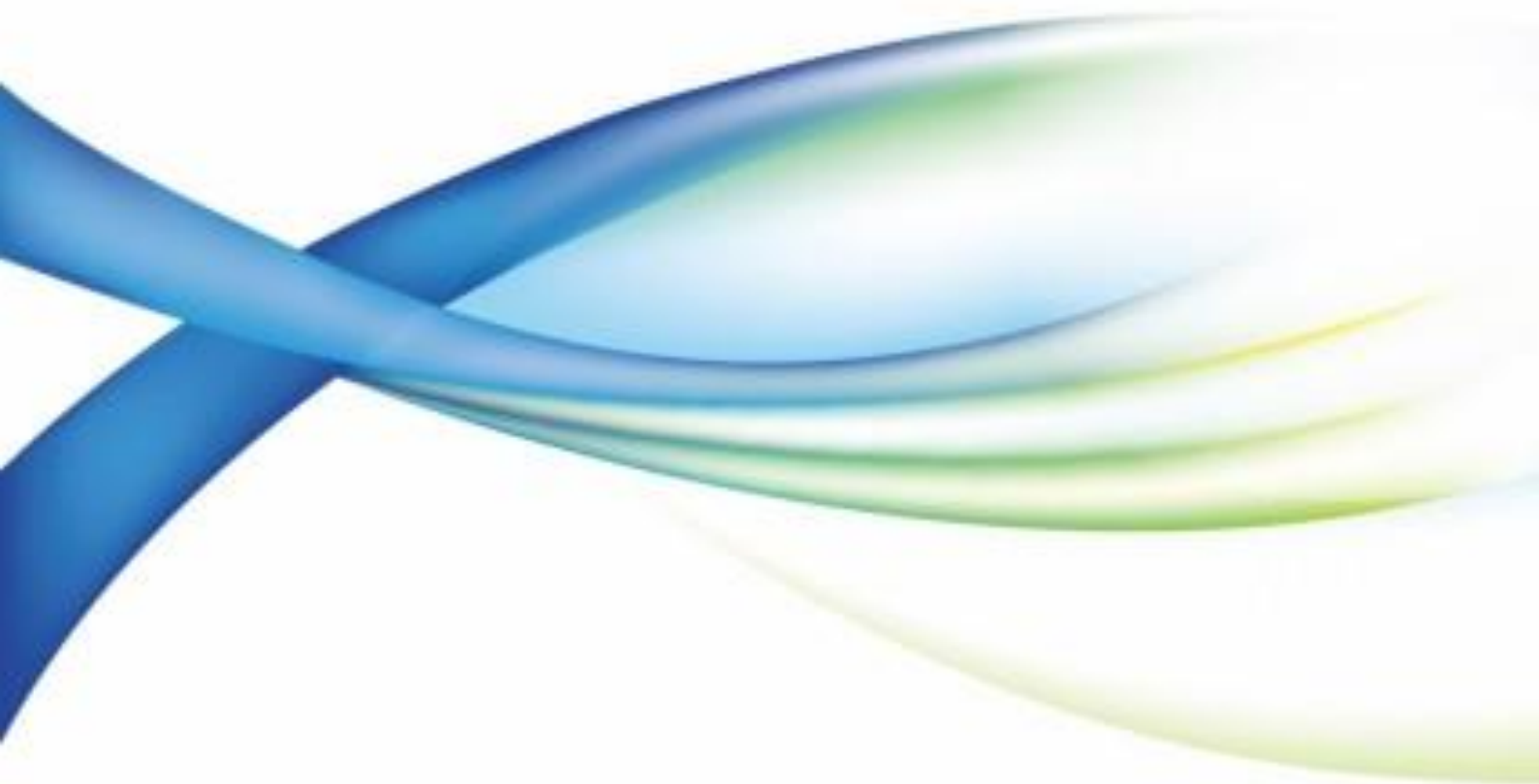




Information Commissioner

NORTHERN TERRITORY



2018-19
ANNUAL REPORT



30 September 2019

The Hon Michael Gunner MLA
Chief Minister
Parliament House
DARWIN NT 0800

Dear Chief Minister

Pursuant to section 98 of the *Information Act*, please find attached the Annual Report on the operations of the Office of the Information Commissioner for the period 1 July 2018 to 30 June 2019.

Yours sincerely

A handwritten signature in blue ink, appearing to read "P Shoyer".

Peter Shoyer
Information Commissioner

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Message from the Commissioner

It has been a year since the Office of the Information Commissioner (OIC) became part of the Office of the Ombudsman. The transition has been smooth and the work of both Offices has continued as normal. While each Office maintains its own staff members, cross-training is occurring to enable ongoing support for both functions.

As noted in last year's report, the number of Freedom of Information (FOI) applications received by public sector organisations continues to grow each year. The number received last year (2017-18) was twice that received five years earlier and this year, an additional 118 applications were received. The complexity of some of the complaints is also increasing. These trends echo the situation in other jurisdictions – a reflection of the growing public awareness of an individual's right to access government information through FOI schemes.

For our part, although the number of external review complaints received by our Office is trending upwards, we are having some success in assisting the parties to resolve matters at an early stage. During the reporting period, over 50% of matters were finalised without a *prima facie* decision being prepared.

However, we also saw an increase in matters requiring a final hearing before the NT Civil and Administrative Tribunal. This may be the new reality as parties take the opportunity to have their concerns ventilated before the Tribunal – time will tell.

The need for our Office to appear before and assist the Tribunal has certainly required considerable resources but the guidance provided by the Tribunal on interpretation and procedural issues will help inform our future complaint management processes.

The importance of privacy protection and responsible information sharing between organisations and others continues to be a very important issue and we routinely provide advice to organisations on these issues.

This year for example, we have taken part in a cross-agency committee advising on Guidelines to facilitate information sharing between information sharing entities under the *Domestic and Family Violence (information Sharing) Act 2018*. This Act also requires my Office to undertake a review of the impact and effectiveness of the amendments in 2 and 5 years' time.

There is no doubt that increasing demands on the Office are placing substantial strain on our limited resources. My thanks to the staff of the Office who have continued to handle a growing workload with professionalism and diligence.

My particular thanks go to my Deputy, Brenda Monaghan, who was Information Commissioner for the early part of the reporting period and who ably facilitated the transfer and blending of the OIC with the Ombudsman's Office as Deputy Information Commissioner and Deputy Ombudsman.

Peter Shoyer

Introduction

The Office of the Information Commissioner (OIC) first opened its doors in 2003 and began accepting complaints from individuals who were seeking government information or complaining about privacy breaches by NT public sector organisations.

Between 2009 and August 2018, the OIC was co-located with the Office of the Commissioner for Public Interest Disclosures. In August 2018, the OIC transferred to the Office of the Ombudsman.

The *Information Act 2002* ('the Act') is the legislation governing freedom of information, 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 the requirement for 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 Commissioner's functions include:

- dealing with complaints about Freedom of Information (FOI) decisions and privacy issues through an investigation and mediation process;
- referring, at the request of a party, unresolved complaints to the NT Civil and Administrative Tribunal 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; and
- educating the public and public officers about FOI and privacy protection.

The Act has been in force since 2003 and there have been several legislative changes over the years to deal with specific issues.

One recent amendment, to Information Privacy Principle 2.1(d)(i), was made in the current reporting period to enable public sector organisations to more easily share personal information if there is a serious or imminent threat to a person's life, health or safety.

Another recent change involves amendments to the *Domestic and Family Violence Act 2007* that commenced on 30 August 2019, intended to provide a clear process for relevant entities to share information about individuals affected by domestic and family violence. The legislation requires our Office to review the operation of the amendments after two years and again after five years.

