



# Oversight of the Information Commissioner

**Report No. 65, 57th Parliament  
Legal Affairs and Safety Committee  
January 2024**

## **Legal Affairs and Safety Committee**

|                     |                                                                                                                                                                                                                                                         |
|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Chair</b>        | Mr Peter Russo MP, Member for Toohey                                                                                                                                                                                                                    |
| <b>Deputy Chair</b> | Mrs Laura Gerber MP, Member for Currumbin                                                                                                                                                                                                               |
| <b>Members</b>      | Ms Sandy Bolton MP, Member for Noosa (to 12 October 2023)<br>Mr Stephen Andrew MP, Member for Mirani (from 12 October 2023)<br>Ms Jonty Bush MP, Member for Cooper<br>Mr Jason Hunt MP, Member for Caloundra<br>Mr Jon Krause MP, Member for Scenic Rim |

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All web address references are current at the time of publishing.

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## Chair's foreword

The Legal Affairs and Safety Committee has oversight responsibility for the Office of the Information Commissioner under section 88 of the *Parliament of Queensland Act 2001* and Schedule 6 of the *Standing Orders of the Legislative Assembly*.

This report presents a summary of the committee's oversight of the Office of the Information Commissioner for the 2021-22 financial year period.

The committee examined the 2021-22 Annual Report of the Office of the Information Commissioner and also held a public hearing with representatives from the Office of the Information Commissioner on 13 July 2023.

On behalf of the committee, I thank the Information Commissioner, the Right to Information Commissioner, the Privacy Commissioner and other staff of the Office of the Information Commissioner who assisted the committee with fulfilling its oversight responsibilities. I also thank the Parliamentary Service staff.

I commend this report to the House.



Peter Russo MP

Chair

## Recommendation

### Recommendation

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The committee recommends that the House notes the contents of this report.



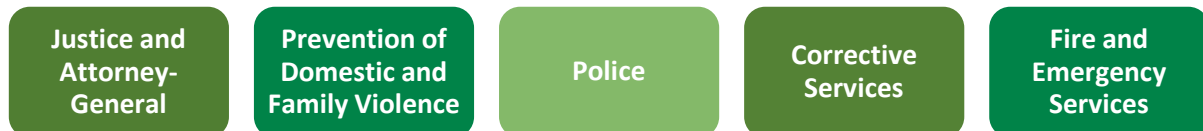
## 1 Introduction

### 1.1 Role of the committee

The Legal Affairs and Safety Committee (committee) prepared this report as part of its statutory oversight of the Office of the Information Commissioner (OIC) with a primary focus on the 2021-22 financial year.

The committee is a portfolio committee of the Legislative Assembly which commenced on 26 November 2020 under the *Parliament of Queensland Act 2001* and the Standing Rules and Orders of the Legislative Assembly (Standing Orders).<sup>1</sup>

The committee's primary areas of responsibility include:<sup>2</sup>



The committee also has oversight responsibilities for:<sup>3</sup>



### 1.2 Purpose and functions of the Office of the Information Commissioner

The OIC is an independent statutory body established under the *Right to Information Act 2009* (RTI Act) and *Information Privacy Act 2009* (IP Act) with the aim of promoting access to government-held information and protecting people's personal information held by the public sector. The OIC's functions include giving information and help to agencies and members of the public on matters relevant to the RTI Act; conducting reviews into personal information handling practices of certain entities; investigating and reviewing decisions of agencies and ministers; and reviewing and reporting on agencies in relation to the operation of the RTI Act and the IP Act.<sup>4</sup>

The OIC consists of the Information Commissioner, who is an officer of the Parliament, and the staff of the office. The RTI Act provides for an Information Commissioner, a Right to Information Commissioner and the OIC staff. The Privacy Commissioner is established under the IP Act.<sup>5</sup>

As at the date of the hearing, the statutory office holders were:

- the Information Commissioner, Rachael Rangihaeata (Information Commissioner)<sup>6</sup>
- the Right to Information Commissioner, Stephanie Winson (Right to Information Commissioner)

<sup>1</sup> *Parliament of Queensland Act 2001*, section 88 and Standing Order 194.

<sup>2</sup> Standing Orders, s 194 and schedule 6.

<sup>3</sup> Standing Orders, s 194 and schedule 6.

