appreciate the quality of online education material available to them.**

OIC assists agencies and applicants on the interpretation of RTI Act and IP Act by publishing user guides and case studies, and providing templates, checklists, and online audit tools. Agencies consider these information resources to be highly useful for reference and direction. Other jurisdictions also consider OIC's information offering as an industry benchmark in knowledge dissemination.<sup>45</sup>

These information resources are supplemented by quarterly practitioner forums that act as a platform for sharing knowledge and feedback on emerging RTI and IP issues. OIC collaborates with agencies to develop forum agendas that enable informed discussion of pertinent issues and complex topics. Feedback on practitioner forums as a means of promoting information awareness and best practices was consistently positive.

Agencies highly value the quality and efficacy of the annotated legislation developed and maintained by OIC, but this is not a comprehensive resource. The focus on informal resolution introduced under the new legislation in 2009 has meant that formal decisions are made less frequently, limiting the utility of past determinations as guidance on decision making. To help address this gap, OIC has recently begun to develop Case Summaries that provide context and decision rationale on certain cases resolved informally. This Review considers this a positive initiative, and expects that these summaries will help close the shortfall left by sparse decisions under the new legislation.

**17 OIC's training and stakeholder relations offering promotes agency effectiveness, however evolving agency needs require a more targeted offering.**

Agencies interviewed through this Review consistently commended the quality of training delivered by OIC. Basic training courses such as Fast Track Negotiation Skills and Better Decision Making courses are well regarded, and the online availability of these resources is seen as a resource-effective way of promoting this quality content.

<sup>45</sup> Based on consultations with other jurisdictions



Larger agencies feel that a stronger relationship with OIC would enable them to communicate their training requirements more effectively, allowing OIC to provide targeted courses that align with agency circumstances and maturity. In section 3.3.2, this Review recommended removing the administrative burden of executives, to allow that to bolster their relationships with agency representatives. This Review also recommends OIC strengthen its current training and stakeholder relationship model. For example, the recent partnership of OIC and Queensland Police Service (QPS) to co-create and deliver customised training and relationship development activities was received very positively. OIC can explore the potential for similar arrangements with other large agencies. This Review considers there is a merit in conducting a training and engagement needs analysis across agencies to identify specific requirements and co-ordinate effort effectively.<sup>46</sup>

### **Recommendation**

- h. A formal training and engagement needs analysis be conducted across agencies, and an appropriate training and stakeholder engagement strategy be developed and suitably funded.

### **3.4.2 Service and communication proficiency**

#### **18 Enquiry and privacy advice services exceed customer expectations regularly and have improved the relationship between OIC and agencies.**

Agencies and other jurisdictions acknowledge the professionalism of OIC's customer facing teams and advocate their collaborative approach towards sharing knowledge and resources. This Review found the enquiry service to be highly effective in resolving a diverse array of queries with 72% of applicants stating that OIC has the knowledge to answer their questions.<sup>47</sup> There is a consistent view that the advisory staff are efficient in responding to requests and directing clients to appropriate knowledge sources. There is an acknowledgement of better service from OIC after the introduction of the RTI Act and IP Act, and agencies were consistently positive on the collaborative manner in which OIC has worked with them, particularly in more recent years.

External stakeholders were consistent in their positive feedback regarding the competency and helpfulness of the Privacy unit to discharge its function, with 100% of agencies satisfied with the service in 2015-2016.<sup>48</sup> The Privacy unit has helped foster strong relationships with agencies through general privacy awareness sessions and specific advice on projects and programs. This has led to a greater awareness of privacy compliance obligations, and the value of early engagement of OIC on privacy related initiatives.

#### **19 Providing agencies with application status information can increase visibility and transparency, and improve agency productivity.**

The OIC External Review Team regularly communicate with agencies on application status. However larger agencies considered there would be benefit in more regular and structured application status reporting. There is an agency perception of variability in communication from OIC, with periods of inactivity followed by sudden requests requiring quick agency responses. While agencies acknowledge that OIC is pragmatic with response deadlines and grants extensions regularly, there is an opportunity to provide more visibility on application status and upcoming requirements of agencies through regular application status reporting. Recent enhancements to OIC's case management system have introduced application status workflow fields, and the potential for automated status reports to be produced and distributed to agencies should be explored.

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<sup>46</sup> As an example, the Freedom of Information Commissioner, Victoria recently undertook a training needs survey initiative across agencies in Victoria, the results of which provided key insights around the type, frequency and preferred method of training and engagement desired by agencies

<sup>47</sup> Based on stakeholder consultation and 2015-16 applicant survey results

<sup>48</sup> Office of the Information Commissioner, 2015-16 Annual Report

**20 Positive efforts to support rural and remote communities can be further strengthened through a more targeted engagement approach**

OIC maintains a clear focus on the provision of advice and support to rural and regional agencies and individuals, to improve compliance with the legislation and increase awareness of information rights and responsibilities. This has involved regular on-site meetings and training sessions with remote agency leadership and staff, the development of specific guidance and resources to regional and remote community members, regular local forum attendance and engagement with local media presence, and formal regional engagement and community consultation projects. Specific initiatives are complimented by OIC activity more broadly, such as agency performance reviews, practitioner forums, and the development of online guidelines, tools and training modules.