The Office itself is very small. The Commissioner and Deputy have dual roles and so are able to contribute only part of their time to OIC functions. Apart from this, during the reporting period, the Office comprised one full-time SAO1 and a part-time AO6, assisted from time to time and to a limited extent by other staff of the combined offices. Necessary corporate support was provided by the Business Services Unit.

These limited resources have obvious implications for the work that we can do and the timeliness of output. We are in the process of reviewing our operations to establish whether there are process improvements that can enhance timeliness while still meeting legislative requirements.

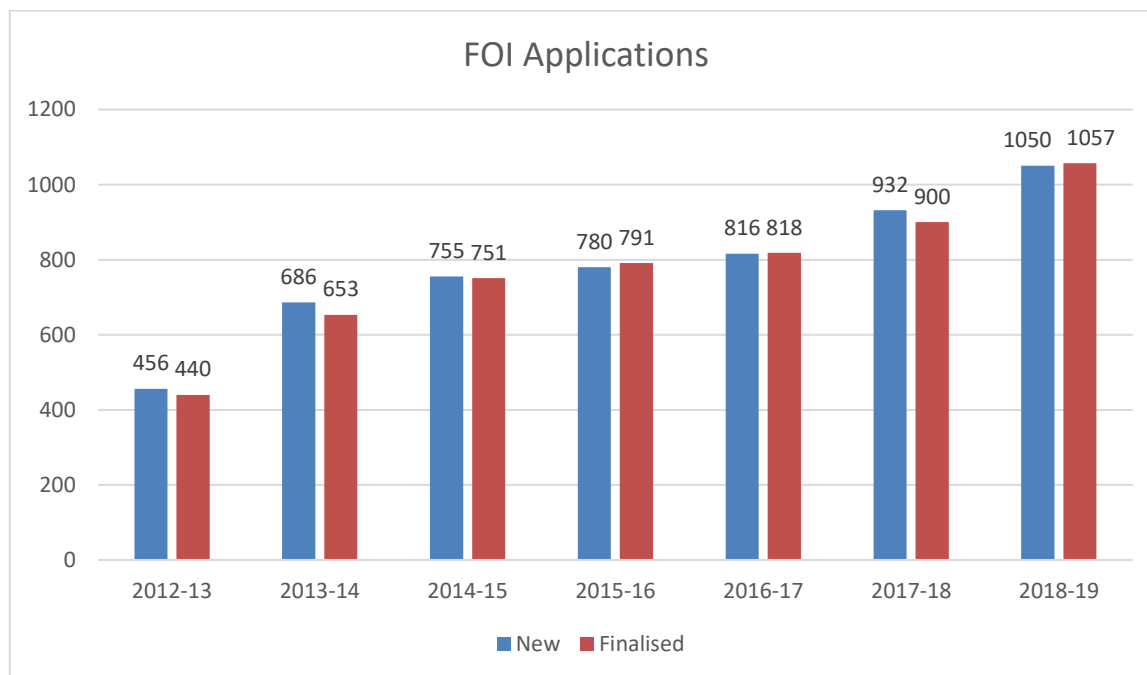
Freedom of Information

The Act creates a scheme which allows people to apply to individual public sector organisations for access to government information, including personal information about themselves (sometimes referred to as ‘Freedom of Information’ or FOI).

Our Office is required by the Act to collect and report on certain information about FOI applications made to and dealt with by each public sector organisation. This section will discuss that general information before moving on to consider the involvement of our Office. More detailed information is also available in the tables at Appendix 2.

FOI applications in 2018/19

Since the inception of the Act, the number of FOI applications made to public sector organisations has been increasing. In fact, the number has more than doubled since the first year of operation.



By far the most FOI applications continue to be received by large Government organisations. The Department of Health received more than twice the number of applications of any other public sector organisation (348 applications), followed by the NT Police, Fire and Emergency Services (152), the Department of Local Government, Housing and Community Development (145), Territory Families (128) and the Department of the Attorney-General and Justice, which includes Correctional Services (121 applications).

We are aware from concerns expressed to us that some agencies are struggling to cope with the increase in application numbers. Many applications are complex or large and there are few shortcuts that can be taken in these circumstances. Some agencies have commented on an increased turnover of staff in their FOI Units and delays in processing applications are a reality for many.

As in earlier years, smaller departments, councils and independent statutory offices that receive few applications can experience difficulties in maintaining corporate knowledge regarding FOI processing. Our Office assists agencies by providing advice on the operation of the Act and by promoting regular FOI training opportunities through an experienced trainer.

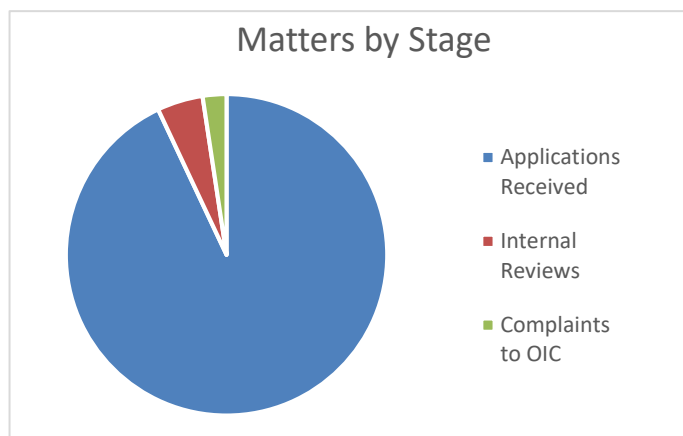
FOI matters by stage

The FOI process is designed to ensure that organisations provide information to the public without the need to involve our Office. If an FOI applicant is not satisfied with the response they receive from an organisation, they must first seek an internal review to allow the organisation the opportunity to reconsider its initial decision.

Of the 1050 applications received in 2018/19, the vast majority were resolved by organisations at the initial application stage with comparatively few matters requiring an internal review. This year, only 52 internal review applications were lodged with various organisations and only 27 of these ultimately ended up as complaints to our Office.

The graph below gives an overview of the proportion of applications received during the 2018/19 reporting period which progressed to internal review or complaint to our Office.

Applications Received	1050
Internal Reviews	52
Complaints to OIC	27

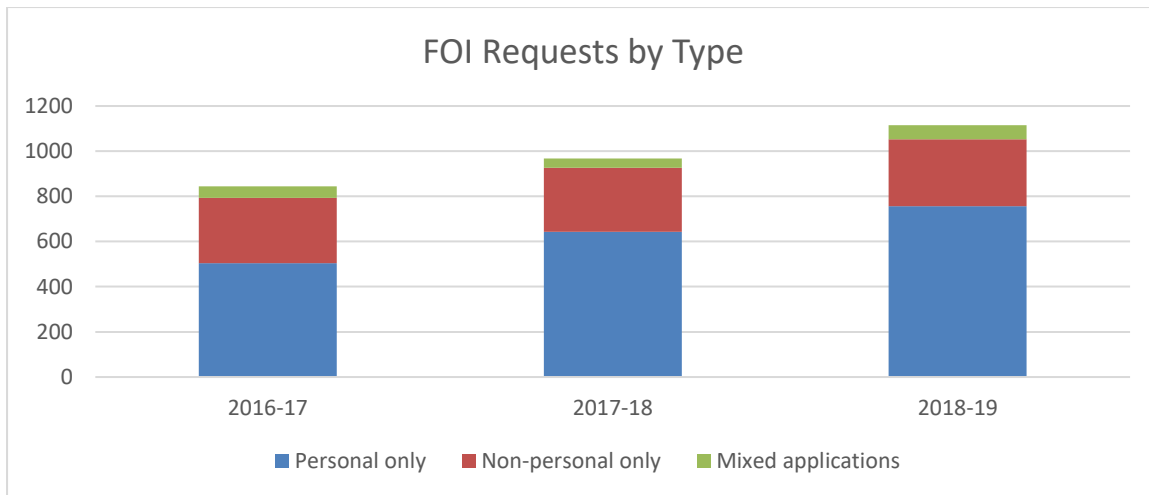


Following legislative amendments introduced in 2015, organisations are now able to refer an application for internal review directly to the Information Commissioner to handle as a complaint. However, most organisations prefer to take advantage of the opportunity to internally review their own decision in circumstances where the applicant is dissatisfied with the information they receive at first instance.