<sup>4</sup> RTI Act, ss 128-131; IP Act, ss 135-137.

<sup>5</sup> RTI Act, chapter 4; IP Act, chapter 4.

<sup>6</sup> The term of office for the Information Commissioner, Rachael Rangihaeata ended on 19 September 2023. The Right to Information Commissioner, Stephanie Winson, is Acting Information Commissioner in accordance with acting arrangements approved by Governor in Council until a new Information Commissioner is appointed. Appointment to the position of Information Commissioner is made by the Governor in Council and requires the Minister to undertake a selection process in consultation with the committee as set out in the RTI Act.

- the Privacy Commissioner, Paxton Booth (Privacy Commissioner)

### 1.3 The committee's responsibilities regarding the Information Commissioner

The committee has the following oversight jurisdiction conferred by the Legislative Assembly in relation to the OIC:

#### Committee's oversight jurisdiction under Standing Order 194A

- to monitor and review the performance by the entity of the entity's functions
- to report to the Legislative Assembly on any matter concerning the entity, the entity's functions or the performance of the entity's functions that the committee considers should be drawn to the Legislative Assembly's attention
- to examine the annual report of the entity tabled in the Legislative Assembly and, if appropriate, to comment on any aspect of the report
- to report to the Legislative Assembly any changes to the functions, structures and procedures of the entity that the committee considers desirable for the more effective operation of the entity or the Act which establishes the entity.

The committee's functions relating to the OIC are set out in the table below:

#### Functions of OIC under the Right to Information Act and Information Privacy Act

- monitor and review the performance by the Information Commissioner of the Information Commissioner's functions under the RTI Act and IP Act
- report to the Legislative Assembly on any matter concerning the Information Commissioner, the Information Commissioner's functions or the performance of the Information Commissioner's functions that the committee considers should be drawn to the Legislative Assembly's attention
- decide, in consultation with the Information Commissioner, the statistical information (including statistical information about giving access to information other than on an access application) agencies and ministers are to give the Information Commissioner for the reports under the RTI Act
- examine each annual report tabled in the Legislative Assembly under the RTI Act and the IP Act and, if appropriate, to comment on any aspect of the reports and to make recommendations
- examine each strategic review report tabled in the Legislative Assembly under the RTI Act and, if appropriate, to comment on any aspect of the report and to make recommendations
- report to the Legislative Assembly any changes to the functions, structures and procedures of the OIC the committee considers desirable for the more effective operation of the RTI Act and the IP Act
- carry out any other functions conferred on the committee by the RTI Act or the IP Act.<sup>7</sup>



### 1.4 The committee's oversight process

In conducting its oversight of the OIC for the 2021-22 period, the committee adopted the following process:

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<sup>7</sup> RTI Act, s 189; IP Act, s 195. Amongst other things, the RTI Act and the IP Act also require that the committee be consulted on the selection process for appointment, and the appointment of, a person as the Information Commissioner, the Right to Information Commissioner or the Privacy Commissioner. The committee is not consulted on the process of selection for appointment where a person is re-appointed as Information Commissioner, Right to Information Commissioner or Privacy Commissioner: RTI Act, s 135 (Information Commissioner), s 151 (Right to Information Commissioner); IP Act, s 145 (Privacy Commissioner).



|                                                                                                                                                                                                                |                                                                                                                                                                          |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  <p><b>Examined the Office of the Information Commissioner's 2021-22 Annual Report</b><br/>(see section 2 of this report)</p> |  <p><b>Held a public hearing on 13 July 2023</b><br/>(see section 3 of this report)</p> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

The following representatives participated in the public hearing:

|                                                                |                                                                      |                                                     |
|----------------------------------------------------------------|----------------------------------------------------------------------|-----------------------------------------------------|
| <p><b>Rachael Rangihaeata</b><br/>Information Commissioner</p> | <p><b>Stephanie Winson</b><br/>Right to Information Commissioner</p> | <p><b>Paxton Booth</b><br/>Privacy Commissioner</p> |
|----------------------------------------------------------------|----------------------------------------------------------------------|-----------------------------------------------------|

The broadcast and the transcript of the public hearing are available on the committee's webpage.

