

## Individual flexibility arrangements

10. The OAIC and an employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:
  - 10.1. the agreement deals with one or more of the following matters:
    - 10.1.1. arrangements about when work is performed;
    - 10.1.2. overtime rates;
    - 10.1.3. penalty rates;
    - 10.1.4. allowances;
    - 10.1.5. remuneration;
    - 10.1.6. leave and leave loading; and
  - 10.2. the arrangement meets the genuine needs of the OAIC and employee in relation to one or more of the matters mentioned in clause 10.1; and
  - 10.3. the arrangement is genuinely agreed to by the OAIC and employee.
11. The OAIC must ensure that the terms of the individual flexibility arrangement:
  - 11.1. are about permitted matters under section 172 of the FW Act;
  - 11.2. are not unlawful terms under section 194 of the FW Act; and
  - 11.3. result in the employee being better off overall than the employee would be if no arrangement was made.
12. The OAIC must ensure that the individual flexibility arrangement:
  - 12.1. is in writing;
  - 12.2. includes the name of the OAIC and employee;
  - 12.3. is signed by the OAIC and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and

- 12.4. includes details of:
  - 12.4.1. the terms of the enterprise agreement that will be varied by the arrangement;
  - 12.4.2. how the arrangement will vary the effect of the terms;
  - 12.4.3. how the employee will be better off overall in relation to the terms and conditions of their employment as a result of the arrangement; and
- 12.5. states the day on which the arrangement commences.
13. The OAIC must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
14. The OAIC or employee may terminate the individual flexibility arrangement:
  - 14.1. by giving no more than 28 days written notice to the other party to the arrangement; or
  - 14.2. if the OAIC and employee agree in writing – at any time.
15. The OAIC and employee are to review the individual flexibility arrangement at least every 12 months.

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## The proposed future structure

This section sets out the proposed future structure of the OAIC to the section level. This outlines the proposed branches for the OAIC and their sections.

### Overview of the proposed structure

The proposed organisational structure has been designed to support the OAIC to achieve its regulatory objectives. This proposed structure seeks to combine elements of privacy and FOI where practicable while retaining and highlighting regulated area expertise. This proposed structure also seeks to rebalance the OAIC towards core regulatory work through the inclusion of deputy commissioners for both FOI and privacy.

The proposed structure (see overleaf) outlines the proposed branches for the OAIC and the sections to be included in each branch. These sections represent a grouping of functions to be completed by a group of OAIC staff. In some sections there may be more than one team. Some branches, for example Regulatory Intelligence and Strategy, may employ a matrix structure for some of their teams, as work completed across the branch is similar. However, extensive and deep expertise in regulated areas may be required to develop guidance and policy effectively.

