Management Initiated Review of Freedom of Information

Department of Immigration and Citizenship

26 September 2011

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Mr Chris Hodges   26 September 2011
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Private and confidential

Dear Chris

Management Initiated Review of Freedom of Information

Attached is the draft report incorporating our assessment of the Department's business operating model relating to the management of Freedom of Information requests.

The objective of the review was to examine current FOI processes to determine ways to reduce the number of requests, to improve the efficiency of processing FOI requests and to identify what is further required in moving to a 'culture of disclosure'. The review was designed to provide the Department with a range of options to transform FOI activities, and to identify particular efficiencies for consideration.

The review contains three scope elements:

1.   An assessment of the impact of the IPS on current processes.

2.   FOI baseline and assessment of current state

3.   Future state processes and functional design requirements, including recommendations for operational efficiency transformation and deployment.

We would like to thank Ian Dowden, who worked closely with our review team and provided a range of valuable insights, including facilitating the workshops in Parramatta and Melbourne. We would also like to thank the FOI staff in National Office, Parramatta and Melbourne for making themselves available and for their always constructive insights and feedback.

Please contact me on 6267 3967 or Walter Hart on 6267 3855 if you have any questions in relation to this draft report.

Yours sincerely

Peter Bell

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1. Introduction and Executive Summary

1.1 Introduction

The number of requests the Department receives under Freedom of Information (FOI) legislation has been growing steadily over the last two years. With changes to the FOI Act on 1 November 2010, FOI legislation has been fundamentally reoriented to a prodisclosure policy and strengthened with the introduction of the *Information Publication Scheme (IPS)* in May 2011. This has significant implications for DIAC.

The objective of the review was to examine current FOI processes to determine ways to reduce the number of requests, to improve the efficiency of processing FOI requests and to identify what is further required in moving to a 'culture of disclosure'. The review is designed to provide the Department with a range of options to transform FOI activities, and to identify particular efficiencies for consideration.

The review contains three scope elements:

1. An assessment of the impact of the IPS on current processes.

2. FOI baseline and assessment of current state.

3. Future state processes and functional design requirements, including recommendations for operational efficiency transformation and deployment.

The review was conducted in Parramatta, Melbourne and National Office during the period June 2011 to August 2011. Additional insights from FOI practices in the Australian Taxation Office (ATO), Centrelink and the Child Support Agency (CSA) have also been used to inform this review.

1.2 Key Outcomes

Although the review found that the Department has met the current requirements of the IPS, it will face challenges going forward. We understand that the capacity of the DIAC website is a potential limiting factor in increasing the scope of disclosure. This will be important going forward, as the Australian Information Commissioner is likely to expand the requirements and scope for the IPS.

Although, the current requirements of the IPS have been met, we consider that the capability of the Department is insufficiently mature to address the challenges of operating in a prodisclosure environment. A summary of our capability assessment is provided at **Attachment A.**

The FOI reforms seek to move agencies from a 'reactive' or 'pull' model (e.g. where information is disclosed pursuant to a request) to a 'proactive' or 'push' model (e.g. where agencies take the initiative in making information available). A key barrier for DIAC is the current imbalance of responsibility for disclosure between the FOI function and the service delivery network.

We also noted that the majority of FOI requests result in the disclosure of fairly routine issues and material that has been processed through a heavily controlled legal framework. There are significant opportunities to improve efficiency, and client service, where low risk disclosures are processed without recourse to the use of formal FOI arrangements.

We have identified seven key areas where significant improvement is required. These areas are:

1. Resources
2. Stakeholders
3. Program
4. Design
5. Analysis
6. Records
7. Culture

It should be noted that there are significant interrelationships between these areas that need to be addressed at a whole of Department level. The significance of these interrelationships underpin our analysis and conclusions on resourcing and program management.

Resources
From our consultation with department stakeholders, current FOI resources may not be adequate to perform all of the required responsibilities. This is both at the processing level, as well as the requirement to drive prodisclosure transformation across DIAC. The three FOI processing teams currently operate and manage separate work-streams. While there may be efficiencies in combining some of the work from these teams (e.g. FOI registration being performed by Melbourne), we consider that current FOI resources are not of sufficient capacity to perform all of the required responsibilities. The FOI teams are under significant workload pressure, with insufficient resources to manage quality, as well as the additional business and cultural transformation requirements.

This is exacerbated in an environment where FOI staff are having to deal with an increasing number of 'aggressive' and 'less tolerant' clients with heightened expectations that their requests for information will be met quickly. This contains potential for significant occupational health and safety (OH&S) risk consequences, should clients become violent.

We recommend that DIAC consider allocating additional resources to the FOI teams to manage the current workload and the business transformation required to meet the requirements of a prodisclosure business environment. This includes the need for dedicated project resources to manage the transformation initiatives. These resources should be reviewed on a twelve month basis (*Recommendation 3*).

Stakeholders
Some stakeholders are placing additional, and perhaps unsustainable, pressure on DIAC for information (e.g. Registered Migration Agents (RMAs) using DIAC as a "filing repository"; and journalists digging through masses of information).

A more targeted and focused approach to managing these groups of stakeholders is required. This includes strategies for better engagement and dialogue, as well as improving these stakeholders' understanding of scoping information requests. Being more proactive in publishing information is a key insight from leading practice in the ATO and Centrelink.

We recommend that DIAC integrate its FOI stakeholder engagement strategies with those of individual business areas to provide a more holistic and targeted approach to the publishing of information (*Recommendation 4*).

Program

FOI activities are poorly integrated with the rest of DIAC's business. This creates significant challenges and barriers to improvement (e.g. limited ability to process simple disclosures in business areas, particularly where the case is not current/no case manager). Significant business transformation cannot be achieved by the FOI area acting alone. There are also gaps, and some dilution, in the allocation of responsibility for achieving 'open' government outcomes, where significant inefficiencies and risks may not be adequately addressed.

Addressing these challenges requires a more holistic and program managed approach to coordinating, integrating and embedding a prodisclosure culture across DIAC. Staff must recognise that 'disclosure' is not only the responsibility of the FOI function. Business areas must be prepared (ready) to receive informal disclosure/amendment requests, including those not within the FOI pathway (e.g. via the Privacy Act instead), as well as, some low risk formal FOI processing, where necessary. The quality of information published must be 'ready for the world to see' and is a theme being followed by the ATO, which requires a comprehensive reconsideration of published information.

