

<Raewyn.Harlock@oaic.gov.au>; DRAYTON,Melanie <Melanie.Drayton@oaic.gov.au>; ATTARD,Brenton <Brenton.Attard@oaic.gov.au>

Subject: RE: Media and social clips - FOI inquiry

Hello again

See below further coverage of the inquiry:

9 MINUTES AGO

Former FOI Commissioner reveals watchdog failings, The Australian

JESS MALCOLM

The former FOI commissioner has blasted senior staff members working inside the FOI watchdog and suggested the agency is in chaos riddled with "significant" cultural issues.

In a submission to a Senate inquiry into Australia's freedom of information laws, Leo Hardiman revealed a series of issues inside the Office of the Australian Information Commissioner including that it maintained "unproductive" relationships with other government agencies.

Mr Hardiman, who quit in May after less than a year in the role, suggested senior management became overwhelmed with "cycles of panic" in the lead up to Senate estimates appearances and repeatedly shifted responsibility for the agency's failures to the staff of its FOI branch.

He warned the agency's staff also view its FOI functions as "being of secondary importance to its privacy functions" and that there was a practice at the most senior level of developing "narratives" designed to present the agency's performance in the best possible light while distracting from engaging with important issues.

Mr Hardiman said he attempted to introduce structural changes within the agency but that change would not be made without a boost to staffing levels.

"Resignation was an incredibly difficult, in fact the most difficult decision of my career, to contemplate. but I could not, with the necessary sense of integrity, play the game of maintaining the status quo," Mr Hardiman said.

"Change was desperately required and it was not going to occur if I continued on."

**David Shoebridge** @DavidShoebridge · 28m

The Law Council is our next witness. They're telling us a quirk of the law that allows requirements to publish information released under FOI to be satisfied just by noting you can get info by email instead of having docs directly available - that seems an obvious reform



1



1



2



262

**David Shoebridge**
@DavidShoebridge

Law Council saying we need to err on the side of making the FOI system simpler, quicker and cheaper. There is a question of balance here where currently the focus is on extensive decisions from the Information Commissioner where the focus for most applicants is the documents

11:22 AM · Aug 29, 2023 · 128 Views

1 Repost 3 Likes

Amy Kiely (she/her)

Assistant Director, Strategic Communications
Office of the Australian Information Commissioner
Brisbane

P +61 2 9942 4103 M s47E(d) E amy.kiely@oaic.gov.au

The OAIC acknowledges Traditional Custodians of Country across Australia and their continuing connection to land, waters and communities. We pay our respect to First Nations people, cultures and Elders past and present.

[Subscribe to Information Matters](#)

From: OAIC - Media**Sent:** Tuesday, August 29, 2023 10:59 AM

To: FALK,Angelene <Angelene.Falk@oaic.gov.au>; PIRANI,Toni <Toni.Pirani@oaic.gov.au>; AGO,Rocelle <Rocelle.Ago@oaic.gov.au>; HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>; HARLOCK,Raewyn <Raewyn.Harlock@oaic.gov.au>; DRAYTON,Melanie <Melanie.Drayton@oaic.gov.au>; ATTARD,Brenton <Brenton.Attard@oaic.gov.au>

Cc: OAIC - Media <media@oaic.gov.au>**Subject:** Media and social clips - FOI inquiry

Good morning

Please see below media and social media coverage of the FOI inquiry so far this morning.

- [‘Former FOI Commissioner Leo Hardiman blames Information Commissioner Angelene Falk for poor culture’](#), The Canberra Times (in attachment)
- Several items in [Guardian Australia live news blog](#) (in attachment)

Images below are linked to the posts.



Paul Farrell

@FarrellPF



I've never seen an opening statement like this at a Senate inquiry before. This is a devastating assessment of the leadership of the Office of the Australian Information Commissioner and the FOI system... by it's owner recently departed FOI Commissioner aph.gov.au/DocumentStore...

9:59 AM · Aug 29, 2023 · **1,804** Views

4 Reposts **1** Quote **8** Likes **1** Bookmark

**Ariel Bogle**

@arielbogle



As well as a withering assessment of the Information Commissioner's apparent lack of dedication to FOI, it also contains a pretty neat summary of how government departments do their best to undermine the FOI process while 'pretending' to facilitate it.

n the agency side of the equation also con often incorrect) basis that an exemptio
 ge extent these factors are in my view symhe information was such that refusal of
 relate to the administration of the FOI Ac tions were applied even where there v
 nevertheless disappointingly common ac needed to remain confidential to gove
 applicants to try and resolve a request
 contrary to the apparent purpose and obj ay have been happy to receive inform
 administer the Act on the basis that acces d initially requested but no attempt ha
 d only be granted if it was not possible to t outcome with the applicant (indeed, i
 ons. The Act of course contemplates some; o was not even contemplated).
 unless an exemption applies and it is appr new issues and/or exemptions as an IC
 tion in the particular case to apply that ex
 gencies to claim multiple exemptions to st chronic, in responding to the OAIC in tl
 y possibly could. helpful defensiveness.

**Paul Farrell** @FarrellPF · 54m

I've never seen an opening statement like this at a Senate inquiry before. This is a devastating assessment of the leadership of the Office of the Australian Information Commissioner and the FOI system... by it's owner recently departed FOI Commissioner aph.gov.au/DocumentStore...

10:10 AM · Aug 29, 2023 · **986** Views

Senator David Shoebridge is publishing to an [ongoing thread](#) about the inquiry:



David Shoebridge @DavidShoebridge · 1h



Leo Hardiman the former FOI Commissioner has seen the system up close and tried to address the most serious concerns about delay, obfuscation, cost and a broken culture around FOI. He has concerns the FOI Commissioner doesn't have the powers or resources to actually do the job.



David Shoebridge @DavidShoebridge · 1h



Leo Hardiman tells us he started in April 2022 and immediately encountered unproductive agency relationships, diversion of staff from FOI, constant reshuffles of staff, and focus on developing narratives re FOI management rather than doing the management itself



David Shoebridge
@DavidShoebridge



Former FOI Commissioner Hardiman telling the inquiry the amount of funding allocated to FOI within OAIC was strictly the (insufficient) amount allocated directly by Government and this was much less than funding allocated to the OAIC corporate branch for example

9:13 AM · Aug 29, 2023 · **696** Views

2 Reposts **9** Likes

**David Shoebridge** @DavidShoebridge · 1h

The former FOI commissioner is expressing serious concerns about the status of the role within the broader office of the Australian Information Commissioner - a distinct sense it was treated as a junior officer position despite its clear importance for broader democracy



1



1



7



112

**David Shoebridge** @DavidShoebridge · 51m

Extraordinary evidence from the former FOI Commissioner.

We have heard how the FOI Commissioner was essentially not allowed to do his job, starved of resources and not given the independence needed in his statutory role.



1



6



164

**David Shoebridge** @DavidShoebridge · 49m

There has also been very troubling evidence that a false narrative was presented to the Federal Court about resources - and that this was designed to defeat a court challenge by former Senator Rex Patrick.



1



1



6



385

**David Shoebridge** @DavidShoebridge · 45m

Also note the OAIC has 7 people in the corporate communications team and only 22 in all of FOI! What priorities...



5



301

**Amy Kiely** (she/her)

Assistant Director, Strategic Communications
Office of the Australian Information Commissioner
Brisbane

P +61 2 9942 4103 M s47E(d) E amy.kiely@oaic.gov.au

The OAIC acknowledges Traditional Custodians of Country across Australia and their continuing connection to land, waters and communities. We pay our respect to First Nations people, cultures and Elders past and present.

[Subscribe to Information Matters](#)

OAIC - FOI

From: OAIC - Media
Sent: Tuesday, 29 August 2023 1:45 PM
To: HAMPTON,Elizabeth
Subject: RE: Media and social clips - FOI inquiry [SEC=OFFICIAL]

[‘Attempts to manhandle me’: ex-FOI head’s fraught relationship with info counterpart](#)



JOHN BUCKLEY MEDIA REPORTER



AUSTRALIAN INFORMATION COMMISSIONER ANGELENE FALK (IMAGE: AAP/MICK TSIKAS)

Leo Hardiman KC was a hotly anticipated witness appearing before the Senate inquiry into Australia’s broken FOI system.

A “cultural bent” away from freedom of information functions within the office of the Australian information commissioner (OAIC) led to the former FOI commissioner’s resignation, a Senate inquiry into the broken system has heard.

Leo Hardiman KC was among the most hotly anticipated witnesses to appear before the Senate inquiry into Australia's dysfunctional FOI regime on day two of hearings after he resigned in March, less than one year into the job.

"I would say, from the very outset, there were attempts to manhandle me; demands that I would tell the information commissioner absolutely everything I was doing; I wouldn't make decisions on FOI matters without discussing those things with her," Hardiman told the inquiry.

In an 18-page opening statement on Tuesday morning, Hardiman said he encountered "a large number of issues" when he stepped into the role in April last year.

Most of the issues centred around a powerlessness to carry out the objectives of the relevant legislation; serious staff and resourcing issues; "cycles of panic" among the office's senior ranks, and a tendency of the OAIC to misrepresent its performance on FOI by concocting "narratives" designed to distract from its failures — namely to the Federal Court.

The narrative spun before the Federal Court, Hardiman said, was pegged to the idea that the government of the day wasn't allocating enough resourcing to the OAIC's FOI branch, and suggested that only the government could resolve resourcing issues within the agency.

"I first became aware of this narrative when, early after my appointment commenced, I was asked by [the information commissioner] to assist her with instructing on the Federal Court unreasonable delay proceedings which Mr Rex Patrick had brought against the [information commissioner]," Hardiman said.

He said a leading line of argument taken by information commissioner Angelene Falk was that the backlog of reviews stacked up on her desk, which for the 2021-22 financial year amounted to 1956 applications, was the result of waning resources allocated by the government.

Meanwhile, Hardiman told the inquiry that he had been catching the bus between Canberra and Sydney for work events as part of an effort to preserve funding which he hoped could be redirected to the OAIC's FOI function.

The Legal and Constitutional Affairs Legislation Committee inquiry, chaired by Liberal Senator Paul Scarr, has set out to probe the circumstances that led to Hardiman resigning citing an inability to achieve the objectives of the legislation.

It has also set out to investigate broader delays in the review of appeals with Falk, the resourcing allocated to responding to FOI applications and reviews, and "the creation of a statutory timeframe for completion of reviews".

Hardiman's short-lived tenure offered a flashpoint for Australia's worsening FOI infrastructure. In a LinkedIn post shortly after he resigned, he said serious changes were required to ensure timely access to government-held information, but the power to implement those changes fell beyond his reach.

On resourcing, Hardiman said it became clear that Falk had no interest in boosting the resources allocated to the OAIC's FOI function, despite allocating additional resources to corporate support and discretionary privacy policy functions at a "far greater" rate than the OAIC's core FOI functions.

"In relation to cultural issues, I could not change the fact that [the information commissioner] was not committed to the three-commissioner model. Rather, [the information commissioner] was committed to a model under which she would remain, in effect, a 'super' privacy commissioner with a subordinate rather than equally independent co-commissioner for FOI," Hardiman said.

"[The information commissioner] had expressly said to me following the 2022 federal election that she was concerned about the possibility of, and did not want, the appointment of a separate privacy commissioner.

"It was also made abundantly clear to me that [the information commissioner] was only desirous of an appointed FOI commissioner if [the information

commissioner] could control that commissioner, particularly in so far as they might say or do anything which called into question prior stewardship of the FOI functions.”

In his opening statement, Hardiman said there was a need for significant changes to the FOI system, including at the agency level, where he said review decisions are “overly complex”.

In the main, the issues were reflective of a “deficiency” in leadership and culture across the public service, where in his view there was a shortage of FOI expertise. He said reforms should target that shortage of expertise and look to install a more “pro-information access culture” across agencies and departments.

In its submission to the inquiry, the Centre for Public Integrity suggested that “perhaps more worrying” than the “incessant clogging” of the FOI system’s appeals process has been the “emerging culture of secrecy” among government agencies and departments.

The issue was highlighted by former independent senator Rex Patrick, whose view is that many if not close to all of the system’s failings can be boiled down to just two components: resourcing and culture.

Hardiman also said reforms might target the governance arrangements put in place to oversee the FOI system, as well as a rethink of the “financial signalling” built into the FOI system, which he said should be simplified and made “incapable of gaming” by agencies, who frequently charge eye-watering amounts to applicants looking to unearth documents.

“There may also be merit in creating a new financial incentive for agencies to seek to resolve FOI disputes without the institution, or continuation of, a review process wherever that might be possible and appropriate — an incentive of that kind might, for example, take the form of a requirement to contribute to the costs incurred by a review body in the conduct of a review,” he said.

He also suggested reforming governance arrangements responsible for its oversight. Among them, he said, could be moving the oversight of FOI to a different agency “with greater focus” on government accountability.

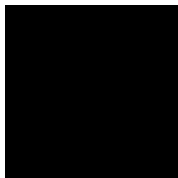
Falk is scheduled to deliver a reply to the inquiry on Tuesday afternoon.

From: HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>
Sent: Tuesday, August 29, 2023 1:44 PM
To: OAIC - Media <media@oaic.gov.au>
Subject: RE: Media and social clips - FOI inquiry [SEC=OFFICIAL]

Amy – I can’t get into the ‘manhandle’ link. Are you able to send to me please?

With thanks

L



Elizabeth Hampton
 Deputy Commissioner
 Office of the Australian Information Commissioner
 M [0294747474](tel:0294747474) E Elizabeth.Hampton@oaic.gov.au

The OAIC acknowledges Traditional Custodians of Country across Australia and their continuing connection to land, waters and communities. We pay our respect to First Nations people, cultures and Elders past and present.

[Subscribe to Information Matters](#)

From: OAIC - Media <media@oaic.gov.au>
Sent: Tuesday, August 29, 2023 1:31 PM
To: FALK,Angelene <Angelene.Falk@oaic.gov.au>; PIRANI,Toni <Toni.Pirani@oaic.gov.au>; AGO,Rocelle <Rocelle.Ago@oaic.gov.au>; HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>; HARLOCK,Raewyn <Raewyn.Harlock@oaic.gov.au>; DRAYTON,Melanie <Melanie.Drayton@oaic.gov.au>; ATTARD,Brenton <Brenton.Attard@oaic.gov.au>
Cc: OAIC - Media <media@oaic.gov.au>
Subject: RE: Media and social clips - FOI inquiry

Hello

Please see the latest media clips below and in the attachment.

- [‘Hardiman accuses information commissioner of FOI ‘spin’ and culture issues’](#), The Mandarin
- [‘Staff diverted from FOI despite long backlog: inquiry’](#), Australian Associated Press
- [‘Attempts to manhandle me’: ex-FOI head’s fraught relationship with info counterpart’](#), Crikey

Latest from Guardian Australia live blog:

37m ago 11.32 AEST

Christopher Knaus

Former FOI commissioner **Leo Hardiman** had told a Senate inquiry that agency head, information commissioner **Angelene Falk**, tried to intimidate him after publicly announcing his resignation in March. Hardiman issued a public statement at the time of his resignation, criticising the state of the FOI system and lamenting his lack of power to bring about change.

Following his statement, Hardiman said he caught the bus to Sydney to meet with Falk instead of flying, a practice he adopted to save money for his vastly under-resourced branch:

When we went in there, I would say that her behaviour towards me was an attempt to intimidate me into spilling the beans about my resignation because she didn't have control of this. She literally just stared at me, glared at me, would not take her eyes off me. She tried to gaslight me, put words in my mouth, and I just said 'I am not discussing my resignation with you'.

Amy Kiely (she/her)

Assistant Director, Strategic Communications
Office of the Australian Information Commissioner
Brisbane

P +61 2 9942 4103 M **s47E(d)** E amy.kiely@oaic.gov.au

The OAIC acknowledges Traditional Custodians of Country across Australia and their continuing connection to land, waters and communities. We pay our respect to First Nations people, cultures and Elders past and present.

[Subscribe to Information Matters](#)

From: OAIC - Media

Sent: Tuesday, August 29, 2023 11:43 AM

To: FALK,Angelene <Angelene.Falk@oaic.gov.au>; PIRANI,Toni <Toni.Pirani@oaic.gov.au>; AGO,Rocelle <Rocelle.Ago@oaic.gov.au>; HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>; HARLOCK,Raewyn <Raewyn.Harlock@oaic.gov.au>; DRAYTON,Melanie <Melanie.Drayton@oaic.gov.au>; ATTARD,Brenton <Brenton.Attard@oaic.gov.au>

Subject: RE: Media and social clips - FOI inquiry

Hello again

See below further coverage of the inquiry:

9 MINUTES AGO

Former FOI Commissioner reveals watchdog failings, The Australian

JESS MALCOLM

The former FOI commissioner has blasted senior staff members working inside the FOI watchdog and suggested the agency is in chaos riddled with "significant" cultural issues.