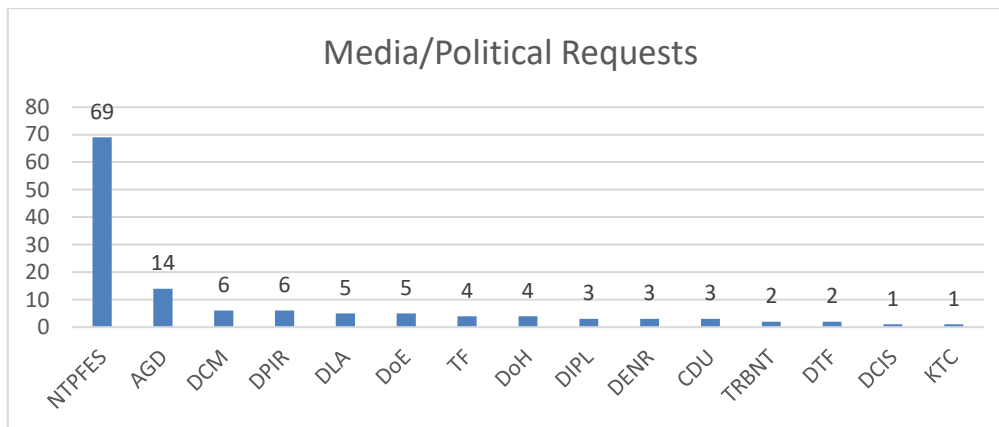
During 2018/19, a direct referral to our Office under section 39A was made on four occasions. On one of those occasions, a small organisation had no one to internally review its decision and on three occasions, the relationship between the organisation and the applicant had deteriorated and any review decision made by the organisation was unlikely to be accepted.

Personal v Non Personal

Over 70% of FOI applications dealt with were seeking purely personal information or a mix of personal and non-personal information. The increase in FOI requests in 2018/19 appears to reflect an increase in requests for personal information.



Around 12% of all FOI applications were received from applicants with a political, media, activist or lobby-group background.



Access Granted

Much information sought from public sector organisations is freely given and many organisations have administrative access schemes to provide simple processes for obtaining information from them. The Act is a safety net and is normally used when the request for recorded information (e.g. documents, copy emails, electronic records or video footage) is more complex or extensive and a more formal process is required.

In these circumstances, the organisation often needs to take a number of steps. They may need to clarify or refine the scope of the request and then identify and collect the information sought. They may need to consult with third parties who may be affected by the release of information about them before they decide what information should be released and what should be refused.

The Act is intended to require organisations to give access to their recorded information upon receipt of a request from any individual unless there is good reason for them to refuse. As a result, so long as an applicant complies with the requirements of the Act, the bulk of identifiable information sought by applicants through FOI is released to them.

Exemptions

However, the Act does recognise that some information may have to be withheld to protect public or private interests. These are recognised in various exemption provisions in Part 4 of the Act.

During 2018/19, access to information was refused in full on 32 occasions on the basis that the information was exempt under Part 4 of the Act. On other occasions, access was refused in part on the same basis.

The most widely used exemptions in this reporting period were those aimed at protecting:

- privacy of third parties (section 56) – relied on by 16 organisations;
- non-commercial information confidentially obtained (section 55) – relied on by 7 organisations;
- deliberative processes (section 52) – relied on by 7 organisations;
- the effective operations of the organisation (section 53) – relied on by 7 organisations;
- commercial in confidence information (section 57) – relied on by 7 organisations;
- preservation of the system of justice (section 49) – relied on by 6 organisations;
- security and law enforcement (section 46) – relied on by 6 organisations.

The following table sets out the number and proportion of applications finalised during the reporting period where an applicant was granted access to some or all of the information sought or refused access in full on the basis of one or more exemptions. Additional information is available in Table 1 of Appendix 2.

Did applicants receive what they asked for?		
Received All	327	43%
Received Part	399	53%
Received None	32	4%

Applications rejected or refused

There are other reasons why an application may be rejected or refused, for example, if a person has failed to comply with the Act in making the application, failed to provide sufficient clarification to enable an application to be processed, failed to pay a required fee or the information is not covered by the Act in the first place.

Agencies report that a large number of applications are deficient in some way or require clarification or better definition to meet the requirements of the Act.

Where there is the potential to remedy a defect, agencies must always attempt to consult with the applicant to resolve the issue. However, even in such cases, there may come a time when the agency decides to reject an application.

Grounds for rejecting or refusing an application include:

- Section 18: Requirements for Application to access government information not met;
- Section 27: The information could not be identified or found or does not exist;
- Fees: Requirement to pay application or processing fee not met;
- Information does not fall within or is excluded from Act; and
- Section 25: Unreasonable interference with agency operations.

In 2018/19, a total of 261 applications were rejected or refused on this type of ground. This is a substantial proportion of the number of applications received. Our Office will review the situation in consultation with agencies to establish whether there are any strategies that can be implemented to reduce these numbers.

The following table sets out numbers of applications rejected or refused on this type of ground during the reporting period. A brief discussion of each ground follows the table.

	s18	s27	Fees	Excluded from Act	s25	Other Reasons	Total
DLA	0	3	0	0	0	0	3
TRBNT	0	1	0	0	0	0	1
NLAC	0	1	0	0	0	0	1
DCM	2	2	0	0	0	3	7
DPIR	0	1	0	0	0	0	1
NTPFES	2	9	2	24	0	2	39
CoD	0	1	0	0	0	0	1
DTSC	1	1	0	0	0	0	2
TF	1	15	0	1	5	11	33
DTF	1	0	0	0	0	0	1
PWC	0	1	0	0	0	0	1
DoH	67	31	9	1	0	0	108
DoE	19	0	1	0	0	0	20
DENR	0	3	1	0	0	0	4
CoP	0	0	0	0	0	1	1
AGD	5	10	5	2	12	1	35
KTC	0	0	1	0	0	0	1
CDU	0	1	1	0	0	0	2
TOTALS	98	80	20	28	17	18	261

Requirements for Application not met – section 18

On 98 occasions, an applicant for personal information failed to properly identify themselves or to provide sufficient detail to identify the information required. This occurred on 67 occasions when information was requested from the Department of Health.

Information could not be identified, found or does not exist – section 27

This provision was relied on by organisations on 80 occasions. When challenged, organisations are often required to provide a declaration clarifying the scope of their search to confirm that it was sufficient.

Required fee not paid

On 20 occasions, required application fees or processing charges were not paid. If applicants are unable to pay the fees because of hardship or if they consider that there are public interest grounds that support waiver of fees, they can apply for a waiver. If the organisation refuses their application, they can make a complaint to our Office.