We recommend that a program manager be appointed to lead and direct the range of activities necessary to achieve the transformation outcomes. The program manager should also have sufficient authority to hold business areas accountable for their improvement responsibilities and regularly report progress to the Executive Committee (*Recommendation 5*).

Design

The more open disclosure environment requires significant engagement of FOI staff with those responsible for business and process design. We recognise that the DIAC website can act as a key enabler to reduce the number of FOI requests, but has not changed much since the move to more open government (e.g. it is difficult to recognise that one is in a new disclosure environment where the site is essentially the same as the old).

There is also a lack of an email enquiry facility and clients are taken down an FOI pathway instead. The result is that most of the FOI information being released is fairly mundane, but it goes through a heavily formalised and legal process. This is unlikely to be a sustainable position for DIAC.

We have, therefore, recommended that the Department should:

a) redesign the Form 424A and the references on the website to provide more options for clients beyond a formal FOI request;

b) consider whether an email enquiry facility on the web site would reduce the need to lodge FOI requests; and

c) implement a similar two-step mechanism to the ATO where the second step involves consideration of practical strategies to reduce similar requests (e.g. by publishing the information). This should be integrated with business and legal areas of DIAC as part of the program management solution (this *Recommendation 6* links with *Recommendation 4*).

Analysis
FOI processing is currently too reactive and is placing additional pressure on resources and the ability to meet statutory timeframes (e.g. being impacted by increased numbers and complexity of requests). The FOI pipeline is largely unknown. There are a broad range of meaningful insights that can be drawn from collecting and analysing FOI requests, including:

- ► identification of FOI drivers to support resourcing and workforce planning; and
- ► identifying patterns of behaviour that can point to risks (e.g. identity where there are potential class actions in train).

This is particularly important as there has been an increase in the number of people in detention over recent years and this is likely to have an impact on FOI management that needs to be addressed.

As such, we recommend that the Department strengthen its mechanisms to collect, analyse, monitor and report FOI related impacts. In particular to:

- ► identify key drivers and emerging patterns of risk;
- ► identify potential pipelines and resourcing impacts for planning purposes; and
- ► enable more effective engagement with stakeholders (*Recommendation 7*).

Records
DIAC's approach to records management, and the quality of information contained, is exacerbating the challenges associated with an environment of increased disclosure. The review noted examples of poor record keeping practice where business areas were not returning original documents to clients, or where duplicate records were not consolidated, or where there was inconsistent use of TRIM.

Without improvement in the quality of record keeping the burden on the FOI section is likely to 'snowball' in an environment of exponentially increasing information with consequential impacts on resources and the Department's reputation. While the quality of record keeping can be improved going forward, there will still remain records created at an earlier time which are not of the required quality, this will place demands on the FOI section beyond any improvement in records management.

We note that the Department is separately addressing records management issues, and this is also an area currently being reviewed by the ANAO. We have therefore not made any comprehensive recommendations in this area, other than to support improvement initiatives in this area as a key priority for DIAC.

We therefore recommend that DIAC should (*Recommendation 8*):

a) continue to address the broad range of poor records management practices currently occurring across DIAC, including strengthening mechanisms to return original documents to clients; and

b) use feedback from FOI processing to improve records management strategies (link to Recommendation 5 c).

Culture

It is clear that staff are not comfortable with the new disclosure environment and there is a 'fear' of releasing information. This is to be expected where Government has only recently moved to a prodisclosure environment and the issues will take time to resolve.

However, it is important to continue to reinforce to all staff that the FOI related reforms contain a number of drivers of quality, including:

► more transparent, available and accessible information;

► an improved client service perspective where 'self-help' can reduce FOI requests and the associated workload over the longer term; and

► improved levels of professionalism and documentation of decision making and accountability, as well as the quality of writing and records management more broadly.

Staff will need to be supported and encouraged in embracing this transformation and their performance monitored and reported as appropriate.

We recognise that this transformation will take time to achieve, particularly where the end state is still evolving. We have therefore provided an integrated set of recommendations as a set of 'next steps' in moving to a culture of disclosure. Specifically, the Department should strengthen its mechanisms to support and encourage staff to improve their capabilities in working within a prodisclosure environment (*Recommendation 9*). This includes,

► identification of individual and group capabilities and performance targets;

► monitoring performance against these capabilities and targets;

► providing development opportunities specifically targeted at cultural change; and

► strengthening operating procedures and related material to make staff aware of their responsibilities in engaging with clients and managing departmental information and records.

Other Matters

We have also made two additional recommendations to address issues relating to IPS and amendments to FOI requests. Specifically:

► DIAC should examine opportunities to increase the capacity of the website in line with the increased publication and disclosure requirements of the IPS and associated strategies foreshadowed by the Information Commissioner (Recommendation 1).

► DIAC should:

   a) complete its guidance material on amendments and issue this to staff as a matter of priority. Additionally, a help desk similar to those provided for Visa decision makers, should be considered, so that FOI staff can have access to appropriate legal assistance on a real time basis; and

   b) in line with preserving integrity and preventing identity fraud, a history of any changes in name should be included at the back of Citizenship Certificates. This is a leading practice followed by many agencies responsible for birth, death and marriage records (Recommendation 2).

2. Background, Objective and Approach

2.1 Background

The Department manages FOI activity in three locations: National Office, Melbourne and Parramatta. The number of requests the Department receives under Freedom of Information (FOI) legislation has been growing steadily over the last two years.

With changes to the FOI Act on 1 November 2010, FOI legislation has been fundamentally reoriented to a prodisclosure policy and strengthened with the introduction of the *Information Publication Scheme (IPS)* in May 2011.

A principle idea behind the move to open government is finding better ways for citizens to engage with government and collaborate on design of policy and service delivery. Advances in technology have made this kind of citizen relationship possible, including the web and the use of social networking. To have this kind of two-way, informed debate between citizens and government, all parties must be able to access topical information. For this reason the importance of a prodisclosure culture for the Department is not just confined to compliance with legislation, but is a part of a wider move to a more informed debate on Immigration and Citizenship issues.