In a submission to a Senate inquiry into Australia's freedom of information laws, Leo Hardiman revealed a series of issues inside the Office of the Australian Information Commissioner including that it maintained "unproductive" relationships with other government agencies.

Mr Hardiman, who quit in May after less than a year in the role, suggested senior management became overwhelmed with “cycles of panic” in the lead up to Senate estimates appearances and repeatedly shifted responsibility for the agency's failures to the staff of its FOI branch.

He warned the agency’s staff also view its FOI functions as “being of secondary importance to its privacy functions” and that there was a practice at the most senior level of developing “narratives” designed to present the agency’s performance in the best possible light while distracting from engaging with important issues.

Mr Hardiman said he attempted to introduce structural changes within the agency but that change would not be made without a boost to staffing levels.

“Resignation was an incredibly difficult, in fact the most difficult decision of my career, to contemplate. but I could not, with the necessary sense of integrity, play the game of maintaining the status quo,” Mr Hardiman said.

“Change was desperately required and it was not going to occur if I continued on.”



David Shoebridge @DavidShoebridge · 28m



The Law Council is our next witness. They're telling us a quirk of the law that allows requirements to publish information releaed under FOI to be satisfied just by noting you can get info by email instead of having docs directly available - that seems an obvious reform



1



1



2



262



David Shoebridge



@DavidShoebridge

Law Council saying we need to err on the side of making the FOI system simpler, quicker and cheaper. There is a question of balance here where currently the focus is on extensive decisions from the Information Commissioner where the focus for most applicants is the documents

11:22 AM · Aug 29, 2023 · **128** Views

1 Repost 3 Likes

Amy Kiely (she/her)

Assistant Director, Strategic Communications
Office of the Australian Information Commissioner
Brisbane

P +61 2 9942 4103 M **S47E(d)**

E amy.kiely@oaic.gov.au

The OAIC acknowledges Traditional Custodians of Country across Australia and their continuing connection to land, waters and communities. We pay our respect to First Nations people, cultures and Elders past and present.

[Subscribe to Information Matters](#)

From: OAIC - Media

Sent: Tuesday, August 29, 2023 10:59 AM

To: FALK, Angelene <Angelene.Falk@oaic.gov.au>; PIRANI, Toni <Toni.Pirani@oaic.gov.au>; AGO, Rocelle <Rocelle.Ago@oaic.gov.au>; HAMPTON, Elizabeth <Elizabeth.Hampton@oaic.gov.au>; HARLOCK, Raewyn <Raewyn.Harlock@oaic.gov.au>; DRAYTON, Melanie <Melanie.Drayton@oaic.gov.au>; ATTARD, Brenton <Brenton.Attard@oaic.gov.au>

Cc: OAIC - Media <media@oaic.gov.au>

Subject: Media and social clips - FOI inquiry

Good morning

Please see below media and social media coverage of the FOI inquiry so far this morning.

- [‘Former FOI Commissioner Leo Hardiman blames Information Commissioner Angelene Falk for poor culture’](#), The Canberra Times (in attachment)
- Several items in [Guardian Australia live news blog](#) (in attachment)

Images below are linked to the posts.



Paul Farrell

@FarrellPF



I've never seen an opening statement like this at a Senate inquiry before. This is a devastating assessment of the leadership of the Office of the Australian Information Commissioner and the FOI system... by it's owner recently departed FOI Commissioner aph.gov.au/DocumentStore...

9:59 AM · Aug 29, 2023 · **1,804** Views

4 Reposts **1** Quote **8** Likes **1** Bookmark

**Ariel Bogle**

@arielbogle



As well as a withering assessment of the Information Commissioner's apparent lack of dedication to FOI, it also contains a pretty neat summary of how government departments do their best to undermine the FOI process while 'pretending' to facilitate it.

n the agency side of the equation also con often incorrect) basis that an exemptio
 ge extent these factors are in my view symhe information was such that refusal of
 relate to the administration of the FOI Acctions were applied even where there v
 nevertheless disappointingly common ac needed to remain confidential to gove
 applicants to try and resolve a request
 contrary to the apparent purpose and obj may have been happy to receive inform
 administer the Act on the basis that acces d initially requested but no attempt ha
 d only be granted if it was not possible to t outcome with the applicant (indeed, i
 ons. The Act of course contemplates some;o was not even contemplated).
 unless an exemption applies and it is appr new issues and/or exemptions as an IC
 tion in the particular case to apply that ex
 gencies to claim multiple exemptions to st chronic, in responding to the OAIC in tl
 y possibly could. helpful defensiveness.

**Paul Farrell** @FarrellPF · 54m

I've never seen an opening statement like this at a Senate inquiry before. This is a devastating assessment of the leadership of the Office of the Australian Information Commissioner and the FOI system... by it's owner recently departed FOI Commissioner aph.gov.au/DocumentStore...

10:10 AM · Aug 29, 2023 · **986** Views

Senator David Shoebridge is publishing to an [ongoing thread](#) about the inquiry:



David Shoebridge @DavidShoebridge · 1h



Leo Hardiman the former FOI Commissioner has seen the system up close and tried to address the most serious concerns about delay, obfuscation, cost and a broken culture around FOI. He has concerns the FOI Commissioner doesn't have the powers or resources to actually do the job.



David Shoebridge @DavidShoebridge · 1h



Leo Hardiman tells us he started in April 2022 and immediately encountered unproductive agency relationships, diversion of staff from FOI, constant reshuffles of staff, and focus on developing narratives re FOI management rather than doing the management itself



David Shoebridge



@DavidShoebridge

Former FOI Commissioner Hardiman telling the inquiry the amount of funding allocated to FOI within OAIC was strictly the (insufficient) amount allocated directly by Government and this was much less than funding allocated to the OAIC corporate branch for example

9:13 AM · Aug 29, 2023 · **696** Views

2 Reposts **9** Likes

**David Shoebridge** @DavidShoebridge · 1h

The former FOI commissioner is expressing serious concerns about the status of the role within the broader office of the Australian Information Commissioner - a distinct sense it was treated as a junior officer position despite its clear importance for broader democracy



1



1



7



112

**David Shoebridge** @DavidShoebridge · 51m

Extraordinary evidence from the former FOI Commissioner.

We have heard how the FOI Commissioner was essentially not allowed to do his job, starved of resources and not given the independence needed in his statutory role.



1



6



164

**David Shoebridge** @DavidShoebridge · 49m

There has also been very troubling evidence that a false narrative was presented to the Federal Court about resources - and that this was designed to defeat a court challenge by former Senator Rex Patrick.



1



1



6



385

**David Shoebridge** @DavidShoebridge · 45m

Also note the OAIC has 7 people in the corporate communications team and only 22 in all of FOI! What priorities...



5



301

**Amy Kiely** (she/her)

Assistant Director, Strategic Communications
Office of the Australian Information Commissioner
Brisbane

P +61 2 9942 4103 M s47E(d) E amy.kiely@oaic.gov.au

The OAIC acknowledges Traditional Custodians of Country across Australia and their continuing connection to land, waters and communities. We pay our respect to First Nations people, cultures and Elders past and present.

[Subscribe to Information Matters](#)

OAIC - FOI

From: OAIC - Media
Sent: Tuesday, 29 August 2023 1:47 PM
To: FALK,Angelene; PIRANI,Toni; AGO,Rocelle; HAMPTON,Elizabeth; HARLOCK,Raewyn; DRAYTON,Melanie; ATTARD,Brenton
Subject: RE: Media and social clips - FOI inquiry
Attachments: Media clips - FOI inquiry.docx

Apologies, the attachment with the latest clips was missing.

Amy Kiely (she/her)

Assistant Director, Strategic Communications
 Office of the Australian Information Commissioner
 Brisbane

P +61 2 9942 4103 **M** s47E(d) **E** amy.kiely@oaic.gov.au

The OAIC acknowledges Traditional Custodians of Country across Australia and their continuing connection to land, waters and communities. We pay our respect to First Nations people, cultures and Elders past and present.

[Subscribe to Information Matters](#)

From: OAIC - Media
Sent: Tuesday, August 29, 2023 1:31 PM
To: FALK,Angelene <Angelene.Falk@oaic.gov.au>; PIRANI,Toni <Toni.Pirani@oaic.gov.au>; AGO,Rocelle <Rocelle.Ago@oaic.gov.au>; HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>; HARLOCK,Raewyn <Raewyn.Harlock@oaic.gov.au>; DRAYTON,Melanie <Melanie.Drayton@oaic.gov.au>; ATTARD,Brenton <Brenton.Attard@oaic.gov.au>
Cc: OAIC - Media <media@oaic.gov.au>
Subject: RE: Media and social clips - FOI inquiry

Hello

Please see the latest media clips below and in the attachment.

- [‘Hardiman accuses information commissioner of FOI ‘spin’ and culture issues’](#), The Mandarin
- [‘Staff diverted from FOI despite long backlog: inquiry’](#), Australian Associated Press
- [‘Attempts to manhandle me’: ex-FOI head’s fraught relationship with info counterpart’](#), Crikey

Latest from Guardian Australia live blog:

37m ago 11.32 AEST

Christopher Knaus

Former FOI commissioner **Leo Hardiman** had told a Senate inquiry that agency head, information commissioner **Angelene Falk**, tried to intimidate him after publicly announcing his resignation in March. Hardiman issued a public statement at the time of his resignation, criticising the state of the FOI system and lamenting his lack of power to bring about change.

Following his statement, Hardiman said he caught the bus to Sydney to meet with Falk instead of flying, a practice he adopted to save money for his vastly under-resourced branch:

When we went in there, I would say that her behaviour towards me was an attempt to intimidate me into spilling the beans about my resignation because she didn't have control of this. She literally just stared at me, glared at me, would not take her eyes off me. She tried to gaslight me, put words in my mouth, and I just said 'I am not discussing my resignation with you'.

Amy Kiely (she/her)

Assistant Director, Strategic Communications
Office of the Australian Information Commissioner
Brisbane

P +61 2 9942 4103 **M** s47E(d) **E** amy.kiely@oaic.gov.au

The OAIC acknowledges Traditional Custodians of Country across Australia and their continuing connection to land, waters and communities. We pay our respect to First Nations people, cultures and Elders past and present.

[Subscribe to Information Matters](#)

From: OAIC - Media

Sent: Tuesday, August 29, 2023 11:43 AM

To: FALK, Angelene <Angelene.Falk@oaic.gov.au>; PIRANI, Toni <Toni.Pirani@oaic.gov.au>; AGO, Rocelle <Rocelle.Ago@oaic.gov.au>; HAMPTON, Elizabeth <Elizabeth.Hampton@oaic.gov.au>; HARLOCK, Raewyn <Raewyn.Harlock@oaic.gov.au>; DRAYTON, Melanie <Melanie.Drayton@oaic.gov.au>; ATTARD, Brenton <Brenton.Attard@oaic.gov.au>

Subject: RE: Media and social clips - FOI inquiry

Hello again

See below further coverage of the inquiry:

9 MINUTES AGO

Former FOI Commissioner reveals watchdog failings, The Australian

JESS MALCOLM

The former FOI commissioner has blasted senior staff members working inside the FOI watchdog and suggested the agency is in chaos riddled with "significant" cultural issues.

In a submission to a Senate inquiry into Australia's freedom of information laws, Leo Hardiman revealed a series of issues inside the Office of the Australian Information Commissioner including that it maintained "unproductive" relationships with other government agencies.

Mr Hardiman, who quit in May after less than a year in the role, suggested senior management became overwhelmed with "cycles of panic" in the lead up to Senate estimates appearances and repeatedly shifted responsibility for the agency's failures to the staff of its FOI branch.

He warned the agency's staff also view its FOI functions as "being of secondary importance to its privacy functions" and that there was a practice at the most senior level of developing "narratives" designed to present the agency's performance in the best possible light while distracting from engaging with important issues.

Mr Hardiman said he attempted to introduce structural changes within the agency but that change would not be made without a boost to staffing levels.

“Resignation was an incredibly difficult, in fact the most difficult decision of my career, to contemplate. but I could not, with the necessary sense of integrity, play the game of maintaining the status quo,” Mr Hardiman said.

“Change was desperately required and it was not going to occur if I continued on.”



David Shoebridge @DavidShoebridge · 28m



The Law Council is our next witness. They're telling us a quirk of the law that allows requirements to publish information releaed under FOI to be satisfied just by noting you can get info by email instead of having docs directly available - that seems an obvious reform



1



1



2



262



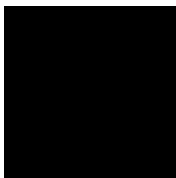
David Shoebridge
@DavidShoebridge



Law Council saying we need to err on the side of making the FOI system simpler, quicker and cheaper. There is a question of balance here where currently the focus is on extensive decisions from the Information Commissioner where the focus for most applicants is the documents

11:22 AM · Aug 29, 2023 · **128** Views

1 Repost 3 Likes



Amy Kiely (she/her)

Assistant Director, Strategic Communications
Office of the Australian Information Commissioner
Brisbane

P +61 2 9942 4103 M s47E(d) E amy.kiely@oaic.gov.au

The OAIC acknowledges Traditional Custodians of Country across Australia and their continuing connection to land, waters and communities. We pay our respect to First Nations people, cultures and Elders past and present.

[Subscribe to Information Matters](#)

From: OAIC - Media

Sent: Tuesday, August 29, 2023 10:59 AM

To: FALK,Angelene <Angelene.Falk@oaic.gov.au>; PIRANI,Toni <Toni.Pirani@oaic.gov.au>; AGO,Rocelle <Rocelle.Ago@oaic.gov.au>; HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>; HARLOCK,Raewyn

<Raewyn.Harlock@oaic.gov.au>; DRAYTON,Melanie <Melanie.Drayton@oaic.gov.au>; ATTARD,Brenton <Brenton.Attard@oaic.gov.au>

Cc: OAIC - Media <media@oaic.gov.au>

Subject: Media and social clips - FOI inquiry

Good morning

Please see below media and social media coverage of the FOI inquiry so far this morning.

- [‘Former FOI Commissioner Leo Hardiman blames Information Commissioner Angelene Falk for poor culture’](#), The Canberra Times (in attachment)
- Several items in [Guardian Australia live news blog](#) (in attachment)

Images below are linked to the posts.



Paul Farrell

@FarrellPF



I've never seen an opening statement like this at a Senate inquiry before. This is a devastating assessment of the leadership of the Office of the Australian Information Commissioner and the FOI system... by it's owner recently departed FOI Commissioner aph.gov.au/DocumentStore...

9:59 AM · Aug 29, 2023 · **1,804** Views

4 Reposts **1** Quote **8** Likes **1** Bookmark

**Ariel Bogle**

@arielbogle



As well as a withering assessment of the Information Commissioner's apparent lack of dedication to FOI, it also contains a pretty neat summary of how government departments do their best to undermine the FOI process while 'pretending' to facilitate it.

on the agency side of the equation also con often incorrect) basis that an exemption
 ge extent these factors are in my view symhe information was such that refusal of
 relate to the administration of the FOI Ac tions were applied even where there v
 nevertheless disappointingly common ac needed to remain confidential to gove
 applicants to try and resolve a request
 contrary to the apparent purpose and obj ay have been happy to receive inform
 administer the Act on the basis that acces d initially requested but no attempt ha
 d only be granted if it was not possible to t outcome with the applicant (indeed, i
 ons. The Act of course contemplates some; o was not even contemplated).
 unless an exemption applies and it is appr new issues and/or exemptions as an IC
 tion in the particular case to apply that ex
 gencies to claim multiple exemptions to st chronic, in responding to the OAIC in th
 y possibly could. helpful defensiveness.

**Paul Farrell** @FarrellPF · 54m

I've never seen an opening statement like this at a Senate inquiry before. This is a devastating assessment of the leadership of the Office of the Australian Information Commissioner and the FOI system... by it's owner recently departed FOI Commissioner aph.gov.au/DocumentStore...

10:10 AM · Aug 29, 2023 · **986** Views

Senator David Shoebridge is publishing to an [ongoing thread](#) about the inquiry:



David Shoebridge @DavidShoebridge · 1h



Leo Hardiman the former FOI Commissioner has seen the system up close and tried to address the most serious concerns about delay, obfuscation, cost and a broken culture around FOI. He has concerns the FOI Commissioner doesn't have the powers or resources to actually do the job.