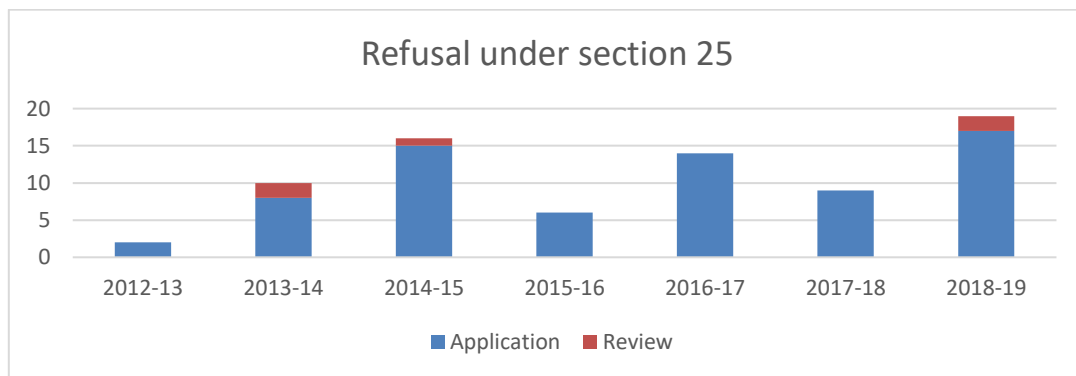
Information does not fall within or is excluded from Act

Applications were refused on 28 occasions on this basis. This will include situations where the information is not in the nature of a public record for the purposes of the Act or is specifically excluded by a provision of the Act other than an exemption provision.

Unreasonable Interference with operations – section 25

Section 25 of the Act allows public sector organisations to refuse to provide access to information if providing access would unreasonably interfere with the operations of the organisation. Access can only be refused after the organisation has unsuccessfully consulted with the applicant in a genuine attempt to narrow the scope of the search.

Following a similar trend seen in other jurisdictions in Australia, internal resource pressures faced by organisations have led to a more careful evaluation of the time they spend on some FOI applications. The number of applications refused under section 25 during this reporting period are set out in the table below.



Other Reasons

On 18 occasions, documents were refused for other reasons. This may include circumstances where the information sought is already in the public domain or has already been provided to the applicant through a previous FOI request.

National Dashboard

Since 2017, Australian Information Access Commissioners and Ombudsmen have released a dashboard of metrics on the public use of FOI access rights. This enables the community to examine the performance of local FOI laws and to advocate accordingly, as well as improving community understanding of how FOI laws work and how to access them.

The metrics reflect the currently available data that is reasonably comparable across jurisdictions and the priorities agreed in Australia's first Open Government National Action Plan 2016-2018, to develop uniform metrics on public use of FOI access rights to promote the importance of better measuring and improving our understanding of the public's use of rights under FOI laws.

During this reporting period, there was adverse commentary about the performance of the NT with regard to the proportion of formal FOI applications where access was 'refused in full'. The NT figure for 2016-17 was 28% compared to the next highest jurisdiction at 20% and some jurisdictions as low as 3% or 4%.

These comparative figures have always been subject to published caveats regarding different counting practices between jurisdictions but given this concerning result, our Office conducted a review. We requested the four agencies with the largest number of applications 'refused in full' to audit their reasons for refusal. These audits identified some issues that have been pursued with individual agencies but they also clarified the fact that NT agencies were including in their 'refused in full' calculations matters that were not being included by our interstate counterparts. As a result, they were comparing 'apples with oranges' to such an extent that they did not represent fair or useful comparative figures.

In light of this, we made changes in the manner of calculation to provide a more valid comparative figure for 2017-18 and more detailed information was sought from every organisation that had recorded an application refused in full. This additional information and more detailed analysis resulted in a comparative figure for 2017-18 of 3% (not 28%) of applications 'refused in full'. The process was repeated for 2018-19, resulting in a proportion for applications 'refused in full' of 4%.

We will continue to collect and report information on cases where access is refused in full on the basis of exemption and on cases where applications are rejected or refused on other grounds. As noted above, our Office will review organisations' trends in the latter cases, to establish whether there are strategies that can be implemented to reduce their numbers. We do not consider it would be worthwhile or practical to require agencies to try to work through applications from earlier years in an effort to back cast numbers prior to 2017-18.

Application and processing fees

The Act provides for the 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 a freedom of information scheme.

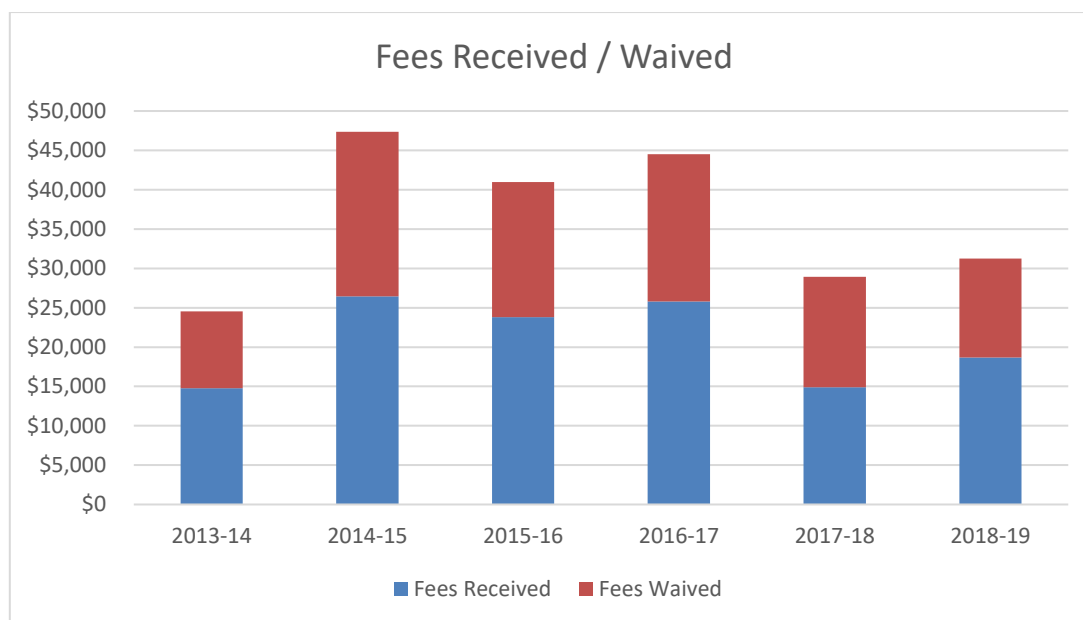
Rather, the fees are intended to act as a safeguard against frivolous and vexatious applications, as they require an applicant to demonstrate their interest in obtaining the information by assisting with those administration costs.

No application fees are chargeable for requests for purely personal information and organisations seem to 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.

For these reasons, it is difficult to make any comment 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 1,000 applications.

Comparative table: Fees received and waived

	Total fees received	Total fees waived	Percentage waived
2013-14	\$14,761	\$9,770	40%
2014-15	\$26,469	\$20,891	44%
2015-16	\$23,788	\$17,179	42%
2016-17	\$25,799	\$18,702	42%
2017-18	\$14,899	\$14,041	49%
2018-19	\$18,666	\$12,587	40%



Correction applications

Historically, the scheme in the Act which allows people to apply to correct their own personal information (Part 3 Division 3) is seldom utilised. Anecdotal information suggests that the correction of an error in personal information held by an organisation about an individual is often resolved without the need for a formal application.

No doubt difficult matters where organisations are reluctant to amend the record are the ones that result in a formal correction application 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 an important part of the historical record that must be retained. In such cases, there is an option for a notation to be placed on the file to record the applicant’s concerns.

In 2018-19, 9 applications to correct personal information were received by organisations, with 3 carried over from the previous year. Two applications were later withdrawn.

One application resulted in corrections being applied as requested, and on another 2 occasions, a statement expressing an applicant’s view was associated with the record. On 7 occasions, the organisation refused to correct the record.

Four of those matters involving one complainant resulted in complaints to our Office. All four complaints were dealt with jointly, pursuant to s104A of the Act as the facts and circumstances of the matters were closely related.

