



# Office of the Information Commissioner

*Freedom of information for Western Australia*



## **ANNUAL REPORT 2022/23**

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We acknowledge the traditional custodians throughout Western Australia and their continuing connection to the land, waters and community. We pay our respects to all members of the Aboriginal communities and their cultures; and to Elders both past, present and emerging.

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This annual report and previous annual reports are published on the OIC website and are available in other formats on request.



Office of the  
Information Commissioner

*Freedom of information for Western Australia*

11 October 2023

**SPEAKER OF THE LEGISLATIVE ASSEMBLY  
PRESIDENT OF THE LEGISLATIVE COUNCIL**

### ANNUAL REPORT TO 30 JUNE 2023

In accordance with section 63 of the *Financial Management Act 2006* I hereby submit my report for the reporting period ended 30 June 2023.

The annual report has been prepared in accordance with the provisions of the *Financial Management Act 2006* and the reporting requirements of the *Freedom of Information Act 1992* (WA).

Catherine Fletcher  
INFORMATION COMMISSIONER

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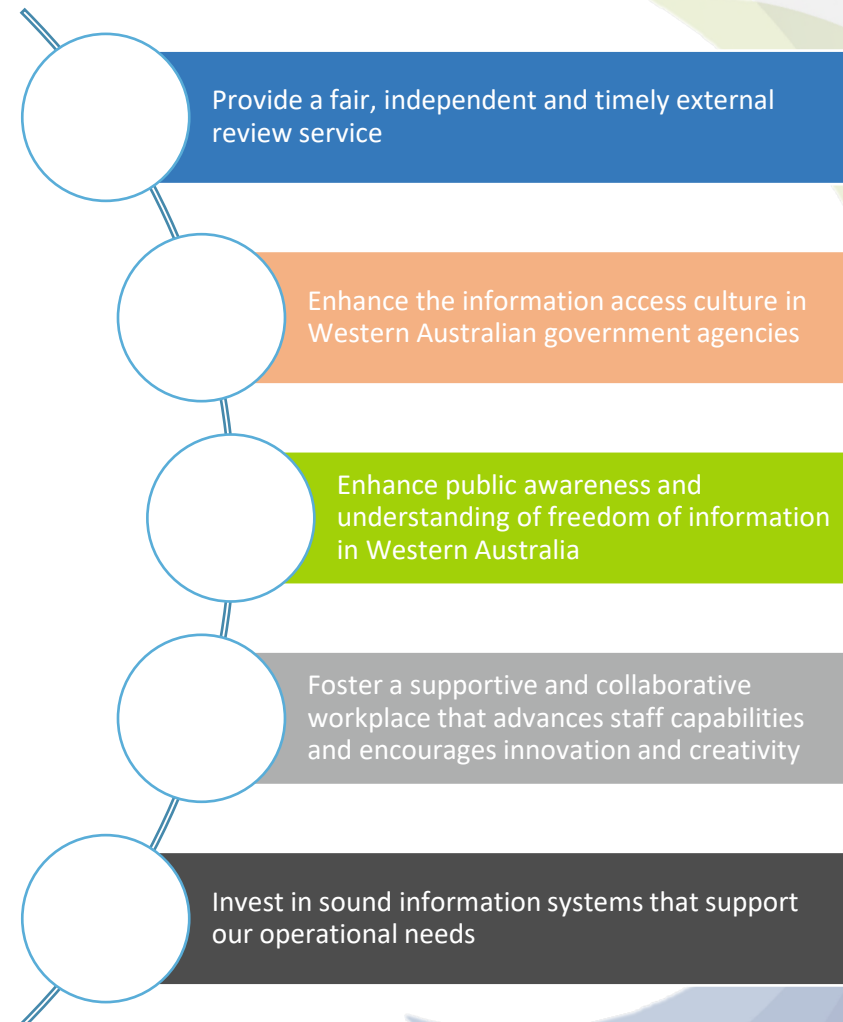
## About this report

Welcome to the annual report of the Office of the Information Commissioner (**the OIC**) for 2022/23.