David Shoebridge @DavidShoebridge · 1h



Leo Hardiman tells us he started in April 2022 and immediately encountered unproductive agency relationships, diversion of staff from FOI, constant reshuffles of staff, and focus on developing narratives re FOI management rather than doing the management itself



David Shoebridge
@DavidShoebridge



Former FOI Commissioner Hardiman telling the inquiry the amount of funding allocated to FOI within OAIC was strictly the (insufficient) amount allocated directly by Government and this was much less than funding allocated to the OAIC corporate branch for example

9:13 AM · Aug 29, 2023 · **696** Views

2 Reposts **9** Likes

**David Shoebridge** @DavidShoebridge · 1h

The former FOI commissioner is expressing serious concerns about the status of the role within the broader office of the Australian Information Commissioner - a distinct sense it was treated as a junior officer position despite its clear importance for broader democracy



1



1



7



112

**David Shoebridge** @DavidShoebridge · 51m

Extraordinary evidence from the former FOI Commissioner.

We have heard how the FOI Commissioner was essentially not allowed to do his job, starved of resources and not given the independence needed in his statutory role.



1



6



164

**David Shoebridge** @DavidShoebridge · 49m

There has also been very troubling evidence that a false narrative was presented to the Federal Court about resources - and that this was designed to defeat a court challenge by former Senator Rex Patrick.



1



1



6



385

**David Shoebridge** @DavidShoebridge · 45m

Also note the OAIC has 7 people in the corporate communications team and only 22 in all of FOI! What priorities...



5



301

**Amy Kiely** (she/her)

Assistant Director, Strategic Communications
Office of the Australian Information Commissioner
Brisbane

P +61 2 9942 4103 M s47E(d) E amy.kiely@oaic.gov.au

The OAIC acknowledges Traditional Custodians of Country across Australia and their continuing connection to land, waters and communities. We pay our respect to First Nations people, cultures and Elders past and present.

[Subscribe to Information Matters](#)

Contents

'Attempts to manhandle me': ex-FOI head's fraught relationship with info counterpart', Crikey	1
'Staff diverted from FOI despite long backlog: inquiry', Australian Associated Press.....	3
'Hardiman accuses information commissioner of FOI 'spin' and culture issues', The Mandarin	5
'Former FOI Commissioner Leo Hardiman blames Information Commissioner Angelene Falk for poor culture', The Canberra Times.....	7
Guardian Australia live blog	9

'Attempts to manhandle me': ex-FOI head's fraught relationship with info counterpart', Crikey

D{"Lqj p"Dwemg{.Etlng{Vwguf c{"4; yj 'Cwi wuv"4245"bv33<78co ~3225"y qtf u

A “cultural bent” away from freedom of information functions within the office of the Australian information commissioner (OAIC) led to the former FOI commissioner’s resignation, a Senate inquiry into the broken system has heard.

Leo Hardiman KC was among the most hotly anticipated witnesses to appear before the Senate inquiry into Australia’s dysfunctional FOI regime on day two of hearings after he resigned in March, less than one year into the job.

“I would say, from the very outset, there were attempts to manhandle me; demands that I would tell the information commissioner absolutely everything I was doing; I wouldn’t make decisions on FOI matters without discussing those things with her,” Hardiman told the inquiry.

In an 18-page opening statement on Tuesday morning, Hardiman said he encountered “a large number of issues” when he stepped into the role in April last year.

Most of the issues centred around a powerlessness to carry out the objectives of the relevant legislation; serious staff and resourcing issues; “cycles of panic” among the office’s senior ranks, and a tendency of the OAIC to misrepresent its performance on FOI by concocting “narratives” designed to distract from its failures — namely to the Federal Court.

The narrative spun before the Federal Court, Hardiman said, was pegged to the idea that the government of the day wasn’t allocating enough resourcing to the OAIC’s FOI branch, and suggested that only the government could resolve resourcing issues within the agency.

“I first became aware of this narrative when, early after my appointment commenced, I was asked by [the information commissioner] to assist her with instructing on the Federal Court unreasonable delay proceedings which Mr Rex Patrick had brought against the [information commissioner],” Hardiman said.

He said a leading line of argument taken by information commissioner Angelene Falk was that the backlog of reviews stacked up on her desk, which for the 2021-22 financial year amounted to 1956 applications, was the result of waning resources allocated by the government.

Meanwhile, Hardiman told the inquiry that he had been catching the bus between Canberra and Sydney for work events as part of an effort to preserve funding which he hoped could be redirected to the OAIC's FOI function.

The Legal and Constitutional Affairs Legislation Committee inquiry, chaired by Liberal Senator Paul Scarr, has set out to probe the circumstances that led to Hardiman resigning citing an inability to achieve the objectives of the legislation.

It has also set out to investigate broader delays in the review of appeals with Falk, the resourcing allocated to responding to FOI applications and reviews, and "the creation of a statutory timeframe for completion of reviews".

Hardiman's short-lived tenure offered a flashpoint for Australia's worsening FOI infrastructure. In a LinkedIn post shortly after he resigned, he said serious changes were required to ensure timely access to government-held information, but the power to implement those changes fell beyond his reach.

On resourcing, Hardiman said it became clear that Falk had no interest in boosting the resources allocated to the OAIC's FOI function, despite allocating additional resources to corporate support and discretionary privacy policy functions at a "far greater" rate than the OAIC's core FOI functions.

"In relation to cultural issues, I could not change the fact that [the information commissioner] was not committed to the three-commissioner model. Rather, [the information commissioner] was committed to a model under which she would remain, in effect, a 'super' privacy commissioner with a subordinate rather than equally independent co-commissioner for FOI," Hardiman said.

"[The information commissioner] had expressly said to me following the 2022 federal election that she was concerned about the possibility of, and did not want, the appointment of a separate privacy commissioner.

"It was also made abundantly clear to me that [the information commissioner] was only desirous of an appointed FOI commissioner if [the information commissioner] could control that commissioner, particularly in so far as they might say or do anything which called into question prior stewardship of the FOI functions."

In his opening statement, Hardiman said there was a need for significant changes to the FOI system, including at the agency level, where he said review decisions are "overly complex".

In the main, the issues were reflective of a "deficiency" in leadership and culture across the public service, where in his view there was a shortage of FOI expertise. He said reforms should target that shortage of expertise and look to install a more "pro-information access culture" across agencies and departments.

In its submission to the inquiry, the Centre for Public Integrity suggested that "perhaps more worrying" than the "incessant clogging" of the FOI system's appeals process has been the "emerging culture of secrecy" among government agencies and departments.

The issue was highlighted by former independent senator Rex Patrick, whose view is that many if not close to all of the system's failings can be boiled down to just two components: resourcing and culture.

Hardiman also said reforms might target the governance arrangements put in place to oversee the FOI system, as well as a rethink of the "financial signalling" built into the FOI system, which he said should be simplified and made "incapable of gaming" by agencies, who frequently charge eye-watering amounts to applicants looking to unearth documents.

"There may also be merit in creating a new financial incentive for agencies to seek to resolve FOI disputes without the institution, or continuation of, a review process wherever that might be possible and appropriate — an incentive of that kind might, for example, take the form of a requirement to contribute to the costs incurred by a review body in the conduct of a review," he said.

He also suggested reforming governance arrangements responsible for its oversight. Among them, he said, could be moving the oversight of FOI to a different agency "with greater focus" on government accountability.

Falk is scheduled to deliver a reply to the inquiry on Tuesday afternoon.

[‘Staff diverted from FOI despite long backlog: inquiry’, Australian Associated Press](#)
Kat WongAAP

Tue, 29 August 2023 12:47PM



Leo Hardiman says quitting as Commonwealth FOI head was the most difficult decision of his career. (PR HANDOUT IMAGE/AAP PHOTOS) Credit: AAP

The former Commonwealth freedom of information commissioner has blasted the government agency and its head, months after announcing his shock resignation.

Leo Hardiman announced his departure in March, less than one year into his five-year term, citing his lack of power and chronic delays in the FOI system.

The legal expert told a parliamentary inquiry on Tuesday quitting was the most difficult decision of his career, but he could not "with a necessary sense of integrity, play the game of maintaining the status quo".

The Office of the Australian Information Commission did not sufficiently engage with FOI issues, with staff often diverted away from core FOI functions for other purposes when it did not make sense.

This created a sense of "complete overwhelm" among the senior workers within the FOI branch and led to "cycles of panic" around Senate estimates appearances.

Mr Hardiman also described a practice of "developing narratives designed to present the OAIC's performance of their FOI functions in the best possible light while distracting from engagement with important issues affecting their performance."

A March 2023 report by the Australia Institute found the agency had been swamped by review requests, with 957 that were more than 12 months old, 60 of which were four or more years old.

The ex-FOI commissioner claimed he told Information Commissioner Angelene Falk the continuously growing backlog could have been addressed by restructuring the team and adding more staff to the FOI branch, but his feedback was not well received.

"The information commissioner said that I should not be involving myself in these matters," he told the inquiry.

"I was flabbergasted."

When ex-senator Rex Patrick took the information commissioner to the Federal Court over FOI delays, some of which he claims have exceeded three years, the court was told by OAIC lawyers that the issues were a consequence of resourcing deficiencies.

But Mr Hardiman claimed the agency could divert more resources to FOI and "that truth was not being told to the court".

There were seven employees in its communications team and a handful more doing other discretionary work when the OAIC's legal team told the court there were no other assets available for FOI.

Mr Hardiman claimed this was because Ms Falk made a decision that she would only allocate formally unmarked funding for FOI functions.

While it has been months since he resigned, he believed reform was necessary and still possible.

"FOI might not be considered a sexy subject matter or as being of life-changing importance, but... (it) is an important adjunct to the doctrine of responsible government."

Mr Hardiman was the first permanent FOI commissioner in nearly eight years after the Abbott government tried to abolish the office and subsequent governments ignored calls to fill the role.

[‘Hardiman accuses information commissioner of Fol ‘spin’ and culture issues’, The Mandarin](#)

Former Freedom of Information commissioner Leo Hardiman has given explosive evidence at a senate committee accusing information commissioner Angelene Falk of nobbling the FOI review function.

Appearing at a parliamentary committee examining commonwealth FOI laws, Hardiman said Falk wanted to maintain control of the Office of the Australian Information Commissioner (OAIC) rather than commit to a three-commissioner model.

He pointed to the use of spin by the OAIC to present the performance of the office’s FOI functions in a positive manner without dealing with the issues hampering progress on the review of applications.

The former FOI commissioner identified a long laundry list of deficiencies including serious staff and resourcing issues, lack of focus on performance, absence of engagement with staff on technical issues related to FOI even when staff sought such engagement, and unproductive relationships with regulated entities.

He said staff were given tasks unrelated to the FOI function, distracting them from their main task.

There was “a diversion of staff away from core FOI work for the purpose of making constant process changes which did not in any significant sense deal with the real problems in the performance of FOI functions, and an associated feeling of complete overwhelm amongst the more senior staff members of the OAIC’s FOI branch,” Hardiman wrote in his 18-page statement to the committee.

Hardiman resigned from his role as the head of the OAIC’s FOI function earlier this year after saying it was clear he would not be given sufficient resources to do his job properly.

He said that he attempted to deal with some problems, and some issues were addressed.

“More particularly, I was able to create a much more focused and stable working environment for staff of the FOI branch,” Hardiman’s statement reads.

“I engaged closely with staff, particularly in their technical development and in necessary change management. I put significant effort into improving the quality of IC review decision-making and the development of technical FOI guidance through IC review decisions.

“I streamlined day-to-day work processes and, with the FOI branch leadership team, developed significant proposed changes to the procedure for IC reviews. I worked to create more functional relationships with regulated agencies.”

Hardiman told the senate he reviewed the conduct of information commissioner reviews and sought to use the limited resources of the FOI branch in a way that meant more review applications got attention.

Falk, according to Hardiman, did not want him focused on this process issue.

“This necessary change was of apparent concern to the IC who, after I first proposed it, told me that I should not be involving myself in such matters – that is, as FOI commissioner I should not be

involving myself in the approach to management of the IC review workload and backlog,” Hardiman says.

“I pushed on and significant structural changes, with a much greater focus on the active management of IC reviews, were implemented on 1 February 2023. As at the cessation of my appointment three or so months later, that restructure had begun resulting in increased progression of substantive IC review matters.”

These changes were not enough and Hardiman’s statement says that greater resources were needed to ensure a backlog could be met.

“Relevantly in that regard, I was ultimately unable to change the distracting ‘narratives’ developed and promulgated by the OAIC, particularly around the issue of resourcing. I was also ultimately unable to change significant cultural issues affecting the performance of the FoI functions,” the statement reads.

Other cultural problems highlighted in Hardiman’s statement included a heightened sense of tension in time when external scrutiny was going to occur such as “external scrutiny, especially senate estimates appearances and critical points in the court timetable for the Federal Court unreasonable delay proceedings brought by Mr Rex Patrick”.

Hardiman is critical of two particular narratives used by Falk – the first being about the substantial throughput of finalising reviews and a resourcing narrative – that was designed to represent the agency’s performance in the best light.

The throughput narrative was designed to make it appear that finalisation outcomes were better than they were, and it failed to deal with the fact that more difficult and substantive matters were a part of the backlog.

“For example, the receipt of approximately 2,000 matters in a 12-month period and the finalisation of 1,200 matters in that period produces a percentage of 60%. But in those circumstances, the narrative referred to a percentage above 80%,” Hardiman’s statement reads.

“As best I could determine, the percentage quoted in the narrative in fact reflected the percentage of all matters finalised in a relevant period (a number significantly lower than the number of matters received) which were finalised within 12 months.”

Hardiman said that the resourcing narrative put forward by the information commission relied on the argument that additional resources for the FoI function could be resolved but only if the government specifically identified funds as being for the purposes of the FoI functions of the OAIC.

The OAIC’s former FoI chief said that the narrative ignored that appropriations given to the OAIC were given on a departmental basis – meaning that the OAIC itself could allocate more resources to the FoI function – rather than an administered basis, and that there was scope to allocated more resources for FoI functions.

“The resourcing narrative was vigorously promulgated while, at the same time, resources were being allocated to activities which were not essential to the performance of the OAIC’s two core regulatory function areas, of which FOI was one,” Hardiman’s statement says.

The OAIC was established with a three-commissioner model in mind but Falk was not committed to putting that in place, according to Hardiman’s statement.

“In relation to cultural issues, I could not change the fact that the IC was not committed to the three-commissioner model. Rather, the IC was committed to a model under which she would remain, in effect, a ‘super’ Privacy Commissioner with a subordinate rather than equally independent co-Commissioner for FOI,” Hardiman’s statement reads.

“The IC had expressly said to me following the 2022 federal election that she was concerned about the possibility of, and did not want, the appointment of a separate Privacy Commissioner. It was also made abundantly clear to me that the IC was only desirous of an appointed FOI Commissioner if the IC could control that Commissioner, particularly in so far as they might say or do anything which called into question prior stewardship of the FOI functions.”

Hardiman told the parliament in his statement that the confirmation in February this year of no additional resources for the FOI functions of the OAIC meant his position was untenable.

“Resignation was an incredibly difficult decision to contemplate. But I could not with a necessary sense of integrity play the game of maintaining the status quo,” Hardiman’s statement reads. “Change was desperately required and it was not going to occur if I continued on.”

‘Former FOI Commissioner Leo Hardiman blames Information Commissioner Angelene Falk for poor culture’, The Canberra Times



By [Miriam Webber](#)

Updated August 29 2023 - 10:37am, first published 10:30am

Former Freedom of Information boss Leo Hardiman has blasted poor culture at the Office of the Australian Information Commissioner, and claimed this was "entirely a product" of the leadership of Information Commissioner Angelene Falk.

Mr Hardiman, who was Australia's first FOI boss in seven years, [quit the position in March](#), citing a lack of power to reform the backlogged system he was hired to fix.

On Tuesday, Mr Hardiman gave his detailed account of staffing, resourcing and cultural issues at the agency which houses the federal government's FOI office, appearing before a Senate committee into Commonwealth FOI laws.

The former FOI boss said he quit because the powers to change deep problems at the agency were not conferred on him, but on Ms Falk, who he claimed wanted to be "a super Privacy Commissioner".

Ms Falk and Acting FOI Commissioner Toni Pirani are due to appear before the Senate committee later on Tuesday afternoon.

In an opening statement to senators, Mr Hardiman described "serious staff and resourcing issues, a significant lack of appropriate focus on the main functions in performance of the FOI functions, [particularly the Information Commissioner](#) review function."

He painted a grim picture of the FOI branch , including cultural issues such as a lack of sufficient engagement with FOI technical issues, unproductive relationships with regulated agencies and a diversion of staff away from core FOI work.

"... An associated feeling of complete overwhelm amongst the more senior staff members of the OAIC's FOI branch, a shifting of responsibility for failures to the staff of the FOI branch, together with a culture of the OAIC's FOI functions being of secondary importance to its privacy functions," Mr Hardiman continued.

"Cycles of panic at the most senior level, particularly around Senate estimates appearances at critical stages of the [Rex] Patrick unreasonable delay litigation.

