



**Information
Commissioner**
NORTHERN TERRITORY



Annual Report

2021-22

Acknowledgement of country

We pay respect to the past, present and future Traditional Custodians and Elders of lands throughout the Northern Territory.

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Message from the Commissioner

FOI numbers increase again

Freedom of Information (FOI) access applications to public sector organisations (**Organisations**) under the *Information Act 2002 (the Act)* continued to grow during the year.

There were 1,627 applications reported to the Office of the Information Commissioner (**OIC**) for 2021/22. This was a rise of 6% over the previous year but, extraordinarily, double the number from 2016/17.

Counter to the increase in initial FOI applications, both the number of applications to Organisations for internal review and complaints to the OIC fell markedly from the previous year, which admittedly had seen record peaks for both. While COVID-19 may have contributed, there is no discernible reason for the differing trajectories. We will monitor future developments in this regard with interest.

Privacy complaints to Organisations and the OIC have not escalated at the rate of FOI applications. A reduction in FOI and privacy complaints during the period allowed us to tackle and finalise a number of older complaints, with a significant reduction in the number of OIC complaints open at the end of the year.

Centralised FOI handling

The ongoing increase in the number of FOI applications to Organisations continues to place considerable ongoing strain on the resources of Organisations. The NT Government has sought to ameliorate this to some extent and improve the functioning of the FOI system by the creation of a centralised unit within the Department of Corporate and Digital Development (**DCDD**) to undertake handling and administrative actions for the bulk of NTG Organisations.

We have been consulted on several occasions in relation to this initiative and identified a number of positive aspects and potential hurdles that have to be overcome for successful implementation. Noting that small Organisations and Organisations that receive few applications often struggle to maintain corporate knowledge about the Act, this new service is likely to present significant advantages for them.

However, FOI training of staff within Organisations will still be important as they will continue to be the ones who must locate the information sought, provide comment from their Organisation's perspective on the application of exemptions and ultimately make decisions under the Act.

Information sharing

During the year, we devoted considerable resources to addressing privacy issues with respect to information sharing.

We continued to work on a statutory review of an information sharing scheme under Part 5A of the *Domestic and Family Violence Act 2007*. We conducted extensive consultations with Territory Families and other stakeholders. Our investigations are well advanced and we anticipate finalisation of a report later in 2022/23. The review is discussed in more detail in the section of this report on *Other OIC Operations*.

We also devoted considerable time to providing advice to the NT Government in relation to development of policy and legislation concerning information sharing aimed at advancing the care and protection of children. Much of our work during the period in that regard concerned contributing to development and implementation of legislation (which was passed and came into force in early 2022) amending the *Care and Protection of Children Act 2007*, to develop data access agreements for the provision to Territory Families of information held by a range of agencies and service providers about children who have involvement with Territory Families, as well as their associates.

This is a very broad information sharing scheme, involving information regarding a substantial number of Territory families, held by agencies as diverse as NT Police, Health, Education, Courts and Correctional Services. Our Office has been provided with a short term resource to provide advice and assistance with respect to development of data access agreements. This initiative is discussed in more detail in the section of this report on *Other OIC Operations*.

Information Act review

In 2021/22, we also lent substantial support to preliminary steps being taken to conduct a review of the Act. In initial discussions regarding the nature of a review we noted that a comprehensive review of the Act is long overdue. We said the Act is unique in that it includes provisions relating to access to information, privacy protection and records management.

The FOI provisions give Territorians the opportunity to access personal and government information held by Territory and local government and some other statutory bodies. They are a significant tool for ensuring transparency and accountability in government decision-making. The privacy protections and records management provisions in the Act provide the public with confidence that personal and sensitive information held by government will be used and disclosed appropriately and held securely. The Act also provides a vehicle for complaint should an individual consider that their privacy has been breached. For these reasons, it is vital that the legislation remains relevant and responsive to the current needs of both the community and government.

We noted that a statutory review of the first five years of the operation of the Act was mandated to occur in 2008. Although numerous amendments have been made to the Act, no comprehensive review has been undertaken. We considered the current Act to be a functional, ‘first generation’ model that adequately deals with routine access applications and privacy complaints. However, there are more recent ‘second or later generation’ legislative schemes interstate that might better suit the Territory’s needs moving forward.

Since the Act commenced, there have been major developments in the information access and open government spheres which are reflected in more recent legislation. Although we did not possess the same level of expertise with respect to archives and records management, we are aware that there have also been major advances in Australia in these fields in recent years. However, we noted the most exceptional developments have been in the privacy sphere, with fundamental changes around privacy in a digital environment, consumer protection and information sharing, to name but a few.

For these reasons, we strongly advocated a broad, two stage review process that refrains from focusing on the detail and deficiencies of the current Act at first instance but instead considers comparative FOI, privacy and information-management law from interstate jurisdictions to identify which model/s would best suit the Territory into the future. The second part of the review could then consider the details and operational aspects of the chosen model/s.

If a broader review is undertaken, we suggested there are important privacy initiatives that deserve consideration. One such initiative would be the introduction of a statutory mandatory data breach notification scheme to create a more robust risk management system in a time when greater information sharing is sought both internally and externally of government, bringing with it a higher risk of serious data breaches. Several larger jurisdictions have already implemented statutory notification schemes to ensure that data breaches are managed appropriately.

We also drew attention to a significant number of technical and procedural issues that warrant attention. These included the current situation of multi-layered decision-making on FOI access issues, potentially involving initial decision, internal review decision, OIC complaint, preliminary tribunal consideration of any OIC decision to dismiss a complaint, and ultimate tribunal decision on the merits. We suggested the current process is unduly complex and time consuming for what should be relatively straightforward decision on access to information, and put forward a range of possible options for streamlining it.

We look forward to the issues raised by us and various other stakeholders being addressed in due course.

Conclusion

With the small size of the OIC, we are constantly challenged to deal effectively with often complex and time consuming complaints, respond to general enquiries from the public and requests for policy assistance from Organisations, and comply with additional statutory requirements for review or consultation.

Again this year, COVID-19 played its part in disrupting the work of the OIC and the Organisations that are called on to administer the Act. It is necessary for us to carefully prioritise our workload (including the many competing demands of other roles held by my Deputy and I). We will continue to do so and work to the best of our abilities to comply with statutory requirements and strive towards facilitating better government in the Territory.

To do so, we rely on the ongoing dedication and flexibility of the staff of the OIC and others within the Ombudsman's Office who support it. I express my thanks to them for their ongoing commitment to public service.



Peter Shoyer
Information Commissioner

Introduction

The *Information Act 2002 (the Act)* is the legislation governing freedom of information (**FOI**), privacy protection, and public sector records management in the NT. The Act provides for reasonable public access to government information, the responsible collection, correction and handling of personal information and appropriate records and archives management.

The Act is intended to strike a balance between competing interests of openness and transparency and the legitimate protection of some government information, including personal information about individuals.

The Act establishes an Information Commissioner to oversight information access and privacy protection provisions. The Information Commissioner's functions include:

- dealing with complaints about FOI decisions and privacy issues through an investigation and mediation process;
- referring, at the request of a party, dismissed or unresolved complaints to the NT Civil and Administrative Tribunal (**NTCAT**) for hearing;
- commenting on the privacy implications of new legislation and new government initiatives;
- conducting privacy audits of records held by public sector organisations;
- considering applications for grants of authorisation made by public sector organisations to collect, use or disclose personal information in a manner that would otherwise contravene the Information Privacy Principles;
- considering applications for extension of time periods relating to certain exemptions, e.g. the business information exemption (section 57 of the Act); and
- educating the public and public officers about FOI and privacy protection.

Since August 2018 the Office of the Information Commissioner (**OIC**) has been located within the Ombudsman's Office. Despite its location and utilisation of shared corporate support, the OIC remains an independent statutory office with a memorandum of understanding between itself and the Ombudsman's Office that covers information sharing and referrals between the offices.

The resources of the OIC are very limited. The Commissioner and Deputy have dual roles (i.e. they are also Ombudsman and Deputy Ombudsman respectively) and so are able to contribute only part of their time to OIC functions. Apart from this, the OIC is currently comprised of two full-time positions - a Senior Policy and Investigation Officer and an Administrative Policy and Complaints Officer. Necessary corporate support is provided by the Business Services Unit of the Ombudsman's Office.

Freedom of Information

Annual statistics



1627

New FOI applications received by all public sector organisations for the financial year 2021/22. An increase of 6% compared with 2020/21.



1523

FOI applications finalised by public sector organisations for the financial year 2021/22. An increase of 4% compared to 2020/21.



68%

of applications dealt with were for personal information about the applicant only.



22%

of applications dealt with were for non-personal information only.



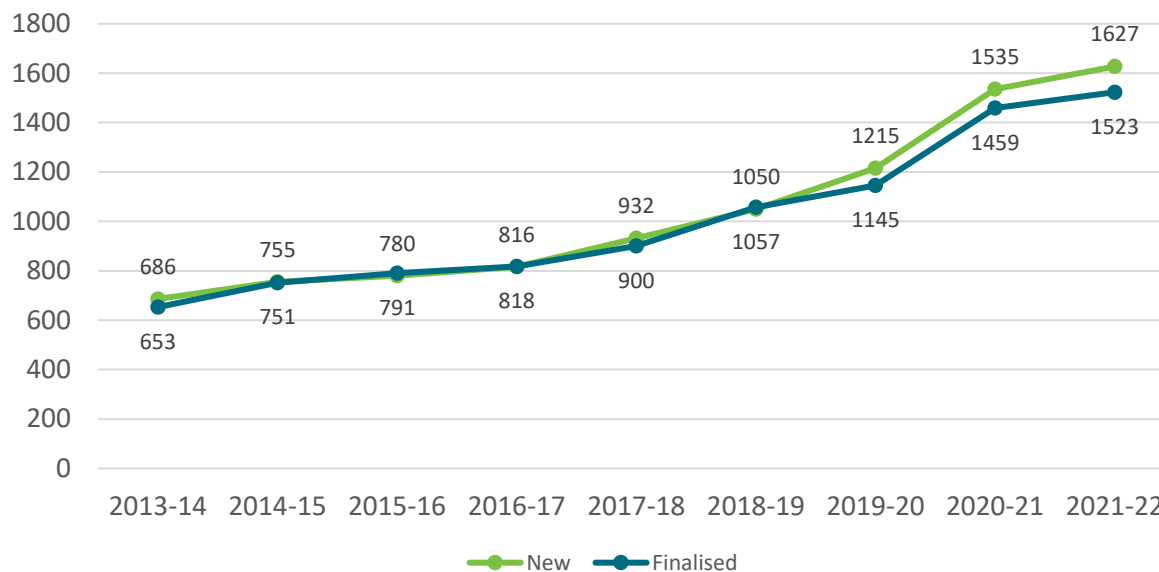
11%

of applications dealt with were from political, media, activist or lobby groups.