The aim of this annual report is to give a comprehensive overview of our performance during the year, provide insight into the goals and operations of our office and the operation of the *Freedom of Information Act 1992 (WA)* (**the FOI Act**) in Western Australia. The services we deliver are designed to provide an outcome that gives the people of Western Australia access to documents held by WA State and local government agencies, as required by the law, and to provide a mechanism to ensure their personal information is accurate and up-to-date. We also educate agencies on their responsibilities under freedom of information (**FOI**) legislation and provide assistance to the community to help them understand their rights under FOI legislation.

The key message of FOI legislation mirrors the purpose of agency annual reports – greater accountability and transparency. We trust that this report on our activities and performance during the year provides valuable insight into our operations.

## Strategic goals



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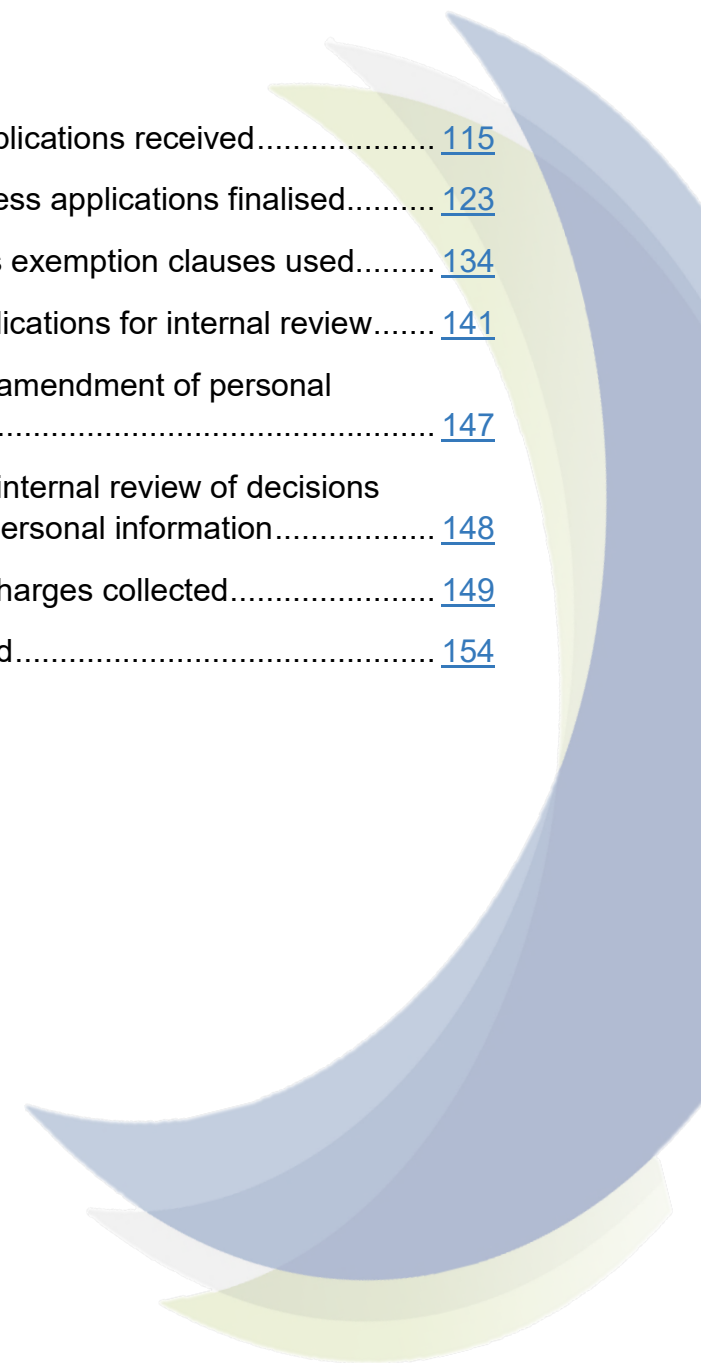
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## **Agency statistics**