"A lack of commitment to the three commissioner model established by the Australian Information Commissioner Act and a practice at the most senior level of developing narratives designed to present the OAIC's performance of the FOI functions in the best possible light while distracting from engagement with important issues affecting their performance.

Mr Hardiman gave examples of "two consistently articulated narratives," around work outputs and resourcing which were "of particular concern" to him.

Former FOI boss blames culture on Information Commissioner

The former FOI boss told senators he had sought to engage with the issues closely in his time at the OAIC, and was able to create a more focused and stable working environment.

But Mr Hardiman claimed Ms Falk had stood in the way of change.

"The broader culture of the OAIC, including cultural bent away from FOI functions was entirely a product of the [Information Commissioner's] leadership.

"Try as I may I simply could not change that culture and it's impact on the performance on the FOI functions."

But Mr Hardiman said he had not been able to change resourcing and cultural issues, and claimed that the Information Commissioner Angelene Falk had not prioritised resourcing transparency functions."

He claimed Ms Falk was not supportive of the "three commissioner model" the agency had, nor effective resourcing for the FOI branch.

"In relation to the issue of resource allocation, it became increasingly apparent to me that the [Information Commissioner], following a communication with the former government had decided that she would never in any substantial sense allocate additional OAIC resources to the performance of the FOI functions."

"Rather only appropriated funds which had been formally earmarked by the government of the day for FOI purposes would be allocated to the performance of the FOI functions."

"In relation to cultural issues, I could not change the fact that the [Information Commissioner] was not committed to the three commissioner model, rather the [Information Commissioner] was committed to a model under which she would remain, in effect, a super privacy commissioner with a subordinate rather than equally independent co-commissioner for FOI.

"The IC had expressly said to me following the 2022 federal election that she was concerned about the possibility of and did not want the appointment of a separate privacy commissioner.

"It was also made abundantly clear to me that the [Information Commissioner] was only desirous of an appointed FOI Commissioner if the [Information Commissioner] could control that commissioner particularly insofar as they might say or do anything that called into question prior stewardship of the role."

More to come.

[Guardian Australia live blog](#)

[1h ago](#) 09.51 AEST

Christopher Knaus

Staffing shortages contributed to huge backlog in FOI cases: former commissioner

Leo Hardiman, the former freedom of information commissioner, is continuing evidence to a Senate inquiry.

He is not holding back.

Hardiman said that in September last year, he met with his boss, the head of the Office of the Australian Information Commissioner, **Angelene Falk**, to point out the “screamingly obvious issue” that he did not have enough staff to get through a massive backlog in FOI review cases. He said there were obvious structural changes that should have been made to resolve the issue earlier.

I think it caused visible shock in the information commissioner. There was silence at that statement and a visible moving back in the chair at the suggestion. I concluded that conversation by saying to the IC that if it was not possible to get more resources... I felt that I would likely have to resign my appointment because I just would not be able to fulfill my statutory obligations.

Hardiman:

My recollection is that in the next conversation that I had, that was after I returned to Canberra... the information commissioner said to me that I should not be involving myself in these matters, in other words in the restructure, thinking about the structure of the team, how to manage the workload, how to increase work flows within the IC review caseload.

Greens senator **David Shoebridge** responded:

You were the FOI commissioner, how could you not do that?

Hardiman:

I was flabbergasted.

[47m ago](#) 10.01 AEST

Christopher Knaus

‘Attempts to manhandle me’: former FoI commissioner

Circling back to former freedom of information commissioner, **Leo Hardiman**, who is speaking to a Senate inquiry.

Hardiman says there were “attempts to manhandle me” from the outset after his appointment in early 2022.

I would say from the very outset there were attempts to manhandle me. Demands that I would tell the [information commissioner, Angelene Falk] absolutely everything I was doing. I wouldn't make a decision about FoI matters without discussing them with her first.

He told the Senate that weekly meetings with Falk devolved into a one-way conversation and then said he had never encountered a “person like the information commissioner” in his 30-year career.

With hindsight, I look back at this and I regret that I wasn't assertive enough in the relationship in the beginning. That said, I have never encountered a person like the information commissioner or her approach to relationships of that kind in my 30 years as a Commonwealth public servant.

[30m ago](#) 10.19 AEST

Christopher Knaus

Concerns over 'false narrative' in federal court case against Office of the Australian Information Commissioner

A Senate inquiry probing Australia's FoI system has heard concerns that the Office of the Australian Information Commissioner may have allowed a "false narrative to be given to the federal court" while defending itself in a case brought by former senator **Rex Patrick**.

Patrick is suing the OAIC in the federal court over its delays in processing applications for reviews of government FoI decisions.

Former FoI commissioner **Leo Hardiman** said the OAIC was promulgating a narrative to the court that it could do nothing about the lack of resources it had for its FoI work, and that only the government could earmark funds for the FoI function. Hardiman said he raised concerns about the narrative, because the OAIC itself had the power to divert departmental funding towards FoI.

He was asked whether the OAIC "corrected the narrative to the court". Hardiman said he was unaware of whether that occurred.

Greens senator **David Shoebridge** said:

I am deeply disturbed about the agency allowing a, I'll use my term, false narrative to be given to the federal court to defend Mr Patrick's legal proceedings. I assume that is a matter that troubles you as well?

Hardiman responded:

Yes. I did sort of press the issue in my meeting with the legal officers in the OAIC and the deputy commissioner. My understanding is that the issue was raised with counsel, I wasn't involved in any of these discussions, but my understanding is that it was raised with counsel, and the message that came back to me was 'it's not a risk, and it's not going to be raised, and we're not worried about that issue'. And it was kind of left there.

09.46 AEST

Christopher Knaus

FoI members felt 'complete overwhelm': former commissioner

The former freedom of information commissioner **Leo Hardiman** said there was a feeling of "complete overwhelm" among senior members of the FoI branch, that senior members of the OAIC treated FoI as of secondary importance, and that cycles of panic gripped the office ahead of Senate estimates hearings and key points during a federal court case brought by former senator **Rex Patrick**. He said there was a practice at senior levels of developing narratives designed to put the office's performance on FoI in the best light while distracting from real issues.

Hardiman said the cultural problems were “entirely a product” of the leadership of the information commissioner, Falk.

Try as I may, I simply could not change that culture and its performance on the FOI functions.

He said he introduced structural changes but realised that the FoI review backlog would not be reduced without more staffing.

Resignation was an incredibly difficult, in fact the most difficult decision of my career, to contemplate. but I could not, with the necessary sense of integrity, play the game of maintaining the status quo. Change was desperately required and it was not going to occur if I continued on.

[37m ago](#) 11.32 AEST

Christopher Knaus

Former FOI commissioner **Leo Hardiman** had told a Senate inquiry that agency head, information commissioner **Angelene Falk**, tried to intimidate him after publicly announcing his resignation in March.

Hardiman issued a public statement at the time of his resignation, criticising the state of the FOI system and lamenting his lack of power to bring about change.

Following his statement, Hardiman said he caught the bus to Sydney to meet with Falk instead of flying, a practice he adopted to save money for his vastly under-resourced branch:

When we went in there, I would say that her behaviour towards me was an attempt to intimidate me into spilling the beans about my resignation because she didn't have control of this. She literally just stared at me, glared at me, would not take her eyes off me. She tried to gaslight me, put words in my mouth, and I just said 'I am not discussing my resignation with you'.

From: [GHALI,Sarah](#)
To: [FALK,Angelene](#); [BROWN,Rebecca](#)
Cc: [HAMPTON,Elizabeth](#); [ATTARD,Brenton](#)
Subject: RE: Draft - Opening statement for FOI inquiry (002) [SEC=OFFICIAL]
Date: Tuesday, 29 August 2023 2:06:55 PM
Attachments: [Opening statement for FOI inquiry v3.docx](#)

Good afternoon

I have spoken with Andrew and he has suggested a form of words to add to the opening of the statement.

Please let me know if we can do anything further.

Thanks

Sarah

s22



FOI INQUIRY – OPENING REMARKS – draft

Good afternoon

Thank you for the opportunity to provide a brief opening statement. This afternoon I am joined by Acting FOI Commissioner Ms Toni Pirani.

This morning you have heard testimony by a former Commissioner. I take issue with many of the statements and points made and claims about the OAIC's culture. I look forward to answering your questions about the issues raised. I will say that in my time at the OAIC I have always sought to maintain a culture of collaboration, ethics and integrity. And that is that approach I bring today.

The purpose of the Office of the Australian Information Commissioner is to promote and uphold the rights to access government-held information and to privacy.

In an environment of rapid change, the OAIC continually challenges itself to be as effective as possible in delivering for the Australian people within our resources. It is this focus that informs our key activities and priorities across our functions.

As the OAIC says in its submission, an effective and efficient FOI system is fundamentally in the public interest. The OAIC focuses on the dual features of our FOI Act: proactive publication of information, and the right to access documents subject to the provisions of the Act. We have undertaken numerous reviews, process and structural changes in an effort to manage an increased and complex case load. We also handle complaints, conduct investigations and provide guidance and resources to support good decision making.

At the outset I say that for the system to function effectively it requires a multi-faceted approach.

It is dependent on the OAIC and agencies having the necessary resourcing, the expertise of FOI practitioners, and a commitment by agencies and ministers to fulfilling the objects of the FOI Act.

We aim to provide a fair, efficient and effective FOI review process, but as I have regularly reported at Senate Estimates, our ability to meet the efficiency benchmark is significantly affected by resources. While we finalise many incoming applications through our triage and early resolution process, the

historical backlog that has persisted since the OAIC commenced, coupled with year on year increases in applications for IC review is an ongoing challenge for the OAIC.

Last financial year the OAIC received 1,647 IC applications and finalised 1,519. Compare this to 2015-16 where we received 510 and finalised 454.

There are two other points I would like to highlight.

The first is that our IC review function includes complex matters. In conducting a review, the Commissioner must balance timely decision-making with the importance of ensuring an accurate and appropriate outcome for each matter.

The Act requires merits review. The OAIC does not simply review the reasons given by the agency or minister in a particular matter. The role, as required by the framework, is to determine the correct or preferable decision in the circumstances. Serving to protect valid public interests.

The information involved may be sensitive, there may be multiple and overlapping claims for exemption, there may be certain requirements under the FOI Act that we must consider, such as documents involving national security or Cabinet documents.

The second is the importance that pro-active disclosure plays in the FOI system. The proactive disclosure of government information can play a significant role in reducing pressure on the FOI system and in reducing FOI requests for personal information.

A pro-release approach builds public trust and the OAIC has been vocal in joining with other information access commissioner in supporting this culture through the Open by Design principles.

We will continue to make the best use of our resources, sustain and develop our people, and take regulatory action that creates the most value for the Australian community. However, the need for appropriate government resourcing for the FOI function remains critical.

This year, for the first time since 2014, the OAIC will have 3 statutory office holders: the Australian Information Commissioner (as agency head), a Privacy Commissioner and a Freedom of Information (FOI) Commissioner.

The statutory office-holders of the OAIC are concurrently regulator, champion and educator spanning the breadth of responsibilities and requires dedicated focus. **Our staff now number approximately 190.**

This will strengthen our ability to carry out our important statutory functions and provide welcome specialisation and capacity to address our sustained, increasing and highly complex workload.

It is also timely to reflect on the observations provided during this hearing, emerging challenges and our regulatory posture as we embed the 3 Commissioner model in its contemporary form. The OAIC is undergoing a Strategic Assessment in 2023 alongside our considerable business-as-usual activities. This process is to ensure the OAIC is appropriately positioned to meet the challenges of the future.

Thank you.

ENDS

CONFIDENTIAL

From: [ATTARD,Brenton](#)
To: [GHALI,Sarah](#); [FALK,Angelene](#); [BROWN,Rebecca](#)
Cc: [HAMPTON,Elizabeth](#)
Subject: RE: Draft - Opening statement for FOI inquiry (002) [SEC=OFFICIAL]
Date: Tuesday, 29 August 2023 2:18:41 PM

Thanks Sarah

From: GHALI,Sarah <Sarah.Ghali@oaic.gov.au>
Sent: Tuesday, August 29, 2023 2:07 PM
To: FALK,Angelene <Angelene.Falk@oaic.gov.au>; BROWN,Rebecca <Rebecca.Brown@oaic.gov.au>
Cc: HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>; ATTARD,Brenton <Brenton.Attard@oaic.gov.au>
Subject: RE: Draft - Opening statement for FOI inquiry (002) [SEC=OFFICIAL]

Good afternoon

I have spoken with Andrew and he has suggested a form of words to add to the opening of the statement.

Please let me know if we can do anything further.

Thanks

Sarah

From: [DRAYTON, Melanie](#)
To: [HAMPTON, Elizabeth](#)
Cc: [CROXALL, Sarah](#)
Subject: FW: [SEC=OFFICIAL]
Date: Tuesday, 29 August 2023 5:27:11 PM

Dear Libby

As discussed here is a draft all staff email to come from Commissioner Falk.

Thanks
Mel

.....
Dear Colleagues

Many of you would be aware that public hearings for the Legal and Constitutional Affairs Reference Committee's inquiry into the operation of Commonwealth Freedom of Information laws occurred over the last couple of days. The Committee heard from a range of witnesses, including those from Government, the media and the legal sector. The OAIC appeared (insert day).

Committee members and witnesses covered a wide range of issues, including funding allocation within the OAIC, and ways to improve the FOI system in line with the objects of the FOI Act.

Some of the evidence provided may not align with your experience working for the OAIC. I want to take the opportunity to acknowledge the work of every team within the OAIC. Together, we do excellent work and make invaluable contributions to ensuring that the OAIC meets its statutory functions and strategic goals. Our FOI role is important and fundamental to Australia's democracy.

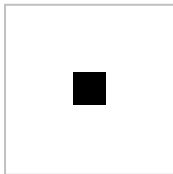
If you have any concerns about the hearing or if any issues raised have caused you distress, please reach out to your manager or our EAP provider for support (insert details).

From: [CROXALL,Sarah](#)
To: [HAMPTON,Elizabeth](#); [DRAYTON,Melanie](#)
Subject: RE: [SEC=OFFICIAL]
Date: Tuesday, 29 August 2023 5:40:22 PM
Attachments: [image001.jpg](#)
[image002.jpg](#)
[image004.jpg](#)

Thanks Libby. Andrew has confirmed he's happy with this wording.

From: HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>
Sent: Tuesday, August 29, 2023 5:31 PM
To: DRAYTON,Melanie <Melanie.Drayton@oaic.gov.au>
Cc: CROXALL,Sarah <Sarah.Croxall@oaic.gov.au>
Subject: RE: [SEC=OFFICIAL]

Spoke with AF – can Andrew please have a look at it? Looks great to me – thanks both



Elizabeth Hampton
Deputy Commissioner
Office of the Australian Information Commissioner
M [s47E\(d\)](#) E Elizabeth.Hampton@oaic.gov.au

The OAIC acknowledges Traditional Custodians of Country across Australia and their continuing connection to land, waters and communities. We pay our respect to First Nations people, cultures and Elders past and present.

[Subscribe to Information Matters](#)

From: DRAYTON,Melanie <Melanie.Drayton@oaic.gov.au>
Sent: Tuesday, August 29, 2023 5:27 PM
To: HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>
Cc: CROXALL,Sarah <Sarah.Croxall@oaic.gov.au>
Subject: FW: [SEC=OFFICIAL]

Dear Libby

As discussed here is a draft all staff email to come from Commissioner Falk.

Thanks
Mel

.....
Dear Colleagues

Many of you would be aware that public hearings for the Legal and Constitutional Affairs Reference Committee's inquiry into the operation of Commonwealth Freedom of Information laws occurred over the last couple of days. The Committee heard from a range of witnesses, including those from Government, the media and the legal sector. The OAIC appeared **today**.

Committee members and witnesses covered a wide range of issues, including funding allocation within the OAIC, and ways to improve the FOI system in line with the objects of the FOI Act.

Some of the evidence provided may not align with your experience working for the OAIC. I want to take the opportunity to acknowledge the work of every team within the OAIC. Together, we do excellent work and make invaluable contributions to ensuring that the OAIC meets its statutory functions and strategic goals. Our FOI role is important and fundamental to Australia's democracy.

If you have any concerns about the hearing or if any issues raised have caused you distress, please reach out to your manager or our [EAP provider](#) for support

From: [OAIC - Media](#)
To: [FALK,Angelene](#); [PIRANI,Toni](#); [HAMPTON,Elizabeth](#)
Subject: FW: ABC Radio Naitonal interview request
Date: Wednesday, 30 August 2023 12:35:47 PM
Attachments: [~WRD0000.jpg](#)

Commissioners

We have this request from Radio National for an interview this afternoon.

Our recommendation is to decline. We do think there is merit in putting together a short holding statement to deal with this and other media queries.

