



Australian Government

Office of the Australian Information Commissioner

National Administrative Law Conference

21 July 2011



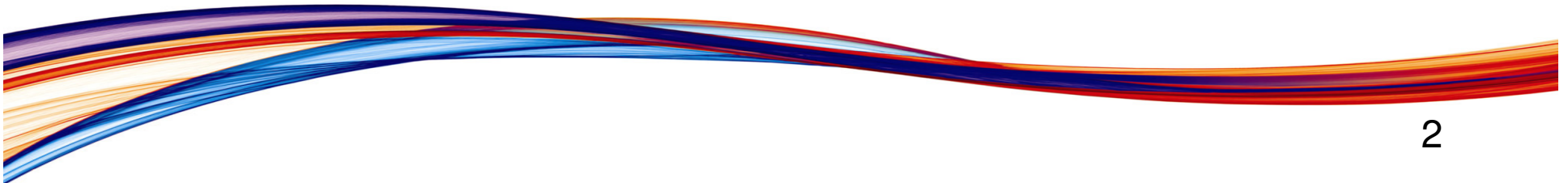
James Popple

Freedom of Information Commissioner

Protecting information rights — advancing information
policy

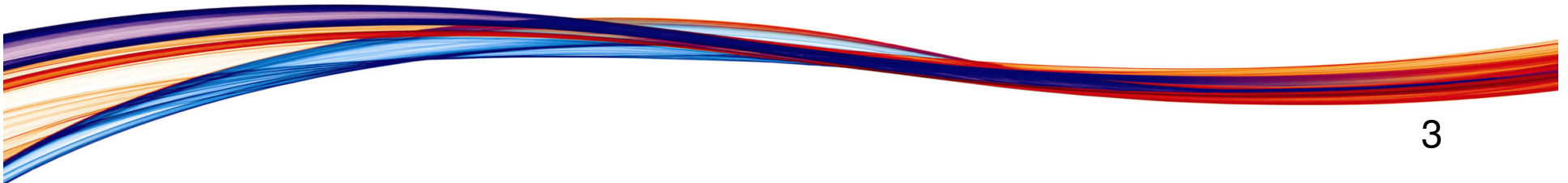
Outline

- Open government reforms
 - general
 - access to documents under FOI
 - Information Publication Scheme
 - disclosure log
- The OAIIC's approach
- Emerging issues



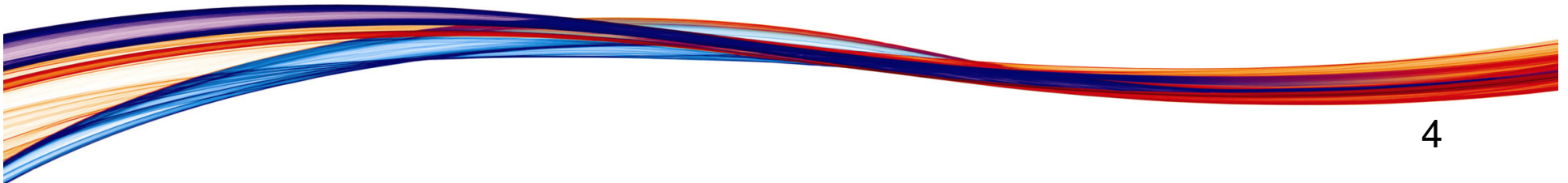
Open government reform

- Legislative reform
 - *FOI (Removal of Conclusive Certificates) Act 2009*
 - *FOI Amendment (Reform) Act 2010*
 - *Australian Information Commissioner Act 2010*
 - New object clause in the FOI Act
- Policy reform
 - Gov 2.0 Taskforce report; *Blueprint for Reform of Australian Government Administration*; Declaration of Open Government
 - Themes: pro-disclosure culture; citizens engaged online; re-use of PSI permitted by open licensing



Office of the Australian Information Commissioner

- FOI, privacy and information management policy integrated in a single scheme and a new office
- OAI given comprehensive functions and powers
 - complaint investigation; merits review; promoting open government; publishing guidelines; training and advice; monitoring; legislative review; advice to government