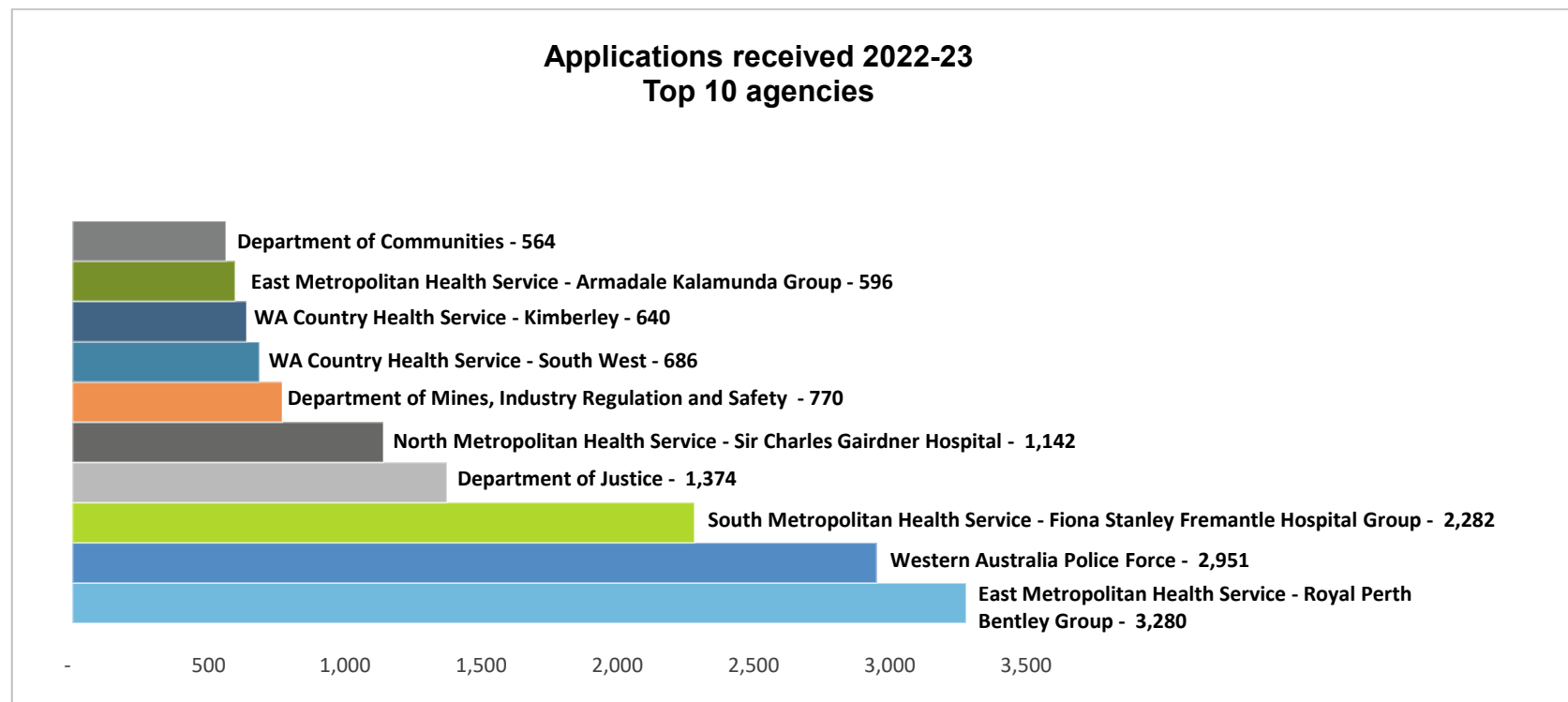
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## Disclosures and legal compliance