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

New timeliness measure for agencies

At the end of this reporting period, organisations were asked to provide statistical data regarding their compliance with timelines 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 new measure will be collected annually as it will provide a good indicator of how public bodies are managing an increasing workload and how the FOI scheme is working in terms of timeliness.

Public sector organisations reported the following timeliness for their FOI applications:

Time taken	Access	Correction	Internal Review
Finalised within 30 days of receipt of application	810	7	33
Finalised within 31 to 90 days of receipt of application <u>and</u> within a valid extension period	133	1	4
Finalised after 90 days of receipt of application <u>and</u> within a valid extension period	31	1	2

A number of applications were finalised outside these timeframes. Organisations will be asked to provide comment on the reasons for delay in the next reporting period.

Challenging behaviour by some applicants

Despite the fact that no applications have been received this year for a declaration that a person is a vexatious applicant under section 42 of the Act, organisations are contacting this Office with increasing regularity seeking advice on appropriate methods for managing individuals whose conduct or demands appear to them to be unreasonable.

They have expressed difficulties in managing the expectations of some repeat applicants. Other officers have advised that their relationship with certain applicants has broken down and they are no longer able to communicate productively.

It is not uncommon in these circumstances for our Office to also receive complaints from the same applicants that they are being mistreated or ignored by the organisation. These types of situation need to be well managed as they can place considerable strain on everyone involved and can result in delays in reaching resolution.

In most cases, these difficulties can be successfully managed but they will often require a moderate, carefully implemented and staged approach. Our Office will attempt to assist FOI officers with suggestions and advice on managing challenging complainant conduct.

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/getattachment/dc792acd-fdc6-429d-8f88-2fcce3900e68//publications/parliamentary-reports/dealing-with-challenging-behaviour.aspx>.

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>.

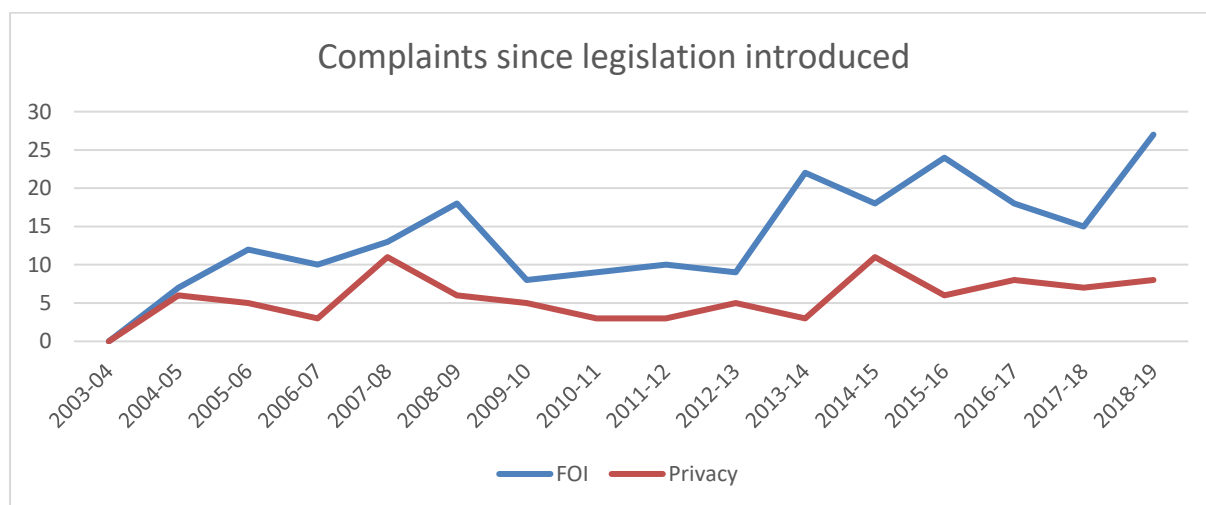
Complaints to the Information Commissioner

This year, the Office received 27 new FOI complaints, with 11 matters carried over from the previous year. Of the 17 matters that were completed in the reporting period, four were referred to NTCAT at the request of either the complainant or a third party. The table below lists FOI complaints by agency in this reporting period.

PSO*	New Complaint	Carried Over	Finalised	Open at EOY
AGDJ	1	1		2
CDU	3	1	4	
CoP	1			1
DCM	1			1
DENR	1		1	
DLA	1			1
DoE	2	1	2	1
DoH	6	1	2	5
DPIR	2	5	4	3
NTLAC		1	1	
NTPFES	3	1	2	2
TF	3			3
TRB	2			2
WSC	1		1	
TOTAL	27	11	17	21

* Refer to Appendix 2 for details of acronyms for organisations.

The number of FOI complaints received by the Commissioner's office varies from year to year but an upward trend can be discerned in recent years. A comparison of the annual number of complaints received from the start of the legislation to the current year demonstrates the variation in complaint numbers.



Encouraging an Informal Approach

This year, the Office has continued its focus on resolving complaints on an informal basis where possible, thereby allowing for a more flexible complaints process. Noticeable benefits to approaching complaints in this manner include:

- improved timeliness in resolving some disputes thus reducing the pressure placed on the parties and the Office by the investigation process; and
- in an environment of constrained resources, creating more time to spend on complex complaints.

Privacy protection

The OIC is the ‘privacy watchdog’ for the NT public sector. The Office investigates and mediates privacy complaints made by individuals against public sector organisations in circumstances where the organisation has been unable to resolve the complaint.

If complaints don’t resolve through this process, the NT Civil and Administrative Tribunal (NTCAT) is empowered to conduct a hearing to decide whether or not a privacy breach has occurred and whether orders should be made to rectify the breach or compensate the complainant.

No complaints of a privacy breach have been referred for hearing to the NTCAT to date.

The Office also allocates significant resources to educating public officers about their privacy obligations and to providing advice and public comment on proposed legislative change or new initiatives that may impact on privacy rights.

In addition, the Office provides education and advice to the public on their privacy rights under the Act.

Privacy complaints handled by public sector organisations

Legislative reporting requirements for public sector organisations in relation to privacy complaints are not as structured as for FOI complaints. In an attempt to gain insight into the management of privacy complaints by organisations, our Office has started to seek additional information from organisations on an annual basis.

Whilst the responses received to date raise no immediate issues with the way in which organisations are managing privacy complaints made to them, it is difficult to gauge privacy concerns within organisations generally when there is no requirement for them to notify the Commissioner of serious privacy breaches.

However, even in the absence of a requirement to report, it is fair to say that many organisations will advise us of potential breaches and seek our advice in relation to them. We have assisted organisations to appropriately manage data breaches on several occasions during this reporting period.

Discussions are ongoing with the Department of Corporate and Information Services regarding the potential to create a Data Breach Guideline to assist organisations in appropriate reporting and management of data breaches.

Overview of privacy complaints handled by OIC in 2018/19

The Office received 8 new complaints alleging privacy breaches during the reporting period. Six were resolved. The following table outlines privacy complaints made to us during the period.

PSO	New complaints	Carried over	Finalised	Open at EOY
AGD	1	1	2	
CDU	1			1
DoH	4	2	2	4
TF	2		1	1
NTPFES		2	1	1
TOTAL	8	5	6	7

In addition to formal complaints, the OIC received over 60 enquiries during the reporting period from organisations and members of the public, seeking information or advice with regard to potential privacy breaches or privacy issues.

The majority of matters raised by members of the public were not accepted as they had not yet requested the organisation resolve or rectify the matter in the first instance, as required by section 104(2)(a) of the Act. In these situations, our Office liaised with the individual and the organisation with a view to resolving or progressing matters informally and to the satisfaction of both parties.