## 1.5 Strategic review of the OIC

The RTI Act requires a strategic review of the Information Commissioner's functions and a review of the performance of those functions to assess whether they are being performed economically, effectively and efficiently.<sup>8</sup> Under the RTI Act, a strategic review of the OIC must be conducted at least every five years.<sup>9</sup>

The most recent strategic review was conducted in the 2022-23 financial year by Dominic McGann. This strategic review report, tabled in Parliament on 31 January 2023, is titled *How to let more sunshine in – Strategic review of the Office of the Information Commissioner, 2022* (Strategic Review Report). The committee will report on its examination of the Strategic Review Report in a separate report.

## 2 Examination of Annual Report 2021-22

The OIC tabled its annual report on 30 September 2022 (annual report).

The annual report is made pursuant to s 184 of the RTI Act and s 193 of the IP Act. It is prepared in accordance with the *Financial Accountability Act 2009* and the annual report requirements for Queensland Government agencies.<sup>10</sup>

The annual report provides an overview of the OIC's performance towards achieving an informed Queensland that values and respects information rights and responsibilities, including:

- an insight into challenges and opportunities that influenced its actions, as well as priorities for the year ahead
- an assessment of achievement in meeting corporate and operational plans as measured against a range of performance indicators.<sup>11</sup>

The annual report is an important component of how the OIC monitors its performance, which feeds into organisational planning and resource allocation.<sup>12</sup>

The OIC's performance against its key service areas is summarised below.

<sup>8</sup> RTI Act, s 186(10).

<sup>9</sup> RTI Act, s 186(3).

<sup>10</sup> Office of the Information Commissioner, *Annual Report 2021-22*, p i.

<sup>11</sup> Office of the Information Commissioner, *Annual Report 2021-22*, p ii.

<sup>12</sup> Office of the Information Commissioner, *Annual Report 2021-22*, p ii.

## 2.1 External review service

Under s 130 of the RTI Act, one of the Information Commissioner's functions is to investigate and review decisions of agencies and ministers made under the RTI Act, including whether agencies and ministers have taken reasonable steps to identify and locate documents applied for by applicants.

With respect to the OIC's objective to provide independent, timely and fair review of decisions made under the RTI Act and IP Act, the annual report advised:

- the OIC received 606 external review applications in 2021-22, (a decrease of 79 from the previous year but overall consistent with the high demand for external review services)
- the OIC finalised 650 external review applications, which equated to 107 percent of the external reviews received
- the OIC reduced its mean average days to finalise external reviews to 139 days down from 155 days in 2020-21 and below the performance target of 150 days
- at the end of 2021-22, two files over 365 days old remained open, representing 0.8 percent of open files
- the number of external review applications to be finalised was reduced from 291 to 246
- applicant satisfaction remains below target at 45%
- as in previous years, the satisfaction survey return rate was relatively low with 54 survey responses representing less than 10 percent of finalised review matters.<sup>13</sup>

The annual report also advised:

- 73 formal written decisions were made (same as the previous year)
- 89 percent of external review decisions were finalised without a formal decision
- 7 appeals to the Queensland Civil and Administrative Tribunal (QCAT) were lodged and 7 were finalised
- there were no applications for judicial review of written decisions of the Information Commissioner made to the Supreme Court during 2021-22
- 7 applications from non-profit organisations for financial hardship status were received (11 less than the previous year), with 5 applications granted and 3 were withdrawn
- the OIC issued the first own initiative vexatious application declaration in December 2021 which prevented an applicant from making access or amendment applications under the IP Act to two agencies and external review applications to the OIC for a period of two years
- another further application to declare an applicant vexatious was received from an agency but this was subsequently withdrawn.<sup>14</sup>

The OIC reported that it uses innovative ways to deal with consistently high demand:

- by distributing its resources across small external review teams
- providing parties with early high level merit assessments
- promoting informal resolution strategies

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<sup>13</sup> Office of the Information Commissioner, *Annual Report 2021-22*, pp 14-15.

<sup>14</sup> Office of the Information Commissioner, *Annual Report 2021-22*, pp 16-17.