The statement would be along the lines:

- Our response to the inquiry will be the appropriate mechanism to deal with a number of the claims yesterday.
- Any key point that we would like to emphasise about matters raised
- The need for a multi-faceted approach

Kind regards

Andrew

From: Grace Stranger <Stranger.Grace@abc.net.au>
Sent: Wednesday, August 30, 2023 11:42 AM
To: OAIC - Media <media@oaic.gov.au>
Subject: ABC Radio Naitonal interview request

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good morning,

I hope your team is well.

We're looking at doing a segment on RN Drive this afternoon Australia's FOI laws and an overview of how the Senate inquiry has played out.

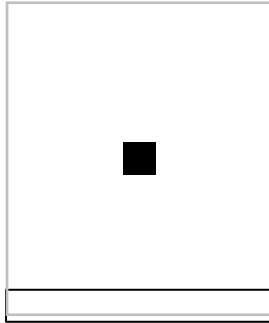
I was wondering if Angelene Falk, Toni Pirani or Elizabeth Hampton might be available to join our program from an interview at 4:40pm AEST? We can also offer a pre-record if a live interview isn't an option.

The interview would run for around 6-9 minutes, and we can do it over the phone.

If you'd like to have a chat about the interview, please feel free to give me a call on 0434277342 or if you'd like some talking points sent through just let me know and I can flick those across.

I understand this is a very busy time for your team, so I appreciate your assistance looking into this.

With respect,
Grace



Grace Stranger (She/Her)
Producer
Radio National

M: 0434277342

We acknowledge Aboriginal and Torres Strait Islander peoples as the First Australians and Traditional Custodians of the lands where we live, learn and work.

Please consider the environment before printing this e-mail.

The information contained in this email and any attachment is confidential and may contain legally privileged or copyright material. It is intended only for the use of the addressee(s). If you are not the intended recipient of this email, you are not permitted to disseminate, distribute or copy this email or any attachments. If you have received this message in error, please notify the sender immediately and delete this email from your system. The ABC does not represent or warrant that this transmission is secure or virus free. Before opening any attachment you should check for viruses. The ABC's liability is limited to resupplying any email and attachments.

From: [PIRANI,Toni](#)
To: [OAIC - Media](#); [FALK,Angelene](#); [HAMPTON,Elizabeth](#)
Subject: RE: ABC Radio Naitonal interview request [SEC=OFFICIAL]
Date: Wednesday, 30 August 2023 1:14:12 PM
Attachments: [image001.jpg](#)

Thanks Andrew

That seems like a sensible approach to me.

Regards

Toni

From: OAIC - Media <media@oaic.gov.au>
Sent: Wednesday, August 30, 2023 12:36 PM
To: FALK,Angelene <Angelene.Falk@oaic.gov.au>; PIRANI,Toni <Toni.Pirani@oaic.gov.au>; HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>
Subject: FW: ABC Radio Naitonal interview request

Commissioners

We have this request from Radio National for an interview this afternoon.

Our recommendation is to decline. We do think there is merit in putting together a short holding statement to deal with this and other media queries.

The statement would be along the lines:

- Our response to the inquiry will be the appropriate mechanism to deal with a number of the claims yesterday.
- Any key point that we would like to emphasise about matters raised
- The need for a multi-faceted approach

Kind regards

Andrew

From: Grace Stranger <Stranger.Grace@abc.net.au>
Sent: Wednesday, August 30, 2023 11:42 AM
To: OAIC - Media <media@oaic.gov.au>
Subject: ABC Radio Naitonal interview request

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good morning,

I hope your team is well.

We're looking at doing a segment on RN Drive this afternoon Australia's FOI laws and an overview of how the Senate inquiry has played out.

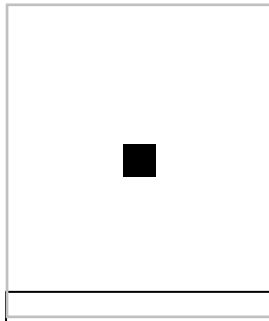
I was wondering if Angelene Falk, Toni Pirani or Elizabeth Hampton might be available to join our program from an interview at 4:40pm AEST? We can also offer a pre-record if a live interview isn't an option.

The interview would run for around 6-9 minutes, and we can do it over the phone.

If you'd like to have a chat about the interview, please feel free to give me a call on 0434277342 or if you'd like some talking points sent through just let me know and I can flick those across.

I understand this is a very busy time for your team, so I appreciate your assistance looking into this.

With respect,
Grace



Grace Stranger (She/Her)
Producer
Radio National

M: 0434277342

We acknowledge Aboriginal and Torres Strait Islander peoples as the First Australians and Traditional Custodians of the lands where we live, learn and work.

Please consider the environment before printing this e-mail.

The information contained in this email and any attachment is confidential and may contain legally privileged or copyright material. It is intended only for the use of the addressee(s). If you are not the intended recipient of this email, you are not permitted to disseminate, distribute or copy this email or any attachments. If you have received this message in error, please notify the sender immediately and delete this email from your system. The ABC does not represent or warrant that this transmission is secure or virus free. Before opening any attachment you should check for viruses. The ABC's liability is limited to resupplying any email and attachments.

From: [OAIC - Media](#)
To: [PIRANI,Toni](#); [FALK,Angelene](#); [HAMPTON,Elizabeth](#)
Subject: RE: ABC Radio Naitonal interview request [SEC=OFFICIAL]
Date: Wednesday, 30 August 2023 1:30:33 PM
Attachments: [image001.jpg](#)

Thank you Toni

I am presenting this as a holding statement. The part in square brackets is sensitive and would need the right legal oversight.

Thank you for your query

Holding statement

It's appropriate that given the matters raised in this week's Senate inquiry into Freedom of Information Laws, that we respond to the substance of those matters through a further submission to the inquiry.

As was said in opening remarks on Wednesday, the OAIC takes issue with many of the statements and claims made about the OAIC's culture and practices, and will respond in detail.

s47C



An effective and efficient FOI system is fundamentally in the public interest. For the system to function effectively, it requires a multi-faceted approach. It is dependent on the OAIC and agencies having the necessary resourcing, the expertise of FOI practitioners, and a commitment by agencies and ministers to fulfilling the objects of the FOI Act.

Regards
Andrew

From: PIRANI,Toni <Toni.Pirani@oaic.gov.au>
Sent: Wednesday, August 30, 2023 1:14 PM
To: OAIC - Media <media@oaic.gov.au>; FALK,Angelene <Angelene.Falk@oaic.gov.au>; HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>
Subject: RE: ABC Radio Naitonal interview request [SEC=OFFICIAL]

Thanks Andrew

That seems like a sensible approach to me.

Regards

Toni

From: OAIC - Media <media@oaic.gov.au>
Sent: Wednesday, August 30, 2023 12:36 PM
To: FALK,Angelene <Angelene.Falk@oaic.gov.au>; PIRANI,Toni <Toni.Pirani@oaic.gov.au>; HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>

Subject: FW: ABC Radio National interview request

Commissioners

We have this request from Radio National for an interview this afternoon.

Our recommendation is to decline. We do think there is merit in putting together a short holding statement to deal with this and other media queries.

The statement would be along the lines:

- Our response to the inquiry will be the appropriate mechanism to deal with a number of the claims yesterday.
- Any key point that we would like to emphasise about matters raised
- The need for a multi-faceted approach

Kind regards

Andrew

From: Grace Stranger <Stranger.Grace@abc.net.au>

Sent: Wednesday, August 30, 2023 11:42 AM

To: OAIC - Media <media@oaic.gov.au>

Subject: ABC Radio National interview request

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good morning,

I hope your team is well.

We're looking at doing a segment on RN Drive this afternoon Australia's FOI laws and an overview of how the Senate inquiry has played out.

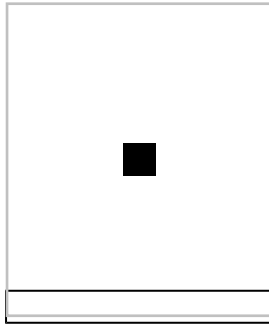
I was wondering if Angelene Falk, Toni Pirani or Elizabeth Hampton might be available to join our program from an interview at 4:40pm AEST? We can also offer a pre-record if a live interview isn't an option.

The interview would run for around 6-9 minutes, and we can do it over the phone.

If you'd like to have a chat about the interview, please feel free to give me a call on 0434277342 or if you'd like some talking points sent through just let me know and I can flick those across.

I understand this is a very busy time for your team, so I appreciate your assistance looking into this.

With respect,
Grace



Grace Stranger (She/Her)
Producer
Radio National

M: 0434277342

We acknowledge Aboriginal and Torres Strait Islander peoples as the First Australians and Traditional Custodians of the lands where we live, learn and work.

Please consider the environment before printing this e-mail.

The information contained in this email and any attachment is confidential and may contain legally privileged or copyright material. It is intended only for the use of the addressee(s). If you are not the intended recipient of this email, you are not permitted to disseminate, distribute or copy this email or any attachments. If you have received this message in error, please notify the sender immediately and delete this email from your system. The ABC does not represent or warrant that this transmission is secure or virus free. Before opening any attachment you should check for viruses. The ABC's liability is limited to resupplying any email and attachments.

From: [OAIC - Media](#)
To: [PIRANI,Toni](#); [FALK,Angelene](#); [HAMPTON,Elizabeth](#)
Cc: [WHIP,Caren](#)
Subject: RE: ABC Radio Naitonal interview request [SEC=OFFICIAL]
Date: Wednesday, 30 August 2023 4:50:01 PM
Attachments: [image001.jpg](#)

Thank you all

Given the time I am not going to drop this with RN this afternoon but will have ready for use in future days. I will consult if parts need to be amended given the question.

Kind regards

Andrew

From: PIRANI,Toni <Toni.Pirani@oaic.gov.au>
Sent: Wednesday, August 30, 2023 4:31 PM
To: FALK,Angelene <Angelene.Falk@oaic.gov.au>; OAIC - Media <media@oaic.gov.au>; HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>
Cc: WHIP,Caren <Caren.Whip@oaic.gov.au>
Subject: RE: ABC Radio Naitonal interview request [SEC=OFFICIAL]

Thanks Angelene – yes I prefer the decision making reference.

Regards

Toni

From: FALK,Angelene <Angelene.Falk@oaic.gov.au>
Sent: Wednesday, August 30, 2023 4:28 PM
To: PIRANI,Toni <Toni.Pirani@oaic.gov.au>; OAIC - Media <media@oaic.gov.au>; HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>
Cc: WHIP,Caren <Caren.Whip@oaic.gov.au>
Subject: RE: ABC Radio Naitonal interview request [SEC=OFFICIAL]

Thank you Toni I think that works well. I have one suggestion in the second para on reflection, that focuses on decision making for consideration.

Andrew at this stage I'm not inclined to say anything regarding the statements and claims. Please hold the information Toni has put in brackets and advise me before using.

Regards

Angelene

From: PIRANI,Toni <Toni.Pirani@oaic.gov.au>
Sent: Wednesday, August 30, 2023 3:10 PM
To: OAIC - Media <media@oaic.gov.au>; FALK,Angelene <Angelene.Falk@oaic.gov.au>; HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>
Subject: RE: ABC Radio Naitonal interview request [SEC=OFFICIAL]

Hi Andrew

Thanks for drafting this up. I'd suggest the following noting the bracketed paragraph is only included should the Information Commissioner wish to say anything at all on this point:

Holding statement

It's appropriate that given **the** Senate's inquiry into Freedom of Information Laws is ongoing, that responses to the substance of the matters raised should be dealt with through the processes of the Senate Committee.

An effective and efficient FOI system is fundamentally in the public interest. The OAIC welcomes the Senate Committee's examination of ways to improve the operation of the FOI system. For the system to function effectively, it requires a multi-faceted approach. It is dependent on the OAIC and agencies having the necessary resourcing, *good decision making* ~~the expertise of FOI practitioners~~, and a commitment by agencies and ministers to fulfilling the objects of the FOI Act.

s47C

Regards

Toni

From: OAIC - Media <media@oaic.gov.au>

Sent: Wednesday, August 30, 2023 1:30 PM

To: PIRANI, Toni <Toni.Pirani@oaic.gov.au>; FALK, Angelene <Angelene.Falk@oaic.gov.au>; HAMPTON, Elizabeth <Elizabeth.Hampton@oaic.gov.au>

Subject: RE: ABC Radio Naitonal interview request [SEC=OFFICIAL]

Thank you Toni

I am presenting this as a holding statement. The part in square brackets is sensitive and would need the right legal oversight.

Thank you for your query

Holding statement

It's appropriate that given the matters raised in this week's Senate inquiry into Freedom of Information Laws, that we respond to the substance of those matters through a further submission to the inquiry.

As was said in opening remarks on Wednesday, the OAIC takes issue with many of the statements and claims made about the OAIC's culture and practices, and will respond in detail.

s47C

An effective and efficient FOI system is fundamentally in the public interest. For the system to function effectively, it requires a multi-faceted approach. It is dependent on the OAIC and agencies having the necessary resourcing, the expertise of FOI practitioners, and a commitment by agencies and ministers to fulfilling the objects of the FOI Act.

Regards
Andrew

From: PIRANI,Toni <Toni.Pirani@oaic.gov.au>
Sent: Wednesday, August 30, 2023 1:14 PM
To: OAIC - Media <media@oaic.gov.au>; FALK,Angelene <Angelene.Falk@oaic.gov.au>; HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>
Subject: RE: ABC Radio Naitonal interview request [SEC=OFFICIAL]

Thanks Andrew

That seems like a sensible approach to me.

Regards

Toni

From: OAIC - Media <media@oaic.gov.au>
Sent: Wednesday, August 30, 2023 12:36 PM
To: FALK,Angelene <Angelene.Falk@oaic.gov.au>; PIRANI,Toni <Toni.Pirani@oaic.gov.au>; HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>
Subject: FW: ABC Radio Naitonal interview request

Commissioners

We have this request from Radio National for an interview this afternoon.

Our recommendation is to decline. We do think there is merit in putting together a short holding statement to deal with this and other media queries.

The statement would be along the lines:

- Our response to the inquiry will be the appropriate mechanism to deal with a number of the claims yesterday.
- Any key point that we would like to emphasise about matters raised
- The need for a multi-faceted approach

Kind regards

Andrew

From: Grace Stranger <Stranger.Grace@abc.net.au>
Sent: Wednesday, August 30, 2023 11:42 AM
To: OAIC - Media <media@oaic.gov.au>
Subject: ABC Radio National interview request

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good morning,

I hope your team is well.

We're looking at doing a segment on RN Drive this afternoon Australia's FOI laws and an overview of how the Senate inquiry has played out.

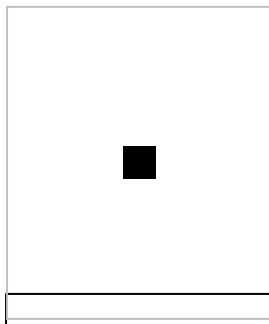
I was wondering if Angelene Falk, Toni Pirani or Elizabeth Hampton might be available to join our program from an interview at 4:40pm AEST? We can also offer a pre-record if a live interview isn't an option.

The interview would run for around 6-9 minutes, and we can do it over the phone.

If you'd like to have a chat about the interview, please feel free to give me a call on 0434277342 or if you'd like some talking points sent through just let me know and I can flick those across.

I understand this is a very busy time for your team, so I appreciate your assistance looking into this.

With respect,
Grace



Grace Stranger (She/Her)
Producer
Radio National

M: 0434277342

We acknowledge Aboriginal and Torres Strait Islander peoples as the First Australians and Traditional Custodians of the lands where we live, learn and work.

Please consider the environment before printing this e-mail.

The information contained in this email and any attachment is confidential and may contain legally privileged or copyright material. It is intended only for the use of the addressee(s). If you are not the intended recipient of this email, you are not permitted to disseminate, distribute or copy this email or any attachments. If you have received this message in error, please notify the

sender immediately and delete this email from your system. The ABC does not represent or warrant that this transmission is secure or virus free. Before opening any attachment you should check for viruses. The ABC's liability is limited to resupplying any email and attachments.

s22

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[29/08 11:07 am] s47E(c) [REDACTED]
Are you ok? Let me know what you need from me.
[29/08 11:21 am] s47E(c) [REDACTED]

[29/08 11:21 am] s47E(c) [REDACTED]
we're not watching [REDACTED] e taking notes for us?

[29/08 11:21 am] s47E(c) [REDACTED]
I think s47E(c) [REDACTED]

[29/08 11:21 am] s47E(c) [REDACTED]
s47E(c) [REDACTED] will be watching.

[29/08 11:22 am] s47E(c) [REDACTED]
Will you please check that they're OK and our corporate people are ok? I spoke to s47E(c) and she's going to check in on the legal people

[29/08 11:35 am] s47E(c) [REDACTED]
Of course

[29/08 2:23 pm] s47E(c) [REDACTED]
s47E(c) - with the harassment contact officers, do we get stats (not details) of the number of people who are coming to them to talk through issues?