Examples of privacy concerns raised with the OIC this year include:

- The disclosure of a customer’s personal identifying details to a third party. The investigation into this matter by the organisation identified a system failure with an automated mailing system and resulted in a review of internal processes and an apology to the affected individual.
- An HR case management file was forwarded to a staff member in error. The file contained names of staff members and a brief description of matters under investigation. One individual submitted a complaint after being notified by the recipient of the email that information had been disclosed in error. The organisation confirmed that the email and file were appropriately destroyed, the individual received an apology and was satisfied with the response.
- Personal details relating to a class of individuals was inappropriately shared between NTG and Commonwealth agency representatives in a closed meeting. Although all attendees were bound by privacy provisions, the use and disclosure of these details was inconsistent with the IPPs. After internal investigation by the agencies involved, further education on appropriate information sharing and privacy requirements was provided to the officers involved.
- An allegation was made that a staff member inappropriately accessed a government database to view the details of a known third party. An investigation undertaken by the organisation found insufficient evidence to support the allegation.

- Multiple contact from HR staff members, querying the right and ability of team members to access information such as grievances and return to work plans relating to other HR staff members. Although concerns have been raised by multiple agencies, in each circumstance the relevant department has implemented additional security measures to protect team members' information and has reiterated privacy requirements to relevant employees.
- A client file forwarded between government offices using the post. Package was not registered and did not have a tracking number. The incident recorded with involved agencies and the individual advised. The Department advised to liaise with internal privacy officer.
- Information published on a procurement matter included the surname of an individual. As a result of an internal investigation by the relevant agency, information was removed, systems updated and processes amended to ensure similar incidents do not occur.
- Organisations implemented cloud-based products without following NTG recommended processes. Further investigations identified information was not being stored in a manner consistent with NT law. These organisations undertook privacy impact and security assessments to ensure compliance. On some occasions, this resulted in an amendment to contractual arrangements with the service provider.
- An Organisation inadvertently disclosed personal information in a "bulk" email. Apologies were issued to affected individuals and processes put in place to ensure similar incidences do not occur in the future.

Sharing of personal information - challenges and solutions

This year has seen an increase in the number of general enquiries made by organisations seeking guidance with regard to sharing personal information about individuals to other NTG agencies, Commonwealth bodies or non-government organisations and service providers. The queries raised by officers sometimes suggest a lack of understanding with regard to when and how information can be shared appropriately in accordance with the relevant legislation.

Examples of the issues identified by this Office as impacting on appropriate information sharing between agencies included:

- Lack of understanding of appropriate legislation;
- Inadequate processes undertaken by requesting agencies, including a failure to provide sufficient information to support sharing or to accurately identify the basis for sharing;
- Lack of internal structure to ensure requests are appropriately managed and recorded;
- Silo mentality within agencies; and
- Legislative or technical requirements arguably preventing appropriate information sharing.

There is, in reality, significant potential for information sharing in appropriate circumstances. The *Information Act* contains various provisions allowing sharing in particular cases for particular purposes. Other restrictive legislative provisions may come into play but they are often more flexible than people think.

More often than not, information sharing is about establishing a level of confidence between the information holder and the requesting party about the purpose and extent of proposed use and protections that will be put in place by the requesting party, rather than immediately moving to pursue new legal measures to authorise disclosure.

For example, on two occasions this year, organisations made enquiries about the potential for the Information Commissioner to make a Grant of Authorisation under section 81 of the Act in circumstances where the organisations were concerned that proposed personal information sharing may not be permitted by the Information Privacy Principles (the IPPs). In both situations, our Office drew attention to provisions which suggested that the proposed use and disclosure of information may be authorised under the IPPs. While the application of those provisions was, at first instance, a matter for the organisations to consider and decide upon, we indicated that it was important for them to do so before pursuing a formal application.

Developing a level of understanding and trust between the organisation that holds the information and the requesting party may take some time and effort depending on the nature and sensitivity of the information sought and the purposes the requestor seeks to use it for.

However, for any arrangement regarding exchange of personal information to work truly effectively, even one that may ultimately be backed by specific legislative provisions, it must be underpinned by understanding and acceptance of all parties and often by implicit approval of the community.

Our Office supports responsible personal information sharing where it is in line with the Act and other legislation, where it meets individual and community expectations and where appropriate limitations and protections are put in place to protect the privacy rights of the individuals concerned.

We promote responsible personal information sharing as part of our continuing education and training across organisations. During 2018-19, we undertook training of over 700 public officers in privacy protection and information sharing.

Domestic violence information sharing

In some cases, legislative change is made to not only permit but, in some cases require, information sharing between entities. That is the case with amendments to the *Domestic and Family Violence Act 2007* that commenced on 30 August 2019 which aim to provide a clear process for relevant entities to share information relating to individuals affected by domestic and family violence.

The legislation requires our Office to review the operation of the amendments after two years and again after five years. We have already invested substantial time in discussion with relevant stakeholders as part of the development of regulations and guidelines that will apply to the scheme and attempting to establish ground rules for information recording and reporting that would properly inform our reviews.

Even prior to the formal review processes, any individual with a concern about a specific disclosure or breach of privacy by a public sector organisation arising from the provisions is encouraged to contact our Office to make an enquiry or complaint.

Reporting on Grant of Authorisation – NTPFES and SupportLink

In January 2016, NTPFES sought a s.81 Authorisation from the Information Commissioner to permit the disclosure of personal information to SupportLink Australia, in a manner that would otherwise contravene or be inconsistent with the IPP's. The primary purpose of the Authorisation was to utilise SupportLink, a web-based referral system, to significantly improve the accessibility and speed of police officers in referring mandatory reports to the CEO of Territory Families, in accordance with the provisions of the *Care and Protection of Children Act*.

The Authorisation was granted. Its terms included a requirement on the NTPFES to provide reports to the Commissioner over the life of the Grant. On 11 April 2019, in a report to the Commissioner detailing the effectiveness and impact of the Authorisation, the NTPFES advised the following:

During the reporting period (01/04/2017 to 31/03/2019) NTPFES referred 10,116 cases via SupportLink to Territory Families. There were nil breaches during the reporting period.

For your information, the child abuse report form was recently updated to include additional prompting questions. This update was done in consultation with both NTPFES and Territory Families. Feedback received from Territory Families (via the Regional Advisory Group) confirmed that the quality of the intake being compiled improved thanks to this new template.

The Grant of Authorisation remains in place until 25 February 2021.

OIC operations

Timeliness – resolving complaints within 12 months

In 2018-19, a total of 17 FOI complaints were finalised with 15 (88%) completed within 12 months. Six privacy complaints were finalised with 4 (67%) completed within 12 months. This gives an overall timeliness result of 83%.

In some cases, delay in resolution may be unavoidable, for example, due to the personal circumstances or health of a complainant or key witness. This occurred in a surprising number of applications during the reporting period. As the number of complaints is small, delays in a couple of matters can impact on the overall timeliness result. On other occasions, timeliness can be affected by the realities of being a very small office with a large workload.

Even so, with the change in functions of the Office, following the advent of NTCAT, we do not consider that a finalisation timeline of up to 12 months for a large number of complaints accords with community expectations.

We can only work within the resources available to us but we are currently reviewing our processes in an effort to identify ways to substantially improve timeliness of complaint finalisation.

General Enquiries

The OIC receives general enquiries via telephone and email from public officers, community members and non-government organisations. During 2018-19, we dealt with over 450 general enquiries, in addition to formal complaints and applications.

As a benefit of combining with the Ombudsman's Office, staff can now more easily take enquiries and complaints from incarcerated applicants, leading to further improved service to these individuals.