The move to a prodisclosure policy presents a number of challenges for DIAC as follows:

► How should it address the impact of open access to information (as a default position)?

► How should it engage with the community in making information more easily discoverable, particularly in an environment where the citizens right to access this information now has stronger legislative force?

► What is the best means of providing effective information governance?

► How should it manage its information as an asset held on behalf of the Department and the community?

► How should it maintain the quality of that information asset?

2.2 Objective and Scope

The objective of the review was to examine current FOI processes in DIAC to determine ways to reduce the number of requests, to improve the efficiency of processing FOI requests and to identify what is further required in moving to a 'culture of disclosure'. The review is designed to provide the Department with a range of options to transform FOI activities, and to identify particular efficiencies for consideration. The review comprises the following elements:

► an assessment of the impact of the IPS on current processes;

► identification of the FOI baseline and assessment of current state; and

► identification of future state processes and functional design requirements, including recommendations for operational efficiency transformation and deployment.

2.3　Approach

In performing the review we have completed the following activities:

- ► identified key risks and controls within FOI processes to determine relevant trends and barriers to effective improvement;

- ► identified implications for organisational change, including the impact of revised FOI and IPS requirements on wider Departmental operations and governance models;

- ► identified implications for stakeholder expectations management, including stakeholder requirements and profiles to determine how the engagement is to be monitored and measured;

- ► analysed the impact of the changes to the FOI Act and Information Publication Scheme (IPS) on current processes;

- ► analysed the changes on existing practices to assess streamlining options, including identification of barriers and potential risks;

- ► compared the processes with leading practices and other government organisations; and

- ► facilitated workshops in Parramatta, Melbourne and National Office to validate risks in current processes and to explore options for improvement, including the identification of potential barriers to process transformation/change. The workshops examined the principles of consistency, service orientation and performance.

3. Information Publication Scheme (IPS)

The *Information Publication Scheme (IPS)* was established as a part of the Government's reforms to freedom of information. The IPS requires that agencies, including DIAC, have a published plan which explains how they will participate in the scheme, that they publish certain kinds of information and that they have a plan to identify further information which should be in the public domain. The IPS represents an important shift away from agencies being 'reactive' in disclosing information in response to a request, to a more 'proactive' model in taking the initiative to make information available to the public.

At this stage, the Department has met the requirements of the IPS, it will face challenges going forward. We understand however, that the capacity of the DIAC website is a potential limiting factor in increasing the scope of disclosure. This will be important going forward, as the Information Commissioner is likely to expand the requirements and scope for the IPS. [1] The IPS represents a significant opportunity for DIAC to improve its internal processes and systems for its own purposes while meeting and exceeding the requirements of Government. This includes stakeholder engagement, increased client service culture, improved record keeping, and increased professionalism.

The table shows the actions the department has taken in meeting the requirements of the IPS:

IPS Requirement	IPS Criteria	Observation from DIAC Website
Agency Plan		The DIAC Website contains an agency plan which sets out the kinds of information it intends to publish, and that it will use the DIAC website as their mode of publication
Must Publish Specified Categories of Information	Publish details on the structure of the organisation (e.g. Organisation Chart)	The website includes information on Senior DIAC management at First Assistant, Deputy and Department Secretary level
		The Department's website includes information on its core functions and refers to the *Migration Act* and other pieces of legislation in explaining its decision making powers
		These are noted as being published on the web as they are made
		Annual reports are published on the website
		Provides for a Stakeholder Engagement Mail box on the website
		Includes the Freedom of Information Access request log

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[1] "...it also encourages agencies to publish additional categories. In the United States and Britain, for example, the trend is for agencies to publish 'data sets', which is a bank of information collected by the agency that, when published in raw form, but can be searched and manipulated by public users" – Australian Information Commissioner, May 2010.

IPS Requirement	IPS Criteria	Observation from DIAC Website
	Include departmental operational information, including rules, policies, principles and procedures for decision making which affects members of the public	This is provided through a subscription service called LEGEND, which is also freely available in State libraries. This is augmented by a comprehensive range of information on the DIAC web site to support applications for departmental services and products.
	Generally publish departmental information at the agencies discretion	The Department has published additional information about its operations, which go beyond the scope of the current IPS

Recommendation 1

DIAC should examine opportunities to increase the capacity of the website in line with the increased publication and disclosure requirements of the IPS and associated strategies foreshadowed by the Information Commissioner.

4. Current State Assessment

There are two general types of FOI requests, **requests for access** to information and **requests to amend information** held by the Department. The main thrust of the FOI reforms centres on a broad range of access related issues. While the major changes to FOI in 2010 have comparatively less impact on amendments than disclosure, the nature of these changes also impacts differently in the way the Department engages with its clients in amending information and records. A separate section on amendments has therefore been included in this report (refer to Sub-Section 4.2 on Page 12).

4.1 Access

A number of key challenges and risks were identified as part of our review. These issues were refined through consultation in workshops in Parramatta and Melbourne offices. We have also validated these findings with the FOI & Privacy Section in National Office. In particular we noted the following weaknesses relating to the current state:

► there is an imbalance of responsibility for disclosure between FOI functions and the service delivery network;

► current technology limitations are operating as a barrier to achieving FOI driven efficiencies;

► poor network wide records management practices are impacting on FOI resources and costs, and ultimately on the Department's reputation;

► some FOI applicants such as migration agents, businesses, media, and clients with complex requests, are placing additional strain on the FOI function;

► there is a lack of consistent leadership support for the FOI reform agenda, particularly at the operational level;

► the lack of a coordinated and integrated approach (e.g. such as a program management approach) to the delivery of FOI functions is hindering performance and limits the harvesting of improvement opportunities;

► cultural issues in some areas of the Department (e.g. fear of releasing information), limits DIAC's ability to drive more sustainable cultural change; and

► the conservative approach to prodisclosure on DIAC's website limits the extent to which this tool can be used to reduce FOI requests.

The approach to managing FOI requests is also placing significant pressure on existing resources used to manage FOI requests. This is exacerbated through a combination of increased workload and more complex requests and client relationships, coupled with tighter timeframes for delivery. For example, FOI officers are having to deal with an increasing number of 'aggressive' or 'less tolerant' clients that have heightened expectations that their 'right' to access information will be delivered quickly.