OIC, along with other jurisdictions consulted, acknowledge the challenges involved in maintaining a presence and fostering relationships with stakeholders in rural and remote settings, particularly given resource limitations. OIC plans to continue to address this issue through further investment in their online information and resources.

This Review finds there is an opportunity to focus and build current engagement efforts through the development of a formal regional and remote engagement strategy. This can be informed by a training and engagement needs analysis, consistent with recommendation h., with feedback used to develop a focused, tailored and resource-effective approach to meeting communication requirements and training needs.

**21 RTI decisions are clear and concise, and present a valuable source of information and reference for agency staff.**

OIC publishes case decisions whenever a case requires formal written determination and clarity of these decisions is valued by agencies and applicants. Consultations reinforce that post 2009 OIC has consistently produced decisions that are less verbose, use natural language and provide clear guidance on determinations. Three quarters of applicants stated that OIC publications were clear and and that they understood its decisions.<sup>49</sup> As noted in 3.4.1, the frequency of written determinations has reduced under the new legislation. To help address this gap, OIC is developing case summaries for cases that are resolved informally.

***Recommendations***

- i. The potential for automated application status reports to be produced and distributed to agencies should be explored.
- j. A formalised remote communications and engagement strategy should be created to help OIC further engage remote communities and agencies.

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<sup>49</sup> Office of Information Commissioner, 2015-16 applicant survey results

# 4 Appendix

## 4.1 List of stakeholders

### 4.1.1 Internal OIC consultations

#### Name

Acting Information Commissioner

Right to Information Commissioner

Privacy Commissioner

Representatives of Information and Assistance Team

Representatives of Training and Stakeholder Relations Team

Representatives of Performance Monitoring and Reporting Team

Representatives of Privacy Team

Representatives of Corporate and Executive Services Team

Representatives of the External Review team

### 4.1.2 External consultations

#### Name

University of Queensland

Brisbane City Council

Department of Communities, Child Safety and Disability Services (QLD)

Department of Environment and Heritage Protection (QLD)

Department of Justice and Attorney-General (QLD)

Queensland Police Service (QPS)

Seven Network

Department of Health (QLD)

**Other Jurisdictions**

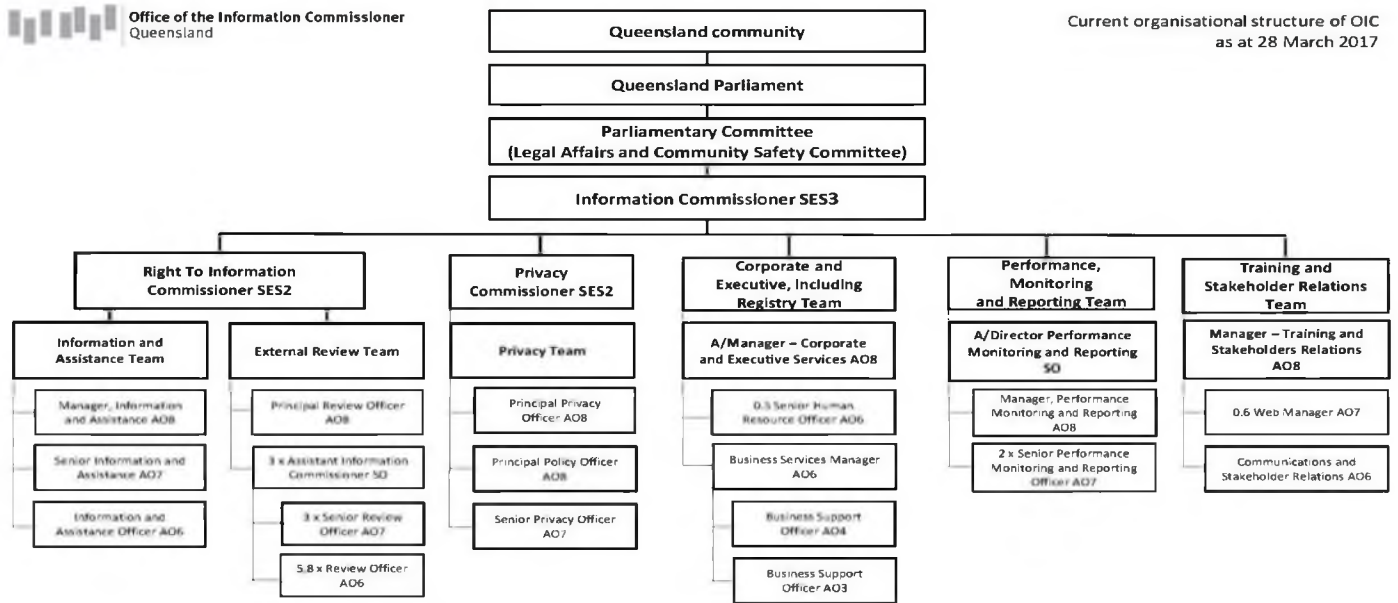
Information and Privacy Commissioner, New South Wales

Information Commissioner, Northern Territory

Freedom of Information Commissioner, Victoria

## 4.2 OIC organisational chart

The figure below illustrates the current organisation structure of OIC.<sup>50</sup>



Note: Structure does not include temporary positions not held against substantive positions.

<sup>50</sup> Provided by OIC, accurate as at 28 March 2017



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