- using the tools available in the legislation to manage delays and difficult participant behaviour.<sup>15</sup>

## 2.2 Privacy advice and complaint mediation service

In relation to the OIC's objectives to provide an independent, timely and fair privacy complaint mediation service and to assist agencies to adopt privacy by design and achieve compliance with the privacy principles, the annual report advised:

- 100% of agencies were satisfied with the privacy complaint mediation service provided (exceeding the target of 75% and an increase from 94% the previous year)
- the OIC provided 16 consultations and submissions (up from 11 in 2020-21)
- the OIC provided 359 advices and meetings with agencies (down from 383 in the previous year)
- the OIC received 69 privacy complaints and finalised 68 privacy complaints
- 20 accepted privacy complaints were closed during the financial year, with 8 being resolved through mediation
- the OIC referred one complaint to QCAT in 2021-22
- there were 40 voluntary notifications from agencies of privacy breaches during the year, which is significantly lower than the 86 notifications received in 2020-21.<sup>16</sup>

In relation to privacy complaints, the annual report also advised that:

- the most common subject of privacy complaints continues to be dissatisfaction with the provision by agencies of personal information to third parties
- in 2021-22, the average time to finalise an accepted privacy complaint was 257 days. However, for some privacy complaints in 2021-22, there were significant lags in communication from complainants and respondent agencies which impacted the timeliness in resolving complaints.<sup>17</sup>

## 2.3 Assistance and monitoring service

Regarding the OIC's objectives to promote greater awareness of right to information and information privacy in the community and within government, and to improve agencies' practices in right to information and information privacy, the annual report stated the following:

- 98% of agencies were satisfied with the information and assistance provided (exceeding the target of 80%)
- 98% of agencies were satisfied with the quality of information resources provided (exceeding the target of 80%)
- 5,330 enquiry responses (written and oral) were provided to agencies and the community (exceeding the target of 4,500)
- 100% of course participants were satisfied with sessions (exceeding the target of 75% and an increase from 97% in 2020-21)
- 8,931 people completed the OIC's online training courses (exceeding the target of 4,000 and an increase from the total of 8,738 in 2020-21)

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<sup>15</sup> Office of the Information Commissioner, *Annual Report 2021-22*, p 14.

<sup>16</sup> Office of the Information Commissioner, *Annual Report 2021-22*, pp 19-24.

<sup>17</sup> Office of the Information Commissioner, *Annual Report 2021-22*, p 22.

- 280 awareness activities were conducted (exceeding the target of 250 but lower than 321 in the previous year)
- 317,672 website visits (exceeding the target of 150,000 and similar to the previous year).<sup>18</sup>

The annual report also advised:

- 61% of most enquiries were about access to, or amendment of, documents under the RTI and IP Acts
- 11 new resources (9 guidelines and 2 information sheets) were published in 2021-22 to address emerging trends and needs including explaining privacy rights and obligations in relation to COVID-19 vaccination status
- 47 guidelines and 6 information sheets were updated
- the OIC has undertaken a significant project to update and integrate the Annotated Legislation with its published guidelines to create a single, comprehensive reference tool
- the launch of the *Privacy in Local Government* resource booklet developed specifically for local councils supplemented together with a series of training sessions.<sup>19</sup>

## 2.4 Training

In relation to training, the annual report advised that:

- various face-to-face and webinar training sessions were provided throughout Queensland
- 100% of training participants were satisfied with the sessions they completed
- 8,931 participants completed the training which was a small increase from 2020-21.<sup>20</sup>

## 2.5 Promoting awareness

The OIC promoted awareness through:

- International Access to Information Day which was held on 28 September 2021 and featured the theme 'Open by design' with the campaign strengthened by the tagline, 'Government transparency everyone can see'
- the annual Solomon Lecture was delivered by Professor Beth Simone Noveck on 'Solving Public Problems with Data'
- Privacy Awareness Week (3 - 8 May 2022) with the theme 'Privacy: the foundation of trust' and launched by a video presentation titled 'Artificial Intelligence and privacy - can they be friends?' by Professor Ed Santow, who currently leads the University of Technology Sydney initiative on building Australia's capability on ethical artificial intelligence and who previously was the Australian Human Rights Commissioner from 2016 to 2021
- its social media advertisement campaign which achieved 652,081 impressions
- targeted support to rural and regional agencies.<sup>21</sup>

## 2.6 Reports to Parliament

The OIC tabled the following 2 reports in Parliament in 2021-22:

- Compliance audit - Sunshine Coast Regional Council

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<sup>18</sup> Office of the Information Commissioner, *Annual Report 2021-22*, p 25.