FOI applications

The trend of annual increases in the number of FOI applications received by Organisations continued in 2021/22. Organisations are currently receiving twice the number of FOI applications compared to 5 years ago, often with little or no increase in resources.

FOI Applications by Financial Year



Notable Trends:

- Similar to previous years, the Department of Health continues to receive more applications than any other Organisation, experiencing an increase of 14%¹ in new FOI applications compared to the previous year. Over the last 3 years, the Department has experienced a 51% increase in applications received, from 314 in 2019/20 to 474 in 2021/22.
- The Department of Territory Families, Housing and Communities² experienced the greatest increase in new applications for this period compared to 2020/21, a rise of 33%.
- After many years of consistent increases, some agencies experienced a slight drop in new applications in comparison to the previous year including NT Police, Fire and Emergency Services³, the Department of Infrastructure, Planning and Logistics⁴ and the Department of Education⁵. Whether this reduction was due to COVID-related issues is hard to tell but we will monitor these trends in the next reporting period.

¹ 417 in 2020/21 to 474 in 2021/22

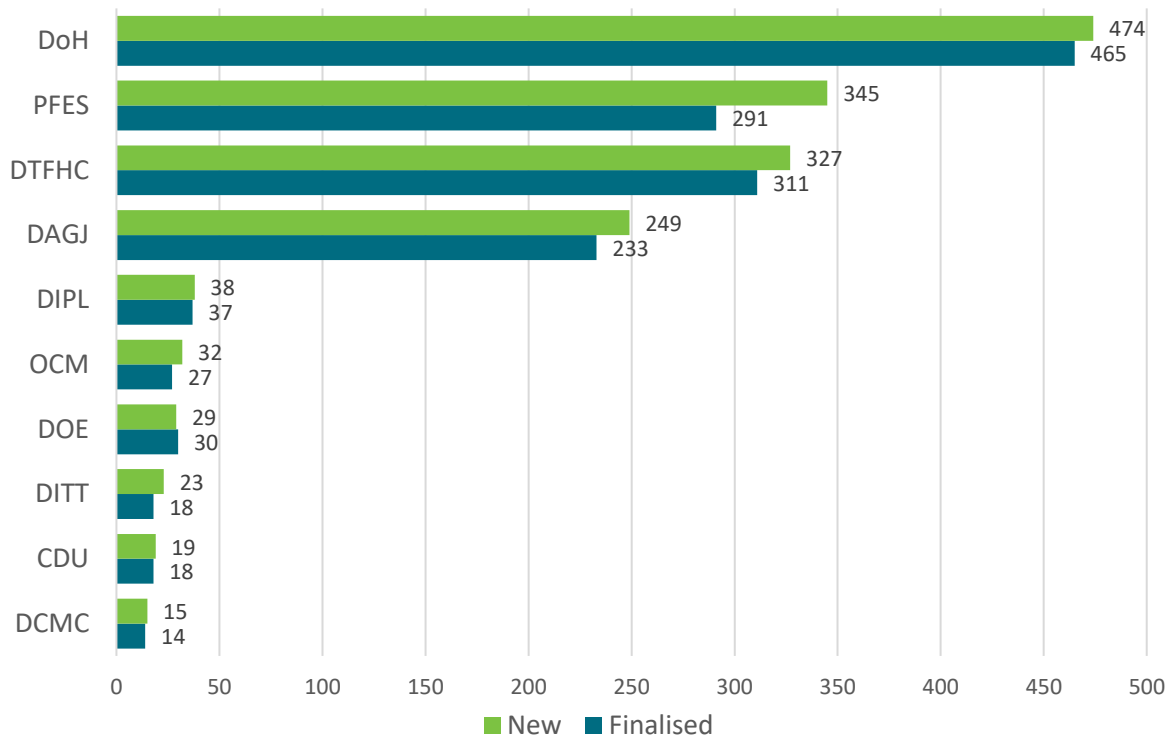
² 245 in 2020/21 to 327 in 2021/22

³ 366 in 2020/21 to 345 in 2021/22

⁴ 48 in 2020/21 to 38 in 2021/22

⁵ 39 in 2020/21 to 29 in 2021/22

FOI Applications Received and Finalised in 2021-22 Top 10 Agencies



Type of information requested



Notable Trends:

- FOI applications for personal or mixed information increased by 15%⁶ compared to 2020/21.
- There was an increase in FOI applications received from political, media, activist and lobby groups during 2021/22. These groups represented 11% of total FOI applications dealt with in the current period compared with 8% in 2020/21 and 6% in 2019/20.

⁶ 1,191 in 2020/21 to 1,373 in 2021/22

Application outcomes

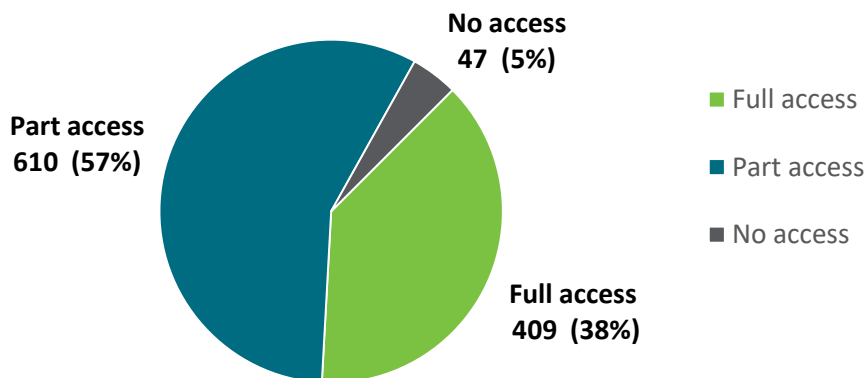
The ultimate aim of the FOI process is to have an Organisation make a decision on whether, and to what extent, an applicant should be given access to particular information (the exemption stage). However, there are requirements for making and progressing an application that may mean the exemption stage is not reached or access is not ultimately given.

We will first discuss outcomes at the exemption stage before moving on to applications finalised on other bases.

Access refused because of exemption

At the exemption stage, most FOI applicants are successful in getting all or some of the information they seek. In 2021/22, only a small number of applicants (47 out of 1,066) were refused all information they sought on the basis of exemptions in the Act.

Information Granted Or Refused Under Exemptions



During 2021/22, the most widely used exemptions were those aimed at protecting:

- the privacy of individuals (section 56) – relied upon by 12 Organisations;
- commercial and business information (section 57) – relied upon by 8 Organisations;
- the system of justice (section 49) and deliberative processes (section 52) – relied upon by 6 Organisations; and
- Executive Council and Cabinet considerations (section 45(1)(a)), security and law enforcement and maintenance of law and order (section 46) and effective operations of the Organisation (section 53) – relied upon by 5 Organisations.

Making and progressing a valid application

An access application must meet the requirements of section 18 of the Act to be valid. It must be in writing, specify the name and contact address of the applicant and include sufficient details to identify the information sought. It must also be accompanied by the application fee (unless waived by the Organisation). Finally, before accepting the application, an Organisation must satisfy itself as to the identity of the applicant.

A valid application may be withdrawn by the applicant or transferred to another Organisation.

An Organisation may also decide not to progress an application for other reasons, including:

- the information is already publicly available;
- a required deposit or processing fee has not been paid;
- the information sought cannot be identified or found or does not exist;
- the information is excluded from, or does not come within, the Act;
- providing access would unreasonably interfere with its operations.

There is a clear expectation that, as far as possible, Organisations will communicate with an applicant in a genuine effort to rectify any problems or deficiencies with an application in a manner that will enable the application to progress effectively. This may involve several rounds of discussion to clarify or refine its scope.

Even so, a surprisingly large number of applications are finalised on these other grounds. Most prevalent among those during 2021/22 were approaches that did not meet the requirements for a valid application under section 18 (115), followed by cases where the information sought could not be identified or found or did not exist (100) and withdrawn applications (77).

A breakdown of these other outcomes by Organisation is set out at Appendix 2, Table 1A.

Review processes

If an applicant is not satisfied with the initial access decision they receive from an Organisation, they can ask for an internal review by another officer to allow the Organisation the opportunity to reconsider its initial decision.

Of the internal review decisions undertaken by Organisations during 2021/22, 63% confirmed the first decision while the rest (bar one which was withdrawn prior to finalisation) varied or revoked the first decision.

If an applicant is still not satisfied after an internal review, they can complain to the OIC. There is also provision for an Organisation to refer an application for internal review directly to the OIC as a complaint (section 39A referrals). Historically, some Organisations have chosen this path when they have had no one available or able to conduct an internal review or when they are confident that their first decision is the right one. However, most Organisations prefer to take advantage of the opportunity to reconsider their initial decision.