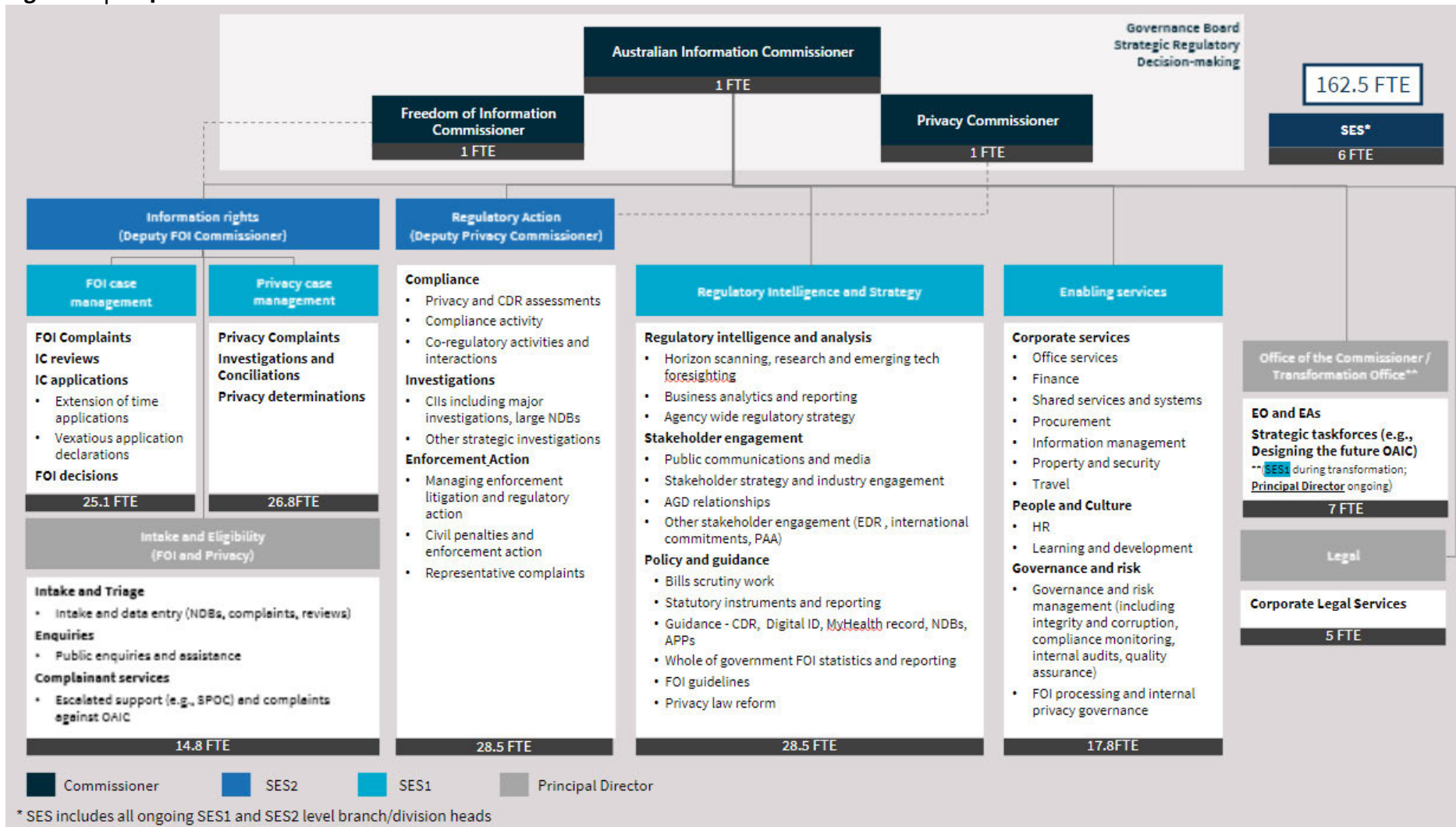
There is also a variance in the level of leadership across branches, this is intended to reflect the level of risk and workload associated with different branches. The proposed structure, outlined in Figure 11 below, displays the intended level of leadership for each branch, and in the case of the Information Rights division, grouping of branches. This proposed structure includes two SES2, who in addition to their management and leadership role over their branch, have a dual role working as deputy to the FOI and Privacy Commissioner. The proposed structure also proposes the implementation of principal directors to lead smaller branches (and possibly larger or more complex functions within branches), where appropriate.

The communities of practice (CoPs) are intended as a support to cross-branch information and process sharing across the agency. These may include CoPs to support:

- Operational Intelligence and Analytics
- CDR
- Digital ID

The CDR and Digital ID CoPs if implemented would be intended as transitional supports for the teams completing this work to support their integration into BAU activity across the OAIC.

Figure 11 | Proposed OAIC future structure



## Executive team

Implementing the Commissioners' strategic intent and responding to the OAIC's changed operating environment require the OAIC to adjust the staffing profile and roles of its executive teams, as well as reducing the overall size of the executive.

Each branch would be led by an SES1 General Manager or a Principal Director (an EL2 whose responsibilities and remuneration sit at the mid-point between an EL2 and SES1 role). The change in title of SES1 employees from Assistant Commissioner to General Manager is intended to signify a rebalance in focus from subject-matter (FOI and privacy) and operational decision making, towards leadership and strategic management for these roles.

The exception in this model would be two proposed new SES2 Executive General Manager/Deputy Commissioner positions, who have a dual responsibility of leading functional areas and teams, but also serving as the Deputy to the FOI Commissioner and Privacy Commissioner. Below, the proposed SES positions are described in connection to the divisions and branches they are proposed to lead.

Executive support arrangements would also change, with the OAIC's executive assistants moving to the proposed Office of the Commissioner.