While it is clear that additional resources are required to process and manage FOI requests, it is also clear that successfully overcoming these challenges will require a whole of department approach, and should not just be the responsibility of FOI staff to facilitate the significant business transformation required to address the requirements of more open government.

Attachment A contains a high level assessment of DIAC's current capability[2] to manage FOI requests in the new environment. The assessment is based on a comparison of the challenges described above in consideration of the key 'cornerstones' that are essential in meeting FOI outcomes. These cornerstones have been adapted from the *Australian Business Excellence Framework*[3], and have been chosen to show the major areas that the Department needs to "get right" as follows:

Corner Stone	Defined
Clear direction	Guidance, policy and information provided by the department to help staff understand the importance of FOI and what it means for their role
Organisational alignment	The department at all levels and areas is aligned to support the information disclosure requirements
Input to operational design	FOI is included as a key consideration in the design of processes and functions (e.g. to operate as a driver of Government's disclosure policy)
Understanding what stakeholders want	Understanding of client, media, citizen and government requirements to anticipate the kinds of requests that will be made
Culture of disclosure	Operating culture which supports openness and the broadcasting of information
Improvement based upon facts and data	Increased quantity and quality of data collected on FOI pipelines and processing to make analytical improvement decisions
Effective governance	Control and overall management of the FOI function

Our assessment of the required capabilities has been validated through discussions with FOI staff in Parramatta, Melbourne and National Office.

Our analysis has identified that organisational alignment and governance are the main areas where significant improvement to current capability is required in the short term.

We also consider that the records management related challenge is an area of high priority, as it impacts more deeply on capability development across a number of the key cornerstones. We understand that there are a number of initiatives underway that are aimed at addressing records management issues, including a current performance audit of this area by the Australian National Audit Office (ANAO). We have, therefore, included references to the impact of records management on FOI processing, and high-level recommendations.

Overall, our current state assessment demonstrates that there is a significant number of capabilities that require improvement or substantial improvement to address current state risks (i.e. 57 of 63 required capabilities), and serves to reinforce the need for a more holistic approach on the part of the Department in addressing the complex and interrelated issues. It should also be noted that some of these issues are not likely to be resolved in the short to medium term (e.g. changes in culture).

Our recommendations and options for prodisclosure management are provided as part of the discussion on information and transformation opportunities presented below (refer Section 5 commencing at Page 14).

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[2] By capability, we mean the power or ability to do something to address the information disclosure requirements of Government.
[3] SAI Global at (http://www.saiglobal.com/Improve/ExcellenceModels/BusinessExcellenceFramework/)

4.2   Amendments

Clients are entitled to amend records that the Department keeps and to correct records, which are incomplete, incorrect, out of date or misleading. In the Commonwealth, DIAC processes over 95 percent of amendments under the *FOI Act*, which results from a combination of the large amount of personal information it keeps, and the large number of clients it services, including its role as the primary contact with about a quarter of the Australian population born overseas. For this reason, amendments under FOI are of major interest to the Department.

In the past, it was common for people migrating to Australia from non-English speaking countries to change their name to something more "British" (e.g. someone called Giovanni may adopt the anglicised version – John). This is not someone trying to establish a new identity, but taking on an anglicised version to make it easier to operate in a foreign culture. However, the Gold Standard for identity (introduced in 2007) means that if a person comes to Australia as Giovanni, but their driver's licence says John, their application for a passport will be likely to be refused, as their identity is now unclear. In this case, their principal recourse is to have DIAC amend the immigration record to reflect the dual name.

DIAC therefore receives amendment requests for a broad range of reasons and purposes (e.g. from people who have been married and wish to update their citizenship certificate to reflect their married name). Additionally there are cases of people coming to Australia from cultures, which do not have surnames, and only after they arrive do they decide to adopt a surname. In this case DIAC is the only government agency, which can enrol their new surname, and help them establish their identity.

FOI is being used to perform amendments which should be considered as part of the ordinary activity of business areas in the department. An example is where clients who wish to change their name will approach the FOI Section to have this performed. The decision will be made by FOI Section, and a new certificate will then need to be applied for through the Citizenship Branch. This raises the issue as to why a change of name following marriage, or some other event in a client's life, should be handled by FOI and not by a controlled, business as usual process in the Citizenship Branch. We note that it is free of charge to have the record amended by the FOI Section, but will cost $60 to have a new certificate issued by Citizenship. This has potential for confusion for clients who think they are avoiding paying for the service by using FOI and not Citizenship to perform the amendment.

Identity fraud has emerged as a growing issue for Australia. To mitigate this risk the Attorney-General's Department made changes to the way that Commonwealth agencies are able to confirm identity. These amendments, known as the Gold Standard for identity are designed to provide more robust identification of people. The issue for the Department is that in helping people to amend their records there is a potential for fraud if the processes to verify and record changes are not similarly robust. There should be clear guidelines for making these kinds of decisions, and we understand that these are being prepared. Given the increasing complexity surrounding the processing of requests for amendments, FOI staff are seeking additional support in the form of a 'help desk' facility (e.g. to provide more 'real time' legal advice on issues arising).

The requirements of the Gold Standard for identity have driven an increase in demand for amendments, placing an administrative burden on the Department. Additionally there has been an exponential increase in detention related cases (e.g. irregular maritime arrivals) in recent years. These factors point to a risk for the Department of a corresponding increase in the demand for amendments in the future. In other parts of this report we have made recommendations on improving the analytical and forecasting capability of the Department in anticipating future requirements, and matching that with appropriate resources (Refer *Recommendation 7*).

There is also a general issue where FOI staff are 'cleaning up' some of the poor client record maintenance issues that should have been fixed by business areas as part of case processing (e.g. multiple client records). This is dealt with as part of the recommendations relating to records management (refer to *Recommendation 6*).

Recommendation 2

DIAC should:

a) complete its guidance material on amendments and issue this to staff as a matter of priority. Additionally, a help desk similar to those provided for Visa decision makers, should be considered, so that FOI staff can have access to appropriate legal assistance on a real time basis; and

b) in line with preserving integrity and preventing identity fraud, a history of any changes in name should be included at the back of Citizenship Certificates. This is a leading practice followed by many agencies responsible for birth, death and marriage records.