FOI matters by stage

	2020-21	2021-22
Total FOI applications received by Organisations	1535	1627
Internal review applications	60	33
FOI complaints received by OIC	42	19
Referred to OIC without internal review	6	0
Complaints received after internal review	36	19

In 2021/22, 58% of internal review decisions became the subject of a complaint to the OIC. This is a decrease from the previous year when 70%⁷ of internal reviews ended up as OIC complaints.

Noting the increase in FOI applications made to Organisations, the reduction in internal reviews requested and the subsequent reduction in complaints made to our Office are interesting trends.

We are all aware of the difficulties faced by Organisations during the COVID-19 pandemic which caused staff shortages, re-prioritisation of ‘non-essential’ work and processing delays in many work units. Organisations are to be commended for their overall performance in such challenging conditions. It may be too early to tell, but it is hoped that increased training and improvements in the management of FOI applications by Organisations will result in sustained improvement in performance. This Office will continue to monitor these matters.

Application and processing fees

The Act provides for charging of application fees and processing fees. Similar to other jurisdictions, the maximum fees chargeable are set in legislation at a level well below that required for Organisations to recover the costs of administering the FOI scheme.

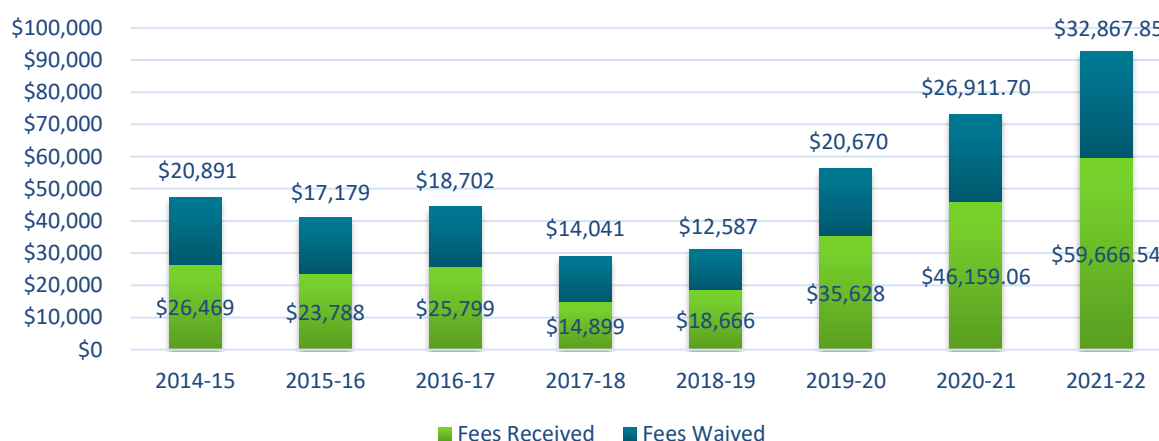
The fees are intended to act as a reasonable check on multiple and unnecessarily widely-scoped applications as they require an applicant to demonstrate their commitment to obtaining the information by assisting with associated costs.

No application fees are chargeable for requests for purely personal information and Organisations rarely charge processing fees for such requests.

Processing fees are also seldom charged if the request is small and straightforward. The resources required to collect fees in a large number of small matters would be uneconomic.

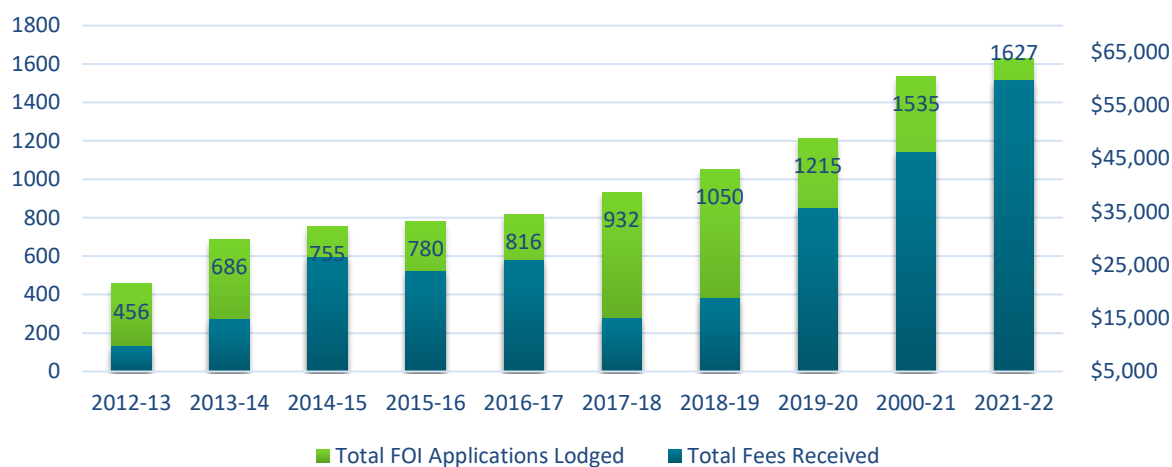
It is often difficult to comment with any confidence on the reasons for annual fluctuations in fees charged or waived beyond saying that the total fees received and waived are small in comparison to the actual costs of dealing with over 1,600 applications.

Fees received and waived



⁷ Includes s39A referrals by Organisations directly to OIC.

FOI applications lodged and fees received



While total processing fees rose substantially in 2021/22, it is notable that 80% of those fees were paid to three agencies.

A breakdown of fees received, reduced and waived by Organisation is set out at Appendix 2, Table 4 and 5.

FOI Correction applications

The scheme in the Act which allows people to apply to correct their own personal information (Part 3 Division 3) is seldom utilised.

No doubt difficult matters where Organisations are reluctant to amend the record are the ones that result in formal correction applications being made. The refusal to correct may be because the Organisation does not consider that there is an error on the file or they may consider that the error/wrong information is historical only. In circumstances where the disputed information is not removed, there is an option for a notation to be placed on the file to record the applicant's concern.

In 2021/22, 7 applications to correct personal information were received by three Organisations, with only 1 carried over from 2020/21.

Of the 8 correction applications handled during the reporting period, 3 progressed to internal review, 2 of which confirmed the original decision of the Organisation⁸.

The applications were dealt with by the Organisations as follows:

- 1 application resulted in the correction being made as requested;
- 1 application resulted in partial or negotiated corrections;
- 1 application was withdrawn;
- in 3 applications, the correction was refused; and
- 2 applications were carried over to the next reporting period.

⁸ Further details on correction applications are included at Appendix 2, Table 2.

Timeliness measures for agencies

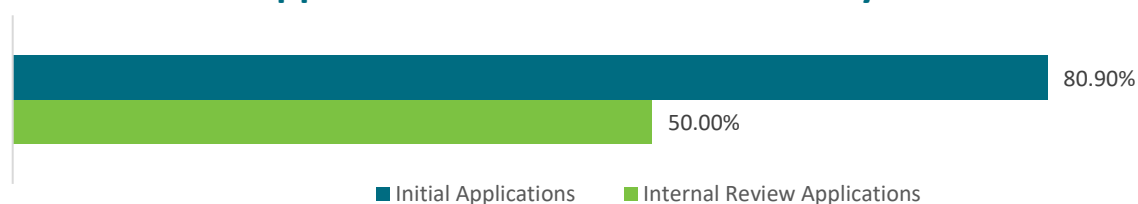
At the end of the reporting period, Organisations are requested to provide statistical data regarding their compliance with legislative timeframes when finalising FOI applications within the 30 day statutory timeframe or any valid extension period.

The extension period makes allowance for reasonable delays in processing large applications or in consulting third parties if their personal or confidential information is intended to be released.

Data on this measure is collected annually as it provides a good indicator of how public bodies are managing an increasing workload and how the FOI scheme is working in terms of timeliness.

The figures show that a great majority of applications are finalised within 30 days⁹. Organisations reported 81% of initial access applications and 50% of internal reviews were finalised within 30 days.

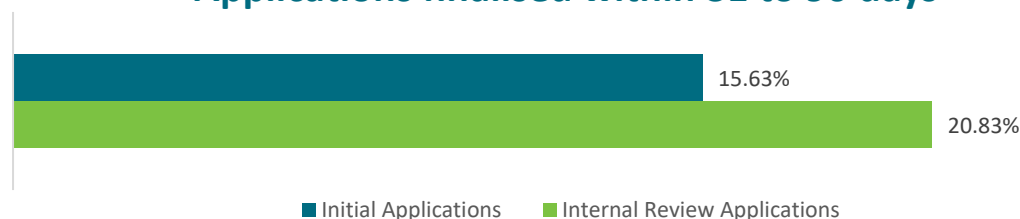
Applications finalised within 30 days



The proportion finalised within 90 days rose to 95% of initial applications and 70% of internal reviews.

For internal reviews, there was a noticeable reduction in timeliness compared with the previous year.¹⁰

Applications finalised within 31 to 90 days



Exemption certificates

The Chief Minister may issue an exemption certificate certifying that government information identified in the certificate is exempt for specific reasons set out in section 60 of the Act. We have not been notified of any exemption certificates issued by the Chief Minister under section 60 of the Act during 2021/22.

⁹ Proportions are based on figures provided by Organisations.

¹⁰ In 2020/21, 75% of internal reviews finalised within 30 days and 17% within 31 to 90 days.

Challenging behaviours

No applications have been received this year for a declaration that a person is a vexatious applicant under section 42 of the Act. Even so, Organisations continue to contact the OIC seeking advice on appropriate methods for managing individuals whose conduct or demands appear to them to be unreasonable.

These types of situation need to be well managed as they can place considerable strain on everyone involved and require a reasoned, carefully implemented and staged approach to manage escalating behaviour. Our Office will continue to assist FOI officers and complainants with advice on maintaining a productive and workable relationship wherever possible.