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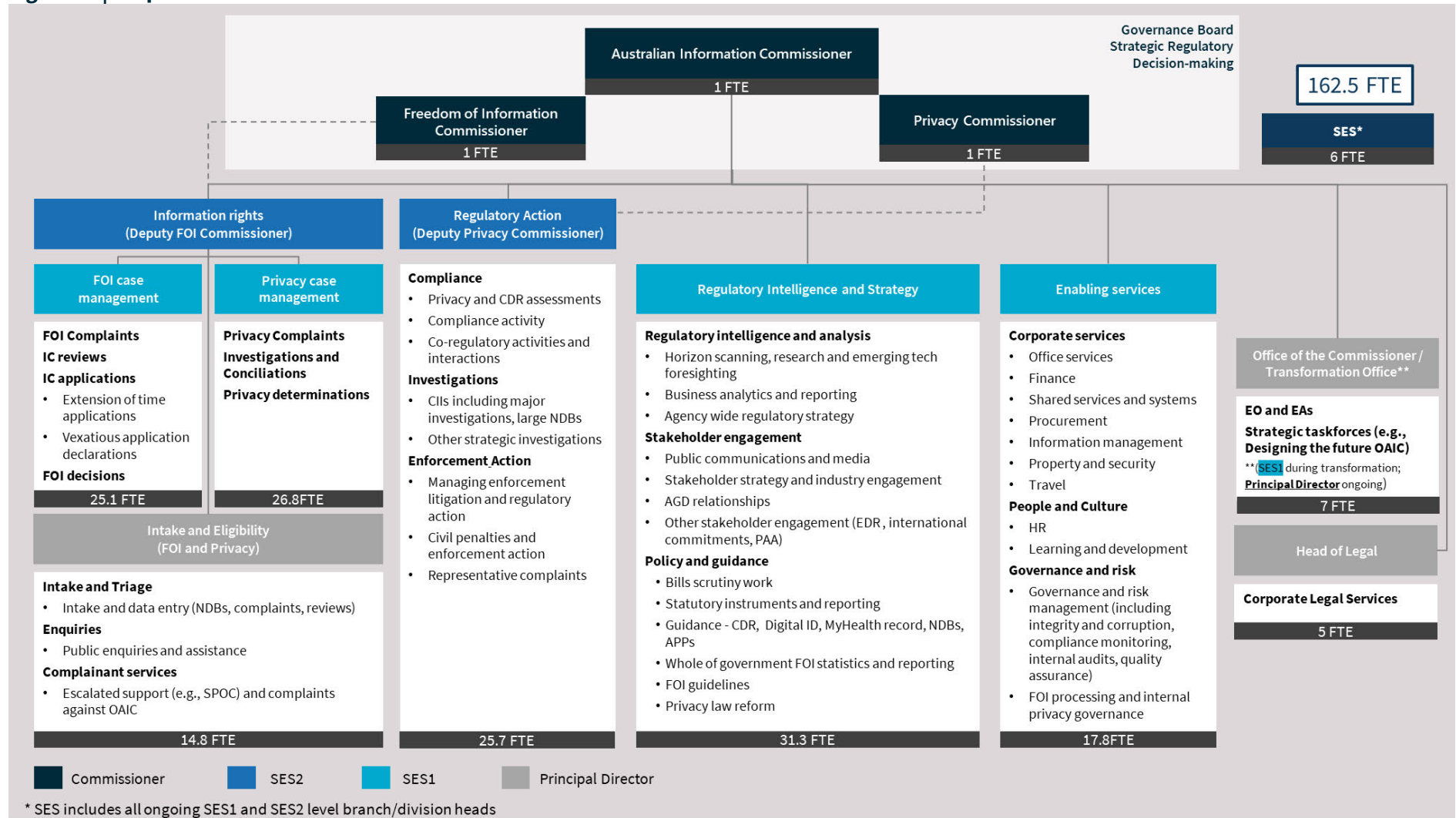
There is also a variance in the level of leadership across branches, this is intended to reflect the level of risk and workload associated with different branches. The proposed structure, outlined in Figure 16 , displays the intended level of leadership for each branch, and in the case of the Information Rights division, grouping of branches. This structure includes 2 SES2, who in addition to their management and leadership role over their branch, have a dual role working as deputy to the FOI and Privacy Commissioner. The structure also proposes the implementation of principal directors to lead smaller branches (and possibly larger or more complex functions within branches), where appropriate.