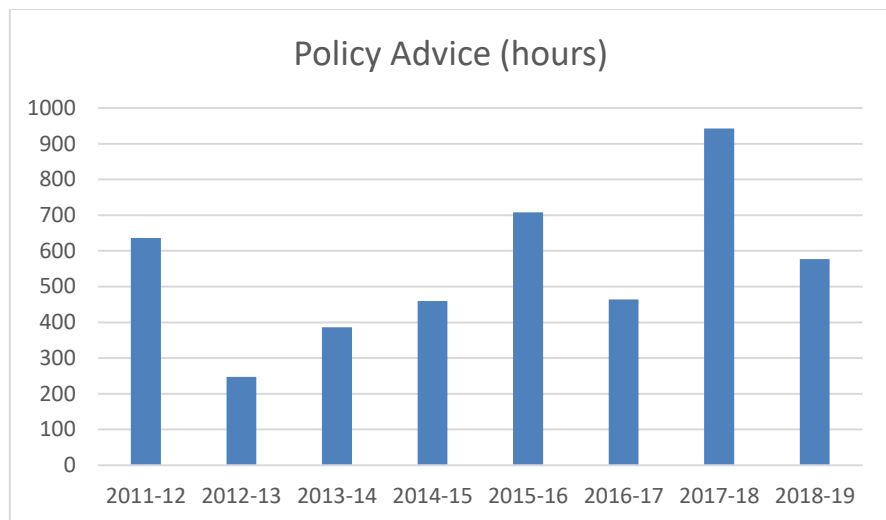
Advice and Public Comment

One of the key roles of the Office is to provide expertise with regard to FOI and privacy matters at an early stage, ensuring that new initiatives are designed in a way that treats personal information with care.

Although staff in the Office are not able to provide legal advice, they regularly provide professional guidance and support to agencies during the development and review of practices, policy and legislation.

Advice is largely provided on an 'on-request' basis, so the hours recorded fluctuate depending on the types of initiatives being developed by organisations and the extent to which the Office is approached for assistance.

Year	Hours
2011-12	636
2012-13	247
2013-14	386
2014-15	460
2015-16	708
2016-17	464
2017-18	943
2018-19	577



This year, in addition to policy advice recorded above, staff from our Office provided advice and guidance on FOI and Privacy matters to various local and national working groups and committees. These included:

- *Information Act Working Group* – NTG working group established to review certain aspects of the Act.
- Implementation of *Expungement of Historical Homosexual Offence Records Act* – Working group established to ensure that administrative processes of the scheme are consistent with relevant privacy obligations.
- *Open Data Working Group* – Working group established as part of the NTG’s “Smarter Government” election commitment and involving representatives from multiple NTG agencies.
- *Territory Intelligence Coordination Centre* – A multi-agency information sharing facility with an active focus on encouraging and promoting appropriate information sharing between NTG agencies.
- *Domestic and Family Violence Information Sharing Scheme* – a NTG initiative aimed at improving information-sharing between government agencies and other organisations involved in helping victims and their families in dealing with domestic and family violence.
- *Face Matching Services (FMS) Coordination Group* – a cross agency working group considering proposed national initiatives involving facial identification and facial matching services.
- *Privacy Awareness Authorities (PAA) Policy Group* – Formed by representatives of all Australian and New Zealand Privacy Commissioners for the purpose of providing a formal avenue through which officers can work together to enhance policy capacity within jurisdictions.
- *PAA Complaints and Enforcement Group* – A subgroup of the PAA network formed by representatives of each Australian Privacy Commissioner to encourage informal cooperation between privacy investigators nationally.

Examples of policy advice provided by the Office this year include:

- Assisting public sector organisations with updating and improving privacy statements and policies;
- Providing advice to agencies regarding participation in national initiatives;
- Assisting agencies to properly assess cloud computing options for service delivery and data storage to ensure that they minimise privacy, security and legal risks;
- Providing advice to agencies on the requirements for protecting information that is transferred interstate and overseas;
- Providing advice on the appropriate use of CCTV and its release under Freedom of Information laws;
- Providing advice on privacy to organisations involved in Territory and National initiatives such as the National Drivers Licence Facial Recognition Solution and Identity Matching Services;
- Providing advice and comment on collaborative research proposals involving the sharing of personal information;
- Public comment and formal submissions on national matters relating to privacy and information access such as the *My Health Records Amendment (Strengthening Privacy) Bill 2018*;
- Providing public comment on proposed NT Legislation including amendments to the *Youth Justice Act 2005*.

In collaboration with the Department of Education, a New Privacy Impact Assessment tool was also published to assist organisations in assessing privacy risks when developing new legislation and new initiatives.

Awareness, education and training

During 2018/19, we increased our focus on providing FOI and privacy training to agencies, and promoting the role of the OIC publicly. Staff at the Office conducted 36 education and training sessions, which was a marked increase on previous years.

Quantity – training, education and awareness

Comparative Performance		18-19	17-18	16-17
Quantity	Awareness and training presentations			
	- Number of presentations	36	18	10
	- Number of participants	775	347	321

Presentations we gave included Privacy and Information Sharing Training Sessions in Alice Springs to staff at the Department of Health, Licencing NT, NT WorkSafe and Correctional Services.

Alice Springs Hospital encouraged all managerial, administrative and clinical staff members to attend one of the many training sessions conducted on site. Sessions were targeted specifically to staff needs, and received very positive feedback.

Our Office also delivered training to various government and non-government organisations and supported the quality FOI training provided by an expert external provider. In addition to this, the Deputy Commissioner provided a guest lecture to law students at Charles Darwin University and staff delivered a presentation to 2019 Graduates on FOI and Privacy.

We also undertook a number of community awareness initiatives, including:

- promoting our services at the NT Domestic Violence Forum, the NT Supreme Court Open Day and the NT Senior’s Expo;
- observing Privacy Awareness Week from 13-19 May, during which we ran information stalls in Palmerston and Casuarina shopping centres to promote public awareness and held a forum for Information and Privacy Officers; and
- Remote Community Engagement: Since combining with the Ombudsman’s Office, staff from this Office have had the opportunity to participate in an established community engagement project, undertaken by Ombudsman staff and targeting 20 remote and regional community centres during 2018-19. In situations where resource limitations prevented OIC staff from attending centres, Ombudsman staff ensured community members and stakeholders were provided with information relating to the role and function of the OIC. On occasions when staff from our Office could participate in joint visits, these were considered very successful by all participants.

Participants and public sector organisations provide feedback following training sessions and public education events, ranking the quality of presentations on a five point scale. These results are then averaged and converted into a percentage.

Comparative Performance		18-19	17-18	16-17
Quality	Stakeholder satisfaction with performance	84%	83%	82%

With public awareness surrounding privacy and information disclosure increasing, it is expected that joint visits to community centres will continue to be a focus of this Office, as far as resources permit.

Appendix 1 – OIC Financial Performance

This reporting period was a transitional period for the Office of the Information Commissioner (OIC). Prior to 13 August 2018, the OIC was part of the Department of the Attorney General and Justice. It was co-located with the Office of Public Interest Disclosures and financial information was presented as a combination of the two functions. On 13 August, the OIC function transferred to the Ombudsman’s Office. No attempt has been made to include financial comparatives regarding OIC operations in prior years as no meaningful comparison can be derived from previous combined-Office figures.

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).

Expenses recorded against the OIC in 2018-19 are set out below. However, they must be read subject to the caveat that personnel expenses to reflect the contribution of officers holding dual roles in the OIC and Ombudsman offices were not allocated during this transitional year. This was due to the need to take time to establish the precise extent of contributions required in relation to each office within the new operating environment. From 2019/20, expenses will include allocations for the contributions of the Commissioner, the Deputy Commissioner and Business Services Unit personnel.