<sup>19</sup> Office of the Information Commissioner, *Annual Report 2021-22*, pp 26-27.

<sup>20</sup> Office of the Information Commissioner, *Annual Report 2021-22*, pp 27-28.

<sup>21</sup> Office of the Information Commissioner, *Annual Report 2021-22*, pp 28-29.

- Administrative access to information – How the Department of Education manages access to documents held in schools.<sup>22</sup>

The annual report advises that the reduced number of reports tabled, against a target of 5 reports, is due to a range of factors including the COVID-19 pandemic and the 2022 flood.<sup>23</sup>

## 2.7 Financial management

The budget appropriation for the OIC for 2021-22 was \$7.347 million. Expenditure during the financial year totalled \$7.262 million, resulting in an operating surplus of \$110,000. Employee expenses (salaries, superannuation, long-service leave and payroll tax) accounted for 84% of expenditure (\$6.053 million), and day-to-day costs (including corporate service charges, office accommodation, computer costs such as software licensing, minor equipment and office maintenance) amounted to \$1.183 million in 2021-22.<sup>24</sup>

The OIC's overall expenditures is 6 percent more than the previous reporting period largely due to employee expenses and ICT transition project expenditure.<sup>25</sup>

## 3 Oversight public hearing

### 3.1 The Information Commissioner

In her opening statement, the Information Commissioner highlighted the following in relation to the work of the OIC during 2021-22:

- Building trust and accountability through transparency continues to be a dominant theme especially in light of Professor Coaldrake's June 2022 final report, *Let the sunshine in: review of culture and accountability in the Queensland public sector* (Coaldrake Report). The recommendations of this report intend to strengthen both the availability of documents and response to breaches of personal information and the independence of the OIC
- In June 2022, the Queensland Government consulted the community and agencies about proposed reforms to the RTI and IP Acts. The OIC looks forward to the earliest possible introduction of legislation to amend these Acts to address:
  - the importance of consistency with other jurisdictions, and
  - the need to streamline interactions between government, community and business and provide certainty and strengthen protections for information rights
- The 2022 Strategic Review Report draws important connections between the Coaldrake Report findings and the OIC's role and the objectives of the legislation more broadly. The report also recommended that additional and adequate resources be provided to enable the OIC to properly perform increased functions with the RTI and IP Acts following the legislative reforms. This point is consistent with the annual report which states that the OIC is not in a position to manage any additional demand on its service or an expansion of its functions.
- It is anticipated that the implementation of proposed reforms under new legislation will have a significant impact on the OIC for a 2 year period. Resourcing requirements will need to be reviewed in a timely manner to ensure the OIC can effectively perform the new statutory functions within a reasonable period to avoid the extended delay in resourcing established demand that occurred after the introduction of the 2009 legislative policy reforms for external review functions.

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<sup>22</sup> Office of the Information Commissioner, *Annual Report 2021-22*, p 30.

<sup>23</sup> Office of the Information Commissioner, *Annual Report 2021-22*, p 30.

<sup>24</sup> Office of the Information Commissioner, *Annual Report 2021-22*, pp 46-47.

<sup>25</sup> Office of the Information Commissioner, *Annual Report 2021-22*, p 46.

- In relation to resourcing, the temporary approval of access to cash reserves until 30 June 2023 for 4.8 FTE has been addressed by the allocation of ongoing funding from 2023-24, addressing the outstanding 2017 strategic review recommendations relating to the budget of the OIC.<sup>26</sup>

Being the Information Commissioner's final oversight inquiry meeting as she was approaching the end of her 10 year term, she thanked the committee for its engagement and support of the OIC and its critical functions of the Parliament, community and agencies across Queensland. The Information Commissioner also noted how proud she is of the OIC team, for their professionalism, excellence, innovation and commitment, including all members of the executive leadership team that she has worked alongside during her tenure.<sup>27</sup>

### 3.2 The Privacy Commissioner

In his opening statement, the Privacy Commissioner, advised that during the last 12 months there have been some significant changes in the privacy area largely due to the significant data breaches involving large organisations such as Optus, Medibank and Latitude which have impacted hundreds of thousands of people across Australia including in Queensland.

