OUR SERVICES
EXTERNAL REVIEW

Provide independent, timely and fair reviews of decisions made under the RTI Act and IP Act

Our strategies

- Resolve applications using flexible approaches
- Ensure quality resolution and decision making services by maintaining comprehensive case and knowledge management systems
- Determine external review applications through formal written decisions

Figure 8. External review service standards

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</thead>
<tbody>
<tr>
<td>Percentage of external review applications finalised to received</td>
<td>100%</td>
<td>98%</td>
<td>112%*</td>
<td>80%</td>
<td>95%</td>
<td>96%</td>
</tr>
<tr>
<td>Percentage of applicants satisfied with the conduct of the review</td>
<td>70%</td>
<td>74%</td>
<td>72%</td>
<td>73%</td>
<td>66%</td>
<td>56%†</td>
</tr>
<tr>
<td>Percentage of agencies satisfied with the review service provided</td>
<td>75%</td>
<td>90%</td>
<td>91%</td>
<td>92%</td>
<td>94%</td>
<td>98%</td>
</tr>
<tr>
<td>Median days to finalise a review</td>
<td>90 days</td>
<td>87</td>
<td>98</td>
<td>86</td>
<td>102</td>
<td>119</td>
</tr>
<tr>
<td>Percentage of open reviews at end of reporting period over 12 months old</td>
<td>0%</td>
<td>0%</td>
<td>6%</td>
<td>0%</td>
<td>0%</td>
<td>0.1%*</td>
</tr>
<tr>
<td>Percentage of external reviews resolved informally without a written decision, compared to the total number of finalised reviews</td>
<td>75%</td>
<td>91%</td>
<td>88%</td>
<td>88%</td>
<td>87%</td>
<td>92%</td>
</tr>
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</table>

* More applications were finalised than received during the reporting period due to carry-over from the previous period.
† Fifteen of the 51 surveys returned in total for 2018-19, from the 659 matters closed, expressed dissatisfaction.
See discussion in Feedback section on page 23.
* Two external reviews out of 263 matters on hand as at 30 June 2019.
Our work

The RTI and IP Acts enable us to review decisions of agencies and Ministers on access to and amendment of information under the RTI Act and IP Act. This also includes:

- identifying whether agencies and Ministers have taken all reasonable steps to locate relevant documents
- deciding applications for extensions of time to process access applications and whether the legislation applies to particular entities
- deciding whether a non-profit organisation is entitled to financial hardship status.

We attempt to resolve external review applications informally wherever possible, consistent with our requirements under the RTI and IP Acts to explore settlement of external review applications. The Information Commissioner may also suspend an external review at any time to allow the participants to negotiate a settlement. If an external review is resolved informally, the agency and applicant are advised that the review is complete.

Timely access to information is important for applicants and agencies and more broadly, and promotes transparency and accountability of government, including participation in decision-making, consistent with the objectives of the RTI Act. For these reasons, our systems focus on and maximise opportunities for early and informal resolution.

We achieve this by:

- seeking to narrow the issue in contention by obtaining background information from the applicant that may assist in identifying a focus of concern
- obtaining explanations from agencies about their recordkeeping systems and practices that may explain why certain information cannot be located or does not exist
- providing a preliminary view (PV) about how sections of the RTI and IP Acts apply to the information in issue.

If, however, a formal decision is required to finalise the review, it replaces the agency’s or Minister’s decision by affirming, varying or setting aside the original decision.
The External Review Leadership team comprises the Right to Information Commissioner and the three Assistant Information Commissioners. The Registry team within Engagement and Corporate Services provide significant support for external review teams. Our small team structure, incorporating an intake Early Assessment and Resolution team (EAR team), maximises opportunities for informal and early settlement of external reviews.

All new applications commence in the EAR team where they are jurisdictionally assessed and the issues, documents and parties identified. Our EAR team resolved 307 out of 659 matters finalised in 2018-19 with those matters being open on average for only 76 days each. Also, 75 percent of all EAR team closures were made within 90 days.

External review matters allocated from EAR team to Review Teams 1, 2 or one of the two Principal Review Officers who report directly to the Right to Information Commissioner, incorporate those matters with significant legal complexity, voluminous documents requiring assessment and participants often entrenched in their position. While those matters take considerably more time to undertake, the majority continue to be resolved informally. During this financial year, 604 (92%) out of a total 659 matters finalised were resolved informally.
Review allocation decisions are made by the External Review Leadership team and optimise the matching of available staffing resources to reviews on hand. The process is twofold. It involves a weighting process which reflects the likely quantum of work within a review based on certain indicia (for example complexity of issues, volume of documents, nature of the parties) and a grading process which reflects the level of skill and experience required to progress the review effectively and efficiently.

Case study

Resolution of multiple applications involving the same applicant and agency

The applicant was a community group that had raised concerns with the agency about a number of issues primarily relating to operational matters, infrastructure projects, public safety and associated costs. The applicant made several applications to the agency for access to documents about the issues of concern. However, it appeared as though relations between the applicant and the agency became strained, impeding effective communication about making and processing applications. We received multiple external review applications from the applicant and sought to find avenues to work with the parties to facilitate the applicant obtaining access to documents.

We achieved informal resolution of the external review applications by:

- conveying a preliminary view to the applicant about the agency’s entitlement to refuse to deal with the access applications
- drafting suggested new (compliant) wording on the scope of each application
- obtaining the agency’s agreement to process fresh access applications in these terms
- obtaining the applicant’s agreement to make staggered applications to resolve the agency’s concerns about the use of agency resources in processing numerous applications at a time.

We have not received any more external review applications from the applicant. This case demonstrates that delivering a better understanding of the process and presenting alternative options can achieve favourable outcomes for both parties.
Case study

Agency agreed with our preliminary view to disclose conflict of interest information

The applicant sought access to registered declaration of interest information pertaining to an officer of the agency. The applicant alleged that the operations of private businesses owned by the officer conflicted with the functions of the agency. The employee was consulted and objected to disclosure of the declaration of interest documentation on privacy grounds. The agency decided to refuse access to the requested information on the basis that disclosure would, on balance, be contrary to the public interest.

We formed the preliminary view that disclosure would significantly enhance the agency’s accountability and transparency in that it would demonstrate the agency had received a declaration from a public servant regarding a potential conflict of interest and the steps the agency took to manage and monitor the identified conflict. We also considered that the disclosure factors outweighed the officer’s privacy because public sector officers must expect a level of public oversight and transparency in their compliance with statutory obligations. On balance, we formed the view that the public interest factors favouring disclosure were determinative in this case. The agency and consulted third party did not contest our view and therefore, the declaration of interest information was released to the applicant, without a formal decision.

Written decisions

The Information Commissioner must publish written decisions. These decisions, and reasons for decision, are available on our website. We made 55 formal written decisions in the reporting period. This represents a decrease of 30 percent in the number of written decisions from the previous year and is reflective of the preparedness of review participants to settle their external review, following careful and clear explanation of relevant issues and application of alternative dispute resolution techniques by external review officers.

Figure 12. Number of written decisions made

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<td></td>
<td>37</td>
<td>48</td>
<td>50</td>
<td>78</td>
<td>55</td>
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Appeals

An external review participant is able to appeal to Queensland Civil and Administrative Tribunal (QCAT) against a decision of the Information Commissioner on a question of law.

We strive to provide independent, timely and fair review of decisions made about access to, and amendment of, information and cannot predict what proportion of our decisions or what matters are likely to be appealed. Each decision turns on its own particular facts and circumstances however, with increasing numbers of reviews being undertaken a corresponding increase in appeals is possible.

Applicants often report to us that they may appeal to QCAT as a matter of principle because they are personally aggrieved by the circumstances surrounding their access request and disagree with the content of the RTI or IP Acts as opposed to how we applied the legislation to the facts and circumstances of their matter. Exercise of the full suite of review rights open to an applicant is a matter for each applicant to consider. Twelve appeals were lodged in 2018-19, compared to 11 in the previous year.

Judicial review of decisions

The Queensland Supreme Court under the Judicial Review Act 1991 may judicially review written decisions of the Information Commissioner.

No applications for a statutory order of review were made to the Supreme Court during 2018-19.

A timely external review service

In 2018-19 we received 687 applications, an increase of 30 percent in two years. Despite the largest amount of applications received in 10 years, our officers finalised 659 applications. This represents a near 100 percent result in the percentage of applications received to finalised, which is a significant measure of efficiency and performance by our officers in the circumstances. This has been achieved with the same resources on hand, a collaborative small team-based approach to work allocation and a culture of continuous improvement. Demand for external review services in 2018-19 is now double the demand in 2008-09 (340) at the commencement of changes introduced by the RTI and IP Acts.
This year, our performance in finalising applications against our timeliness measurement for early resolution decreased slightly in an environment of a substantial increase in incoming external review applications, their growing complexity and other factors that are outside our control. This is reflected in two service standards that we have not met:

- median days (119 days)
- reviews older than 12 months at the end of the reporting period (0.1%—two reviews).