Role of the OAIIC in FOI

Promoting awareness and understanding of FOI

Promoting good FOI practices

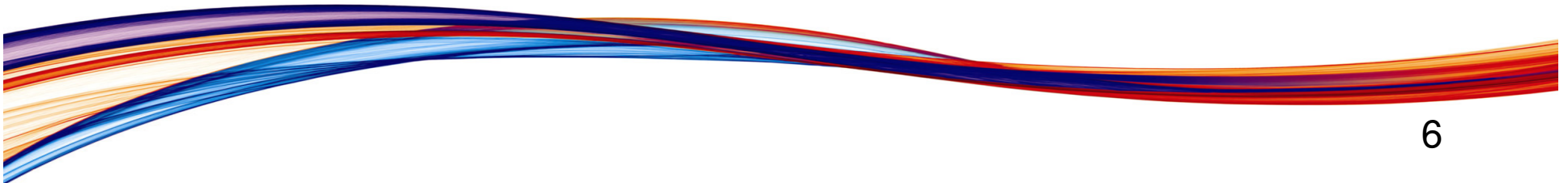
Protecting the public's **right of access** to documents under the *Freedom of Information Act 1982*

Merits review and complaints

Overseeing the Information Publication Scheme

Key FOI changes

- FOI application process improved
 - e-mail applications, reduced charges, internal review optional
 - OAIIC vexatious application declaration power
- Exemptions redefined and narrowed



FOI exemptions

Exemptions	Conditional exemptions
national security, defence or international relations (s 33)	Commonwealth-State relations (s 47B)
Cabinet documents (s 34)	deliberative processes (s 47C)
enforcement of law and protection of public safety (s 37)	financial and property interests of the Commonwealth (s 47D)
secrecy provisions of enactments (s 38)	documents concerning certain operations of agencies (s 47E)
legal professional privilege (s 42)	the economy (s 47J)
material obtained in confidence (s 45)	personal privacy (s 47F)
contempt of Parliament or contempt of court (s 46)	business (s 47G)
trade secrets or commercially valuable information (s 47)	research (s 47H)
electoral rolls and related documents (s 47A)	

Public interest test

Factors for access	Factors against access *
Promote the objects of the Act	Reasonably be expected to prejudice the protection of an individual's right to privacy
Inform debate on a matter of public importance	Reasonably be expected to prejudice an agency's ability to obtain confidential information
Promote effective oversight of public expenditure	Reasonably be expected to prejudice an agency's ability to obtain similar information in the future
Allow a person to access his or her personal information	Reasonably be expected to prejudice the management function of an agency
	Reasonably be expected to prejudice the effectiveness of testing or auditing procedures

* examples / non-exhaustive list

Information Publications Scheme and Disclosure Log

The logo for the Information Publication Scheme, featuring the text "Information Publication Scheme" in blue, centered within a stylized oval composed of multiple overlapping, wavy lines in shades of blue, red, and orange.

**Information
Publication
Scheme**

The logo for the FOI Disclosure Log, featuring the text "FOI Disclosure Log" in blue, centered within a stylized oval composed of multiple overlapping, wavy lines in shades of blue, red, and orange.