[29/08 2:38 pm] s47E(c) [REDACTED]
No, I don't believe s47E(c) double check with s47E(c)

[29/08 2:38 pm] s47E(c) [REDACTED]
Ok, thanks

[29/08 3:21 pm] s47E(c) [REDACTED]
We do not get HCO stats - have double checked.

[29/08 3:21 pm] s47E(c) [REDACTED]
Ta

[29/08 5:22 pm] s47E(c) [REDACTED]
you two have been the most amazing colleagues. Thank you so much for all the work you put into today and your support.

heart 2
[29/08 5:32 pm] s47E(c) [REDACTED]

No worries at all s47E(c) very happy to help! Hope everyone is holding up ok [REDACTED]

s47E(c)

A large rectangular area of the document is completely redacted with a solid black fill.

s22

A large rectangular area of the document is completely redacted with a solid black fill.

s22

A large rectangular area of the document is completely redacted with a solid black fill.

s22



s47E(c)



s22

29/08 1:25 pm

Apparently our team got a mention this morning!!

s22

29/08 1:26 pm

yep, about the funds going to us and not FOI, waste of money...

From: [CROXALL,Sarah](#)
To: [STOKES,Andrew](#)
Date: Tuesday, 29 August 2023 12:33:00 PM
Attachments: [image001.jpg](#)
[image002.jpg](#)
[image003.jpg](#)

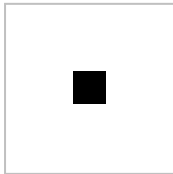
Many of you would be aware that public hearings are currently underway in Canberra for the Senate Standing Committees on Legal and Constitutional Affairs Reference Committee's inquiry into the operation of Commonwealth Freedom of Information laws. This is the second day of hearings, and we have heard from a range of witnesses, including from Government, the media and the legal sector.

The issue of funding for the FOI function has been discussed by Committee members and witnesses, and questions have been raised about the appropriate allocation of funding to different branches within the OAIC.

I want to take the opportunity to acknowledge the work of every team within the OAIC. Together, you all make invaluable contributions to ensuring that the OAIC meets its statutory functions and strategic goals. This collective effort is recognised in our recently published 2023-24 Corporate Plan,

If you have any concerns about the hearing or if any issues raised have caused you distress, please reach out to your manager or our EAP provider for support.

I would like to thank everyone for their ongoing efforts



Sarah Croxall (she/her)
A/g Assistant Commissioner, Corporate Branch
Office of the Australian Information Commissioner
Sydney | GPO Box 5288 Sydney NSW 2001
P +61 2 9942 4159 **M** [s47E\(d\)](#) **E** sarah.croxall@oaic.gov.au

The OAIC acknowledges Traditional Custodians of Country across Australia and their continuing connection to land, waters and communities. We pay our respect to First Nations people, cultures and Elders past and present.

[Subscribe to Information Matters](#)

From: [CROXALL,Sarah](#)
To: [STOKES,Andrew](#)
Subject: RE: [SEC=OFFICIAL]
Date: Tuesday, 29 August 2023 2:23:00 PM
Attachments: [image001.jpg](#)
[image002.jpg](#)
[image003.jpg](#)

Thanks very much Andrew. Will keep you posted on where we get to with it.

From: STOKES,Andrew <Andrew.Stokes@oaic.gov.au>
Sent: Tuesday, August 29, 2023 2:16 PM
To: CROXALL,Sarah <Sarah.Croxall@oaic.gov.au>
Subject: FW: [SEC=OFFICIAL]

Hi Sarah
Did some re-working after getting Amy's feedback.

Andrew

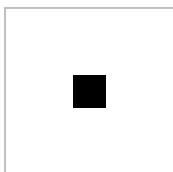
From: CROXALL,Sarah <Sarah.Croxall@oaic.gov.au>
Sent: Tuesday, August 29, 2023 12:34 PM
To: STOKES,Andrew <Andrew.Stokes@oaic.gov.au>
Subject: [SEC=OFFICIAL]

Many of you would be aware that public hearings are currently underway in Canberra for the Senate Standing Committees on Legal and Constitutional Affairs Reference Committee's inquiry into the operation of Commonwealth Freedom of Information laws. This is the second day of hearings, and we have heard from a range of witnesses, including from Government, the media and the legal sector.

Committee members and witnesses are covering a wide range of issues, including funding allocation within the OAIC, and ways to improve the FOI system in line with the objects of the FOI Act.

If you have any concerns about the hearing or if any issues raised have caused you distress, please reach out to your manager or our EAP provider for support.

I want to take the opportunity to acknowledge the work of every team within the OAIC. Together, you all make invaluable contributions to ensuring that the OAIC meets its statutory functions and strategic goals.



Sarah Croxall (she/her)
A/g Assistant Commissioner, Corporate Branch
Office of the Australian Information Commissioner
Sydney | GPO Box 5288 Sydney NSW 2001
P +61 2 9942 4159 M [REDACTED] S sarah.croxall@oaic.gov.au

waters and communities. We pay our respect to First Nations people, cultures and Elders past and present.

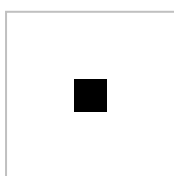
[Subscribe to Information Matters](#)

From: [CROXALL,Sarah](#)
To: [HAMPTON,Elizabeth](#); [DRAYTON,Melanie](#)
Subject: RE: [SEC=OFFICIAL]
Date: Tuesday, 29 August 2023 5:40:00 PM
Attachments: [image001.jpg](#)
[image002.jpg](#)
[image004.jpg](#)

Thanks Libby. Andrew has confirmed he's happy with this wording.

From: HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>
Sent: Tuesday, August 29, 2023 5:31 PM
To: DRAYTON,Melanie <Melanie.Drayton@oaic.gov.au>
Cc: CROXALL,Sarah <Sarah.Croxall@oaic.gov.au>
Subject: RE: [SEC=OFFICIAL]

Spoke with AF – can Andrew please have a look at it? Looks great to me – thanks both



Elizabeth Hampton
Deputy Commissioner
Office of the Australian Information Commissioner
M [s47E\(d\)](#) E Elizabeth.Hampton@oaic.gov.au

The OAIC acknowledges Traditional Custodians of Country across Australia and their continuing connection to land, waters and communities. We pay our respect to First Nations people, cultures and Elders past and present.

[Subscribe to Information Matters](#)

From: DRAYTON,Melanie <Melanie.Drayton@oaic.gov.au>
Sent: Tuesday, August 29, 2023 5:27 PM
To: HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>
Cc: CROXALL,Sarah <Sarah.Croxall@oaic.gov.au>
Subject: FW: [SEC=OFFICIAL]

Dear Libby

As discussed here is a draft all staff email to come from Commissioner Falk.

Thanks
Mel

.....

Dear Colleagues

Many of you would be aware that public hearings for the Legal and Constitutional Affairs Reference Committee's inquiry into the operation of Commonwealth Freedom of Information laws occurred over the last couple of days. The Committee heard from a range of witnesses, including those from Government, the media and the legal sector. The OAIC appeared **today**.

Committee members and witnesses covered a wide range of issues, including funding allocation within the OAIC, and ways to improve the FOI system in line with the objects of the FOI Act.

Some of the evidence provided may not align with your experience working for the OAIC. I want to take the opportunity to acknowledge the work of every team within the OAIC. Together, we do excellent work and make invaluable contributions to ensuring that the OAIC meets its statutory functions and strategic goals. Our FOI role is important and fundamental to Australia's democracy.

If you have any concerns about the hearing or if any issues raised have caused you distress, please reach out to your manager or our [EAP provider](#) for support

From: [CROXALL,Sarah](#)
To: [STOKES,Andrew](#)
Cc: [DRAYTON,Melanie](#)
Subject: RE: [SEC=OFFICIAL]
Date: Tuesday, 29 August 2023 5:37:00 PM
Attachments: [image001.jpg](#)
[image002.jpg](#)
[image004.jpg](#)

Thanks for confirming so quickly

From: STOKES,Andrew <Andrew.Stokes@oaic.gov.au>
Sent: Tuesday, August 29, 2023 5:36 PM
To: CROXALL,Sarah <Sarah.Croxall@oaic.gov.au>
Cc: DRAYTON,Melanie <Melanie.Drayton@oaic.gov.au>
Subject: RE: [SEC=OFFICIAL]

I am happy with it thanks. I like the 'does not align' wording.

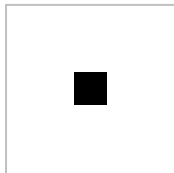
From: CROXALL,Sarah <Sarah.Croxall@oaic.gov.au>
Sent: Tuesday, August 29, 2023 5:33 PM
To: STOKES,Andrew <Andrew.Stokes@oaic.gov.au>
Cc: DRAYTON,Melanie <Melanie.Drayton@oaic.gov.au>
Subject: FW: [SEC=OFFICIAL]

Hi Andrew – Angelene asked if you could have another look at this draft please – just a few tweaks from Mel to your earlier draft.

Thank you!

From: HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>
Sent: Tuesday, August 29, 2023 5:31 PM
To: DRAYTON,Melanie <Melanie.Drayton@oaic.gov.au>
Cc: CROXALL,Sarah <Sarah.Croxall@oaic.gov.au>
Subject: RE: [SEC=OFFICIAL]

Spoke with AF – can Andrew please have a look at it? Looks great to me – thanks both



Elizabeth Hampton
Deputy Commissioner
Office of the Australian Information Commissioner
M +61 2 947E(d) **E** Elizabeth.Hampton@oaic.gov.au

The OAIC acknowledges Traditional Custodians of Country across Australia and their continuing connection to land, waters and communities. We pay our respect to First Nations people, cultures and Elders past and present.

[Subscribe to Information Matters](#)

From: DRAYTON,Melanie <Melanie.Drayton@oaic.gov.au>
Sent: Tuesday, August 29, 2023 5:27 PM

To: HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>
Cc: CROXALL,Sarah <Sarah.Croxall@oaic.gov.au>
Subject: FW: [SEC=OFFICIAL]

Dear Libby

As discussed here is a draft all staff email to come from Commissioner Falk.

Thanks
Mel

.....
Dear Colleagues

Many of you would be aware that public hearings for the Legal and Constitutional Affairs Reference Committee's inquiry into the operation of Commonwealth Freedom of Information laws occurred over the last couple of days. The Committee heard from a range of witnesses, including those from Government, the media and the legal sector. The OAIC appeared **this afternoon**.

Committee members and witnesses covered a wide range of issues, including funding allocation within the OAIC, and ways to improve the FOI system in line with the objects of the FOI Act.

Some of the evidence provided may not align with your experience working for the OAIC. I want to take the opportunity to acknowledge the work of every team within the OAIC. Together, we do excellent work and make invaluable contributions to ensuring that the OAIC meets its statutory functions and strategic goals. Our FOI role is important and fundamental to Australia's democracy.

If you have any concerns about the hearing or if any issues raised have caused you distress, please reach out to your manager or our EAP provider for support (insert details).

Teams chat records

[29/08 10:15 am] §47E(c)

Hi §47E Would it be alright if we push our 1:1 to a bit later today please? Just watching the FOI hearing

[29/08 10:16 am] §47E(c)

of course §47E(can you send me the link to watch the hearing please?

[29/08 10:16 am] §47E(c)

Thank you! I'll ask §47 to reschedule

like 1

[29/08 10:16 am] §47E(c)

[Watch, Read, Listen – Parliament of Australia \(aph.gov.au\)](https://aph.gov.au)

[29/08 10:16 am] §47E(c)

Second link down this page

[29/08 9:43 am] §47E(c)

Are you listening to this?

[29/08 9:43 am] §47E(c)

I am

[29/08 9:43 am] §47E(c)

Shall I come in to you

[29/08 9:43 am] §47E(c)

?

[29/08 9:06 am] §47E(c)

Are you watching?

[29/08 9:06 am] s47E(c)

Yes

[29/08 11:08 am] s47E(c)

Do you have a minute?

[29/08 11:08 am] s47E(c)

Yep

[29/08 12:28 pm] s47E(c)

Can you give me a call when you have a moment?

[29/08 12:28 pm] s47E(c)

yep. won't be long
like 1

[30/08 8:44 am] s47E(c)

Morning s47 - I was thinking it might be good to organise an optional corporate branch drop in/catch up this afternoon, to give people the opportunity to ask any Qs or raise any concerns about the hearings yesterday - I'm conscious of the comments about the corporate branch in the hearings, but also the work that will likely come our way now, with FOI requests and QoNs

[30/08 8:44 am] s47E(c)

Do you have any concerns about me doing that?

[30/08 8:48 am] s47E(c)

Happy to discuss after the audit committee of course 😊

[30/08 8:51 am] s47E(c)

Sounds good!

[30/08 8:51 am] s47E(c)

No concerns 😊

[30/08 8:53 am] §47E(c)

Great thanks. Will let you know how it goes

Tuesday, 29 August

29/08 11:55 am

Hello - sorry have been meaning to update you

But was watching the inquiry then trying to get things done in teh last minute

s47 s47E(c) 29/08 11:56 am

All good! This inquiry has been an amazing watch

29/08 11:56 am

I know - I didnt even realise that s47 hadnt been sent all the materials bc I was so engrossed in it

Tuesday, 29 August

s47 s47E(c) 29/08 9:06 am

Are you watching?

29/08 9:06 am

yes

such bad timing

s47 s47E(c) 29/08 9:55 am

Are you watching the FOI inquiry?

29/08 9:55 am

Yes

From: [PIRANI,Toni](#)
To: [FALK,Angelene](#)
Subject: RE: [SEC=OFFICIAL]
Date: Wednesday, 30 August 2023 7:57:00 AM
Attachments: [image001.jpg](#)
[image002.jpg](#)

Hi Angelene

I have a few suggestions.

Dear Colleagues

Many of you would be aware that public hearings for the Legal and Constitutional Affairs Reference Committee's inquiry into the operation of Commonwealth Freedom of Information laws occurred over the last couple of days. The Committee heard from a range of witnesses, including those from Government, the media and the legal sector. The OAIC appeared **yesterday and there has been some media coverage of this.**

Committee members and witnesses covered a wide range of issues, including funding allocation within the OAIC, and ways to improve the FOI system in line with the objects of the FOI Act.

We would like to take the opportunity to acknowledge **the important** work of every team within the OAIC. Together, we do excellent work and make invaluable contributions to ensuring that the OAIC meets its statutory functions and strategic goals. **As we made clear to the Committee** - our FOI role is important and fundamental to Australia's democracy.

We want to particularly thank everyone who worked so hard to prepare the OAIC's submission to the Committee and the very detailed briefings provided to us in preparation for the hearing. The FOI Branch and the Regulation and Strategy Branch deserve particular recognition in this regard.

It can be very challenging for all of us to hear robust debate about our work in a public forum. If you have any concerns about the issues raised during the hearing or if you are experiencing any uneasiness or distress, please reach out to your manager or our [EAP provider](#) for support.

Regards

Angelene and Toni

From: FALK,Angelene <Angelene.Falk@oaic.gov.au>
Sent: Wednesday, August 30, 2023 7:11 AM
To: PIRANI,Toni <Toni.Pirani@oaic.gov.au>
Subject: Fwd: [SEC=OFFICIAL]

Good morning Toni

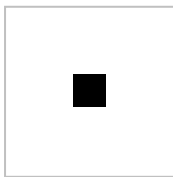
I would like to send a note to staff asap this morning regarding the hearings. A draft has been provided below as a starting point. I won't be able to work on it until later this morning. In the

meantime I welcome any suggestions or comments you may have on the approach.

It's drafted to be sent from me however it could be sent from both of us. Do you have a preference?

Regards
Angelene

From: HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>
Sent: Tuesday, August 29, 2023 6:28 pm
To: FALK,Angelene <Angelene.Falk@oaic.gov.au>
Subject: FW: [SEC=OFFICIAL]



Elizabeth Hampton
Deputy Commissioner
Office of the Australian Information Commissioner
M [0294774444](tel:0294774444) E Elizabeth.Hampton@oaic.gov.au

The OAIC acknowledges Traditional Custodians of Country across Australia and their continuing connection to land, waters and communities.

From: DRAYTON,Melanie <Melanie.Drayton@oaic.gov.au>
Sent: Tuesday, August 29, 2023 5:27 PM
To: HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>
Cc: CROXALL,Sarah <Sarah.Croxall@oaic.gov.au>
Subject: FW: [SEC=OFFICIAL]

Dear Libby

As discussed here is a draft all staff email to come from Commissioner Falk.

Thanks
Mel

.....