Not meeting the timeliness target has also impacted applicant satisfaction with the review process. However, it is noted that only 51 survey responses were received from the 659 matters completed and conflation of outcome and service issues affects survey outcomes (see Feedback section on page 23).

Significant contributors outside our control that have influenced timeliness include:

- dealing with large volumes of documents
- dealing with challenging behaviour of applicants
- sufficiency of search issues at the agency level
- agencies seeking multiple/lengthy extensions of time
- parties who do not wish to negotiate a settlement and require a formal written decision.

Following the meeting, we telephoned the applicant and conveyed the information obtained from Council about its search processes, locations searched and Council’s reasons for concluding that no documents existed. We also conveyed a preliminary view that Council had taken all reasonable steps to locate documents in response to his application. The applicant was satisfied with the further information we had obtained about Council’s searches and recordkeeping practices, and agreed to finalise the review.
With no backlog and all current matters being actively progressed, we are in a strong position moving into the new financial year. We will continue to manage our resources in line with increasing demand and complexity of issues but recognise timeliness remains a challenge in an evolving environment. Looking ahead, we will work efficiently to maximise fast and fair settlement of reviews, and explore innovative ways to manage and perform our work.

Key decisions

Formal decisions cover a diverse range of information and legal issues as the summaries below demonstrate. This matrix offers a varied and complex jurisdiction. Full decisions mentioned below can be accessed on our website.

**TFN20S and Gold Coast Hospital and Health Service [2018]**

QICmr 37 (20 August 2018)

The applicant sought access to the medical records of her deceased sister. The records comprised clinical assessments, progress notes and observations, treatment and management plans, medication records, test reports, social worker notes and notes recording the deceased’s comments about her health and emotions, observations of her health and living circumstances and relationships with family, friends and personal details of these individuals.

A central issue on external review was whether the applicant was what is known as an eligible family member under Schedule 5 of the RTI Act. If the applicant was an eligible family member then a factor favouring disclosure would apply in the applicant’s favour. The term is defined in a hierarchical way that is, a spouse of the deceased person, then adult child, then parent of the deceased, adult sibling etc.

In this case, the deceased had no spouse or adult child at the date of her death and while her biological parents were deceased, her stepfather was still living. The decision reviews the position of step-parents in other areas of law and found that in circumstances where the deceased is an adult, whether a step-parent can be considered a parent for the purposes of the eligible family member definition turned on the nature of the relationship between step-parent and adult child. In particular the extent of the familial connection and involvement.

It was found that the stepfather was not an eligible family member in this case, and the applicant as a proven adult sibling of the deceased was next in the hierarchy of eligibility. On this basis, the relevant factor favouring disclosure was enlivened. It is noted that despite its application, the factor attracted low weight given evident estrangement between the applicant and her deceased sister in the medical records and the express wishes of the deceased.

**R59NHS and Department of Transport and Main Roads [2019]**

QICmr 17 (14 May 2019)

The applicant applied for access to documents concerning a marine accident involving the applicant’s vessel and his request regarding navigation aids. The applicant sought external review in relation to those parts of 425 documents and 85 audio recordings to which access was refused and he also expressed concern that not all documents had been located. The decision made findings on three separate issues after lengthy assessment of the information in issue; that some documents were outside the scope of the access application and were therefore excluded from consideration on review, access to other information may be refused on grounds that its disclosure would, on balance, be contrary to the public interest and access to the information claimed to have not been located could be refused on grounds that it did not exist.
F70SMF and Department of Natural Resources, Mines and Energy [2018] QICmr 39 (25 September 2018)
The applicant applied to the then Department for access to information about certain valuers employed by the Department, valuations conducted by the Department and communications between the Department and other entities including the Australian Property Institute (API). The applicant had a history of grievances with the valuation of his property and had made several complaints to regulatory bodies including the API. After agreeing to exclude certain information from further consideration, remaining information in issue comprised what was said by the valuer and Area Manager in their correspondence to API. In balancing the relevant factors, the decision maker noted that a substantial amount of information had already been disclosed about the Department’s valuation process. It was found that factors favouring disclosure carried low to moderate weight—the applicant had a right to access his personal information and disclosure of the valuer’s correspondence to API would, to a limited extent, enhance the accountability and transparency of the Department, and somewhat contribute to administration of justice for the applicant.

However, it was also found that there was an identifiable public interest in safeguarding the valuer’s privacy and his non-routine personal work information, and avoiding disclosure of information about unsubstantiated allegations. On balance, the weight of the nondisclosure factors was determinative and access to the valuer’s correspondence was refused under section 47(3)(b) of the RTI Act. Access to the Area Manager’s letter was also refused on similar reasoning.

P4F8XC and Metro North Hospital and Health Service [2018] QICmr 41 (8 October 2018)
The applicant was referred to the Community Forensic Outreach Service (CFOS) for assessment of his mental health. The applicant later applied to the Metro North Hospital and Health Service for access to the Mental Health Assessment Report completed by CFOS following the assessment. The Health Service decided to refuse access to the report on the ground its disclosure might be prejudicial to the mental health and wellbeing of the applicant under section 51 of the RTI Act. Access to the Area Manager’s letter was also refused on similar reasoning.

Applications for financial hardship status
Under section 67 of the RTI Act, a non-profit organisation may apply to the Information Commissioner for financial hardship status. The decision that a non-profit organisation has financial hardship status has effect for one year from the date of the decision and means the processing or access charge is waived. If the organisation has any substantial improvement in its financial circumstances it must notify the Information Commissioner. Conversely if financial hardship status is not given and the organisation’s financial status deteriorates, it may make a further application for financial hardship status.

During 2018-19 the Information Commissioner received 10 applications from non-profit organisations for financial hardship status and nine were granted with one received close to the end of the 2018-19 financial year still being considered. Organisations that have been granted financial hardship status are listed on our website, including the date of the decision.

Applications and decisions to declare a person vexatious
No application or decision to declare an applicant vexatious under the RTI Act or IP Act was made during 2018-19.
Improving our service

Evaluation
In 2018-19 we undertook the following evaluation focused on our external review service:

• At the closure of every external review, the file is reviewed to consider whether our information resources or annotated legislation need to be modified to reflect a new interpretation of the RTI and IP legislation, or consolidated to reflect a more extensive example of how the legislation may be interpreted in certain fact scenarios.

• We developed and implemented a new external review allocation framework to ensure the optimal matching of available staffing resources to external reviews on hand and also to ensure an equitable distribution of workload across all teams and officers within external review.

• We maximised our use of available internal technology to streamline the conduct of internal meetings and the peer review and quality control of documentation.

• We reviewed and updated internal practice manuals for external review officers to ensure efficient and consistent processes and procedures.

• We continue to develop a strong mentoring culture to ensure the professional skills of review officers continually evolve, staff satisfaction levels are high and experienced staff are retained.

Stakeholder engagement
In 2018-19 we undertook the following stakeholder engagement focused on our external review service:

• We liaised with agency officers on specific issues that arose as a result of the conduct of external reviews.

• We published a short video explaining the structure of the external review team and the external review process. This online tool serves to assist our stakeholders in understanding our role as well as in understanding the limits on our role and jurisdiction.

• We participated in awareness and training exercises and delivered decision writing and negotiation skills training in collaboration with officers from across our office.

• We continued participating in quarterly RTI and IP practitioner forums to present on issues under the RTI and IP Acts that arise from time-to-time and impact a wide group of agencies.

• We continued to collate and publish monthly case summaries demonstrating examples of external reviews resolved informally. These summaries serve to encourage agencies to engage with applicants to ensure effective access to information and also build an understanding of how we perform our role.

Feedback
We consider all feedback about our external review services to determine if our processes or procedures were applied fairly and correctly. It is not uncommon for applicants to be disgruntled and aggrieved with agency decisions about access to information well before they take the step of making an external review application, especially when applying for personal information under the IP Act about, for example, workplace disputes, neighbourhood disputes, health related concerns and interactions with law enforcement agencies. We work hard to explain the limits of our role and manage applicants’ expectations of the review process. Frequently applicants conflate the legal issues in a review, that is, how the RTI and IP Acts apply to refused information in a review, with the process of the review itself. We will continue our efforts to communicate with applicants effectively in this regard, and have for example refreshed the information sheet distributed to applicants upon acceptance of their application to more clearly explain what to expect on external review. At the same time we continue to ensure that our staff are supported and trained in how to best manage difficult or challenging behaviours they encounter.