Public resources to assist with management of challenging complainant conduct, include:

Ombudsman NT website:

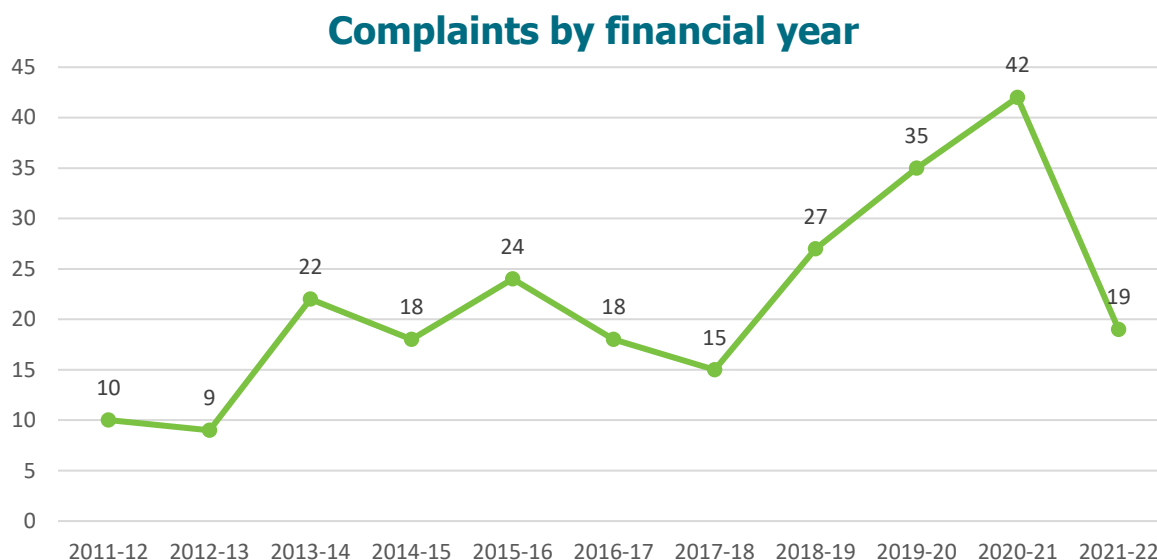
<http://www.ombudsman.nt.gov.au/node/99/unreasonable-complainant-conduct>, with links to NSW Ombudsman documents.

Victorian Ombudsman website: particularly the *Good Practice Guide to Dealing with Challenging Behaviour*, <https://www.ombudsman.vic.gov.au/learn-from-us/practice-guides/>.

Queensland Ombudsman website, *Identifying and managing unreasonable complainant conduct*, <https://www.ombudsman.qld.gov.au/improve-public-administration/public-administration-resources/managing-unreasonable-complainant-conduct/identifying-and-managing-unreasonable-complainant-conduct>.

FOI complaints to OIC

The number of FOI complaints received by the OIC decreased significantly over the reporting period. The OIC received 19 FOI complaints, a fall from a record high of 42 in 2020/21.



A further 29 complaints¹¹ were carried over from 2020/21. Due to the lower complaint numbers received during the financial year, the OIC had an opportunity to reduce a backlog of complaints, with a total of 29 FOI complaints being closed.

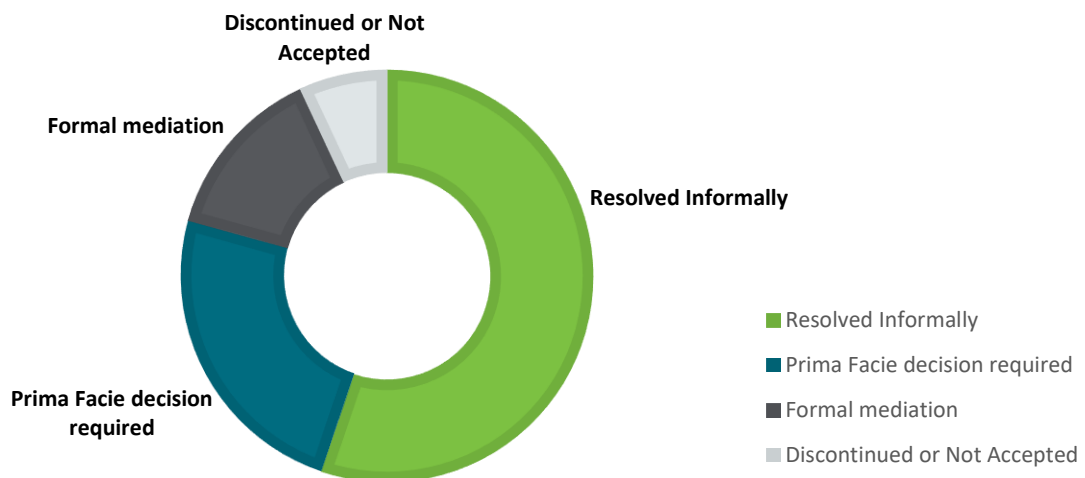
The table below lists the FOI complaints handled by our Office during this reporting period, by Organisation.

Organisation	New Complaint	Carried Over	Finalised	Open at EOY
CDU		1		1
CoD	1		1	
DAGJ	6	2	4	4
DEPWS	1	1		2
DIPL	1	1	1	1
DITT	1	4	5	
DoE	5	9	7	7
DoH		8	8	
LSNT		1	1	
OCM	3	1	1	3
PFES	1	1	1	1
TOTAL	19	29	29	19

Note: See Appendix 2 for the full names of abbreviated public sector organisations referred to in the table.

¹¹ 27 FOI and 2 correction complaints were carried over from 2020/21.

Finalisation of FOI complaints in 2021/22



As at 30 June 2022, 19 FOI complaints remained open.

Five complaints finalised during the reporting period were referred to the NT Civil and Administrative Tribunal (**NTCAT**) for hearing, at the request of the complainant.

Timeliness

Timeliness in complaint management over the past few years has been affected by an increase in complaint numbers and other functions undertaken by the OIC with limited resources. We have also faced the challenge of the need to accommodate the personal circumstances of a number of complainants with limited ability to participate in a timely manner for health and other reasons. These complaints make up the majority of matters that have taken over 12 months to finalise.

A decrease in new complaint numbers during 2021/22 provided an opportunity to finalise a number of older complaints carried over from the previous reporting period.

During 2021/22, timeliness outcomes for FOI complaints were:

- 24% finalised within 0–6 months
- 17% finalised within 6-12 months
- 59% finalised after 12 months or more.

Resolved informally or by mediation – case studies

Third party objector

Many FOI complaints that are made to our Office are settled informally through discussion or formally through mediation. Often there is a ‘middle ground’ to be explored and a compromise can be found. On this occasion, the complainant third party objected to the Organisation’s intention to release a specific report in full to an FOI applicant. The complainant submitted that the report contained sensitive business information and its disclosure would likely expose the business unreasonably to disadvantage. The Organisation was not persuaded by the third party’s earlier submissions to them and they retained the view that the report should be released in its entirety.

During the complaint investigation stage, our Office proposed an early mediation between the parties to explore the option of a partial release. It appeared to the Commissioner's delegate that there was a considerable amount of uncontroversial information in the report that could be released and a small amount of information that if released might expose the business to disadvantage.

At mediation, the parties had the opportunity to discuss each aspect of the report, sufficient to enable the Organisation to understand why the third party was insisting that certain information should not be released. Conversely, the third party acknowledged that most of the report was not covered by the exemptions and should be released to the FOI applicant by the Organisation. In short, a mutually agreeable decision was reached about which parts of the report were to be redacted before the report was released.

Reduced scope means reduced fees

There is a real imperative for parties to reach a negotiated settlement on fees and charges wherever possible. For the complainant, there will be no ability for them to get the information they seek through FOI unless and until they pay the fees and charges. For the Organisation, a protracted dispute about fees and charges ties up their limited resources.

In one complaint received this reporting period, the complainant's view was that the Organisation's processing charges were excessive. The complainant could not accept that searching for documents, assessing them for release and making a written decision could take as long as the estimate of time put forward by the Organisation.

At mediation, the Organisation explained in detail why their estimate was reasonable if they were to provide all of the documents sought by the complainant. This led to a reconsideration of the scope of the FOI request. Did the complainant really need all of the documents sought or might they agree to a reduced scope that would require less time to process?

The parties resolved the matter whereby the complainant discontinued the original FOI application and made a new application with a reduced scope to enable the Organisation to locate the information requested at a much reduced cost to the complainant.

Deleting biometric information

Organisations have clear policies and processes to assist them in maintaining good recordkeeping and to guide them in appropriate disposal of information. However, individuals can request that an Organisation delete their personal information if it should no longer be held and is no longer needed for any purpose by the Organisation. Under the Act, 'correct means alteration by way of amendment, deletion or addition'¹² and an application for correction can be made under Part 3, Subdivision 2 of the Act to delete the information in appropriate circumstances.

During the reporting period, an individual approached our Office for advice and assistance. They had requested that their biometric information be removed from an Organisation's database. They had provided their biometric information to gain access as a visitor to a facility and they stated that there was no ongoing need for the Organisation to retain this information, as they did not intend to return.

¹² Section 4 of the Act.

Our Office explained the options for deletion available to the complainant under the Act and the complainant lodged an FOI application with the Organisation, requesting that their biometric information be permanently and securely destroyed. However, after discussion between the parties, the complainant asked for their information to be deleted through an administrative process established by the Organisation. The complainant was satisfied with the outcome.

Photos of complainant

The complainant lodged a complaint with our Office because they disagreed with an Organisation's decision that photographs of the complainant taken by the Organisation were exempt from release under the Act.

Our Office provided a preliminary view to the Organisation that the exemption relied upon to refuse access may not be appropriate and encouraged the Organisation to attempt to resolve the complaint.

As a result of our Office's preliminary view and discussions with the Organisation, it decided to release to the complainant in full all photographs held that fell within the scope of their access application, including additional photographs identified.