5. Improvement and transformation opportunities

5.1 Resources

The review has confirmed the Department's position that current FOI resources are not adequate to perform all of the required responsibilities associated with the change in the FOI business environment (e.g. to processes additional and more complex requests, as well as to deliver on the significant business transformation necessary to achieve a pro disclosure policy environment). The three FOI processing teams operate and manage separate work streams.

The table below illustrates the increase in work across all three locations over the past three financial years.

	2008-09	2009-10	2010-11
Access requests received	5893	6921	8057
Access requests finalised	5420	6816	7686
Amendment requests received	4986	4583	3667[4]
Amendment requests finalised	4501	4653	3666
Total folios assessed[5]	417,494	555,530	709,379
Average folios per request	139.1	153	170.9
% of cases < 100 folios	NA	NA	48.3
% of cases > 500 folios	NA	NA	8.3

[Source: DIAC FOI Section – NA Data Not Available]

It should be noted that FOI resourcing information relating to 2007/08 and earlier has limited value when comparing the current position of FOI. Prior to 2008/09, any requests for access to a client's movement record had to be actioned under FOI, hence the access requests received and finalised were considerably higher prior to this date, with the work required to action these requests being minimal compared to a typical access request. Additionally, 2007/08 data includes the bulk of processing of requests from the FOI Taskforce operating at that time. Due to the influx of temporary staff to finalise the backlog of access requests that had built up, the number of access requests finalised during this period did not represent the full-time ongoing capacity of the FOI teams (e.g. FY 2007/08 received 7912, finalised 12945).

Overall, the FOI function has maintained a similar staffing level since 2008-09. The increase in output has been achieved through the introduction of electronic redaction, better processes, and the use of more experienced and dedicated staff (e.g. decisions being made by FOI staff that do not have other client decision making responsibilities). This has however resulted in applying less priority to quality assurance and staff development more broadly.

Although, there may be efficiencies in combining some of the work of the currently separated FOI teams in Parramatta, Melbourne and National Office, it is clear that staff are currently under significant and increasing pressure from a combination of the following drivers:

► increased numbers of FOI requests;

► more complex FOI requests (e.g. increase in the range of information requested, as well as the increasing numbers of records held by the Department and other agencies/entities); and

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[4] Although, this evidences a decreasing trend since the introduction of the Gold Standard for Identity management in 2008, it is likely that the number of people in detention since 2009 would result in an increase in amendment requests in the short to medium term.

[5] The information relating to folios per request is based on manual counts maintained by the FOI Section in Melbourne. This demonstrates a trend in increasing complexity and effort required to process the additional information being collected by DIAC.

- ► more aggressive and less tolerant clients/stakeholders with heightened expectations of their 'rights' under the new legislation.

If not addressed, this can have an adverse impact on performance and occupational health and safety (OH&S).

Recommendation 3

DIAC should consider allocating additional resources to the FOI teams to manage the current workload and the business transformation required to meet the prodisclosure business environment. This includes the need for a dedicate project resource to manage the transformation initiatives. This resource requirement should be reviewed after 12 months.

5.2   Stakeholder

We note that some groups of stakeholders are placing significant pressure on the Department for access to information.

FOI staff have advised these mainly relate to Migration Agents who are seeking 'everything' held on a particular client, or where journalists are seeking to discover information that is 'newsworthy'. This has resulted in FOI officers having to spend significant amounts of time with these stakeholders in appropriately scoping FOI requests.

There are also an increasing number of 'aggressive' or 'less tolerant' clients demanding their 'right' for quick access to information and records.

A key principle of the reforms is associated with the requirement to engage with the community, as a key stakeholder, in deciding what information to publish and about agency publication practices.

We note that the Parramatta Office has conducted awareness sessions for migration agents, and has succeeded in changing the behaviour of some agents. There is still a concern however, that DIAC may become the 'filing cabinet' for migration agents.

DIAC also understands the advantage of publishing information before it becomes 'newsworthy'.

However, resolution of these issues is well beyond the role of FOI officers and there needs to be a more comprehensive and targeted strategy to address stakeholder issues. The primary responsibility for effective stakeholder engagement should rest with business areas themselves, as this is where the relationship is formed. FOI functions can then add value by supporting these strategies as appropriate.

Recommendation 4

DIAC should integrate its FOI stakeholder engagement strategies with those of individual business areas to provide a more holistic and targeted approach to the publishing of information.

5.3   Program

The review found that FOI activities are currently poorly integrated with the rest of DIAC's business and this creates significant challenges and barriers to improvement. For example, the Department's ability to process simple disclosures in business areas is limited, particularly where the case is not current or where there is no case manager in place. The heightened expectations and requirements of stakeholders, backed by legislation, cannot be achieved by the FOI area acting alone. These risk exposures are also exacerbated where there are gaps, and some dilution, in the allocation of responsibility for achieving 'open' government outcomes.

We consider that the implementation of a more 'program management' oriented approach is necessary to address the broad range of weaknesses identified by our analysis of current state.

A program management approach will raise the profile of FOI in the department through the establishment of FOI as a discrete business or program of work. This approach places FOI as the responsibility of a senior officer who is given the resources and the mandate to ensure FOI is considered an important part of the business alongside other functions.

Advantages of a program management approach
The principle advantage of a program management approach is that it focuses on the management and coordination of interrelated projects and activities to deliver agreed outcomes. The key benefits of such an approach, as leading practice, are recognised by the Office of Government Commerce (UK) as:

► the ability to manage the complexities of transformation in delivering beneficial change solutions;

► the ability to more closely focus on areas of tension between strategic direction, project delivery and operational effectiveness; and

► the ability to provide a mechanism to coordinate and integrate projects to deliver an outcome that is greater than the sum of its parts.[6]

The program management approach provides a governance model with the following characteristics:

► focus on direction and delivery of organisational strategy (e.g. planning is oriented towards delivering outcomes and managing project interdependence);

► view of risks in terms of an aggregated operational transition (e.g. recognition of a definite end point and convergence towards it);

► stakeholder management is focused (e.g. visions and blue prints are within the program parameter);

► benefits realisation is the dominant theme (e.g. issue orientation is towards resolving inter project escalations and benefits delivery); and

► governance is achieved through consistent program strategies (e.g. where business cases are focused on beneficial change balanced against the cost of delivery).