As in previous years, conflation of outcome and service is reflected within the 15 survey responses which expressed dissatisfaction in the 2018-19 applicant survey. It is also noted that, in total, 51 applicant surveys were returned out of 659 external reviews finalised.
In contrast, agency satisfaction with the external review service has increased over the reporting period. We advocate for neither applicant nor agency in our independent role but emphasis on clearer and practical communication with all stakeholders is a continuing priority.

**Figure 17. Percentage of applicants (who provided feedback) who were satisfied with the conduct of the external review—target 75%**

<table>
<thead>
<tr>
<th>Year</th>
<th>Satisfied %</th>
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<tbody>
<tr>
<td>2014-15</td>
<td>74%</td>
</tr>
<tr>
<td>2015-16</td>
<td>72%</td>
</tr>
<tr>
<td>2016-17</td>
<td>73%</td>
</tr>
<tr>
<td>2017-18</td>
<td>66%</td>
</tr>
<tr>
<td>2018-19</td>
<td>56%</td>
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</tbody>
</table>

* Fifteen of the 51 surveys returned in total for 2017-18, from the 659 matters closed, expressed dissatisfaction.

**Figure 18. Percentage of agencies (who provided feedback) who were satisfied with the conduct of external reviews—target 75%**

<table>
<thead>
<tr>
<th>Year</th>
<th>Satisfied</th>
<th>Target</th>
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</thead>
<tbody>
<tr>
<td>2014-15</td>
<td>90%</td>
<td>75%</td>
</tr>
<tr>
<td>2015-16</td>
<td>91%</td>
<td>75%</td>
</tr>
<tr>
<td>2016-17</td>
<td>92%</td>
<td>75%</td>
</tr>
<tr>
<td>2017-18</td>
<td>94%</td>
<td>75%</td>
</tr>
<tr>
<td>2018-19</td>
<td>98%</td>
<td>75%</td>
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**10 years on**

In this anniversary year since the introduction in Queensland of the RTI and IP Acts, it is worth reflecting on the number of applications received by agencies per sector as set out in our Report Number 5 to the Queensland Legislative Assembly for 2018-19. The sectors are government departments, local governments, hospital and health services (HHSs), government-owned corporations (GOCs), universities and TAFE (Uni/TAFE) and other agencies established by government for a public purpose who are subject to the RTI and IP Acts.

**Figure 19. Applications received by agencies per sector**

- **Government departments**: 50%
- **GOCs**: 32%
- **Local government**: 7%
- **Uni/TAFE**: 1%
- **Other agencies**: 1%
- **HHSs**: 10%

*Sources: Department of Justice and Attorney-General’s Right to Information Act 2009 and Information Privacy Act 2009: Annual Report 2017-18*

Most formal access applications are received by two sectors under the RTI and IP Acts. Queensland government departments receive 50 percent of the access applications. The 16 HHSs receive 32 percent of applications. The reach of government departments and HHSs into the lives of Queenslanders, including the extent of daily interactions, issues of broader community interest, and personal information held, reflects these results.

The Queensland Information Access Study 2019 of community attitudes about information access support this with 87% of respondents placing a high value on having the right to access information held by Queensland government agencies, with almost half stating this right was very important to them. (Refer to page 38 for more findings from the Information Access Study 2019.) As individuals become increasingly aware of their access rights their preparedness to make access applications would seem to also increase. ‘Individuals’ have consistently remained the highest category of applicant type at OIC over 10 years and this reflects the high number of IP Act external review applications we receive. As they largely pertain to issues of a personal nature, the information caught by these types of applications does not lend itself to push model strategies that maximise proactive disclosure of information; an object of the RTI regime. Our external review function remains an important mechanism by which to review sector decisions about access to and amendment of information.

As noted above, in 2018-19 we received over twice the number of external review applications we received in 2008-09, prior to the policy changes introduced by the RTI and IP Acts. Applications are also more complex. Simple matters of jurisdiction dealt with ten years ago are now generally dealt with by our Enquiries Service. Many matters are now also being released proactively or administratively by the agency, consistent with the push model. More mature decision-making by agencies also results in less straightforward reviews.

“Thank you for your good works (sic) on these matters… and heaven knows where we would be as a society without such offices. A very professional job and I take my hat off to you all.”

Feedback from an external review applicant
PRIVACY ADVICE AND COMPLAINT MEDIATION

Assist agencies to achieve compliance with the privacy principles

Our strategies
- Promote privacy by design and privacy impact assessments, including training, guidance and tools
- Provide independent expert advice and assistance to agencies
- Promote agencies’ early engagement of our privacy services
- Determine whether it is in the public interest to approve waiver applications through formal written decisions
- Issue compliance notices when justified to ensure compliance with the privacy principles

Provide an independent, timely and fair privacy complaint mediation service

Our strategies
- Promote within agencies a culture that recognises the benefit of early resolution of privacy complaints through mediation before formal QCAT proceedings
- Engage with complainants to explain the process, our role and manage expectations

Figure 20. Privacy advice and complaint mediation service standards

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<tbody>
<tr>
<td>Percentage of agencies satisfied with the privacy complaint mediation service provided</td>
<td>75%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>88%</td>
<td>100%</td>
</tr>
<tr>
<td>Mean average days to finalise an accepted privacy complaint</td>
<td>140 days</td>
<td>123 days</td>
<td>83 days</td>
<td>146 days</td>
<td>157 days</td>
<td>157 days</td>
</tr>
<tr>
<td>Number of consultations and submissions*</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>33</td>
</tr>
<tr>
<td>Number of advices and meetings*</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>296</td>
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* This service standard changed in 2018-19 financial year. The previous service standard was “Number of advices, consultations and submissions”
* This service standard changed in 2018-19 financial year. The previous service standard was “Participation in meetings, regional visits and information sessions”
The IP Act creates a right for individuals to access and amend their own personal information, and provides rules for how Queensland public sector agencies must handle personal information. We have a responsibility to assist agencies to comply with these rules.

Our activities in relation to privacy can include:

- providing expert privacy advice and assistance
- mediating privacy complaints
- considering applications for approval to waiver or modify privacy principle obligations in the public interest
- issuing compliance notices.

Providing agency advice and assistance

A key activity in this service area is to assist agencies to achieve compliance with the privacy principles. This assistance ranged from providing verbal and written advice on privacy issues through to more detailed and often ongoing consultation on agency projects and programs, and active participation on working groups and specialist committees. In some cases advice and assistance was provided to other sectors, including where they provide services to government agencies and need to comply with the privacy principles.

In 2018-19 we provided 156 advices to government and private sector organisations and the community. We also undertook 13 new consultations with state, national and local government agencies on new agency programs and projects and made 12 formal submissions to parliamentary inquiries, commissions and Queensland and Australian Government on matters relating to information privacy.

In addition to these advices, we participated in 140 meetings on a range of privacy related matters as well as regional visits and information sessions featuring privacy issues which are included in our OIC awareness activities within the Assistance and Monitoring section of this report.

We assess Bills for their potential to impact on privacy rights. If appropriate, we make submissions to Parliamentary Committees on these issues and appear before Parliamentary Committees when requested. In 2018-19 we made 12 formal submissions to parliamentary inquiries, commissions and to the Queensland Government and the Australian Government which included:

- submission to the Queensland Law Reform Commission’s civil surveillance and privacy review providing our position in response to questions posed in the Consultation Paper
- submission to the Queensland Parliamentary Education, Employment and Small Business Committee on the interaction of the Information Privacy Act 2009 with relevant provisions of the Working with Children (Risk Management and Screening) and other Legislation Amendment Bill 2018
- submission to the Department of Prime Minister and Cabinet on the new Australian Government Data Sharing and Release Legislation: Issues paper for consultation.
- submission to the National Transport Commission in response to its discussion paper on regulating government access to C-ITS and automated vehicle data, highlighting some of the privacy concerns we identified need to be considered in the design of policy, legislation and operational systems.
• submission to the Senate Community Affairs References Committee’s inquiry into the My Health Record System focusing on potential privacy impacts

• submission to the Department of Home Affairs regarding potential privacy issues relating to the Telecommunications and Other Legislation Amendment (Assistance and Access) Bill 2018 as part of the Australian Government Department’s public consultation on the exposure draft of the Bill.

A range of agencies consulted us on the privacy aspects of initiatives involving the collection, use and disclosure of personal information, and schemes involving the sharing of personal information, such as video footage and health records.