The complaint was resolved at an early stage. The complainant was satisfied with the outcome and discontinued the complaint.

NTCAT FOI proceedings

Following a decision finalising an OIC complaint, an aggrieved party can apply to the Commissioner to refer the decision to the NTCAT for hearing. In such cases, the OIC prepares a referral report to the NTCAT and, in some cases, participates in the Tribunal proceedings.

In this period, five FOI matters were referred to NTCAT, with six matters (one carried over from the previous period) finalised by an NTCAT decision. One of these matters was referred back to the OIC for further mediation.

Set out below are some summaries of NTCAT's reasons for decision. Selected NTCAT decisions are published on the Australian Legal Information Institute (AUSTLii) website¹³.

Published decisions

Police disciplinary history

The applicant was seeking documents about an officer's disciplinary history. The FOI application was initially refused by the Respondent on the basis that it would neither confirm nor deny the existence of the information. The matter travelled through the OIC and NTCAT before being referred back for a further decision by the Respondent.

In a further internal review, the Respondent identified a Career Review document as falling within the scope of the FOI application. The Respondent refused access to the Career Review document on the ground that its disclosure would unreasonably interfere with the officer's privacy (s 56(1)(a)), and disclosure would be reasonably likely to have a substantial adverse effect on the management of the Respondent's employees (s 53(c)).

¹³ <http://www8.austlii.edu.au/cgi-bin/viewtoc/au/cases/nt/NTCAT/2015/>

This was challenged by the applicant in the NTCAT. The Tribunal concluded that the contents of the Career Review disclosed personal information about the officer. It then went on to consider whether its disclosure would unreasonably interfere with the officer's privacy. The Tribunal accepted that disciplinary proceedings against police officers employed by the Respondent are determined through a confidential process and are sensitive in nature. The Tribunal also considered the fact that the officer did not consent to the release of the Career Review, and the fact that disclosure could result in wide dissemination of the personal information contained in the document. The Tribunal noted that the personal information contained in the document was not known to the Applicant. The Tribunal determined that the Respondent was correct to conclude that the release of the Career Review would constitute an unreasonable interference with the officer's privacy.

In considering the exemption under s 53(c), the Tribunal relied on evidence provided by a senior executive employed by the Respondent. The senior executive made a declaration that in their opinion, releasing a police officer's disciplinary records, including the type of information contained in the Career Review document, would cause a range of adverse impacts on the operations of the NT Police Professional Standards Command (**PSC**), the investigation and management of Ombudsman and PSC complaints, the investigation and management of suspected breaches of discipline under the relevant legislation, and daily relations between the CEO and their employees.

The Tribunal accepted that release of the Career Review was reasonably likely to cause the range of adverse impacts noted in the senior executive's declaration. The Tribunal noted that *"The disclosure of such a document to third parties unconnected with the complaint or disciplinary process could have an adverse impact on police officers' willingness to cooperate with investigations. This, in turn, could have a substantial, adverse effect on the management by the Respondent of the police officers in its employ."* The Tribunal also accepted the senior executive's evidence that disclosure of the Career Review could have an adverse impact on an officer's welfare, personal or mental health should it disclose that the officer had been involved in complaint and disciplinary process. Consequently, disclosure would reasonably likely have a substantial adverse impact on the management by the Respondent of that officer.

The Tribunal was satisfied that it was not in the public interest to disclose the Career Review.

CCTV footage

The complainant requested CCTV footage (1 hour and 45 minutes long) held by the Respondent. The Respondent's initial determination was to provide access to the CCTV by way of examination only under s 21(2)(a)(ii) of the Act.

The complainant sought a review of that decision on the basis that section 21(2)(a)(i) of the Act required the Respondent to provide a copy of the footage if it was reasonably able to do so. The Respondent maintained its original position, which led to the complainant lodging a complaint to the OIC. The OIC decided that the complainant had an arguable case and referred the matter to NTCAT on the request of the complainant.

During the NTCAT proceedings, the Respondent made an application to the Tribunal to reconsider its decision. The Tribunal decided to grant the application.

Consequently, the Respondent decided to provide a copy of the first portion of the CCTV footage (1 hour, 3 minutes and 58 seconds) in full. The Respondent refused to provide access to the remainder of the CCTV footage because it contained the image of a third party and disclosure would be an unreasonable interference with the third party's privacy. The Respondent conducted a third party consultation under s 30 to ascertain their views on release, however no response was provided.

The parties decided that the Tribunal should make a determination about the remainder of the CCTV footage. The Tribunal remarked that this seems a perfectly reasonable application of the provisions of the Act until it is revealed that the third party the Respondent is referring to was known to the complainant.

The third party appeared in the CCTV footage because they attended the facility in the company of the complainant. The Tribunal stated that there was no use pixelating or blurring the third party's image because the complainant will still be able to identify them by body shape or gait. The Tribunal decided that the release of the information was not an unreasonable interference with the third party's privacy, because their identity was already disclosed to the complainant and well established.

The Tribunal revoked the original decision of the Respondent and ordered them to provide a copy of the CCTV footage (all 1 hour and 45 minutes) to the complainant. The Tribunal noted that the Respondent may redact images of any third parties who appear in the remainder of the CCTV footage.

Unpublished decision

The relationship of the IPP's to third party consultation

In this FOI application, the Applicant sought notifications received by the Teacher's Registration Board (**TRB**) under ss 67 and 67A of the *Teacher's Registration Act*. The Respondent decided that the names of the teachers in the context of the notifications requested by the Applicant were third party personal information which required third party consultation.

The Respondent ultimately refused the application under s 25(1) – unreasonable interference with operations - because they estimated it would take them at least 179 hours to consult the third parties. Following this, the Applicant made a complaint to the OIC.

In the complaint to the OIC, the Applicant argued that because the Information Privacy Principles (**IPPs**) are stated to not apply to "proceedings before a Court or Tribunal" (in this case the TRB) under s 69(1), the third party consultation of teachers was not required. The OIC dismissed the complaint and the Applicant sought referral to the Tribunal.

The Tribunal decided that it is not arguable that the Respondent is relieved of its requirement to consult with the teachers who were subject to the notifications. The Tribunal commented that the application of the IPPs in any case is not a precondition to the obligations of the Organisation when access to information is sought under Part 3 of the Act.

Section 30(2)(b) provides a procedural fairness process to an individual whose privacy might be interfered with by compliance by government with a section 18 request. If the information appears to be personal information that might interfere with a person's privacy then the third party must be consulted by the Organisation and given the opportunity to address issues of their own privacy and put their own case as to any applicable statutory exemptions before a final decision is made by the Organisation about the request for disclosure.

The Tribunal dismissed the proceedings on the basis that the Respondent was required to comply with s30(2)(b) of the Act and consult with third parties involved.

Privacy Protection

The Office of the Information Commissioner (**OIC**) is the ‘privacy watchdog’ for the NT public sector. The Office investigates and mediates privacy complaints made by individuals against public sector organisations (**Organisations**) in circumstances where the Organisation has been unable to resolve the complaint.

A complainant is first required to approach the Organisation and give it a reasonable chance to resolve or rectify the matter complained of before coming to the OIC.

Attempts are made by our Office to resolve privacy complaints at an early stage. Mediation allows parties to have open and frank conversations about an alleged breach of privacy and exchange information in a protected setting. On occasion, this exchange of information may alter each party’s perception of what occurred and/or help them understand the other’s point of view. While some settlements are confidential¹⁴, outcomes achieved at mediations this year included payments of compensation, letters of apology and agreements by Organisations to undertake particular actions.

If matters don’t resolve through the complaint processes within our Office, the individual can seek referral to the NTCAT for a decision as to whether or not a privacy breach has occurred and whether orders should be made to rectify the breach or compensate the complainant.

The OIC also allocates significant resources to educating public officers about their privacy obligations and to providing advice and comment on proposed legislative change or new initiatives that may impact on privacy rights. In addition, the OIC provides education and advice to the public on their privacy rights under the Act.

Privacy complaints to Organisations

Legislative reporting requirements for Organisations in relation to privacy complaints they receive are not as structured as for FOI applications. We do not know, for example, how many privacy complaints are made to Organisations each year. We only know about matters disclosed when a person or Organisation consults us voluntarily about a possible breach or matters that result in a complaint to the OIC.

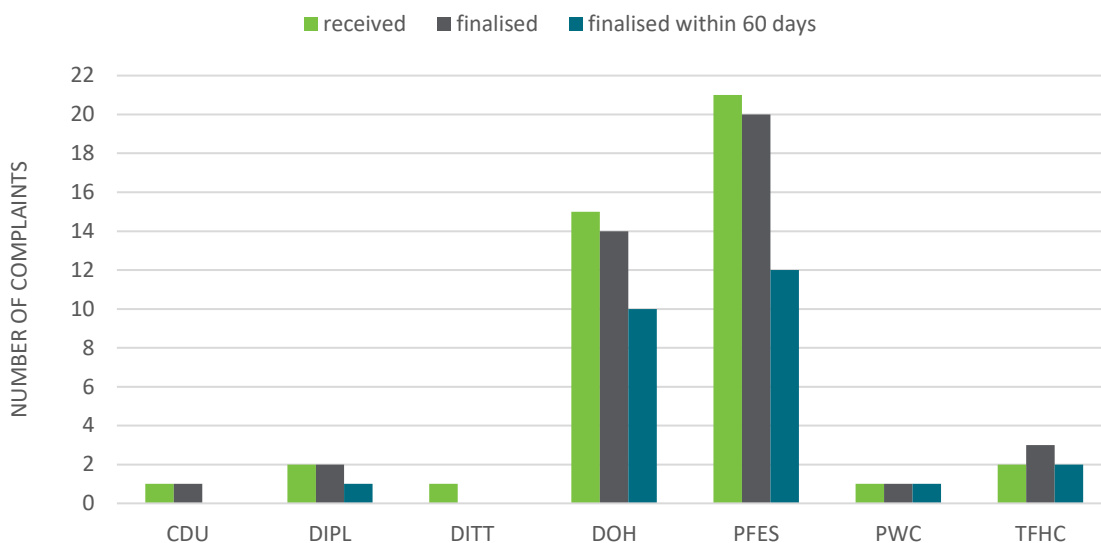
In an attempt to gain insight into the management of privacy complaints by Organisations, our Office now seeks additional information from Organisations on an annual basis.