OFFICE OF THE INFORMATION COMMISSIONER EXPENSES For the year ended 30 June 2019

EXPENSES	2019 \$000
Employee expenses	251
Administrative expenses	54
<i>Purchases of goods and services</i>	50
Accommodation	3
Advertising	2
Communications	2
Consumables / General Expenses	1
Entertainment / Hospitality	-
Information Technology Charges	9
Insurance Premiums	10
Legal Expenses	6
Marketing & Promotion	2
Memberships and Subscriptions	2
Motor Vehicle Expenses	10
Office Requisites and Stationery	-
Official Duty Fares	2
Other Equipment Expenses	-
Training and Study Expenses	-
Travelling Allowances	1
<i>Property management</i>	4
TOTAL EXPENSES	305

Appendix 2 – Statistics by Public Sector Organisation

Twenty-nine public sector organisations received FOI applications during 2018/19 as detailed in the following tables. We appreciate their co-operation and assistance in the timely and accurate reporting of the information necessary for this report.

Abbreviations for public sector organisations used in the tables

ADC	Anti-Discrimination Commission
AGDJ	Attorney-General and Justice (Dept of the)
CDU	Charles Darwin University
CoD	City of Darwin
CoP	City of Palmerston
DCIS	Corporate and Information Services (Dept of)
DCM	Chief Minister (Dept of the)
DENR	Environment and Natural Resources (Dept of)
DLGHCD	Local Government, Housing and Community Development (Dept of)
DIPL	Infrastructure, Planning and Logistics (Dept of)
DLA	Legislative Assembly (Dept of)
DoE	Education (Dept of)
DoH	Health (Dept of)
DPIR	Primary Industry and Resources (Dept of)
DTBI	Trade, Business and Innovation (Dept of)
DTSC	Tourism, Sport and Culture (Dept of)
DTF	Treasury and Finance (Dept of)
EARC	East Arnhem Regional Council
JE	Jacana Energy
KTC	Katherine Town Council
LC	Litchfield Council
MDRC	MacDonnell Regional Council
MSHR	Menzies School of Health Research
NTLAC	NT Legal Aid Commission
NTPFES	NT Police, Fire and Emergency Services
PW	Power and Water Corporation
TF	Territory Families
TRB	Teacher Registration Board of the Northern Territory
WSC	Wagait Shire Council

TABLE 1 – Information access applications and outcomes 2018-19

PSO	Lodged	Information Released			App refused	Withdraw	Transfer	Finalised
		All	Part	None				
DLA	4	0	2	0	3	0	0	5
TRBNT	4	0	1	0	1	0	0	2
NTLAC	1	0	0	0	1	0	0	1
LC	1	0	1	0	0	0	0	1
DCM	11	0	2	0	7	1	1	11
DIPL	21	10	8	2	0	1	1	22
DLGHCD	145	9	134	1	0	1	0	145
DPIR	3	0	1	0	1	0	0	2
NTPFES	152	18	86	7	39	10	0	160
DCIS	4	2	0	0	0	0	2	4
JACANA	1	1	0	0	0	0	0	1
CoD	12	10	1	0	1	0	0	12
DTSC	5	0	3	0	2	1	0	6
TF	128	15	74	3	33	3	0	128
EARC	1	0	0	1	0	0	0	1
DTF	2	3	0	0	1	0	0	4
PWC	3	0	0	2	1	0	0	3
MSHR	1	0	1	0	0	0	0	1
DTBI	2	0	0	0	0	1	0	1
DoH	348	198	22	6	108	8	1	343
DoE	48	13	8	6	20	3	1	51
DENR	12	4	0	0	4	1	0	9
CoP	7	2	5	0	1	0	0	8
AGD	121	34	50	2	35	2	0	123
ADC	1	0	0	1	0	0	0	1
KTC	1	0	0	0	1	0	0	1
MDRC	1	1	0	0	0	0	0	1
CDU	9	7	0	0	2	0	0	9
WSC	1	0	0	1	0	0	0	1
TOTALS	1050	327	399	32	261	32	6	1057

Notes.

'Information released', see commentary at pages 7-8.

'Information released, None' records full refusals on the basis of exemption.

'App refused', records other grounds for rejection or refusal of an application: see commentary at pages 8-10.

TABLE 2 – Information correction applications and outcomes 2018-19

	Lodged	Pending	As Requested	Other Form	No Change	Withdrawn	Finalised	Statement
CDU	0	1	0	0	1	0	1	0
DIPL	1	0	0	0	1	0	1	0
DoE	1	0	0	0	1	0	1	0
DoH	6	2	1	0	5	2	8	2
NTPFES	1	0	0	0	1	0	1	0
TOTALS	9	3	1	0	9	2	12	2

TABLE 3 – Internal Review applications and outcomes 2018-19

	Lodged	Pending	Outcome				Withdrawn	s39A	Finalised
			s103(2)	Confirmed	Varied/ Revoked				
AGD	4	0	0	2	2	0	0	4	
CoD	1	0	0	0	1	0	0	1	
DCM	2	0	0	0	2	0	0	2	
DLA	2	0	0	2	0	0	0	2	
DLGHCD	1	0	0	1	0	0	0	1	
DoE	4	0	0	4	0	0	0	4	
DoH	23	2	0	12	1	3	3	19	
NTPFES	5	2	2	3	2	1	0	6	
TF	7	0	0	7	0	0	0	7	
TRBNT	2	0	0	0	0	0	0	0	
WSC	1	0	0	0	0	0	1	1	
TOTALS	52	4	2	31	8	4	4	47	

TABLE 4 – Application Fees 2018-19

	Application Fees			
	Number Received	Fees Received	Reduced/Waived	Reduction
AGD	24	\$720.00	6	\$180.00
CoD	6	\$180.00	1	\$30.00
CoP	7	\$210.00	1	\$30.00
DCIS	3	\$90.00	0	\$0.00
DCM	10	\$300.00	0	\$0.00
DENR	2	\$60.00	3	\$45.00
DIPL	17	\$510.00	1	\$30.00
DLA	4	\$120.00	0	\$0.00
DLGHCD	2	\$60.00	1	\$30.00
DoE	5	\$180.00	2	\$60.00
DoH	19	\$570.00	1	\$30.00
DPIR	2	\$60.00	0	\$0.00
DTBI	1	\$30.00	0	\$0.00
DTF	1	\$30.00	2	\$60.00
DTSC	3	\$90.00	1	\$30.00
LC	1	\$30.00	0	\$0.00
MSHR	0	\$0.00	1	\$30.00
NTPFES	108	\$3,240.00	13	\$390.00
TF	2	\$60.00	0	\$0.00
TRBNT	2	\$60.00	0	\$0.00
WSC	0	\$0.00	1	\$30.00
TOTALS	219	\$6,600.00	34	\$975.00

TABLE 5 – Processing Fees 2018-19

PSO	Processing Fees			
	Number Received	Fees Received	Reduced/Waived	Reduction
AGD	41	\$503.20	42	\$696.00
DCM	1	\$212.50	1	\$100.00
DENR	0	\$0.00	3	\$125.00
DIPL	3	\$1,658.73	3	\$169.50
DLGHCD	143	\$0.00	143	\$7,998.80
DoE	1	\$131.75	3	\$127.50
DoH	32	\$3,158.22	14	\$30.00
DTBI	1	\$215.75	0	\$0.00
DTF	0	\$0.00	3	\$0.00
DTSC	2	\$532.09	2	\$465.25
NTPFES	20	\$5,654.00	55	\$1,900.00
WSC	0	\$0.00	1	\$0.00
TOTALS	244	\$12,066.24	270	\$11,612.05



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