Requirements
The approach requires the identification of all internal stakeholders responsible for delivering 'open government' and FOI related outcomes. The stakeholders agree on what is required to deliver program outcomes, and accountability is allocated for those responsibilities. A

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[6] Primary source: P3M3 – Programme Model – Office of Government Commerce (OGC)

program manager is also appointed to coordinate and oversee the delivery of activities within the program. A 'mature' program oriented approach typically sees the program manager addressing the following attributes:

► Governance and Management Control – A centrally defined and documented approach and applied by capable staff that support program teams. This can be enhanced through embedding responsibilities within broader role definitions and by measuring and analysing performance.

► Benefits Management - A centrally managed and consistent framework for defining and tracking the realisation of benefits. This can be enhanced through the collection and analysis of appropriate metrics.

► Stakeholder Engagement – A centrally managed and consistent approach to engagement and communication. This can be enhanced by using quantitative information to underpin the assessment of effectiveness.

► Risk Management – This is based on a centrally defined process that is cognisant of the Department's risk management policy and is used consistently, and enhanced through evidence of opportunity management.

► Financial and Resource Management – Centrally established standards for the prioritisation of business cases and investment priorities, and where resources are considered at a strategic level with evidence of capacity management to meet program delivery needs.

Recommendation 5

DIAC should appoint a program manager to coordinate and oversee the broad range of FOI improvement initiatives identified within this report. Additionally, they should regularly report progress to the Executive Committee.

5.4   Design

Information technology will continue to shape many of the issues and drive change within DIAC. These issues are likely to be extensive and challenging and will require an integrated approach to how FOI, privacy and information policy is developed and implemented across DIAC. Insights from the FOI function will become increasingly important.

For example, there are a number of aspects of the DIAC web site that require improving as follows:

► the content and structure of the website itself has remained essentially unchanged from the previous FOI environment (i.e. it is difficult to recognise that the Department is operating in a new disclosure environment when the website looks the same); and

► using the website can tend to take clients down a formal FOI pathway, as there is no general email enquiry facility provided. The FOI pro forma (Form 424A) should be amended to provide other possible options (e.g. privacy or other non-formal process).

There are a number of 'basic' issues that need to be addressed as illustrated in the following example:

The DIAC Disclosure Log indicates that on 28/07/2011 documents were provided which "show a breakdown of the group named 'other countries' as outlined in the 'Australian citizenship test, snapshot report 30 June 2010' ".

The subject component of the snapshot report is contained in the table below.

Country of birth analysis for 2009–10

During 2009–10, clients that were born in more than 180 countries had sat the test. The top ten countries of birth are:

Country of birth	Total	Per cent of total	Pass	Fail
United Kingdom	12 083	16.5	12 077	6
India	11 549	15.8	11 503	46
People's Republic of China	9 416	12.9	9 268	148
South Africa	2 862	3.9	2 859	3
Philippines	2 419	3.3	2 398	21
Sri Lanka	2 138	2.9	2 114	24
New Zealand	1 875	2.5	1 871	4
Vietnam	1 542	2.1	1 408	134
Malaysia	1 525	2.1	1 520	5
South Korea	1 521	2.1	1 509	12
Other countries	26 255	35.9	24 882	1 373
Total	73 185	100	71 409	1 776

Screenshot of FOI requested table – *Australian Citizenship Test Snapshot Report (30 June 2010) Page 4*.

There are a number of issues associated with this FOI request:

► this is a fairly simple request that ideally does not need to be dealt with under the statutory FOI framework, and should be part of the normal operations of business areas to respond to questions about information they release;

► there is a general convention around information of this type that "other" or "miscellaneous" groups should be further broken down (or information provided in an appendix) if they are the largest group within a statistical or demographic table; and

► information publishing areas need to think more closely about the potential FOI impacts when designing their strategies or content.

We noted some valuable insights from the ATO and Centrelink.

ATO

The ATO has introduced a two step process for each FOI request as a means of continuously improving the design and transparency of the agency's information. The first step is to service the FOI request (e.g. decide whether to release the document to the individual). The second step is to consider whether the information should be released under the IPS (i.e. taking into consideration legislation and privacy). The Information Commissioner expects that 'operational information' released under the IPS will be **written from an outside perspective**. The ATO recognises that it will need to rewrite much of its current material to meet the new standard, and the mechanism to feed lessons from processing FOI requests is a good example of leading practice.

As with other agencies, the number of FOI requests lodged after the introduction of the new requirements has increased significantly (about 67 percent) and its main learning from this is

that the need for effective engagement with their legal staff is critical to success. Advice received by the ATO indicates that they may be liable for compensation if a citizen is disadvantaged because certain information has not been published. While the ATO does not consider this to be a major risk for them, the issue would be worth considering from DIAC's perspective.

Centrelink

Centrelink receives large numbers of requests from clients for personal information. This agency is similar to DIAC in that it has large numbers of vulnerable clients with sometimes complex cases, in receipt of a number of benefits, and that the vast majority of the Information Access requests to this agency are requests for personal and not department information.

Centrelink manages client requests for information by only handling requests for information under the FOI act in a formal way, if there is no other way to provide that information to the client. If a client makes a request for their own information, and submits an FOI form, Centrelink will take that request and handle it as an information request, without invoking the administrative processes required for FOI.

Centrelink's view is that there are formal and informal requests for information. If they receive something they know can be released without the 'full' FOI process they will treat it informally and send the client the information they have asked for. To mitigate risk, Centrelink maintains a 30 day target for the processing of information requests, in line with the timeframe required for FOI requests.

Centrelink also provides an online portal which clients can log on and access the data being used to assess eligibility for their benefits. They can also download copies of recent correspondence, payment history, personal information, family makeup and residency details. These kinds of services mean that clients often do not require a formal Information request to Centrelink, and can be assisted through the web or through a call centre. If information can be provided over the telephone it will be. The key lesson from Centrelink for DIAC is that frontline client facing staff are trained and given permission to release information. They have removed the fear of disclosure.