During 2021/22, Organisations reported the following:

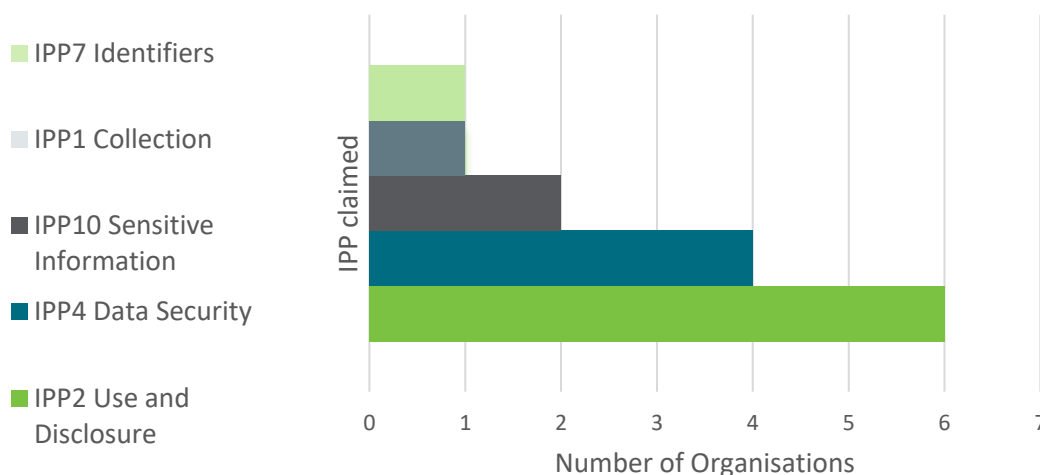
- A total of 43 new privacy complaints were received by 7 Organisations, with 14 carried over from 2020/21.
- These privacy complaints alleged breaches of various Information Privacy Principles (**IPPs**), including use and disclosure of personal information (IPP 2), information security (IPP 4) and collection of personal information (IPP 1).
- Organisations finalised 41 out of the 57 privacy complaints handled during this period, with 26 complaints finalised by Organisations within 60 days.
- Police and Health received the most privacy complaints.

¹⁴ Mediations are on occasion adjourned to allow the parties time to enter into a private agreement which may include confidentiality provisions.

Privacy complaints to Organisations



IPP breaches alleged, by no. of Organisations



Remedies

Most common remedies provided by Organisations to resolve privacy complaints were:

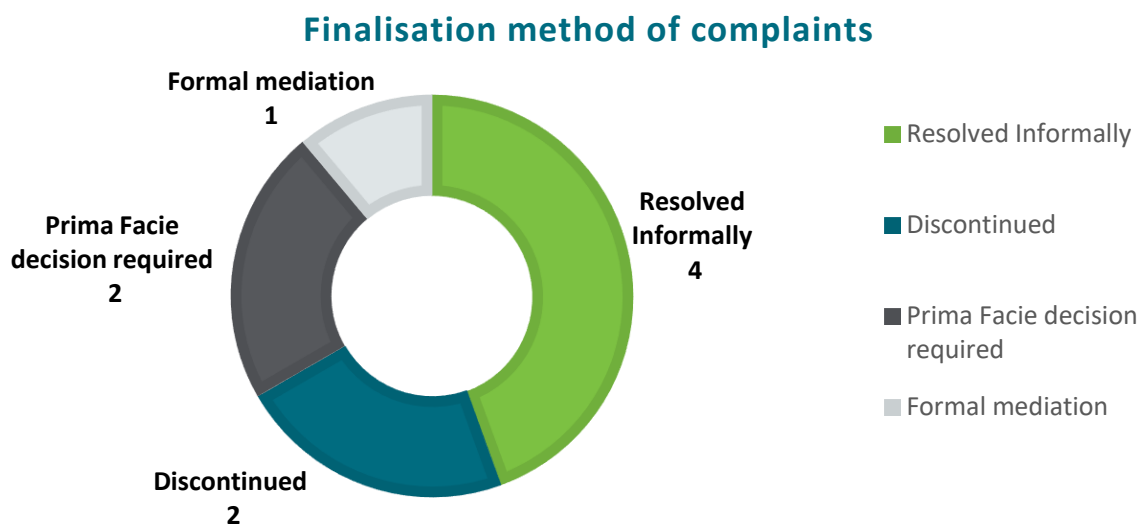
Remedy provided	Count
Apology	11
General change to agency practices or systems	7
Agency refrain from repeating or continuing to do an act	6
Compensation	3

Privacy complaints to OIC

If a complainant is dissatisfied with the decision made by the Organisation on their privacy complaint, they can complain to the OIC. The OIC received only 2 new privacy complaints during 2021/22, a significant decrease compared to 12 complaints received in the previous reporting period. A total of 9 privacy complaints were finalised during 2021/22.

Organisation Complained about	New complaints	Carried over	Finalised	Open at EOY
DCM		1	1	
DoE		2	1	1
DoH		5	5	
PFES	1	1	2	
PWC	1			1
TOTAL	2	9	9	2

The finalisation of privacy complaints to the OIC during 2021/22 occurred in the following ways:



Timeliness

The OIC has again been working at clearing a backlog of long-standing complaints.

Timeliness was impacted by demand, limited OIC resources and COVID-19 realities, together with the need to accommodate the personal circumstances of a number of complainants.

Outcomes were:

- 1 finalised within 0–6 months
- 1 finalised within 6-12 months
- 7 finalised after 12 months or more.

Data breach notification

There is no legislative requirement on Organisations or public officers to advise the Commissioner when there has been a privacy (data) breach but a number of Organisations inform us and seek our advice. Organisations reported that they dealt with 57 privacy complaints during the reporting period but there were only 8 reports of an alleged privacy breach made to our Office by Organisations.

The breaches reported to OIC were of varying levels of seriousness and occurred in both large and small organisations and in various parts of the Territory. Most of the breaches appear to have been due to human error but it is pleasing to see that breaches are being taken seriously by Organisations, and have led to disciplinary action in relation to public officers involved and training regarding privacy of information.

When notified of a privacy breach by an Organisation, this Office provides advice about options for action and possible steps to minimise the risk of harm to the individuals affected. It is most important that affected individuals are made aware of any serious breach and that they are aware of their right to make a privacy complaint should they wish to do so. We also work with Organisations to minimise their future risk and to improve their privacy protection and staff training.

As in previous years, several notifications and related enquiries disclosed poor processes or inadequate staff training to minimise the risk of a data breach within an Organisation. There remains a concern that because there is no scheme for mandatory reporting, the true number of serious privacy breaches may be significantly higher than the number made known to the OIC.

There appears to have been no discernable progress in the development and finalisation of a Data Breach Plan and Policy for NT Government Organisations during 2021/22. This is regrettable, particularly when there is a push for greater information sharing of personal information between Organisations and others.

The introduction of a robust mandatory data breach notification system, consistent with other Australian jurisdictions, would be a significant step in protecting the privacy of Territorians.

Other OIC operations

Domestic & family violence information sharing review

Amendments to the *Domestic and Family Violence Act 2007* (the **DFV Act**) were introduced to assist government agencies and non-government organisations involved in supporting victims and families impacted by family violence to share information with the aim of keeping them safe. The information sharing amendments are contained in Chapter 5A of the DFV Act.

Section 124U of the DFV Act requires the Information Commissioner to review the first 2 years of operation of this Chapter, and later to review the 3rd to 5th years. Each review must include consultation with the Minister and with information sharing entities (**ISEs**). It must also consider any adverse effects of this Chapter. The Information Commissioner's report to the Minister may include any recommendations on any matter addressed in the review. It is required to be tabled in Parliament.

Although informal consultation by our Office with principal stakeholders has been occurring throughout the review period, the formal consultation on the first 2 years of operation did not commence until mid-2022. Before then, we were aware that COVID-19 related issues had impacted on the rollout of the Chapter 5A information sharing scheme, including the prescribing of non-government organisations as ISEs and the significant education and training required for public sector and non-government ISE staff about the scheme.

For our part, we were aware that a vital aspect of the review was reliant on consultation with ISEs and other stakeholders across the Territory. During the height of the pandemic, our ability to conduct meaningful consultation and the ability for stakeholders to respond was limited. A benefit of the delayed consultation is that non-government ISEs, which were only prescribed in August 2021 and February 2022 have now had some time to utilise Chapter 5A and be better placed to provide meaningful feedback to the review.

All written feedback has now been received from the major government stakeholders and from a number of non-government organisations across the Territory. A broader invitation to the public and other stakeholders to comment has been advertised on the OIC website and via some peak bodies.

It is anticipated that consultation with stakeholders will conclude in the near future with a report delivered to the Minister later in 2022/23.

Child protection data access agreements

In recent years, the Office has committed considerable resources to providing advice to the NT Government on development of policy and legislation in relation to information sharing aimed at advancing the care and protection of children.

Our approach can be summarised in the following extracts from correspondence to Department of Territory Families, Housing and Communities (**Territory Families**):

There is no question that part of government's role in protecting a vulnerable child is to ensure that systems exist for the sensible sharing of information between agencies and others with a legitimate interest in the safety and welfare of the child. Throughout my time as Information Commissioner, I have strongly supported responsible information-sharing and encouraged proposals that provide for it. Similarly, the Coroner raised

concerns about poor information sharing in a recent inquest and noted the earlier recommendations in the Little Children are Sacred report that addressed this issue. The Coroner's recommendations included that 'the Multi-Agency Community and Child Safety Framework be legislated so as to ensure mandatory cooperation, coordination and information sharing in a timely manner.' ... I am supportive of the Coroner's comments and his recommendation to improve information sharing. ...