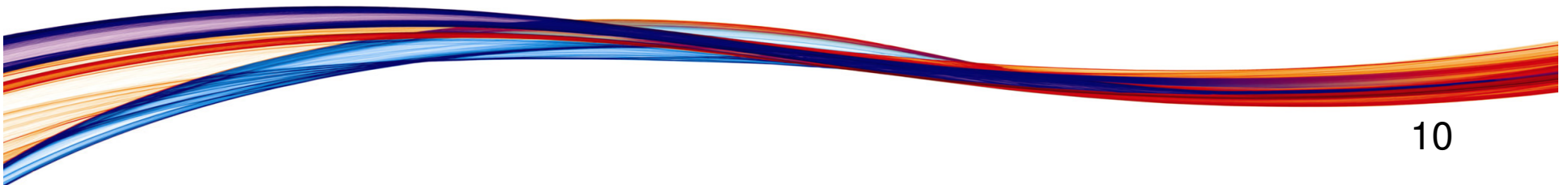
**FOI
Disclosure Log**

FOI statistics

1 November 2010 – 30 June 2011

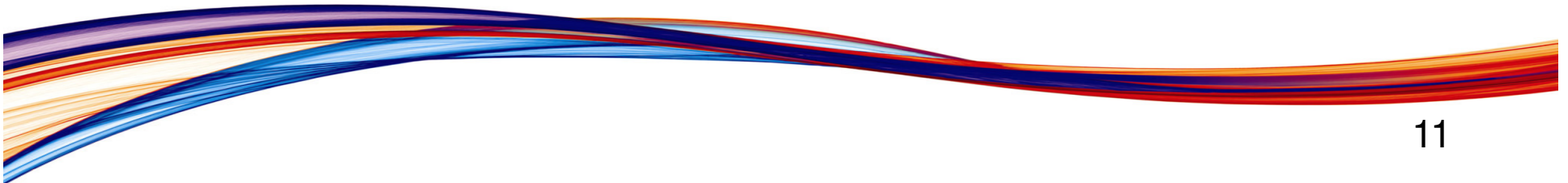
	IC reviews	Complaints	Extensions of time
Received	174	87	1096
Open	147	47	18
Closed	27	40	1078

*1 November 2010 – 30 June 2011



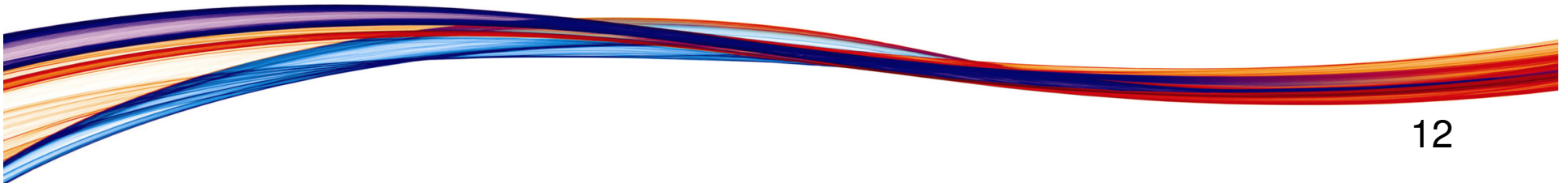
The OAIC's approach

- OAIC differs to AAT
- Conciliatory approach
- Agreed outcomes can be outside the FOI Act
- Conciliation model works well for other matters: e.g. privacy, human rights, fair work



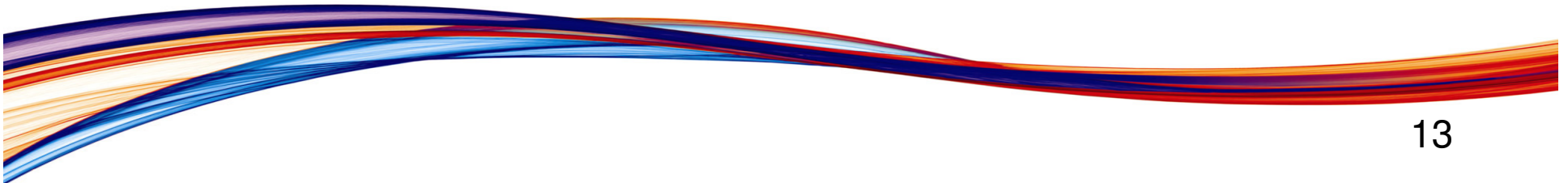
Case study: resolving an impasse

- Complainant had FOI request refused on practical refusal grounds – unreasonable diversion of resources.
- Well known applicant – had been seeking information for 15 years, 11 agencies.
- Our conciliation got the applicant to focus on what he was seeking – got this down to one document agency had statutory obligation to produce.
- Agency able to satisfy applicant's request.



Emerging issues

- Agency compliance
- Frankness and candour
- Misinterpretation of disclosed data
- Tensions with privacy: naming officers
- Disclosure log and 10 day timeframe



Questions?



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