**Points of interest**

We continued to monitor international, national and local issues and trends in relation to privacy. The Privacy Commissioner attended the 50th meeting of the Asia Pacific Privacy Authorities (APPA) in Wellington, New Zealand in December 2018. This forum provided insights to many similar data protection and privacy organisations across the Asia Pacific Region. It also featured presentations from the United Kingdom Privacy Commissioner about the implementation of reforms in the United Kingdom privacy jurisdiction following introduction of the General Data Protection Regulation in Europe.

The adoption of new technology featured strongly across APPA jurisdictions with many considering adoption of artificial intelligence and data analytics and impacts on privacy and other human rights.

We submitted a jurisdictional report on Queensland and played an active role in the meetings and discussions chaired by the British Columbian Privacy Commissioner.

We also hosted a meeting of all Australian Privacy Authorities in Brisbane in April 2019 and co-hosted an event with Clayton Utz involving the Australian and Victorian Information Commissioners, and New South Wales Privacy Commissioner, highlighting emerging issues and challenges in the privacy regulatory environment.

**Privacy complaint resolution**

An individual who believes an agency has not dealt with their personal information in accordance with the privacy principles set out in the IP Act may make a complaint to the agency. If, after 45 business days, they are dissatisfaction with the agency’s response, they may bring their complaint to us. We conduct preliminary enquiries to determine if we are authorised to deal with the complaint under the IP Act. Where we are authorised, our role is to attempt mediation of the complaint. If the complaint is not able to be resolved through mediation, then the individual may request we refer it to QCAT.

In 2018-19 we received a record 94 privacy complaints and finalised 92. These figures represent a significant increase on previous reporting periods which we will monitor. We consider one likely cause is increased public and stakeholder awareness with continuing local and international media scrutiny on high profile and large, multinational data breaches.

Our role during mediation is to facilitate both parties to the complaint to find an outcome that resolves the matter. In 2018-19 we accepted 13 privacy complaints. We also successfully mediated 9 complaints.
The reasons that the Information Commissioner may decline to deal with a privacy complaint and/or decide not to accept a privacy complaint fall into the following categories:

- Not authorised to deal with the privacy complaint. For example, no jurisdiction:
  - the respondent was not an agency as defined in section 18 of the IP Act; for example the entity complained about was a Commonwealth Government agency or a private sector organisation that was not providing contracted services in Queensland
  - the privacy principles do not apply to the document of the entity or in relation to a particular function of the entity, or the agency complained about is an exempt agency under Schedules 1 and 2 of the IP Act
  - the act or practice being complained about is not in connection with the agency’s privacy obligations under the IP Act
  - it does not concern the personal information of the complainant.
- Had not met the requirements for a privacy complaint.
  - the complainant has not first complained to the relevant entity and given it appropriate time to respond.
- The Information Commissioner may decline to deal with or to further deal with a privacy complaint in circumstances including:
  - where 12 months have elapsed since the complainant first became aware of the act or practice the subject of the complaint
  - the complaint is ‘frivolous, vexatious, misconceived or lacking in substance’
  - there is a more appropriate course of action available under another Act to deal with substance of the complaint
  - although the complainant made the complaint to the respondent as required under section 166(3) of the IP Act, in the circumstances, the respondent has not yet had an adequate opportunity to deal with the complaint or part of the complaint.

Sometimes it is easy and quick to decide whether we should accept a complaint. Many other cases are more difficult to work through and require more information from the agency and the person who made the complaint. These factors are significantly outside our control. The IP Act currently gives us only limited powers of compulsion and action of our own initiative. There may also be more complex legal arguments involved.

Because we receive a small number of privacy complaints in a financial year period, a handful of privacy complaints that take longer can have a big impact on the overall timeliness of decisions. For example, in this reporting period, 13 percent of the complaints we received took over 100 days for us to make a decision whether to accept the complaint.

The complexity of the complaint combined with genuine practical reasons for slower responses by both agencies and complainants impacts on decisions to accept, as well as time to resolve and deal with complaints when they result in mediation.

Our target for finalising an accepted privacy complaint was adjusted to 140 from the previous 90 mean average days to reflect the experience over a number of years in dealing with complaints, ability to influence timeliness of participation of parties to the complaint mediation process, and increasing complexity of matters. Our result for 2018-19 was 157 mean average days, consistent with 2017-18. This year has seen continuing complexity as well as a significant increase in the number of complaints received.

Once we make a decision to accept a privacy complaint our primary responsibility is to ‘take all reasonable steps to cause the complaint to be mediated’ provided it appears that resolution could be achieved through mediation. Our role is not to make a determination unless it is regarding its role in issuing compliance notices. Ultimately, the time taken to finalise a privacy complaint substantially depends on the individual circumstance of each complaint and the participation and cooperation of the parties.

Mediation can require protracted negotiations between the parties who may not necessarily be in the same location, or otherwise available to meet in person. Most mediations occur remotely through postal correspondence, email and telephone discussions. It is not uncommon for delays to occur because of the unavailability of one of the parties. This means that we can influence, but not control, the timeliness of finalising an accepted complaint.
Where a mediated outcome for a privacy complaint is negotiated involving even a small amount of financial compensation, delays often occur in obtaining authorisation. We negotiated a mediated outcome in nine matters in this reporting period. This is a significant increase on the previous reporting period. The types of complaints that these negotiated agreements relate to are use of information that was out-of-date, unauthorised disclosure and unauthorised use. The agencies that were the subject of the complaints included five departments, two councils, a HHS and a public authority. None of the agreements have been certified at the request of the parties although all were recorded in writing.

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<table>
<thead>
<tr>
<th>Agency type</th>
<th>Privacy Principle(s) involved</th>
<th>Written agreement</th>
<th>Prepared by OIC</th>
<th>Certified</th>
<th>Nature of agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Council</td>
<td>IPP 1 Collection</td>
<td>No</td>
<td>No</td>
<td>N/A</td>
<td>Change in policies, practices</td>
</tr>
<tr>
<td>Council</td>
<td>IPP 8 Accuracy</td>
<td>No</td>
<td>No</td>
<td>N/A</td>
<td>Change in policies, practices</td>
</tr>
<tr>
<td>Department</td>
<td>IPP 11 Limits on disclosure</td>
<td>No</td>
<td>No</td>
<td>N/A</td>
<td>Change in policies, practices</td>
</tr>
<tr>
<td>Department</td>
<td>IPP 11 Limits on disclosure</td>
<td>No</td>
<td>No</td>
<td>N/A</td>
<td>Change in policies, practices</td>
</tr>
<tr>
<td>HHS</td>
<td>NPP 2 Collection</td>
<td>Not known</td>
<td>No</td>
<td>N/A</td>
<td>Financial compensation</td>
</tr>
<tr>
<td>Department</td>
<td>IPP 11 Limits on disclosure</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>Remedial action</td>
</tr>
<tr>
<td>Department</td>
<td>IPP 9 Use</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>Financial compensation</td>
</tr>
<tr>
<td>Public authority</td>
<td>IPP 11 Limits on disclosure</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>Financial compensation</td>
</tr>
</tbody>
</table>

Referral to QCAT
If during the course of the mediation it does not appear to the Information Commissioner to be reasonably likely that resolution of the privacy complaint could be achieved, the Information Commissioner must give written notice of this decision to the complainant and the respondent agency.
If subsequently asked by the complainant, the Information Commissioner must refer the privacy complaint to QCAT. In 2018-19, we referred three complaints to QCAT which is consistent with the number of referrals made in 2017-18.

We play a limited role in QCAT as we are not usually a party in privacy complaint proceedings.

Assessing waiver applications
Section 157 of the IP Act allows an agency or bound contracted service provider to apply to the Information Commissioner for approval to not comply with the privacy principles or to comply in a different way. Approval will only be granted where the Information Commissioner is satisfied that the waiver or modification is more strongly in the public interest than compliance with the principles.

We did not receive any applications for, nor make any decisions about, waivers or modifications of the privacy principles during 2018-19.
Case study

Privacy principles: IPP 11 – Limits on disclosure

A privacy complaint arose out of an anonymous complaint the complainant had lodged with a regulatory agency. The complainant had included photographs of a neighbouring property as supporting evidence of their regulatory complaint, together with the address of the property. The only contact details the complainant provided to the agency was an e-mail address.

The complainant advised us that as a result of their regulatory complaint to the agency, their identity had been disclosed to the owner of the property. This had resulted in the neighbour verbally abusing them, and continuing to intimidate them when they were in their yard.

The agency advised that its investigations into the initial regulatory complaint had included interviewing a contractor who had been working at the neighbouring property. A staff member had shown the contractor the photographs provided by the complainant as evidence.

The staff member had not foreseen that the contractor would be able to identify the complainant from photographs of a property.

We considered that the complainant had an arguable case for breach of IPP 11.

The contractor had ascertained from the angle of the photographs where they had been taken from. This does not, in itself, identify who at that property took the photograph—another resident, a guest or in the case of rented property, tenants and their guests could have done so.