The concepts of responsible information-sharing concerning 'child safety and wellbeing' and the need for privacy protection are closely linked and are not mutually exclusive. If a child's safety is at risk, then a robust sharing of information is vital. ... Wellbeing, however, is a very broad term that is defined in the Oxford dictionary as 'the state of being or doing well in life; happy, healthy, or prosperous condition'. ... [W]ellbeing includes an individual's right to privacy unless there is good reason otherwise. ...

There is ... danger in legislation that oversteps the mark in terms of ostensible legal authority to collect, leading to families, non-government organisations and indeed professionals within government agencies, failing to record information or recording minimal information in case it is sought under the legislation. This could lead to drying up of available information which would be in no-ones interests.

As I have stated on numerous previous occasions, it is important that stakeholders be engaged and supportive of the undoubtedly valuable policy aims of the legislation, if information-sharing is to be truly effective.

Our position has therefore been to accept the underlying importance of reasonable information sharing in this context, while robustly testing whether the scope and mechanisms for such sharing exceed what is reasonably required to meet the policy aims of Government.

As part of that approach, we have strongly recommended that independent privacy impact assessments be undertaken to identify risks and provide an opportunity for them to be removed or mitigated.

During the reporting period, our involvement included commentary on draft legislation to establish a Data Access Agreements scheme which has the aim of enabling and improving cross-agency coordination and provision of information to Territory Families for the safety and wellbeing of children. This scheme was ultimately authorised by legislative changes to the *Care and Protection of Children Act 2007*, in early 2022.

The scheme, with its associated Data Access Agreements, will provide a legal basis for data to be shared with Territory Families by government agencies and other organisations who provide services to children.

The scheme will be implemented by way of a technological solution that will involve automated sharing of a range of specified personal information, held by a range of agencies, relating to children who have involvement with Territory Families, as well as their associates. This is a very broad information sharing scheme, involving information regarding a substantial number of Territory families, held by agencies as diverse as NT Police, Health, Education, Courts and Correctional Services.

Any cross-agency information-sharing agreement takes collaboration and a clear, common goal to ensure the best outcome for stakeholders. Relevant agencies have spent considerable time and effort working with Territory Families and DCDD (who hold the datasets) to reach agreement on what personal information should be transferred to Territory Families, who will have access to it and how it will be protected.

While the new provisions are clear that the safety and wellbeing of children is the paramount concern, privacy protection is not ignored and the new legislation requires that in preparing a draft data access agreement, Territory Families must consult with the Information Commissioner¹⁵. Our Office has been provided with a short term resource to provide advice and assistance with respect to development of data access agreements.

General enquiries

The OIC receives enquiries from Organisations and the public about the FOI scheme and privacy rights and obligations.

Questions from members of the public commonly relate to:

- which Organisation to lodge an FOI application or privacy complaint with;
- the process and procedure for making an application or privacy complaint, requesting a review of an Organisation's decision or making a complaint to the OIC;
- the wording required for an application; and
- the payment of fees.

Our Office provides individuals and Organisations with guidance on the Act and the Information Privacy Principles (IPPs). Where appropriate, we refer enquiries to the information unit of the relevant Organisation or we engage with the Organisation to assist the individual.

Queries received from staff of Organisations most commonly involve questions about the scope and application of the exemption categories available under the Act or about how the Organisation can best act in accordance with the IPPs in a particular situation.

In 2021/22, the OIC received a total of 352 general enquiries:

- 224 related to FOI matters
- 94 related to privacy matters
- 34 related to other matters.

General enquiry case studies

The power of a personal approach

Often, enquiries we receive from the public involve us providing advice or reassurance to the individual about the FOI or privacy process. It can be daunting for a person who has never had dealings with such matters before to try to navigate the process.

For example, X approached our office very concerned about a formal letter they had received from an Organisation proposing the release under FOI of their personal information to another person.

Our Office provided advice to X on the legislated third party process that an Organisation must follow before X's information could be released.

¹⁵ Section 226(4) of the *Care and Protection of Children Act 2007*

We acknowledged that the Organisation could have allayed a number of X's concerns had they spoken to X personally before sending them the letter. We also provided X with the name of the appropriate person for them to speak to within the Organisation to address their concerns and confirmed that we would emphasise in future training the benefits of personal communication to third parties wherever possible.

Disclosure of vaccination status

We received a few enquiries during 2021/22 from individuals who expressed concern that their medical information (their COVID-19 vaccination status) was being openly discussed at work or that their name was on a list of unvaccinated employees that was available to a large number of staff. Our Office gave advice to these individuals on the steps they could take, including how to complain to their employer about any unreasonable disclosure of sensitive information to others without their consent or other legal authority. On occasion, the enquirer gave our Office permission to speak to their employer to minimise the risk of an ongoing privacy breach.

The rise of CCTV

A rise in the number of FOI requests for CCTV and video footage is likely to occur in coming years as the number of cameras in public places and within government and council buildings increases. Currently, we receive a small but growing number of enquiries about the release of CCTV. Is the footage personal information? Do images of identifiable third parties need to be redacted if those individuals have not consented to its release? How easy is it to redact images from CCTV footage? Why the delay in processing? Although each particular set of facts will dictate the necessary responses to these questions, Organisations need to be better prepared to deal with access requests. If they collect CCTV footage, then they should have established processes to enable them to redact the footage as required. It is no longer a sufficient response to say that redaction software is not available in their Organisation.

Advice and comment on policy and legislative changes

A key component of the OIC's work is to provide expertise, advice and commentary to Organisations on their policy developments and initiatives. The OIC cannot provide legal advice, however we regularly provide guidance and support to Organisations during the development and review of their practices, policy and legislation. We also provide specific guidance on new initiatives, including the need for Organisations to conduct a privacy impact assessment.

The majority of requests for advice relate to privacy issues and are provided on request. Consequently the amount of time spent providing advice fluctuates depending upon the initiatives being undertaken by Organisations and the level of assistance they require from the OIC.

During 2021/22, the OIC provided 558 hours of advice to Organisations and other stakeholders on matters relevant to the Act. The types of topics considered include:

- Considerable time and resources spent on assisting with the initial consultation process and other preliminary steps for a statutory review of the FOI, privacy and record management provisions in the *Information Act 2002*;

- Specific advice on privacy considerations, including:
 - When banning individuals from public transport and what should be covered in a public bus CCTV privacy policy;
 - When reviewing the processes for collection and storage of sensitive information about public officers and employment;
 - Responsible and appropriate information sharing within an Organisation where various work units undertake different work under separate legislation;
 - Administrative release of personal information to individuals and the need for guidance to staff and stakeholders about instances when information will be released;
 - The publicly available information an Organisation should have about the way the Organisation manages personal information;
 - Managing a privacy data breach and preventative measures to avoid future occurrences;
 - Review and publication of information on OIC website, including the provision of guidance for employers on collection and storage issues related to COVID-19 directions;
 - Consultation and advice on protocol for Access to NT Government Records by Aboriginal People Researching their Families;
- Advice or comment on proposed legislative change and policy reform including:
 - Privacy related issues in the *Territory Families Legislation Amendment Bill* which proposed reforms to the *Care and Protection of Children Act 2007*, the *Youth Justice Act 2005* and the *Information Act 2002*; and
 - Information sharing and complaint referral arrangements under Part VIIA of the *Privacy Act 1988* (Cth); and
 - Consultation on the *Burial and Cremations Bill* record keeping provisions from a privacy perspective.

Awareness, education and training

During 2021/22 the OIC contributed to training and awareness sessions with a mix of in-person and virtual attendance options. These sessions were provided on request and tailored to suit each Organisation's specified needs. However, COVID-19 related issues led to the cancellation of some training sessions and restrictions on attendance capacity limited face-to-face training numbers.

The topics discussed in these sessions included:

- Roles and functions of the Information Commissioner;
- Exemptions under the Act; and
- Case studies in FOI and privacy.

The OIC continued to facilitate FOI training conducted by an external FOI expert. The training options offered a number of different sessions to suit different needs, with a total of 73 people attending in person.

The training sessions included:

- An Information Officer’s introduction to FOI;
- A Refresher for Information Officers;
- A course targeted at those undertaking internal reviews for their Organisation; and
- A targeted snapshot of FOI aimed at senior management.

There continues to be an ongoing demand for the provision of this training.

Privacy Awareness Week

Privacy Awareness Week (PAW) is celebrated annually in May across the Asia Pacific region to highlight the importance of protecting personal information. In the first week of May 2022, various events (online and in person) were held across the Asia Pacific to promote the theme “*Privacy the foundation of trust*”, a reminder to build good privacy habits and to think about information you may be sharing and ask ‘who, how, why’. Our Office published a number of online tips and tools to the public to promote the theme of trust and the Commissioner joined with others in making a joint statement.¹⁶

International Access to Information Day

Annually on 28 September, the OIC celebrates International Access to Information Day (IAID), also known as Right to Know Day. The theme this year was *Open by Design Principles*, encouraging government agencies to promote the proactive release of information and open government.

The Commissioner, together with other Australian information access commissioners and ombudsmen published a joint statement to mark the event. We also published further resources, including a community video to promote the event.¹⁷

National and international cooperation

Association of Information Access Commissioners (AIAC)

The Information Commissioner, together with other commissioners and ombudsmen in Australia and New Zealand, is a member of the AIAC. All members have a complaint and review jurisdiction over access to information legislation. Meetings are held twice a year to collaborate and discuss common issues and share knowledge and resources between jurisdictions.