Dear Colleagues

Many of you would be aware that public hearings for the Legal and Constitutional Affairs Reference Committee's inquiry into the operation of Commonwealth Freedom of Information laws occurred over the last couple of days. The Committee heard from a range of witnesses, including those from Government, the media and the legal sector. The OAIC appeared **today**.

Committee members and witnesses covered a wide range of issues, including funding allocation within the OAIC, and ways to improve the FOI system in line with the objects of the FOI Act.

I want to take the opportunity to acknowledge the work of every team within the OAIC. Together, we do excellent work and make invaluable contributions to ensuring that the OAIC meets its statutory functions and strategic goals. Our FOI role is important and fundamental to Australia's democracy.

If you have any concerns about the hearing or if any issues raised have caused you distress, please reach out to your manager or our [EAP provider](#) for support

From: [PIRANI,Toni](#)
To: [OAIC - Media](#); [FALK,Angelene](#); [HAMPTON,Elizabeth](#)
Subject: RE: ABC Radio Naitonal interview request [SEC=OFFICIAL]
Date: Wednesday, 30 August 2023 3:10:00 PM
Attachments: [image001.jpg](#)

Hi Andrew

Thanks for drafting this up. I'd suggest the following noting the bracketed paragraph is only included should the Information Commissioner wish to say anything at all on this point:

Holding statement

It's appropriate that given Senate's inquiry into Freedom of Information Laws is ongoing, that responses to the substance of the matters raised should be dealt with through the processes of the Senate Committee.

An effective and efficient FOI system is fundamentally in the public interest. The OAIC welcomes the Senate Committee's examination of ways to improve the operation of the FOI system. For the system to function effectively, it requires a multi-faceted approach. It is dependent on the OAIC and agencies having the necessary resourcing, the expertise of FOI practitioners, and a commitment by agencies and ministers to fulfilling the objects of the FOI Act.

s47C



Regards

Toni

From: OAIC - Media <media@oaic.gov.au>
Sent: Wednesday, August 30, 2023 1:30 PM
To: PIRANI,Toni <Toni.Pirani@oaic.gov.au>; FALK,Angelene <Angelene.Falk@oaic.gov.au>; HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>
Subject: RE: ABC Radio Naitonal interview request [SEC=OFFICIAL]

Thank you Toni

I am presenting this as a holding statement. The part in square brackets is sensitive and would need the right legal oversight.

Thank you for your query

Holding statement

It's appropriate that given the matters raised in this week's Senate inquiry into Freedom of Information Laws, that we respond to the substance of those matters through a further submission to the inquiry.

As was said in opening remarks on Wednesday, the OAIC takes issue with many of the statements and claims made about the OAIC's culture and practices, and will respond in detail.

s47C

An effective and efficient FOI system is fundamentally in the public interest. For the system to function effectively, it requires a multi-faceted approach. It is dependent on the OAIC and agencies having the necessary resourcing, the expertise of FOI practitioners, and a commitment by agencies and ministers to fulfilling the objects of the FOI Act.

Regards
Andrew

From: PIRANI,Toni <Toni.Pirani@oaic.gov.au>
Sent: Wednesday, August 30, 2023 1:14 PM
To: OAIC - Media <media@oaic.gov.au>; FALK,Angelene <Angelene.Falk@oaic.gov.au>; HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>
Subject: RE: ABC Radio Naitonal interview request [SEC=OFFICIAL]

Thanks Andrew

That seems like a sensible approach to me.

Regards

Toni

From: OAIC - Media <media@oaic.gov.au>
Sent: Wednesday, August 30, 2023 12:36 PM
To: FALK,Angelene <Angelene.Falk@oaic.gov.au>; PIRANI,Toni <Toni.Pirani@oaic.gov.au>; HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>
Subject: FW: ABC Radio Naitonal interview request

Commissioners

We have this request from Radio National for an interview this afternoon.

Our recommendation is to decline. We do think there is merit in putting together a short holding statement to deal with this and other media queries.

The statement would be along the lines:

- Our response to the inquiry will be the appropriate mechanism to deal with a number of the claims yesterday.
- Any key point that we would like to emphasise about matters raised
- The need for a multi-faceted approach

Kind regards

Andrew

From: Grace Stranger <Stranger.Grace@abc.net.au>
Sent: Wednesday, August 30, 2023 11:42 AM
To: OAIC - Media <media@oaic.gov.au>
Subject: ABC Radio National interview request

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good morning,

I hope your team is well.

We're looking at doing a segment on RN Drive this afternoon Australia's FOI laws and an overview of how the Senate inquiry has played out.

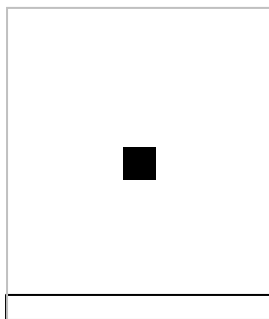
I was wondering if Angelene Falk, Toni Pirani or Elizabeth Hampton might be available to join our program from an interview at 4:40pm AEST? We can also offer a pre-record if a live interview isn't an option.

The interview would run for around 6-9 minutes, and we can do it over the phone.

If you'd like to have a chat about the interview, please feel free to give me a call on 0434277342 or if you'd like some talking points sent through just let me know and I can flick those across.

I understand this is a very busy time for your team, so I appreciate your assistance looking into this.

With respect,
Grace



Grace Stranger (She/Her)
Producer
Radio National

M: 0434277342

We acknowledge Aboriginal and Torres Strait Islander peoples as the First Australians and Traditional Custodians of the lands where we live, learn and work.

Please consider the environment before printing this e-mail.

The information contained in this email and any attachment is confidential and may contain legally privileged or copyright material. It is intended only for the use of the addressee(s). If you are not the intended recipient of this email, you are not permitted to disseminate, distribute or copy this email or any attachments. If you have received this message in error, please notify the sender immediately and delete this email from your system. The ABC does not represent or warrant that this transmission is secure or virus free. Before opening any attachment you should check for viruses. The ABC's liability is limited to resupplying any email and attachments.

From: [PIRANI,Toni](#)
To: [FALK,Angelene](#); [OAIC - Media](#); [HAMPTON,Elizabeth](#)
Cc: [WHIP,Caren](#)
Subject: RE: ABC Radio Naitonal interview request [SEC=OFFICIAL]
Date: Wednesday, 30 August 2023 4:31:00 PM
Attachments: [image001.jpg](#)

Thanks Angelene – yes I prefer the decision making reference.

Regards

Toni

From: FALK,Angelene <Angelene.Falk@oaic.gov.au>
Sent: Wednesday, August 30, 2023 4:28 PM
To: PIRANI,Toni <Toni.Pirani@oaic.gov.au>; OAIC - Media <media@oaic.gov.au>; HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>
Cc: WHIP,Caren <Caren.Whip@oaic.gov.au>
Subject: RE: ABC Radio Naitonal interview request [SEC=OFFICIAL]

Thank you Toni I think that works well. I have one suggestion in the second para on reflection, that focuses on decision making for consideration.

Andrew at this stage I'm not inclined to say anything regarding the statements and claims. Please hold the information Toni has put in brackets and advise me before using.

Regards
Angelene

From: PIRANI,Toni <Toni.Pirani@oaic.gov.au>
Sent: Wednesday, August 30, 2023 3:10 PM
To: OAIC - Media <media@oaic.gov.au>; FALK,Angelene <Angelene.Falk@oaic.gov.au>; HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>
Subject: RE: ABC Radio Naitonal interview request [SEC=OFFICIAL]

Hi Andrew

Thanks for drafting this up. I'd suggest the following noting the bracketed paragraph is only included should the Information Commissioner wish to say anything at all on this point:

Holding statement

It's appropriate that given **the** Senate's inquiry into Freedom of Information Laws is ongoing, that responses to the substance of the matters raised should be dealt with through the processes of the Senate Committee.

An effective and efficient FOI system is fundamentally in the public interest. The OAIC welcomes the Senate Committee's examination of ways to improve the operation of the FOI system. For the system to function effectively, it requires a multi-faceted approach. It is dependent on the OAIC and agencies having the necessary resourcing, *good decision making* ~~the expertise of FOI~~

practitioners, and a commitment by agencies and ministers to fulfilling the objects of the FOI Act.

s47C

Regards

Toni

From: OAIC - Media <media@oaic.gov.au>
Sent: Wednesday, August 30, 2023 1:30 PM
To: PIRANI,Toni <Toni.Pirani@oaic.gov.au>; FALK,Angelene <Angelene.Falk@oaic.gov.au>; HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>
Subject: RE: ABC Radio Naitonal interview request [SEC=OFFICIAL]

Thank you Toni

I am presenting this as a holding statement. The part in square brackets is sensitive and would need the right legal oversight.

Thank you for your query

Holding statement

It's appropriate that given the matters raised in this week's Senate inquiry into Freedom of Information Laws, that we respond to the substance of those matters through a further submission to the inquiry.

As was said in opening remarks on Wednesday, the OAIC takes issue with many of the statements and claims made about the OAIC's culture and practices, and will respond in detail.

s47C

An effective and efficient FOI system is fundamentally in the public interest. For the system to function effectively, it requires a multi-faceted approach. It is dependent on the OAIC and agencies having the necessary resourcing, the expertise of FOI practitioners, and a commitment by agencies and ministers to fulfilling the objects of the FOI Act.

Regards
Andrew

From: PIRANI,Toni <Toni.Pirani@oaic.gov.au>
Sent: Wednesday, August 30, 2023 1:14 PM
To: OAIC - Media <media@oaic.gov.au>; FALK,Angelene <Angelene.Falk@oaic.gov.au>; HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>
Subject: RE: ABC Radio Naitonal interview request [SEC=OFFICIAL]

Thanks Andrew

That seems like a sensible approach to me.

Regards

Toni

From: OAIC - Media <media@oaic.gov.au>
Sent: Wednesday, August 30, 2023 12:36 PM
To: FALK,Angelene <Angelene.Falk@oaic.gov.au>; PIRANI,Toni <Toni.Pirani@oaic.gov.au>; HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>
Subject: FW: ABC Radio Naitonal interview request

Commissioners

We have this request from Radio National for an interview this afternoon.

Our recommendation is to decline. We do think there is merit in putting together a short holding statement to deal with this and other media queries.

The statement would be along the lines:

- Our response to the inquiry will be the appropriate mechanism to deal with a number of the claims yesterday.
- Any key point that we would like to emphasise about matters raised
- The need for a multi-faceted approach

Kind regards

Andrew

From: Grace Stranger <Stranger.Grace@abc.net.au>
Sent: Wednesday, August 30, 2023 11:42 AM
To: OAIC - Media <media@oaic.gov.au>
Subject: ABC Radio Naitonal interview request

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good morning,

I hope your team is well.

We're looking at doing a segment on RN Drive this afternoon Australia's FOI laws and an overview of how the Senate inquiry has played out.

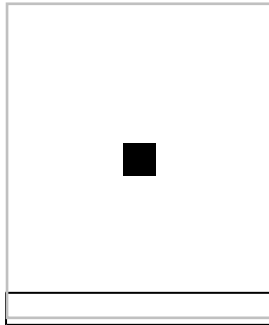
I was wondering if Angelene Falk, Toni Pirani or Elizabeth Hampton might be available to join our program from an interview at 4:40pm AEST? We can also offer a pre-record if a live interview isn't an option.

The interview would run for around 6-9 minutes, and we can do it over the phone.

If you'd like to have a chat about the interview, please feel free to give me a call on 0434277342 or if you'd like some talking points sent through just let me know and I can flick those across.

I understand this is a very busy time for your team, so I appreciate your assistance looking into this.

With respect,
Grace



Grace Stranger (She/Her)
Producer
Radio National

M: 0434277342

We acknowledge Aboriginal and Torres Strait Islander peoples as the First Australians and Traditional Custodians of the lands where we live, learn and work.

Please consider the environment before printing this e-mail.

The information contained in this email and any attachment is confidential and may contain legally privileged or copyright material. It is intended only for the use of the addressee(s). If you are not the intended recipient of this email, you are not permitted to disseminate, distribute or copy this email or any attachments. If you have received this message in error, please notify the sender immediately and delete this email from your system. The ABC does not represent or warrant that this transmission is secure or virus free. Before opening any attachment you should check for viruses. The ABC's liability is limited to resupplying any email and attachments.

From: [PIRANI,Toni](#)
To: [FALK,Angelene](#)
Subject: FW: ABC Radio Naitonal interview request [SEC=OFFICIAL]
Date: Wednesday, 30 August 2023 2:09:00 PM
Attachments: [image001.jpg](#)

Hi Angelene

I have a couple of concerns with the detail of the proposed holding statement but I wanted to flag that with you before going back to everyone in the email. Do you have any availability for a quick chat. I have a branch meeting at 2.30 but otherwise available.

Regards

Toni

From: OAIC - Media <media@oaic.gov.au>
Sent: Wednesday, August 30, 2023 1:30 PM
To: PIRANI,Toni <Toni.Pirani@oaic.gov.au>; FALK,Angelene <Angelene.Falk@oaic.gov.au>; HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>
Subject: RE: ABC Radio Naitonal interview request [SEC=OFFICIAL]

Thank you Toni

I am presenting this as a holding statement. The part in square brackets is sensitive and would need the right legal oversight.

Thank you for your query

Holding statement

It's appropriate that given the matters raised in this week's Senate inquiry into Freedom of Information Laws, that we respond to the substance of those matters through a further submission to the inquiry.

As was said in opening remarks on Wednesday, the OAIC takes issue with many of the statements and claims made about the OAIC's culture and practices, and will respond in detail.

s47C



An effective and efficient FOI system is fundamentally in the public interest. For the system to function effectively, it requires a multi-faceted approach. It is dependent on the OAIC and agencies having the necessary resourcing, the expertise of FOI practitioners, and a commitment by agencies and ministers to fulfilling the objects of the FOI Act.

Regards
Andrew

From: PIRANI,Toni <Toni.Pirani@oaic.gov.au>
Sent: Wednesday, August 30, 2023 1:14 PM
To: OAIC - Media <media@oaic.gov.au>; FALK,Angelene <Angelene.Falk@oaic.gov.au>;
HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>
Subject: RE: ABC Radio Naitonal interview request [SEC=OFFICIAL]

Thanks Andrew

That seems like a sensible approach to me.

Regards

Toni

From: OAIC - Media <media@oaic.gov.au>
Sent: Wednesday, August 30, 2023 12:36 PM
To: FALK,Angelene <Angelene.Falk@oaic.gov.au>; PIRANI,Toni <Toni.Pirani@oaic.gov.au>;
HAMPTON,Elizabeth <Elizabeth.Hampton@oaic.gov.au>
Subject: FW: ABC Radio Naitonal interview request

Commissioners

We have this request from Radio National for an interview this afternoon.

Our recommendation is to decline. We do think there is merit in putting together a short holding statement to deal with this and other media queries.

The statement would be along the lines:

- Our response to the inquiry will be the appropriate mechanism to deal with a number of the claims yesterday.
- Any key point that we would like to emphasise about matters raised
- The need for a multi-faceted approach

Kind regards

Andrew

From: Grace Stranger <Stranger.Grace@abc.net.au>
Sent: Wednesday, August 30, 2023 11:42 AM
To: OAIC - Media <media@oaic.gov.au>
Subject: ABC Radio Naitonal interview request

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good morning,

I hope your team is well.

We're looking at doing a segment on RN Drive this afternoon Australia's FOI laws and an overview of how the Senate inquiry has played out.

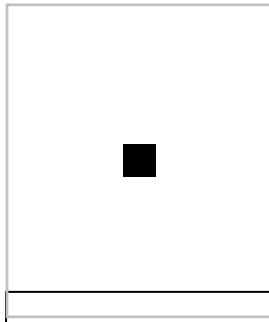
I was wondering if Angelene Falk, Toni Pirani or Elizabeth Hampton might be available to join our program from an interview at 4:40pm AEST? We can also offer a pre-record if a live interview isn't an option.

The interview would run for around 6-9 minutes, and we can do it over the phone.

If you'd like to have a chat about the interview, please feel free to give me a call on 0434277342 or if you'd like some talking points sent through just let me know and I can flick those across.

I understand this is a very busy time for your team, so I appreciate your assistance looking into this.

With respect,
Grace



Grace Stranger (She/Her)
Producer
Radio National

M: 0434277342

We acknowledge Aboriginal and Torres Strait Islander peoples as the First Australians and Traditional Custodians of the lands where we live, learn and work.

Please consider the environment before printing this e-mail.

The information contained in this email and any attachment is confidential and may contain legally privileged or copyright material. It is intended only for the use of the addressee(s). If you are not the intended recipient of this email, you are not permitted to disseminate, distribute or copy this email or any attachments. If you have received this message in error, please notify the sender immediately and delete this email from your system. The ABC does not represent or warrant that this transmission is secure or virus free. Before opening any attachment you should check for viruses. The ABC's liability is limited to resupplying any email and attachments.

