

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

Group: 2

Program: 1.1

Question No. BE15/109

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

1. Budget paper No 2- Smaller Government-Attorney General's Portfolio states: "transitional funding of \$1.7 million will be provided to the Office of the Australian Information Commissioner for its functions in 2015 16, pending the implementation of the measure Smaller Government — Privacy and Freedom of Information functions — new arrangements."

Where in the 2015-16 Budget papers does the measure "Smaller Government — Privacy and Freedom of Information functions — new arrangements" appear?

2.
 - a) Is this the measure announced in the 2014-15 Budget and reflected in The Freedom of Information Amendment (New Arrangements) Bill that has been before the Senate since October 2014?
 - b) Given that bill provides for abolition of the OAIC from 1 January 2015, what is the basis for the allocation of the \$1.7 million transitional funding and when is it expected the allocation will be fully expended?
 - c) May I have details on any decisions that been made on other amendments in response to comments from both the Privacy Commissioner and the President of the Australian Human Rights Commission who have said the proposed arrangements for the transfer of privacy commission functions to the Australian Human Rights Commission are 'unworkable.'
 - d) Under the proposed arrangements, which agency will have overall responsibility for oversight of the exercise of FOI functions, promoting good practice and public awareness?
3. Which other countries have FOI watchdogs?

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

1. The measure is referred to at pages 35 and 65 of *Budget Paper No. 2 of 2015-16*.
2.
 - (a) Yes.
 - (b) The transitional funding of \$1.7million is for 2015-16, pending implementation of the Budget measure.
 - (c) This is matter for Government.
 - (d) The Attorney-General's Department.

3. In most comparable jurisdictions, the mechanisms for ensuring an effecting FOI regime vary from review by an administrative tribunal or information commissioner, which generally have the power to make a binding decision replacing the decision under review, and review by an ombudsman, who usually only have advisory or recommendation powers.

Both the current Commonwealth arrangements and the model proposed in the Freedom of Information Amendment (New Arrangements) Bill provide comprehensive review processes which include external merits review and a separate administrative process for investigation of complaints by an independent Ombudsman.