It appeared that the probable identification of the complainant as the source of the initial regulatory complaint occurred through the contractor’s communication of the complaint to the complainant’s neighbour.

As such, the agency’s provision of the photographs to the contractor and their subsequent realised capacity to confer with the complainant’s neighbour had led to the complainant’s identity being ‘reasonably ascertained’.

Data breach notifications

Although the IP Act does not require agencies to mandatorily notify us and affected parties of privacy breaches, we have developed guidance on managing privacy breaches which recommends that this be undertaken as good practice. The mandatory notification of data breaches in private sector and Commonwealth agencies has been legislated in the Privacy Act 1988 (Cth).

Public expectations as reflected in surveys undertaken by the Office of the Australian Information Commissioner, suggest the public expect to be notified that a privacy breach has occurred, particularly if they or their identity are at risk of harm. This also assists individuals affected to manage risk and take steps to mitigate harm.

Queensland state departments are required to notify the Queensland Government Chief Information Office under Information Standard (IS) 18 where a breach involves a compromise of ICT systems or cyber security event. In 2018-19 we have received a total of 24 notifications of privacy breaches. This reflects increased agency awareness and public expectations.
Improving our service

Evaluation and engagement
In 2018-19, we undertook the following evaluation and stakeholder engagement focused on our privacy service:
- Agency and client satisfaction is important to us and one of the service standards against which our performance is measured. We measure our performance through a short survey.
- We continued participating in quarterly RTI and IP practitioner forums to present on issues under the RTI and IP Acts that arise from time to time and impact a wide group of agencies.
- We hosted a meeting with members of Privacy Authorities Australia to discuss issues and trends relevant to the protection of individuals' personal information and data.
- We promoted understanding of and compliance with the privacy principles at a number of high profile legal, local government privacy and information conferences and seminars including, Public Sector Network, Australian Information Industry Association, Australian Information Security Association, LegalWise, International Association of Privacy Practitioners (IAPP), University of the Sunshine Coast and Queensland University of Technology.

More information about our key partnerships and networks as well as consultations and submissions is available on page 43.

Service enhancement
We enhanced our service by:
- reviewing our client survey to make it easier to complete
- reviewing our guidelines and publications to ensure they were current
- taking into account new technological developments such as data analytics and emerging de-identification challenges.

Case study

Mediation process
A significant issue for the complainant in this matter was the deterioration of their relationship with their neighbour. As a consequence of the agency’s investigations into their complaint, the neighbour had taken to verbally abusing the complainant as they walked past the property. The neighbour would also attempt to intimidate the complainant while they were in their kitchen, which was visible from the neighbour’s yard. This resulted in the complainant feeling uncomfortable and stressed in their home.

The initial remedy sought by the complainant included a request for the agency to ‘put things right’ between the complainant and the neighbour by ‘identifying the agency’s failings’.

During the mediation process, the exchange of positions between the two parties helped the agency better understand the complainant's concerns. When the complainant submitted an alternative ‘settlement proposal’, seeking the agency pay for window tinting on his kitchen windows (the room facing the neighbour’s property), the agency agreed.

While the relationship between the parties could not be restored, the complainant felt that this would afford them some privacy in that particular room.

The complaint was successfully mediated on these terms.

It highlights the practical and innovative steps that an agency can take in remedying the harm from a breach.
ASSISTANCE AND MONITORING

Promote greater awareness of right to information and information privacy in the community and within government. Improve agencies’ practices in right to information and information privacy.

Our strategies

- Inform agencies and the community about information rights and responsibilities
- Provide information and assistance to the community and agencies through authoritative online resources and enquiry service advice
- Assist agencies to increase the flow of information to the community by encouraging information rich websites with clear pathways to access information
- Provide training, tools and practical resources
- Advise and influence key stakeholders on emerging trends and issues of significance
- Build key partnerships and networks
- Monitor, audit and report on agencies’ information management and information privacy practices and on their compliance with the legislation
- Conduct privacy audits and provide recommendations on both specific and systemic matters.

Figure 24. Assistance and monitoring service standards

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Percentage of agencies satisfied with the enquiries service</td>
<td>80%</td>
<td>96%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>99%</td>
</tr>
<tr>
<td>Percentage of agencies satisfied with the quality of the information resources provided</td>
<td>80%</td>
<td>97%</td>
<td>100%</td>
<td>98%*</td>
<td>100%*</td>
<td>99%</td>
</tr>
<tr>
<td>Number of responses to written and oral enquiries</td>
<td>4,500</td>
<td>3,980</td>
<td>4,686</td>
<td>5,081</td>
<td>5,057</td>
<td>5,280</td>
</tr>
<tr>
<td>Percentage of training participants satisfied with sessions</td>
<td>75%</td>
<td>88%</td>
<td>98%</td>
<td>99%</td>
<td>94%</td>
<td>97%</td>
</tr>
<tr>
<td>Number of training participants</td>
<td>4,000*</td>
<td>6,913</td>
<td>9,295</td>
<td>9,676</td>
<td>13,909</td>
<td>11,892</td>
</tr>
<tr>
<td>Number of reports tabled in Parliament</td>
<td>5*</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>5</td>
</tr>
<tr>
<td>Number of awareness activities conducted</td>
<td>250†</td>
<td>337</td>
<td>421</td>
<td>684</td>
<td>307</td>
<td>430</td>
</tr>
<tr>
<td>Number of website visits</td>
<td>150,000*</td>
<td>115,215</td>
<td>144,458</td>
<td>173,506</td>
<td>204,962</td>
<td>235,226</td>
</tr>
</tbody>
</table>

* In 2016-17 we amended this satisfaction survey question into five separate questions to obtain more specific feedback around whether agencies found our guidelines and information sheets easy to find, understand, relevant, accurate and complete. The percentage total represents an average of the responses provided.

† New performance target introduced in 2018-19. The performance target was previously 190.

‡ New performance target introduced in 2018-19. The performance target was previously 500.

§ New performance target introduced in 2018-19. The performance target was previously 80,000.
Information and Assistance

Our Enquiries Service responded to a record 5,280 enquiries from the community and agencies in 2018-19. The Enquiries Service operates from 8.30am to 4.30pm Monday to Friday. In 2018-19, enquiries were received through the phone service, email, letters and website:
- 3,852 telephone calls
- 1,313 emails/letters
- 115 web enquiries.

Enquiries were received from members of the public, journalists, Ministers and Members of Parliament, hospital and health services, statutory authorities, local government, universities and government departments. They ranged in complexity from people wanting assistance to access documents from an agency, to unique scenarios being considered by agency decision makers in response to complex access applications.

We provided comprehensive information and assistance, often in writing with links to relevant online resources.

In 2018-19 the majority of enquiries related to access to or amendment of documents under the RTI and IP Acts (62 percent). Approximately 50 percent of enquiries were made by individuals and 34 percent were made by Queensland government agencies.

Figure 25. Number of enquiries received over a five-year period — target 2,500

<table>
<thead>
<tr>
<th>Year</th>
<th>Enquiries</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014-15</td>
<td>3,980</td>
</tr>
<tr>
<td>2015-16</td>
<td>4,686</td>
</tr>
<tr>
<td>2016-17</td>
<td>5,081</td>
</tr>
<tr>
<td>2017-18</td>
<td>5,057</td>
</tr>
<tr>
<td>2018-19</td>
<td>5,280</td>
</tr>
</tbody>
</table>

Enquiries were also received through:
- 3,852 telephone calls
- 1,313 emails/letters
- 115 web enquiries.

Feedback from a non-government entity enquirer

“I am so appreciative of the time and effort you have put into your reply to my email. I am overwhelmed by the high level of attention you have paid to my genuine concerns and am genuinely touched by your generosity and you have helped me more than you could know.”

Case study

‘Understanding external review’ video—a new way of delivering information

The Enquiries Service, operated by the Information and Assistance (I&A) team, manages enquiries from both agencies and applicants. To ensure it delivers clear and consistent information, the I&A team works collaboratively with other areas of OIC.

During 2018-19, the External Review Leadership Team identified that improving stakeholder knowledge about how the external review process worked could be helpful in managing expectations, and they approached the I&A team about developing a resource. Rather than preparing a traditional written resource, a range of options were explored to deliver this information more effectively to our stakeholders. After some consideration, we decided to adopt a different approach to ensure we were catering to different leaning styles and we developed an animated video using new technology we recently purchased. The short video walks the viewer through the process, how the various External Review teams work, and what to expect once a review application is lodged using simple graphics to effectively convey the message.