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Figure 16 | Proposed OAIC future structure



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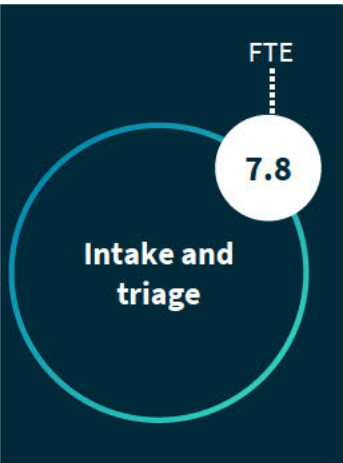


## Intake and Eligibility branch

In this model the Intake and Eligibility branch would be responsible for the intake and triage of all cases reported to the OAIC and monitoring the key issues that come through in these cases. It is a first point of contact for all cases and enquiries in the OAIC. This branch would complete work across both regulated areas and ensure that casework is either resolved or distributed to the appropriate team. It would also process all NDB notifications and seeks to resolve those notifications that can be resolved within 90 days.

This branch would be led by a Principal director, who oversees the intake processes, community engagement and support and public enquiries. This role would require knowledge across both regulated areas and will support staff to quickly and efficiently complete the functions associated with intake and assessment of eligibility. This branch would be comprised of four sections, which are outlined below.

Figure 17 | Intake and eligibility section structure

	Purpose	Functions	Key relationships
	<p>In this model, the Intake and triage section would be responsible for the initial assessment and allocation of incoming cases across privacy and FOI including complaints, reviews and NDBS. This team would oversee all incoming cases across both regulated areas and distribute the work to the appropriate team. This would include logging the case into the system and completing an initial assessment of the work to be completed. This branch also</p>	<p>The core functions of the Privacy and FOI Intake section would be:</p> <ul style="list-style-type: none"> <li>Log received cases into the system</li> <li>Complete an initial assessment of each case</li> <li>Ensure that all required information is included in applications provided to the OAIC</li> <li>Liaise with applicants to obtain further information if required</li> </ul>	<p><b>Internal to the OAIC:</b></p> <ul style="list-style-type: none"> <li>FOI and Privacy case management</li> <li>Regulatory Intelligence and Strategy</li> <li>Regulatory action</li> </ul> <p><b>External to the OAIC</b></p> <ul style="list-style-type: none"> <li>Applicants or complainants</li> <li>Organisations experiencing data breaches</li> </ul>

**From:** [McClintock, Jane](#)  
**To:** [TYDD,Liz](#); [KIND,Carly](#); [PIRANI,Toni](#); [BOAG,Annan](#); [BUI,Anh](#)  
**Cc:** [Moran, Celeste](#); [Sharp, Scott](#); [Orr, Dianne](#); [Dawson, Bridie](#)  
**Subject:** Agenda and meeting note: OAIC-AGD meeting 930AM Friday 20 September [SEC=PROTECTED, CAVEAT=SH:CABINET]  
**Date:** Thursday, 19 September 2024 4:03:15 PM  
**Attachments:** [image001.jpg](#)  
[image002.png](#)

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**PROTECTED//CABINET**

Hello everyone

Please find attached for tomorrow's meeting at 930AM the proposed agenda. Below is the meeting record from 2 September 2024.

Di Orr is an apology for the meeting.

Regards

Jane

**Jane McClintock**

**Director | Freedom of Information Section**

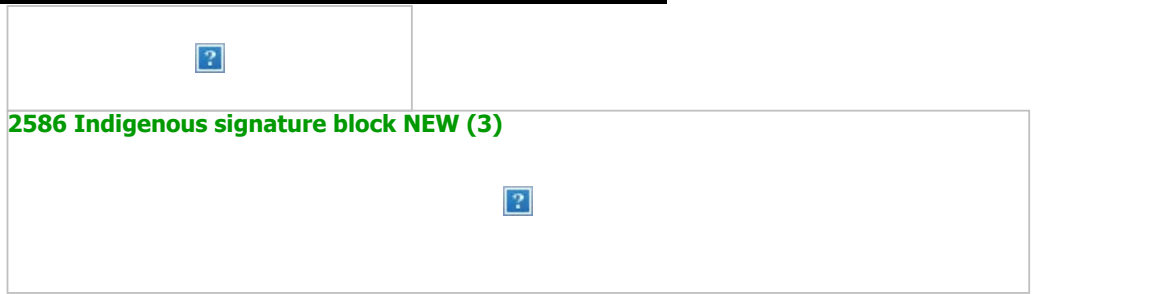
Information Law Branch | Integrity Frameworks Division

Australian Attorney-General's Department

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s47E(d)

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**AGD – OAIC Senior Executive Meeting**

