

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S PORTFOLIO

Group: 2

Program: Other Agency

Question No. BE15/103

Senator Collins asked the following written question from the 27 and 28 May 2015 hearings:

1. How will the OAIC be able to discharge its statutory responsibilities with this stopgap funding? Will there be delays in the processing of FOI appeals?
2. What is the present case-load of the OAIC? How many appeals are presently before the Information Commissioner? Is it true that the IC is unable to deal with all the appeals which come before him and is referring many on to the AAT? How many have been referred directly to the AAT?
3. In the 2015 Budget, the Government states that the OAIC will continue to process FOI appeals in the interim but that complaints-handling will now be handled by the Ombudsman and FOI policy developed by the AGD, even though the legislation under which these functions are given to the OAIC has not been repealed.
 - a. How is this in compliance with the law? Has the Government sought legal advice on the legality of this arrangement?
 - b. Has the Government directed the OAIC to cease fulfilling its responsibilities regarding complaint-handling and FOI policy? What power does the Government have to make such a direction?
 - c. Has the OAIC been referring complaints to the Ombudsman? What is the legal basis for making such a referral? How many complaints have been referred to the Ombudsman?

The answer to the honourable senator's question is as follows:

1. The OAIC is continuing to perform those functions necessary to ensure the ongoing operation of the FOI system. The OAIC advised at the Estimates hearing on 28 May 2015 that in the first 10 months of the 2014-15 financial year, it has finalised 433 Information Commissioner review matters, many of those on an early resolution basis after analysing applications and talking to the parties and, in some instances, discontinuing a matter so that it can be recommenced by the review applicant before the Administrative Appeals Tribunal.
2. The OAIC has advised that it receives approximately 30 Information Commissioner review applications per month; from 1 July 2014 to 31 December 2014 the OAIC received 193 requests for Information Commissioner review. From 1 July 2014 to 30 April 2015 the Administrative Appeals Tribunal has received 57 applications for review of decisions made under the FOI Act.
3. (a) The OAIC continues to operate in accordance with its statutory functions and enabling legislation.
(b) No.
(c) On 15 May 2015 the OAIC advised, on its website, how it proposes to undertake its FOI functions.