Understanding External Review is available on our YouTube channel and on the website.
Case study
Camera surveillance, video, and audio recording community guide—responding to community concerns

Members of the public who are concerned about domestic CCTV camera usage and audio recording of conversations by other individuals regularly contact the Enquiries Service. While these do not relate to the Right to Information Act 2009 (RTI Act) or the Information Privacy Act 2009 (IP Act), they are matters of significant concern to the community. They are also the subject of pending reviews by the Law Reform Commission.

As there are few resources available that address these issues and there is a high level of interest from people wanting more information, we developed an Information Sheet to provide general guidance to community members who want to know the rules about whether their neighbours can use CCTV cameras and whether they can record private conversations.

The Camera surveillance, video, and audio recording community guide covers these topics as well as generally addressing drones, surveillance in private places and telephone interception.

In addition to operating the Enquiries Service, we maintain an extensive suite of guidelines, information sheets and other resources for agencies and the community on our website and in hard copy, when requested.

During 2018-19, we published five new guidelines, two information sheets and one video to address trends identified through the Enquiries Service and our other statutory functions, and extensively reviewed 67 resources based on their age, how often they are accessed by visitors to the website, legislative changes, or a change in our position on a particular matter.

Training

In 2018-19 we undertook the following training activities to improve Queensland government agencies’ practices in RTI and IP:

- face-to-face workshops covering topics such as privacy impact assessments, and RTI and recordkeeping
- tailored online training courses for agency staff including delegated decision makers and officers from specific business units within government
- webinars.

The following training courses were also offered:

- Privacy Impact Assessments which provides a framework for completing assessments
- Decision-writing training for practitioners which enhances clarity, understanding and persuasiveness when providing written reasons for an information access decision.

Specialised training and awareness was developed for agency staff and others according to their role with sessions delivered for council staff, and senior management. For example, we delivered a webinar about managing privacy complaints, and tailored training relating to decision making and decision writing for decision makers.

We delivered tailored training in the following locations:

- Bundaberg (involving Bundaberg Regional Council, Fraser Coast Regional Council, Gladstone Regional Council)
- Townsville (involving Department of Transport and Main Roads, Charters Towers Regional Council, Hinchinbrook Shire Council, Townsville Record Managers Network and Energy Queensland)
- Logan City Council
- North Burnett Regional Council.

“Thanks so much for your advice by phone and for taking the time to respond to our enquiry in writing. The information that you have provided is incredibly useful...and will have an impact on our future processes.”

Feedback from an agency enquirer

“This service is valuable and much appreciated. The staff are lovely to deal with—please pass on our thanks.”

Feedback from an agency enquirer
Online training

Individuals and agencies are able to access our online training courses free of charge. We actively encourage Queensland public sector agencies to embed the online training in staff induction and internal compliance regimes. The courses are designed to offer both general awareness of information rights and responsibilities as well as more specific application of the RTI and IP Acts.

Our suite of online training courses consists of:

- IP Act—general awareness
- RTI Act—general awareness
- Public Health Agencies and the IP Act
- Privacy Complaint Management training
- Access training for decision makers (three separate modules).

During the reporting period, 11,426 participants completed our online training courses.

We continued using web-based technologies to maximise learning opportunities for stakeholders throughout Queensland, and to increase efficiency of resources in meeting the changing needs of agencies.

In doing so we offered free training webinars. This online delivery method allowed interested stakeholders to participate regardless of their geographical location. Training presentations were recorded and made available on our website, allowing users to access the resource at their convenience.

Our web-based training in 2018-19 included:

- Privacy Complaint Management (webinar and e-lecture)
- Privacy Impact Assessment (webinar and e-lecture).

We evaluate all scheduled and online training to facilitate continuous improvement and to determine the participants’ level of satisfaction with the training. In 2018-19, 97 percent of training participants were satisfied with sessions provided.

In 2018-19 approximately 11,892 participants completed OIC training. This is a 14 percent decrease from the previous reporting year. The decrease cannot be attributed to any specific factor but is still well above historical levels.

Figure 28. Number of training participants—target 4,000*

<table>
<thead>
<tr>
<th>Year</th>
<th>Participants</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014-15</td>
<td>6,913</td>
</tr>
<tr>
<td>2015-16</td>
<td>9,295</td>
</tr>
<tr>
<td>2016-17</td>
<td>9,676</td>
</tr>
<tr>
<td>2017-18</td>
<td>13,909</td>
</tr>
<tr>
<td>2018-19</td>
<td>11,892</td>
</tr>
</tbody>
</table>

* New performance target introduced in 2018-19. The performance target was previously 500.

“The Enquiries Service of the OIC is an extremely critical government department—on many occasions this is the only avenue of assistance for decision makers to obtain guidance, troubleshoot, discuss and receive reassurance when interpreting the RTI/IP Acts relating to access applications.”

Feedback from an agency enquirer

“Thank you very much for the prompt and detailed response. This is very helpful.”

Feedback from member of the public
Promoting awareness

Key activities

Right to Information Day

Right to Information Day (RTI Day) is designed to raise awareness of every individual’s right of access to government-held information. We celebrate RTI Day on International Right to Know Day annually. On this day citizens and governments from around the world can support this fundamental human right and promote open, democratic societies in which there is full citizen empowerment and participation in government.

In 2018, RTI Day featured the theme ‘Trust and Transparency’.

This year we saw 45 organisations from the public and private sectors join our partner program demonstrating their commitment and support for open government while raising awareness more broadly. We provided our partners with a range of resources for them to use, such as an animation, brochures, posters and checklists.

The Solomon Lecture forms an important part of RTI Day activities and recognises Dr David Solomon’s contribution to facilitating greater and easier access to government-held information.

Solomon Lecture

Professor Ken Smith, Chief Executive and Dean of the Australian and New Zealand School of Government delivered the 2018 Solomon Lecture. Professor Smith’s lecture explored how open, transparent government is threatened from a range of ideological extremes. Professor Smith stated those who constantly question our liberal democracy and its values, including fundamental human rights and the rule of law, neither value good government nor vital elements of it, such as Right to Information legislation. Important reforms like this ensure public institutions are open, accountable and deliver institutional integrity, as well as uphold valid community expectations of the standards by which all public officers need to be judged.

Now, more than at other times over the last few decades, it is important to not only reflect upon but embolden important reforms championed by Dr David Solomon AM in post-Fitzgerald Queensland. Professor Smith reminded us of the obligation to ensure public institutions are clear about the need, at all times, to serve the public interest, rather than narrower sectional interests. Professor Smith argued that it is only with this ongoing focus that we can expect public trust in our democratic institutions will be restored.

The Solomon Lecture was recorded and livestreamed at an open public event. The recording is publically available on our website and YouTube channel.

10-year anniversary of the Right to Information Act and Information Privacy Act

2019 is the 10th anniversary of the RTI Act and IP Act. This significant milestone presented an opportunity to showcase Queensland’s journey towards a more open, transparent and accountable government that ensures appropriate safeguards for personal information.

In June 2008, an independent review panel chaired by Dr David Solomon AM, led to the Freedom of Information Act 1992 being repealed and replaced in 2009 by the RTI Act and IP Act. This started a fundamental shift in how government handle, use and disclose information—moving to a push model where information is released proactively, unless there is a good reason not to, while protecting and respecting personal information.

From Privacy Awareness Week in May 2019 until Right to Information Day in September 2019 we undertook a communication campaign featuring a number of promotional activities to raise awareness around information access and privacy rights and responsibilities, such as ‘Tell us your story’ and ‘Did you know’. We also hosted an event in August that included the 10th anniversary Solomon Lecture followed by a panel discussion.
10th anniversary of the RTI Act and IP Act

This presented an opportunity to showcase how far public sector agencies have progressed in terms of information access, proactive release and safeguarding personal information. It was also an opportunity to further educate stakeholders about the importance of what we do and highlight that all public sector agencies play an integral role in shaping Queensland’s information access and privacy landscape. Our 10th anniversary campaign commenced with Privacy Awareness Week in May 2019.

Privacy Awareness Week

We participated in Privacy Awareness Week (PAW) from 12 to 18 May 2019, as an active member of the Asia Pacific Privacy Authorities. Our awareness-raising featured the theme ‘Build privacy into your everyday’ and was aimed at the community and public sector. PAW included an official launch at the University of the Sunshine Coast. This was the first time PAW had been launched outside Brisbane.

The launch included a panel discussion featuring Queensland’s Privacy Commissioner, Mr Philip Green; Managing Director of IDCARE and Professor of Cyber Security at USC, Professor David Lacey; Legal Consultant and lecturer in Cyber Security and Privacy Law, Ms Leah Mooney; and CEO of the Innovation Centre Sunshine Coast, Mr Mark Paddenburg. The Master of Ceremonies was Ms Connie McIntosh, Manager of Cyber Security Operations at the USC Institute for Cyber Investigations and Forensics.