Privacy Authorities of Australia (PAA)

The Information Commissioner is a member of a group that is comprised of commissioners and ombudsmen with jurisdiction over privacy laws in Australia. Meetings are held twice a year.

¹⁶ <https://infocomm.nt.gov.au/about-us/news/articles/privacy-awareness-week-2-8-may-2022>

¹⁷ <https://infocomm.nt.gov.au/about-us/news/articles/international-access-to-information-day-2021>

The OIC participates in a number of PAA forums including:

- PAA Policy Group – sub-group of senior policy officers representing state and territory jurisdictions that convenes quarterly.
- National COVID-19 Privacy Team Meeting – comprised of senior policy officers who met bi-monthly to discuss COVID-related concerns and to support and encourage a consistent approach from privacy regulators.
- PAA Cooperation and Enforcement Group – comprised of complaints and enforcement managers from each jurisdiction meeting four times a year.

Developments of significance in this sphere included:

- **Universal Privacy Principles** - In October 2021, the Information Commissioner together with the Australian Information Commissioner and other state and territory privacy commissioners and ombudsmen produced a set of Universal Privacy Principles to support a nationally consistent approach to solutions and initiatives designed to address the ongoing risks related to the COVID-19 pandemic.¹⁸
- **Joint Statement - Access to Stolen Generation Records** - On National Sorry Day (26 May 2022), Australian information access commissioners and privacy authorities issued a Joint Statement recognising the important role of historical records in truth telling and sharing history, intergenerational healing, redress and reparations for Stolen Generation survivors and their families. The Joint Statement noted that the Healing Foundation’s Principles for nationally consistent approaches to accessing Stolen Generations records will inform ongoing discussions about greater national consistency. It acknowledged the Principles support implementation of recommendations about access to records from the *Bringing Them Home* (1997) and *Make Healing Happen: It’s time to act* (2021) reports. The Joint Statement included a commitment to working together with the Healing Foundation and stakeholders to champion timely, easy access to records through informal access schemes wherever possible, with formal access applications required only as a last resort. A copy of the Joint Statement is on our website.¹⁹

Asia Pacific Privacy Authorities (APPA)

The OIC is a member of APPA and we attended the 57th Asia Pacific Privacy Authorities (APPA) forum virtually from 12 to 13 July 2021. The forum was hosted from Hong Kong and was attended by 19 APPA members across the Asia Pacific region. Over the intensive two-day forum, members discussed a wide array of global privacy issues, regulatory experiences and enforcement challenges, particularly those arising from the use of emerging technologies, and shared their latest developments and insights, as well as sharing members’ latest publications and guidance materials.

¹⁸ <https://infocomm.nt.gov.au/about-us/news/articles/national-covid-19-privacy-principles>

¹⁹ <https://infocomm.nt.gov.au/about-us/news/articles/information-access-and-privacy-regulators-from-across-australia-have-issued-a-joint-statement-to-mark-national-sorry-day-26-may>

Appendix 1 - OIC Financials

Detailed financial information regarding OIC operations now appears in the Ombudsman’s Annual Report (in particular see the ‘*Comprehensive operating statement by output group*’ at note 3 to the Financial Statements).

Figures have been rounded to the nearest thousand dollars, with amounts of \$500 or less being rounded down to zero. Figures may not equate due to rounding.

OFFICE OF THE INFORMATION COMMISSIONER EXPENSES

For the year ended 30 June 2022

EXPENSES	2021-22 \$000
Employee expenses	516
Administrative expenses	55
<i>Purchases of goods and services</i>	51
Communications	4
Information Technology Charges	19
Information Technology Consultants	-
Insurance Premiums	3
Legal Expenses	18
Marketing & Promotion	-
Memberships and Subscriptions	1
Motor Vehicle Expenses	4
Official Duty Fares	1
Other Equipment Expenses	-
Training and Study Expenses	-
<i>Property management</i>	4
TOTAL EXPENSES	571

NOTE: Some categories of expenses are incurred by the Business Services Unit on behalf of all Ombudsman’s Office work units. These include records storage, consumables/general expenses and stationery. They do not appear above.

Appendix 2 - Statistics by Organisation

The following public sector organisations received or handled FOI applications during 2021/22. We appreciate their co-operation and assistance in the timely and accurate reporting of the information necessary for this report.

The abbreviations reflect titles and responsibilities at 30 June 2022.

Abbreviations for public sector organisations

AAPA	Aboriginal Areas Protection Authority
CDU	Charles Darwin University
CoD	City of Darwin
CoP	City of Palmerston
DAGJ	Dept. of the Attorney-General and Justice
DCDD	Dept. of Corporate and Digital Development
DCMC	Dept. of the Chief Minister and Cabinet
DEPWS	Dept. of Environment, Parks and Water Security
DIPL	Dept. of Infrastructure, Planning and Logistics
DITT	Dept. of Industry, Tourism and Trade
DLA	Dept. of the Legislative Assembly
DoE	Dept. of Education
DoH	Dept. of Health
DTF	Dept. of Treasury & Finance
DTFHC	Dept. of Territory Families, Housing and Communities
ICAC	Independent Commissioner Against Corruption
JE	Jacana Energy
LRC	Litchfield Regional Council
LSNT	Law Society
NTEC	NT Electrical Commission
NTLAC	NT Legal Aid Commission
OCM	Office of the Chief Minister
PFES	Police, Fire and Emergency Services
PWC	Power and Water
TIO	Territory Insurance Office

TABLE 1 – Access applications and outcomes 2021-22

Details as advised by Organisations.

Org	Total Lodged	Full release	Part release	All exempt	Finalised other basis#	Total Finalised
AAPA	4	1	1		2	4
CDU	19	17			1	18
CoD	10	9		1		10
CoP	8		3	1	2	7
DAGJ	249	40	96	10	87	233
DCDD	5	2	2		1	5
DCMC	15		2	1	11	14
DEPWS	26	19	5	1	5	30
DIPL	38	6	10	1	20	37
DITT	23	3	11		4	18
DLA		1				1
DoE	29		14		16	30
DoH	474	268	49	5	143	465
DTF	1				1	1
DTFHC	327	8	264	3	36	311
ICAC	1	1				1
JE	4	4				4
LRC	4		4			4
LSNT	1		1			1
NTEC	1				1	1
NTLAC	1	1				1
OCM	32	3	6	1	17	27
PFES	345	21	137	23	110	291
PWC	1	1				1
TIO	9	4	5			9
TOTAL	1627	409	610	47	457	1523

For more detail on applications with other outcomes, see Table 1A.

TABLE 1A – Access applications finalised on another basis 2021-22

Details as advised by Organisations.

Org	Withdr	Transf	s18	s27	Fees	Excl	s25	Other	Total
AAPA								2	2
CDU	1								1
CoP		1		1					2
DAGJ	3	6	5	12	1		12	48	87
DCDD		1							1
DCMC	1	6		4					11
DEPWS	1	1	1		1	1			5
DIPL	5	3		4	2		2	4	20
DITT		1		2	1				4
DoE		3	6	6	1				16
DoH	32	2	79	17	6	5		2	143
DTF		1							1
DTFHC	12		1	23					36
NTEC							1		1
OCM	5	1		7	1		3		17
PFES	17	6	23	24	10	3	2	25	110
TOTAL	77	32	115	100	23	9	20	81	457

Notes:

Withdr	Withdrawn
Transf	Transferred
s18	Invalid application
s27	Information does not exist, could not be identified or located
Fees	Non-payment of fee or deposit
Excl	Excluded from application of the Act or not covered by Act
s25	Unreasonable interference with operations
Other	Any other reason

TABLE 2 – Information correction applications and outcomes 2021-22

Details as advised by Organisations.

	Lodged	As Requested	Other Form	No Change	Withdrawn	Finalised
DoE	1			1		1
DoH	3		1		1	2
PFES	3	1		2		3
TOTAL	7	1	1	3	1	6

Note: In addition a small number of applications were carried over from 2020/21.

TABLE 3 – Internal Review applications and outcomes 2021-22

Details as advised by Organisations.

	Lodged	s103(2)	Confirmed	Varied/ Revoked	Wdrn	s39A	Finalised
CoD	1	1	1				1
CoP	1				1		1
DAGJ	2		1	1			2
DCMC	2		2				2
DIPL	2			2			2
DITT	2			1			1
DoE	4		3				3
DoH		2		1			1
DTFHC	1			1			1
LRC	1			1			1
OCM	10		11				11
PFES	7		1	3			4
TOTAL	33	3	19	10	1	0	30

Note: In addition a small number of applications were carried over from 2020/21.

TABLE 4 – Application Fees 2021-22

Details as advised by Organisations.

Organisation	Fees Received	Reduced/ Waived	Reduction
AAPA	120		
CoD	240	3	90
CoP	240		
DAGJ	870	4	120
DCDD	30		
DCMC	270		
DEPWS	840	2	45
DIPL	840	1	30
DITT	630		
DoE	150		
DoH	1110	17	475
DTF	30		
DTFHC	150	4	120
ICAC	30		
LRC	120		
LSNT		1	30
NTEC	30		
OCM	240	7	210
PFES	3600	2	60
PWC	30		
TOTAL	\$9,570.00	41	\$1,180.00

TABLE 5 – Processing Fees 2021-22

Details as advised by Organisations.

Organisation	Fees Received	Reduced/ Waived	Reduction
AAPA	\$1301.20	1	\$448.75
DCMC	\$550.00	5	\$125.00
DEPWS	\$9,970.50	3	\$239.00
DIPL	\$4,003.00	4	\$384.00
DITT	\$21,746.65	7	\$11,810.72
DoE	\$145.84	3	\$2,937.63
DoH	\$1,691.35	13	\$1,709.05
DTFHC	\$0.00	299	\$9,533.70
OCM	\$2,262.50	18	\$4,500.00
PFES	\$8,425.50	0	\$0.00
TOTAL	\$50,096.54	353	\$31,687.85

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