The Privacy Commissioner also noted that the Queensland Government had endorsed the Coaldrake Report recommendation that a mandatory data breach scheme commence in Queensland. This scheme is anticipated to:

- improve internal reporting of privacy breaches to CEOs and CIOs
- increase agency accountability and capability to respond to data breaches which are likely to result in serious harm when they occur
- improve visibility for people in the community to take action to mitigate the risks of such a breach
- provide certainty to both the public and the community about their obligations and rights in the event of a breach
- the increase in public trust in relation to an agency's handling of their personal information and how they will manage a data breach should it occur.<sup>28</sup>

The Privacy Commissioner indicated that he looks forward to working with the Department of Justice and Attorney-General (Department) to implement this recommendation and to also build a contemporary legislative framework which will meet the needs of the community and the agencies which are required to comply with these requirements.<sup>29</sup>

Last year, the OIC provided a submission in response to a consultation paper issued by the Department seeking views of stakeholders on several privacy proposals. This submission supported:

- the mandatory data breach notification scheme
- a single set of privacy principles to be applied in Queensland which, where practical, are also aligned with the Commonwealth Privacy Act
- changes in definitions, including a change in the definition of 'personal information' to make it more contemporary.<sup>30</sup>

Additionally, subsequent to the Queensland consultation process, the Commonwealth Government issued a further consultation paper regarding proposed changes to its Privacy Act. Although it is not entirely clear how the federal changes will impact on the proposed Queensland changes, the Privacy

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<sup>26</sup> Public hearing transcript, Brisbane, 13 July 2023, pp 1-2.

<sup>27</sup> Public hearing transcript, Brisbane, 13 July 2023, pp 1-3.

<sup>28</sup> Public hearing transcript, Brisbane, 13 July 2023, pp 2-3.

<sup>29</sup> Public hearing transcript, Brisbane, 13 July 2023, p 3.

<sup>30</sup> Public hearing transcript, Brisbane, 13 July 2023, p 3.

Commissioner did indicate that it was anticipated that the following proposed changes would have an effect or influence proposed changes in Queensland, including:

- introducing a fair and reasonable test to how personal information is collected, used and managed by agencies
- reducing the time for organisations to determine if they need to report a privacy breach under the mandatory data breach scheme, possibly from 30 days down to 72 hours
- the right of objection for the collection, use and disclosure of personal information in certain circumstances
- a right of erasure of personal information in particular circumstances.<sup>31</sup>

The Privacy Commissioner also noted that:

- nearly a third of complaints that the OIC had received during the reporting year were declined on the basis that the complainant had not been dealt with as a privacy complaint with the agency in the first instance or had otherwise been prematurely referred to the OIC
- during the reporting year, the OIC received 69 complaints, down from the previous year of 81
- during the reporting year, COVID remained one of the significant issues for the OIC including the collection of people's personal information about their vaccination status
- the OIC had made 4 formal submissions to parliamentary inquiries and commissions in relation to impacts of privacy on proposed reforms.<sup>32</sup>

### 3.3 The Right to Information Commissioner

In her opening statement, the Right to Information Commissioner commented that the OIC continues to experience high demand for its external review services and noted that the OIC received 606 applications during the year.<sup>33</sup>

The Right to Information Commissioner explained that the profile of agencies that are subject to external reviews includes:

- Departments, representing 59%
- Local government, representing 15%, and
- Ministers, representing 2.4%.<sup>34</sup>

In terms of the breakdown of persons who request external reviews, the Right to Information Commissioner stated that:

- individuals represent 83%
- journalists represent 3.6%, and
- politicians represent 2.1%.<sup>35</sup>

The agency that dominates in terms of external review numbers is the Queensland Police Service.<sup>36</sup>

The Right to Information Commissioner also spoke about how record keeping and concerns about missing documents still remain live issues as reinforced in the Coaldrake Report and that this issue

<sup>31</sup> Public hearing transcript, Brisbane, 13 July 2023, p 3.

<sup>32</sup> Public hearing transcript, Brisbane, 13 July 2023, pp 3-4.

<sup>33</sup> Public hearing transcript, Brisbane, 13 July 2023, p 4.

<sup>34</sup> Public hearing transcript, Brisbane, 13 July 2023, p 5.