The launch was recorded and livestreamed at an open public event. The recording is available on our website and YouTube channel.

We provided agencies and the community with a range of resources, such as brochures, posters and tips. These resources helped raise awareness about privacy rights and responsibilities including how to protect and respect personal data. We partnered with agencies and staffed community information booths at Brisbane’s Central Railway Station, Prince Charles Hospital, Toowoomba Regional Council, Bundaberg Hospital and Bundaberg Regional Council.

We gave away multiple use coffee cups and laptop and digital device camera covers designed to embed the theme Build privacy into your everyday to engage people in discussion and ensure a lasting reminder of this important message and OIC as a resource.

We also hosted an event in May 2019 titled Privacy, data sharing and robots. The event featured guest speakers including the New South Wales Government’s Chief Data Scientist (Dr Ian Oppermann), University of New South Wales’ Director of Public Service Research Group (Professor Helen Dickinson) and University of Melbourne lecturer and researcher in education, policy and community development (Ms Catherine Smith).

To further promote this year’s PAW to regional communities, we undertook outdoor digital advertising in Townsville, Rockhampton and Toowoomba. The outdoor advertising animation played more than 12,000 times during the week, with an estimated reach of approximately 29,760. Our digital advertising extended to five key buildings in Brisbane CBD which displayed 37,267 campaign images on foyer and lift screens. As noted above, we also partnered with various government agencies to deliver awareness and engagement activities with Toowoomba Regional Council and Wide Bay Health and Hospital Services during PAW.
Digital engagement

Our website is a primary communication tool and a key source of knowledge for stakeholders on right to information and information privacy in Queensland. We continued promoting our website to encourage visitors to use our extensive suite of information and other resources. The website features tools and resources designed to promote awareness of information rights and responsibilities of all stakeholders, including members of the community and public sector staff.

Our website features annotated legislation with commentary and case references to assist in the application of the RTI and IP Acts. During the reporting period our website received 235,226 visits. This is a 15 percent increase from 2017-18.

Other web based technologies, such as social media and multimedia, continued to be a valuable and cost effective communication method.

Rural and regional engagement

We engaged with rural and regional agencies to provide targeted support to increase awareness of information rights and responsibilities and improve compliance with the legislation.

For example:
- North Burnett Regional Council
- Townsville Regional Council
- Fraser Coast Regional Council
- Gladstone Regional Council
- Charters Towers Regional Council
- Hinchinbrook Shire Council.

Measuring Community Awareness—Information Access Study 2019 findings

In order to improve engagement with the Australian public, surveys were conducted across a number of states and territories to measure community attitudes and awareness of the right to access government information, and people’s experiences and outcomes in exercising that right.

This research implements Australia’s Second Open Government National Action Plan 2018-20 commitment to engage states and territories to better understand information access. We are sharing the results from the Information Access Study 2019 with the community and government agencies throughout our anniversary campaign and ongoing engagement.

The NSW Information Commissioner will, on behalf of the Association of Information Access Commissioners, also publish all jurisdictions’ survey results together in one online location consistent with the timeframes set out in the Open Government Partnership commitment. We will link to this resource from our website.

A mixed mode survey of 350 Queensland residents was conducted between April-May 2019 and garnered some interesting results.

Eighty-seven percent of people surveyed said the right to access information held by Queensland government agencies was ‘very’ or ‘quite’ important.

The Information Access Study 2019 Question 3: How important is it to you that you have a right to access government information?
Interestingly, four out of five respondents were aware of their right to access information held by at least one of the listed Queensland government agencies, however there was less awareness in younger age groups.

A higher proportion of respondents aged 35 years or older (73%) were aware they could access information held by at least one of the agencies compared to younger age groups.

Over one-third of respondents had attempted to access information held by at least one of the Queensland government agencies, with younger age groups more likely to have tried. Pleasingly, government agencies had encouraged those surveyed to access information in the least formal way possible, consistent with the push model of the RTI Act.

Audit and evaluation
We audit government agencies and report on their performance and RTI and IP practices. Government agencies include departments, local governments, statutory authorities, government-owned corporations, hospital and health services and universities. We also survey government agencies every three years to get a snapshot of their level of compliance with the RTI and IP Acts.

Our strategic audit planning process assesses the value and achievability of potential audit topics. Environmental scanning and stakeholder engagement support the process to ensure our program of audits is risk-based and contributes to our objective of improving government agencies’ RTI and IP practices.

Reports to Parliament
We submit reports on the outcomes of audits under the RTI Act to the Parliamentary Committee for Legal Affairs and Community Safety, and under the IP Act to the Speaker, for tabling in Parliament. In 2018-19 we tabled five reports:

- Information management Queensland Government department maturity
- Follow up audit of Gold Coast Hospital and Health Service’s implementation of recommendations
- Follow up audit of Cairns and Hinterland Hospital and Health Service’s implementation of recommendations
- 10 years on: Queensland government agencies’ self-assessment of their progress in right to information and information privacy
- Awareness of privacy obligations: How three Queensland government agencies educate and train their employees about their privacy obligations
10 years on: Queensland government agencies’ self-assessment of their progress in right to information and information privacy

In the 10 years since the commencement of the Right to Information Act 2009 and the Information Privacy Act 2009, we have conducted four self-assessments of all agencies to gauge their progress in implementing the requirements of the legislation. We reported on these self-assessments in 2010, 2013, 2016 and 2019, including results by sector. Across the decade, the self-assessments have shown agencies reporting positive progress overall and towards achieving compliance with some key responsibilities.

These include embedding relevant roles and responsibilities in the agency, handling applications appropriately, managing internal and external review responsibilities, engaging with applicants and meeting fundamental privacy requirements. However, agencies also reported less progress towards fully meeting some obligations. These areas include administrative access to information, consulting with the community including about their information needs, monitoring performance and continuous improvement.

Based on the self-assessment results, to consolidate progress to date agencies should focus on:
- adopting a push model to maximise information disclosure
- capturing clear records that can be easily located and managed
- embedding effective policy development and oversight structures
- consulting with their communities
- monitoring their performance of right to information and privacy responsibilities.

These core functions underpin strong information access and privacy functions. They establish a solid foundation for agencies to respond to the emerging demands and risks that come from new technologies, new types and sources of information, and new privacy challenges.
To manage these emerging risks, agencies should:

- keep pace with new types and sources of information
- build privacy protections into the design of mobile apps and other emerging technologies
- minimise the risk of, and mitigate harm from, privacy breaches
- build privacy impact assessments into all project design and management frameworks.

Openly sharing government information to improve trust, transparency and accountability, continues to be important and presents increasing challenges for government. So too does the responsibility to diligently safeguard individuals’ personal information that public agencies are entrusted to collect, keep and use.

We will also continue to support agencies with tools for self-assessment to inform senior leadership on effectiveness of right to information and information privacy strategies, processes and policies. Following this audit we sent each agency a scorecard reporting its self-assessment in comparison to other agencies in the same sector.

Awareness of privacy obligations: How three Queensland government agencies educate and train their employees about their privacy obligations

The community entrusts Queensland Government agencies with their personal information. To maintain this trust, agencies need to handle personal information appropriately and safeguard it. One strategy to protect personal information is for agencies to train and educate their employees about information privacy and information security obligations and expectations.

We assessed three government agencies, and considered whether they educate and train their employees about their obligations under the IP Act appropriately. The three agencies recognised the value of educating and training their staff on information privacy and information security. The effectiveness of the training varied, and each agency had one or more weak elements in their education and training.

All agencies recognise that the training should be mandatory. Two had implemented mandatory training on information privacy and information security at induction.

The content of the agencies’ training was accurate but did not always include all the necessary elements for employees to understand their privacy obligations.

Agencies run awareness campaigns, but they also need to run mandatory, periodic refresher training, and ensure employees complete the relevant training modules within the prescribed period.
We made 12 recommendations to the specific agencies. Additionally, we recommended all agencies:

- include information privacy and information security training in their mandatory induction process for all employees
- mandate periodic refresher training on information privacy and information security for all employees
- ensure the training content on information privacy and information security is comprehensive, contemporary and tailored to the agency's context
- implement systems and procedures to ensure all employees complete mandatory training on information privacy and information security when due.

**Information management**

Queensland Government department maturity

Good information management helps Queensland Government departments treat information as a strategic asset, improve service delivery to the community and meet right to information and information privacy obligations.

In our compliance audits, reviews and surveys, we found some agencies manage information and communications technology with an almost exclusive focus on technology and little attention to information management.

We surveyed departments, requesting them to rank their current information management maturity compared to their desired level across four domains:

- knowledge management
- governance and strategic planning
- information asset management and disclosure
- business systems and processes.