Centrelink's record keeping system is designed so that staff can only keep information if there is a place for it. If it is not relevant to the client's file, it must be returned to the client or destroyed. Centrelink will not accept original copies of documents onto its computer system, and client files are electronic (i.e. only one 'source of truth' to refer) Centrelink are able to make use of IT scripts to quickly find pertinent client data.

Recommendation 6

DIAC should:

a) redesign the Form 424A and the references on the web site to provide more options for clients beyond a formal FOI request;

b) consider whether an email enquiry facility on the web site would reduce the need to lodge FOI requests; and

c) implement a similar two step mechanism to the ATO where the second step involves consideration of practical strategies to reduce similar requests (e.g. by publishing the information). This should be integrated with business and legal areas of DIAC as part of the program management solution (this links with Recommendation 4).

5.5 Analysis

FOI processing is currently too reactive and is placing additional pressure on resources and in meeting statutory timeframes. This is being impacted by the increased numbers and complexity of requests and the behaviour of stakeholders and clients. At present, the FOI pipeline is largely unknown, which provides little scope for strategic planning.

There are a broad range of benefits for DIAC in using insights from its FOI interactions to improve analysis and business intelligence. More predictability over the FOI pipeline will provide greater efficiencies in the use of staff, and to manage requests through more appropriate administrative pathways.

There are 'patterns' in FOI processing that also indicate levels of risk that need to be explored. At one level, these can impact on integrity, as described above (refer Amendments). At another level, these can provide early warning on emerging risks, such as potential class actions or large groups of clients due to lodge requests (e.g. the exponential increase in irregular maritime arrivals in recent years is likely to have significant downstream impacts on FOI processing).

Recommendation 7

DIAC should strengthen its mechanisms to collect, analyse, monitor and report FOI related impacts. In particular to:

► identify key drivers and emerging patterns of risk;

► identify potential pipelines and resourcing impacts for planning purposes; and

► enable more effective engagement with stakeholders.

5.6 Records

DIAC's approach to records management, and the quality of information contained, is exacerbating the challenges associated with an environment of increased disclosure. This means that FOI staff are:

a) having to spend significant resources in cleaning up the impact of poor records management practices; and

b) doing this within the required statutory period of 30 days.

The review noted the following related issues:

► **Not returning original documents** - Some areas of the Department are keeping original records and not returning these to clients. This is despite formal requests from the Secretary to return these documents as appropriate. We understand that this practice is occurring consistently in some areas, and may be being driven as a means of cost reduction. While this practice may provide efficiencies and reduced costs for individual business groups, it ultimately comes at the expense of the Department and its clients as a whole.

► **Not aggregating duplicate records** – Staff are required to address the issue of duplicate records as part of their case management activities (i.e. clean up client data to remove duplication). However, FOI officers are having to spend significant time sorting through these issues. This is not a sustainable position for the Department where the amount of information and records is growing exponentially.

► **Information is not written for the 'world to see' –** FOI staff advise that the quality of written material is often not to an appropriate standard. This can adversely affect the Department's reputation.

- ► **Inconsistent use of TRIM and naming conventions in TRIM** – this serves to exacerbate the difficulty of locating information across the number of disparate systems currently operating in DIAC (e.g. misplaced files). The amount of electronic information held by DIAC is also growing exponentially. The Information Commissioner had predicted that the "digital universe will be 44 times larger than in 2009" and agencies, including DIAC, need to implement mechanisms to use their information as a strategic asset. This requires consideration of the legal underpinnings associated with the obligations and rights attached to the information, as well as how that information is to be professionally and appropriately managed.

- ► **New types of electronic information and information held by contractors** – FOI staff are concerned over the trend for increasing numbers of FOI requests for information held on CCT cameras and call centre telephone logs, and the difficulty of accessing information held by contractors. The Department needs strategies to formally manage the risks associated with these types of records.

We understand that the Department, and the Australian National Audit Office (ANAO), are currently examining records management practices across DIAC. We have therefore not provided any recommendations on records management other than to recognise the impact of poor record keeping on the FOI function. It is probably inevitable that FOI officers will have to continue to clean up historical records, but a priority solution is required to address the current state of records management across DIAC as a whole.

Recommendation 8

DIAC should:

a) continue to address the broad range of poor records management practices currently occurring across DIAC, including strengthening mechanisms to return original documents to clients; and

b) use feedback from FOI processing to improve records management strategies (link to Recommendation 5 (c)).

5.7   Culture

FOI staff advised that many staff are not comfortable with the new disclosure environment where there is a:

- ► widespread fear of releasing information; and
- ► failure to recognise that FOI is everyone's responsibility.

This is not surprising where people are not used to working in a prodisclosure environment. Although, this is not the first time that Australian has embraced FOI reform, the breadth and depth of the current reforms "will be more effective in causing a permanent cultural shift"[7] within agencies, including DIAC.

The importance of this need for cultural shift is also recognised as one of the key reform areas in the *Blueprint for reform of Australian Government administration*[8]. The change will require improved professionalism and documentation of decision making, accountability, quality of writing, and records management. This transformation is likely to take time and requires a deliberate, comprehensive and integrated strategy in supporting and encouraging staff to make the shift.

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[7] Australian Information Commissioner, May 2010.
[8] Department of Prime Minister and Cabinet, 2010

The Child Support Agency (CSA) has examined this issue and found that many staff had no sense of urgency around the need to manage this risk. They have implemented mechanisms to hold business unit managers accountable to support staff and improve prodisclosure performance. The Queensland State Government for example, has included the requirement to promote open government and implement their FOI related reforms in the performance agreements of departmental heads.

Recommendation 9

The Department should strengthen its mechanisms to support and encourage staff to improve their capabilities in working within a prodisclosure environment. This includes,

► identification of individual and group capabilities and performance targets;

► monitoring performance against these capabilities and targets;

► providing development opportunities specifically targeted at cultural change; and

► strengthening operating procedures and related material to make staff aware of their responsibilities in engaging with clients and managing departmental information and records.