<sup>35</sup> Public hearing transcript, Brisbane, 13 July 2023, p 5.

<sup>36</sup> Public hearing transcript, Brisbane, 13 July 2023, p 5.

continues to undermine confidence in the public sector. In her view, this issue 'should be addressed as a priority by public sector leaders to avoid the impression that there is a systemic problem with transparency'.<sup>37</sup>

### 3.4 Questions from the committee

Questions from the committee during the public hearing focused on:

- the OIC's first vexatious applicant declaration
- the length of time involved in obtaining a response to a RTI application
- the model protocols developed by the OIC in consultation with the agencies relating to the Queensland government sector
- the role of the OIC in ensuring that there is a cultural shift and more openness in government, including the more proactive release of cabinet documents and the need for greater scrutiny over what is deemed commercial-in-confidence
- the learnings from meetings with privacy authorities across Australia to discuss trends and issues, particularly in the Queensland context
- whether the mandatory breach regime will assist the maturity of Queensland government responses to privacy breaches
- the role that the OIC has in helping with the release of historical information around treaty, truth-telling and responding to Indigenous rights
- the number of employees in the OIC that deal with external review applications
- whether there is a cost barrier in terms of external reviews and RTIs especially for individuals involved who are interested in obtaining information
- deemed refusals and whether there is a resourcing issue or a cultural issue which may be fixed by changing the focus to a deemed acceptance provision in the legislation.<sup>38</sup>

## 4 Committee comment

We commend the OIC for its efforts during 2021-22 in the areas of right to information and information privacy particularly during a challenging year involving COVID-19, the 2022 flood and the significant data breaches by a number of large organisations. In spite of these challenges, the OIC has undertaken and completed an impressive volume of work during the 2021-22 year.

We note the findings of the Coaldrake Report and the recommendation that the independence of the OIC be enhanced by the involvement of the committee in financial arrangements and management practices.

We appreciate the assistance provided by the Information Commissioner and the OIC staff to assist the committee in its performance of its oversight role. We also wish to congratulate the Information Commissioner on her 10 years of service in that role and thank her for her leadership, commitment and insights during her tenure. We welcome Ms Winson to her new roles as Right to Information Commissioner and the Acting Information Commissioner.

We wish to also express our continued support of the OIC in its efforts to build trust and accountability through transparency.

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<sup>37</sup> Public hearing transcript, Brisbane, 13 July 2023, p 5.

<sup>38</sup> Public hearing transcript, Brisbane, 13 July 2023, pp 5-11.



**Recommendation**

The committee recommends that the House notes the contents of this report.

## Appendix A - Abbreviations

|                                   |                                                                                                                                                             |
|-----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Acting Information Commissioner   | Stephanie Winson                                                                                                                                            |
| annual report                     | Office of the Information Commissioner, 2021-22 Annual Report                                                                                               |
| Coaldrake Report                  | Professor Coaldrake's June 2022 final report, <i>Let the sunshine in: review of culture and accountability in the Queensland public sector</i>              |
| committee                         | Legal Affairs and Safety Committee                                                                                                                          |
| Department                        | Department of Justice and Attorney-General                                                                                                                  |
| Information Commissioner          | Rachael Rangihaeata                                                                                                                                         |
| IP Act                            | <i>Information Privacy Act 2009</i>                                                                                                                         |
| OIC                               | Office of the Information Commissioner                                                                                                                      |
| Privacy Commissioner              | Paxton Booth                                                                                                                                                |
| public hearing                    | Public hearing with the OIC held on 13 July 2023                                                                                                            |
| QCAT                              | Queensland Civil and Administrative Tribunal                                                                                                                |
| QPS                               | Queensland Police Service                                                                                                                                   |
| Right to Information Commissioner | Stephanie Winson                                                                                                                                            |
| RTI                               | Right to information                                                                                                                                        |
| RTI Act                           | <i>Right to Information Act 2009</i>                                                                                                                        |
| Standing Orders                   | Standing Rules and Orders of the Legislative Assembly (Queensland)                                                                                          |
| Strategic Review Report           | <i>How to let more sunshine in: Strategic review of the Office of the Information Commissioner, 2022 (Final Report, 12 December 2022)</i> by Dominic McGann |