Tuesday, 29 August

29/08 10:35 am

Hi - how are the staff dealing with all of this? How are you?

s47E(c) 29/08 10:37 am

s47E(c)

s47E(c)

29/08 10:37 am

let me know if you want a chat during the break

s47E(c) 29/08 10:39 am

s47E(c)

Thank you

s47E(c)

s22

29/08 9:32 am

can you send me the link?

s22

29/08 9:33 am

eeeeekkkk

s22

29/08 9:34 am

I wish I knew yesterday it would be on today!

s22

29/08 9:45 am

29/08 9:45 am

that's the legal services team

its really not that much

s22

s22



s47E(c)

29/08 2:07 pm

FOIREQ23/00215

s47E(c)

The Media has started <https://www.canberratimes.com.au/story/8326899/cycles-of-panic-former-foi-boss-blames-poor-agency-culture-on-information-commissioner/> Sorry I don't have the full article access.

'Cycles of panic': Former FOI boss blames poor ...

Leo Hardiman details 'feeling of complete overwhelm' at OAIC.

www.canberratimes.com.au

Home Affairs are on now

29/08 2:24 pm

I don't have access either. Media might circulate

s47E(c)

29/08 2:25 pm

FOIREQ23/00216

Yep it will come out tomorrow - they have a subscription service.

Or do you mean you would like it now

I can ask

29/08 2:25 pm

No don't ask it's fine

I meant tomorrow 😊



1

Wednesday, 30 August

FOIREQ23/00217

30/08 9:40 am

Hi s47E(c) How are you this morning?

30/08 9:23 am

s22

FOIREQ23/00218

I hope

you're doing okay after yesterday.

30/08 9:35 am

We so do!

s22

FOIREQ23/00219

all good there.



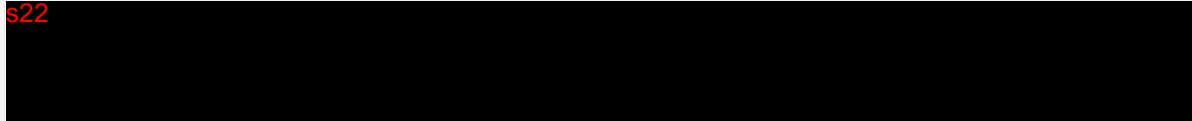
1

Tuesday, 29 August

29/08 11:33 am

Hi [REDACTED] s22 how are you going? Are you ok?

s22



29/08 11:44 am

Yes, totally agree.

s47E(c) 29/08 11:25 am

s47E(c) Tomorrow - yes but after lunch as have audit committee 9am to 12

I am fre this afternoon other than listening to senate en quiry

29/08 11:26 am

ok I'll find a time after 3:30pm tomorrow

s47E(c) 29/08 11:26 am

s47E(c) Sounds good!

Leo's testimony is worth a listen

29/08 11:33 am

I listened to first 30

I'll listen to the rest another time

Would be interested in your potted summary

s47E(c) 29/08 11:36 am

s47E(c) Will give you the readers digest version tomorrow



Yesterday

s22



29/08 4:32 pm

Yes that would be good. I have my head in the FOI hearing atm

s22



Wednesday, 30 August

FOIREQ23/00223

29/08 10:30 am

Did you catch that dig at you?

29/08 10:36 am

There is the headline - catching the bus!

s47E(c)

29/08 10:37 am

s47E(c)

Oh, wow

29/08 10:40 am

This is unbelievable!

Tuesday, 29 August

FOIREQ23/00224

s22 [Redacted]

29/08 7:30 am

s22 [Redacted]



trying to get across bits an pieces

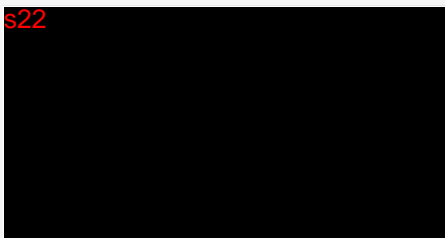
Tuesday, 29 August

FOIREQ23/00225

29/08 1:34 pm

[Mr Hardiman opening statement 29 August 2023.pdf](#)

s22



29/08 1:39 pm

[Additional Documents – Parliament of Australia \(aph.gov.au\)](#)

A card with a blue header and white body. The header contains a white icon of a parliament building and the text 'Additional Documents' with a close button (X). The body contains the text 'Additional Documents' and the URL 'www.aph.gov.au'.

Additional Documents ✕
Additional Documents
www.aph.gov.au

can you open this?

s47E(c)

29/08 7:23 am

FOIREQ23/00226

s47E(c)

Leo just said he supports introducing a statutory timeframe for IC reviews - 6 mths with extension of 6 mth limited circumstances; he suggests possibly moving FOI function to another agency given problems with 3 Cmr model; 1 level of full merits review by AAT not OAIC; narrower focus by OAIC; major cultural change by senior APS leaders. Nothing specific about the branch staff so far - the focus very much on senior leaders.



He also suggested significant reform of the FOI system and govt info policy, including holistic review/reform of Act. He also highlighted problems with resourcing and inability to deal with backlog without more resources.

29/08 7:40 am

s22



s47E(c) 29/08 8:21 am

some serious allegations raised about misleading the Fed Court in the Patrick matter, and misleading responses to senate estimates

FOIREQ23/00227

s47E(c) 29/08 8:56 am

Leo just finished his appearance. Happy to chat when you're free.

29/08 9:03 am

are we in a meeting

s47E(c) 29/08 9:05 am

I didn't have this meeting in my calendar, did you?

29/08 9:05 am

no

should we just have a quick check in now

and then potentially later this arvo...or even tomorrow

s47E(c) 29/08 9:12 am

yes, i think let's see if the team want to chat now or tomorrow. i think some of them probably wouldn't have even listened to Leo so might not know what was said.

s47E(c)

29/08 12:42 pm

s47E(c)

FOIREF023/00228

I'm still working through Leo's written statement, but here's a couple that stood out, possibly about staff:

- **An approach to IC review decisions which reflected insufficient depth of analysis and 'cutting and pasting' under the guise of maintaining precedent ("we've said it before, so we'll just say that again").**

Several Branch staff members displaying symptoms of unhealthy work stress and traumatisation. Relatedly, several Branch staff members vocalised concerns about the impact on them and others of certain very senior level workplace behaviours.

I put considerable effort into improving the quality of IC review decisions and writing decisions on numerous issues where there had been long standing lacunas in appropriate guidance for Branch staff and for agencies. In doing so, I worked closely with staff mentoring them in the development of their technical knowledge and skills.

Together with the Branch Head, I worked to create greater stability within the team

29/08 12:47 pm

WOW

s47E(c)

29/08 12:48 pm

FOIREQ23/00229

43. In late January or early February 2023, in the context of a cycle of panic approaching the February Senate estimates hearings, the IC suddenly announced to me the possibility of an additional \$650,000 in funding for the remainder of the 2022/23 financial year and the further possibility of an additional \$650,000 in funding in the 2023/24 financial year. This funding would not involve any long-term reallocation of the OAIC's appropriated departmental funding. Rather, it reflected an apparent 'underspend' of the OAIC's FOI funding in earlier years which the OAIC might be able to access. The IC appeared to indicate that even this funding, if made available, might be reduced in amount if some of it needed to be spent for particular activities related to the OAIC's privacy functions.

44. The IC expressed to me a view that this additional funding would be sufficient to fully resolve the IC reviews backlog. I was surprised by that suggestion given (1) the amounts in question clearly would not be sufficient for that purpose and (2) that the Information Commissioner should have fully understood that to be the case given everything previously discussed with her. I made clear to the IC that while the additional funding would be helpful, a significant backlog would remain once the funding ceased.

45. The IC was insistent that the first tranche of \$650,000 (which had not yet been confirmed) would have to be spent in what remained of the 2022/23 financial year. In essentially demanding terms, the IC contemplated that the FOI Branch Head and I would, within two weeks, use the funding to on-board external legal resources to work on IC reviews. I had to explain that this was unrealistic given (1) the kind of skill set we would be looking to obtain to ensure we achieved value for money and (2) that it was very unlikely appropriately skilled lawyers of the kind needed would be able to simply drop their existing practices at incredibly short notice to take on the OAIC's IC review work. I suggested at least a month, possibly longer, would be needed to on-board appropriate resources, assuming we could find any.

29/08 12:49 pm

I am trying to read and listen to DHA at the same time

s47E(c)

29/08 12:49 pm

46. I proceeded, with assistance from the OAIC's legal area, to inquire as to the availability of suitable external resources. At that time law firms were themselves experiencing significant human resource constraints and we did not identify any clearly suitable resources. In any case, the IC became concerned about a possible statutory barrier to the use of external resources for the conduct of IC reviews. The search for external resources was accordingly stopped. The FOI Branch Head had additionally been unable to confirm that the funding would be available. A decision was made that, if and when the funding became available, the Branch Head would proceed to bring on additional employees (noting that the longer-term staffing profile of the Branch would remain limited to approximately 22 ASL). So far as I am aware, no additional employees were brought on in reliance on any additional funding prior to the cessation of my appointment on 19 May 2023.

looking pretty unfavourable on us isn't it



1

s47E(c)

29/08 12:57 pm

s47E(c)

Through the latter part of 2022 and into this year, the IC was agitating for me to agree to dealing with the IC review backlog in ways which I considered would not reflect a proper performance of the IC review function and which did not demonstrate a commitment to the function's importance. For example, the IC suggested that we (that is, the IC and I) should 'take more risk' with finalising IC review decisions meaning, in essence, that we should 'tick and flick' draft decisions prepared by staff members rather than make decisions which were genuinely, and in their entirety, decisions reflecting the full application of our own minds. On any properly educated understanding of the general quality of the draft decisions being produced, this was simply an untenable proposition and one likely to create more work in other parts of the review system. Not to mention an inappropriate abdication of decision-making responsibility. Another suggestion the IC made was that we should exercise our discretionary power not to undertake, or not to continue, an IC review in relation to a large bulk load of backlogged IC review applications so as to effectively force them into the AAT for review. As I pointed out to the IC, the discretionary power to decide not to review, or continue to review, a matter had to be exercised in relation to each individual matter. We

29/08 12:57 pm

saying we don't have the skills to do the job

s47E(c)

29/08 12:59 pm

s47E(c)

53. The decision to resign my appointment was one of the most difficult of my professional life. I was conscious of letting down the staff of the FOI Branch, the longer serving of whom had not in my view been appropriately valued or supported. Weighed against that, however, was the essential need for real and effective change – something which was not going to occur if I played the game of others and maintained the *status quo*. Continuing on would have demonstrated, even if only to myself, a serious lack of integrity – a position contrary to my own principles and one I simply could not sustain.

Yeah, I think some people might be concerned with those comments

29/08 1:43 pm

FOIREQ23/00231

I think the team were v happy just to have a check in

s47E(c)

29/08 1:55 pm

s47E(c)

Yes, I think so. Hopefully they feel supported and aren't stressed about what might happen.

s47E(c)

30/08 12:57 pm

s47E(c)

just saw this. i love the bus illustration. [CBD: Former FOI boss Leo Hardiman drops some truth bombs about his old agency \(smh.com.au\)](#)

FOIREQ23/00232

Former FOI boss drops some truth bombs about his old agency

Sherryn Groch

Leo Hardiman did not hold back in a Senate hearing when asked about lack of progress over freedom of information reforms.



The Sydney Morning Herald

...

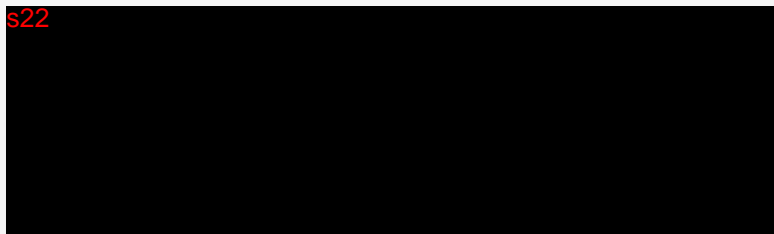
30/08 12:58 pm

Yes, I saw that early this morning too

30/08 7:00 am

FOIREQ23/00233

Are you across yesterday's events?

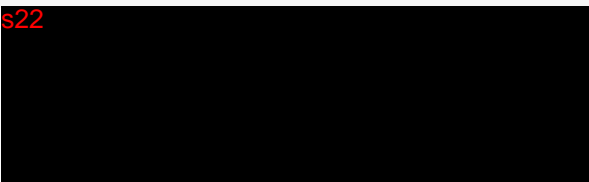


[Additional Documents – Parliament of Australia \(aph.gov.au\)](http://aph.gov.au)

Also worth a read

	<p>Additional Documents ✕</p> <p>Additional Documents</p> <p>www.aph.gov.au</p>
--	---

the statement



30/08 7:03 am

Thanks for asking. Yesterday was an eventful day to say the least!

Tuesday, 29 August

FOIREQ23/00234

s47E(c) s47E(c) 29/08 10:34 am

Hi everyone, s47E(c) and I are touching base with everyone following Leo's appearance before the Inquiry this morning. We are gauging whether you would like to have a debrief today and/or tomorrow, in case anyone has any questions or concerns? Please reply to let us know. You can also reach out to us directly if you prefer.



4

s47E(c)

29/08 11:59 am

s47E(c)

Hi all, here is the link to Leo's tabled open statement in case of interest [Additional Documents – Parliament of Australia](#)
(aph.gov.au)

FOIREQ23/00285

Additional Documents

Additional Documents

www.aph.gov.au



1

s47E(c)

Subject: Debrief
Location: Microsoft Teams Meeting

Start: Tue 29/08/2023 1:00 PM
End: Tue 29/08/2023 1:30 PM

Recurrence: (none)

Meeting Status: Accepted

Organizer: s47E(c)

Required Attendees: s47E(c)

Hi all, hopefully this time suits if you would like to attend a quick debrief following Leo's appearance at the FOI inquiry.

Regards, s47E(c)

Join Teams Meeting
en-US

https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZWNINzhjNjQtOGE4Ny00NGJkLTkwODgtYjdjNGY0MjdkMWZl%40thread.v2/0?context=%7b%22Tid%22%3a%22dd0cfd15-4558-4b12-8bad-ea26984fc417%22%2c%22Oid%22%3a%220fc57a64-f4d0-4fc4-ae8c-ca7e3823cb5e%22%7d

Meeting ID: 456 330 519 114

Passcode: VEaoJo

Join with a video conferencing device

839060488@t.plcm.vc

135 308 925 5

<https://dialin.plcm.vc/teams/?key=839060488&conf=1353089255>

If you need a local number, get one here. And if you've forgotten the dial-in PIN, you can reset it.

Toll number: +61 2 7208 4918

Conference ID:

587 961 530#

Local Number : <https://dialin.teams.microsoft.com/4675f6c7-385a-4078-978f-398ec8544fd8?id=587961530> Reset

Pin : <https://dialin.teams.microsoft.com/usp/pstnconferencing>

Learn More <https://aka.ms/JoinTeamsMeeting> | Meeting options:

[https://teams.microsoft.com/meetingOptions/?organizerId=0fc57a64-f4d0-4fc4-ae8c-ca7e3823cb5e&tenantId=dd0cfd15-4558-4b12-8bad-](https://teams.microsoft.com/meetingOptions/?organizerId=0fc57a64-f4d0-4fc4-ae8c-ca7e3823cb5e&tenantId=dd0cfd15-4558-4b12-8bad-ea26984fc417&threadId=19_meeting_ZWNINzhjNjQtOGE4Ny00NGJkLTkwODgtYjdjNGY0MjdkMWZl@thread.v2&messageId=0&language=en-US)

[ea26984fc417&threadId=19_meeting_ZWNINzhjNjQtOGE4Ny00NGJkLTkwODgtYjdjNGY0MjdkMWZl@thread.v2&me](https://teams.microsoft.com/meetingOptions/?organizerId=0fc57a64-f4d0-4fc4-ae8c-ca7e3823cb5e&tenantId=dd0cfd15-4558-4b12-8bad-ea26984fc417&threadId=19_meeting_ZWNINzhjNjQtOGE4Ny00NGJkLTkwODgtYjdjNGY0MjdkMWZl@thread.v2&messageId=0&language=en-US)

[ssageId=0&language=en-US](https://teams.microsoft.com/meetingOptions/?organizerId=0fc57a64-f4d0-4fc4-ae8c-ca7e3823cb5e&tenantId=dd0cfd15-4558-4b12-8bad-ea26984fc417&threadId=19_meeting_ZWNINzhjNjQtOGE4Ny00NGJkLTkwODgtYjdjNGY0MjdkMWZl@thread.v2&messageId=0&language=en-US) |