Appendix A — Current State Capability Assessment

Current Challenges \ Key Corner Stones	Clear direction	Organisational alignment	FOI input into operational design	Understanding what stakeholders want	Culture of disclosure	Improvement based on facts and data	Good governance
Imbalance of responsibility for disclosure between FOI function and the delivery network (e.g. FOI Application Form increases workload by drawing clients down an FOI pathway when there are simpler ways to meet disclosure requirements)	Staff to understand disclosure drivers and needs *(Improvement Required)*	Manage requests for information at the right level in the organisation *(Improvement Required)*	Understand FOI impacts when designing systems and processes *(Improvement Required)*	Processes to confirm disclosure requests are handled through the correct delivery pathway *(Improvement Required)*	Understand what is required in a prodisclosure environment *(Improvement Required)*	Predictive analytical capability (e.g. to understand formal/informal disclosure parameters) *(Significant Improvement Required)*	Allocate accountability to the right area and monitor performance to assist with the challenges of disclosure alignment *(Significant Improvement Required)*
Current technology limitations can operate as a barrier to achieving FOI driven efficiencies (e.g. while DIAC have invested heavily in management information systems, these were not designed with the current FOI regime in mind)	FOI included as a key consideration in technology change management *(Improvement Required)*	Improved access to mainstream systems to facilitate access/ amendments (ICSE read/write access) *(Established)*	Influence IT system design to direct general enquiries away from FOI mailbox *(Improvement Required)*	Understand non-paper file products demanded by stakeholders, including the ability for increased client self-service *(Improvement Required)*	Stakeholders able to access information through the web without requiring FOI *(Improvement Required)*	Collect data to identify reasons why 30 day requirement is not achieved *(Improvement Required)*	Clear processes and delegations for web publishing *(Significant Improvement Required)*
Network wide records management practice deficiencies impact FOI service efficiency (e.g. behaviours relating to records management are inconsistent, and can be a hindrance to locating information	Clear directions and expectations provided to staff to improve record keeping practice *(Improvement Required)*	Staff understand the consequences of record keeping practices in an environment of increased disclosure *(Significant Improvement Required)*	Input to information and records management design to meet disclosure requirements *(Improvement Required)*	Collecting only required documentation and data *(Significant Improvement Required)*	Manage records in line with disclosure obligations *(Improvement Required)*	Analysis of records management practices to understand link between public information and private information *(Significant Improvement Required)*	Improved governance arrangements to hold business areas and staff more accountable for record keeping non-compliance that impacts on FOI processing costs *(Significant Improvement Required)*
Some applicants such as migration agents, businesses, media and clients with complex requests are placing additional strain on the FOI business	Education of applicants on making appropriately scoped requests *(Improvement Required)*	Applicants to deal with business areas in scoping potential FOI requests *(Improvement Required)*	Functions such as MARA to liaise with and educate applicants in developing FOI scopes *(Improvement Required)*	Assisting applicants in improving and refining their scoping of FOI requests *(Established)*	Use of the disclosure environment to reduce the complexity of FOI requests *(Established)*	Analysis of data in recurring requests to anticipate FOI/disclosure workload demands *(Improvement Required)*	Business areas dealing with applicants are more accountable for disclosure of public information *(Improvement Required)*
The process to amend records can be complex, is poorly supported and contains significant identity risks.	Clear and agreed instructions for the amendment of client records *(Improvement Required)*	Performing amendments in business areas *(Significant Improvement Required)*	Asking why some of the FOI amendments are being performed, especially from an integrity perspective *(Significant Improvement Required)*	Reducing the need for simple amendments through better engagement with clients (e.g. Australian naming conventions) *(Improvement Required)*	Clients understand when they require an amendment *(Improvement Required)*	Measuring and reporting what and why data is being amended *(Improvement Required)*	Establish accountability and control over amendments to address identity risk issues (e.g. placing sequence of name changes in citizenship certificates) *(Significant Improvement Required)*
Lack of consistent leadership support for the FOI reform agenda, particularly at the operational level	Communicating the end state/vision for FOI/disclosure *(Improvement Required)*	Recognition that FOI is everyone's problem *(Significant Improvement Required)*	Injecting FOI thought leadership into operational design *(Improvement Required)*	Building education of business area management to understand what stakeholders want *(Improvement Required)*	Leading from the front in reducing "fear" of disclosure *(Improvement Required)*	Collation of Information for leadership decision making *(Improvement Required)*	Establishing FOI champions to strengthen accountability for FOI across senior leadership *(Improvement Required)*
The lack of a program management approach to FOI hinders performance and limits improvement opportunities	Accountability for the program managed FOI function *(Improvement Required)*	Having an holistic/joined up approach to FOI management *(Significant Improvement Required)*	Capturing disclosure design issues at a whole of program level *(Improvement Required)*	Client information needs are serviced at all stages of contact with the Department *(Improvement Required)*	Using FOI as an asset to the Department in strengthening its reputation, services and practices *(Significant Improvement Required)*	Understanding what works, what is not working and why; achieved through regular evaluation and performance reporting *(Improvement Required)*	Building in FOI related KPIs that operate at a people and process level, which help deliver prodisclosure outcomes *(Improvement Required)*
People issues in some areas of the Department (e.g. counter staff), limit the Department's ability to drive more sustainable cultural change to support FOI processes and reform more broadly	Providing direction to FOI and departmental staff *(Established)*	Align disclosure processes to support better client service *(Improvement Required)*	Modelling preferred solutions *(Significant Improvement Required)*	Connecting stakeholders to the most appropriate staff members *(Significant Improvement Required)*	Staff to understand how they can effectively participate in open government *(Improvement Required)*	Evaluation of opportunities that reduce FOI costs *(Significant Improvement Required)*	Encouraging and empowering people to support FOI reform *(Improvement Required)*
Conservative approach to prodisclosure on DIAC website	FOI staff to use FOI requests to inform pro-active disclosure mechanisms *(Significant Improvement Required)*	Alignment of the organisation to avoid FOI requests because information is available already *(Improvement Required)*	FOI Section to influence content on the Department website, driving effective disclosure, and reducing formal requests *(Established)*	Engaging with clients using their preferred disclosure mechanism *(Established)*	Systems allow for ease of publication *(Improvement Required)*	Analytical capability to inform what should have already been on the web *(Improvement Required)*	Governance processes to maximise the use of website and social media as a disclosure tool *(Significant Improvement Required)*

Rating

Rating	
Established	*(Green)*
Improvement Required	*(Yellow)*
Significant Improvement Required	*(Red)*