We found a significant gap between departmental targets and their self-assessed maturity. Departments would like to achieve a ‘managed’ level of information management maturity, and on average, assess their maturity at the ‘ad hoc’ level.

We reported on the aggregate findings to Parliament, and on specific reports to the departments individually, encouraging them to plan to develop their information management capability. A capability improvement plan will assist all departments to:

- benefit the community
- ensure staff have the business information they need to do their work
- collaborate with other agencies in similar lines of service to deliver better services
- tailor services to meet the needs of specific places (place-based approaches), if relevant
- improve data literacy at all levels to increase strategic use of data, and increase the impact of data on decision making
- create opportunities for innovation and the strategic use of data and technologies to stimulate new models of service delivery, if relevant
- deliver on right to information and information privacy responsibilities and good practices to meet community expectations and compliance obligations.

As departments address information management challenges and achieve their targeted maturity, they will increase their capability in related ways:

- being more open and accountable
- engaging actively with the community about its information needs
- encouraging better and easier access to information
- protecting and safeguarding personal information.

**Follow up audit of Gold Coast Hospital and Health Service’s implementation of recommendations**

Our follow-up of Gold Coast Hospital and Health Service’s (GCHHS) progress in implementing the six recommendations of our 2016-17 compliance audit found the hospital and health service has fully implemented two recommendations and is in progress to implementing four recommendations.

GCHHS has updated its publication scheme and established practices to ensure information published is current and relevant. It has also:

- fully implemented a recommendation to classify its information holdings and datasets to determine their suitability for public release and to publish the information asset register online
- made progress to incorporate right to information and information privacy into its mandatory orientation sessions for new staff
- started to rebuild its information management framework and committee structure and commenced action on performance measures through its steering committee post June 2019
- updated forms for privacy compliance cited as examples in our original audit.

While GCHHS has taken alternative action to review all clinical and non-clinical forms, the post-June 2019 completion dates for these activities means we were unable to assess their effectiveness in addressing the full requirements of the recommendation.
Follow up audit of Cairns and Hinterland Hospital and Health Service’s implementation of recommendations

Our follow-up of Cairns and Hinterland Hospital and Health Service’s (CHHHS) progress in implementing the five recommendations of our 2014-15 compliance audit found the hospital and health service has fully implemented three recommendations. Notably, CHHHS:

- improved promotion of administrative access and training in right to information and information privacy
- published a list of its information holdings
- streamlined application handling.

We assessed one recommendation about improving management of privacy in camera surveillance as in progress. The hospital and health service has improved signage and notices to the public about camera surveillance and acquired software enabling it to redact video footage. It has not yet published policy and procedures addressing privacy considerations in camera surveillance.

CHHHS has not actioned a recommendation about measuring its effectiveness and efficiency in right to information and information privacy. It plans to address information governance, including performance measurement, in a new digital information and governance strategy.

All our tabled reports are available at www.oic.qld.gov.au/publications/reports

Key partnerships and networks

In 2018-19, we continued to provide assistance to agencies, and build and maintain key partnerships and networks, such as:

- The RTI and IP practitioners’ network. The network is designed to facilitate the sharing of information and good practice guidance through a dedicated email subscription service and quarterly practitioner forums (attended by over 200 participants). A steering committee of agency representatives ensures topics meet practitioner needs.
- Partnering with Queensland government agencies, public sector agency leaders and private sector organisations for RTI Day. Forty five agencies across a range of sectors and stakeholders partnered with us and helped promote information rights and responsibilities in Queensland as well as highlighting their organisation’s commitment to the principles of right to information.
- Continuing to be an active member of the Asia Pacific Privacy Authorities. The group is the principal forum for privacy and data protection authorities in the Asia Pacific region. Members form partnerships and exchange ideas about privacy regulation, new technologies and the management of privacy issues. The Privacy Commissioner attended the meeting of the Asia Pacific Privacy Authorities in Wellington, New Zealand in December 2018.
- The Information Commissioner and Right to Information Commissioner meeting with members of the Association of Information Access Commissioners to discuss issues and trends relevant to Australian and New Zealand jurisdictions, including maximising proactive disclosure of information.
- The Information Commissioner and Privacy Commissioner meeting with members of Privacy Authorities Australia to discuss issues and trends relevant to the protection of individuals’ personal information and data, including a key focus on the impact of the increasing use of biometrics for identity purposes in Australia.
- Through the policy officer working groups established in 2017-18 under the Privacy Authorities Australia and Association of Information Access Commissioners.
- Collaborating with the International Association of Privacy Practitioners to help facilitate better connections between Queensland and Australia’s privacy practitioners.
- The Privacy Commissioner attending regular meetings as a member of the Queensland Government Cyber Security Committee, contributing to its strategic direction and playing a key role in enhancing Queensland Government’s cyber security.
- The Information Commissioner meeting with the Integrity Commissioner, the Chair of the Crime and Corruption Commission, the Queensland Ombudsman, the Auditor-General, the Electoral Commissioner, the Independent Assessor and the Public Service Commission Chief Executive on a quarterly basis.
- Continuing to participate in a working group for communication officers within information access and privacy agencies across Australia.
Continuing to be a corporate supporter of the Open Data Institute (ODI) Queensland, until it concluded in January 2019, to further strengthen synergies between the open data movement and the RTI Act with respect to accessing government-held information i.e. datasets. ODI Queensland was unique in the global ODI network, having been formed and funded by a strong collaboration between private industry, academia, research, government and the community.

Working with Commonwealth, State and Territory Governments through the Open Government Partnership to develop and report on uniform metrics about the use of freedom of information laws to help the community examine the performance of those laws.

Improving our service

Evaluation
In 2018-19 we undertook the following evaluation focused on our assistance and monitoring service:

- we reviewed PAW and RTI Day events and identified what worked, what did not or could be improved, and made recommendations to improve future activities
- we reviewed existing information resources for readability, accessibility, and currency to ensure our resources continued to meet our stakeholders’ needs in the most concise and simplest way possible. For example: use of metaphors and analogies, when explaining more complex concepts to stakeholders to ensure that information is delivered and received accurately and concisely in an appropriate way
- we engaged an external service provider, PeakXD, to undertake research and analysis to discover facts, opinions, issues and the needs of existing or potential users of our website and the context of the environment within which they operate
- we reviewed our face-to-face Fast Track Negotiations Skills training and access application training to ensure the offering would continue to meet the needs of the intended audience.

Stakeholder engagement
In 2018-19 we undertook the following stakeholder engagement focused on our assistance and monitoring service:

- we partnered with agencies and staffed community information booths at Brisbane’s Central Railway Station, Prince Charles Hospital, Toowoomba Regional Council, Bundaberg Hospital and Bundaberg Regional Council as part of our Privacy Awareness Week activities to raise awareness of information access and privacy rights
- we continued organising and hosting quarterly RTI and IP practitioner forums to support good practice in information access and privacy. This forum is used to connect with and gather feedback on operational issues encountered by agency decision makers and privacy officers. It is also an opportunity to identify agency issues, trends and resource needs
- we met with a range of key stakeholders to better understand their needs and inform our service delivery strategies, and to identity opportunities for partnership and collaboration in our engagement and support activities.

Service enhancement
We enhanced our service by:

- removing Adobe Flash software from our suite of online training courses to improve usability and accessibility.

Feedback
In 2018-19 we received feedback focusing on our assistance and monitoring service:

- we used a short survey to measure training participants’ satisfaction to determine our level of performance over time (see Figure 45)
- we surveyed agencies satisfaction to obtain specific feedback around whether agencies found our guidelines and information sheets were easy to find, understand, relevant, accurate and complete (see Figures 25 and 26)
- we surveyed agency information access and privacy practitioners and conducted interviews through external service provider PeakXD to obtain feedback in relation to our website’s accessibility, usability and resources.

More information about our key partnerships and networks is available on page 43.
Figure 34. Percentage of training participants satisfied with sessions —target 75%

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We amended this satisfaction survey question into five separate questions to obtain more specific feedback around whether agencies found our guidelines and information sheets easy to find, understand, relevant, accurate and complete. The 2018-19 SDS measure percentage total represents an average of the responses provided, except for “easy to find” which is considered as separate feedback.

Figure 35. Percentage of agencies satisfied with the quality of information resources provided—target 75%

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target 75%

Figure 36. Percentage of agencies satisfied with the enquiries service —target 80%

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We amended this satisfaction survey question into five separate questions to obtain more specific feedback around agencies’ interactions with the Enquiries Service in relation to ease of access, timeliness of response, listening and understanding, and providing clear, relevant information which answered the enquirer’s query. The percentage total represents an average of the responses provided.