**2 September 2024, 4:30-5:00pm, Simon Newham's Office, Level 3, 3-5 National Circuit + Microsoft Teams**

**Meeting purpose / Subject: To discuss the OAIC's budget and financial position, options for the OAIC to reduce expenditure, and human resources and organisational management issues arising.**

**Attendees**

*Attorney-General's Department*

- Simon Newnham, Deputy Secretary, Integrity and International Group
- Scott Sharp, Chief Finance Officer
- Bridie Dawson, Chief People Officer
- Celeste Moran, First Assistant Secretary, Integrity Frameworks Division
- Jane McClintock, A/g Assistant Secretary, Information Law Branch

*Office of the Australian Information Commissioner*

- Elizabeth Tydd, Information Commissioner
- Rocelle Ago, Freedom of Information Commissioner
- Anh Bui, A/g Chief Financial Officer
- Annan Boag, Assistant Commissioner, Digital ID & Implementation

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Item 1 Welcome

SN: Welcomed and thanked OAIC for sending the presentation 'OAIC budget position and restructure'. Acknowledged that significant progress has been made.

Item 2 Budget- financial update

AnnanB: Noted a \$1.02m non-structural deficit. This provides OAIC a manageable margin.

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Item 3: options

SN: Noting all had received and reviewed the presentation, the discussion would focus on key issues/by exception.

AnnanB: Advised the approach to budget management and reduction and the objectives of modelling were to achieve manageable deficits to minimise disruption to the organisation and maintain internal staff expertise. Also noted that supplier expenditure had aligned with forecasts so they have confidence in the modelling.

SS: had reviewed and spoke to Ahn and Annan about the approach and agreed the assumptions are reasonable.

SN: Noted the likely deficit without action of \$14m is significant, so the presentation and advice shows good progress by the OAIC.

BD: Noted that in discussions about managing costs OAIC had used the term 'recruitment freeze'. Advised caution with this messaging as it may result in alternative behaviour by staff and reduce average turnover. Further as OAIC may need to recruit external expertise for specific roles, it may create internal discord if some areas fill a role when other thought they could not.

AnnanB: Agreed, and noted that term had been used for the presentation to us, which is for internal discussions, but has not been used for staff structure conversations and OAIC will be nuanced in messaging for staff.

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Item 4: Other items – OAIC structure

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ET: The proposed OAIC structure that staff will be consulted on tomorrow. Key changes in the structure include re-prioritised casework, including introduction of SES band 2. Proposed to reduce from five to four SES band 1: with two in case work to recognise synergies and differences. The Regulatory Intelligence and Strategy area is different to current approach. The intention is this area will establish a forward program of work so the OAIC can be proactive in its regulatory approach. There will be a reduction in the size of Enabling Services. At the moment it includes IT, data, and legal – so it will need to reduce in scope. The legal area will therefore be moved out separately and experience the biggest structural and budget impact, reducing from 17/18 people to five, and a budget reduction of \$8m to \$2.5m. Another area that will be impacted is CDR assessments. The team will decrease in number, but intelligence and capability will move to Regulatory Intelligence area.

SN: Noted that the numbers looked balanced and had contemplated a range of current issues and future needs.

ET: Noted that priority of case work is retained in the structure. Action is focusing on maximising the front end through early assessment at intake of eligibility with a view to finalise in 30 days. This will maximise impact and then enable litigation and enforcement resources to be focused on the important cases.

RA: Noted there had already been significant achievement in reduced backlog of cases from 2200 to 1850. The proposed structure keeps a focus on case management and will position FOI team to reduce the backlog.

BD: Noted the use of Principal Directors (IFA'd EL2s). This is common in smaller agencies as it helps to retain good staff and manage SES caps. Advised OAIC to make clear in communications to staff that these Principal Directors have additional responsibilities and expectations, and ensure this can be seen in operational practice.

ET: Noted the feedback from staff engagement that they have too many EL1 and EL2s, so there will be a rebalancing in this over the next 12 months.

SN: Noted the approach being employed to ensure that there are no surprises for OAIC.

ET: Advised that they had engaged with AGO advisor (Natasha) providing her with some information about the approaches and timeframes before Natasha's leave. The new advisor has been left a message. Will call to advise her that OAIC staff will be interested in privacy reforms and will be engaged on the proposed new structure from tomorrow.

ET: Advised Commissioner Kind will be well enough on Friday 6 September to present to the agency heads meeting about OAIC's approach going forward.

Meeting concluded.

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