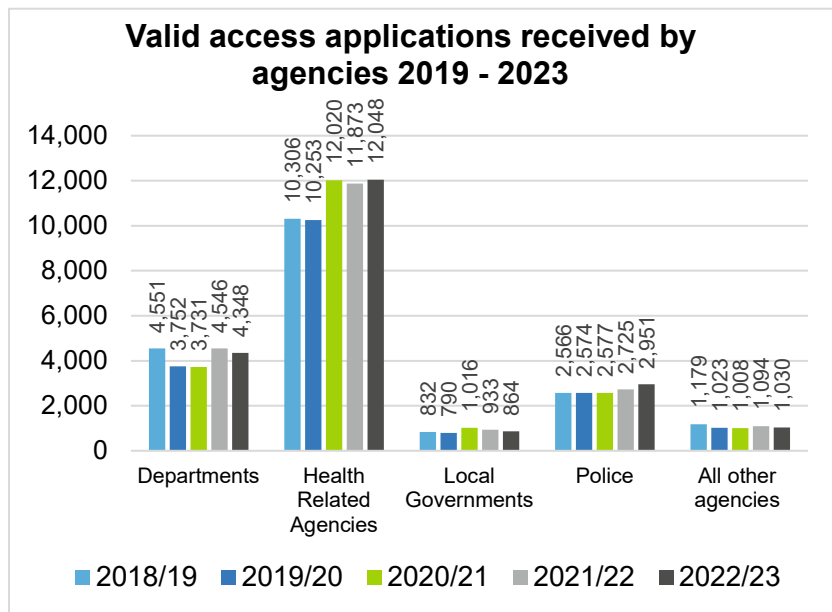
### FOI in the sector

Section 111 of the FOI Act requires that the Commissioner's annual report to Parliament is to include certain specified information relating to the number and nature of applications dealt with by agencies under the FOI Act during the year. To enable that to occur, agencies are required to provide the Commissioner with the specified information. That information for 2022/23 is set out in detail in the statistical tables in the [Agency Statistics](#) chapter of this report. The following is an overview of key points.



### Valid access applications received by agencies

Agency category	2022/23
Health related agencies	12,048
Departments (except Police and Health related agencies)	4,348
Police	2,951
Boards, Committees, Commissions, Authorities, Corporations	899
Local Governments	864
Ministers	98
Universities	33
<b>TOTAL</b>	<b>21,241</b>

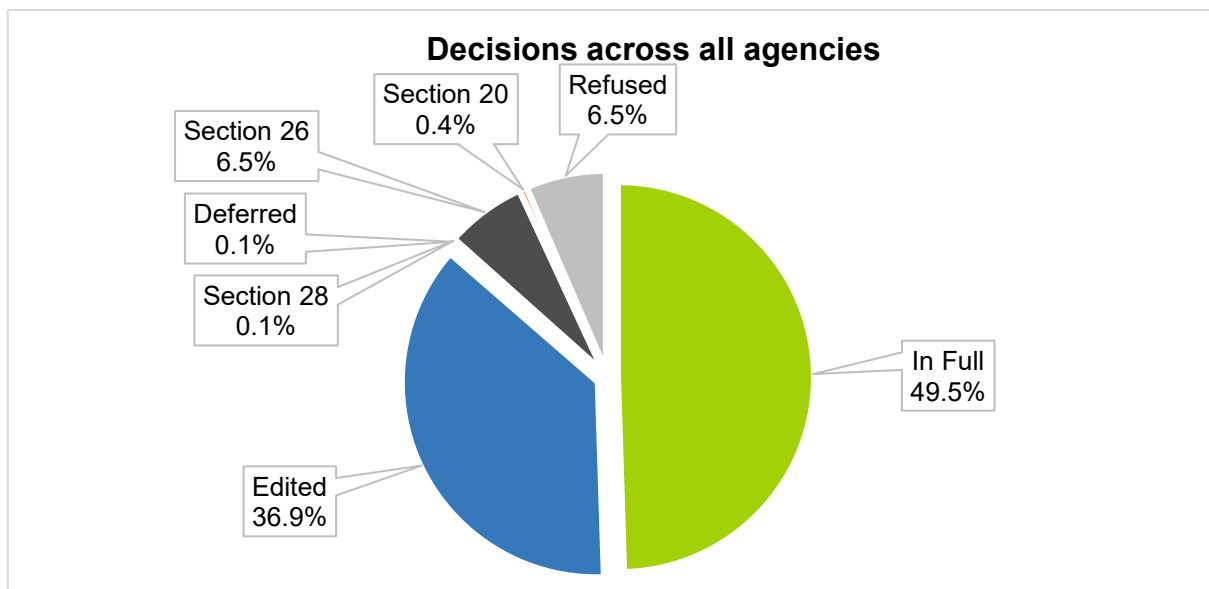


See Table 12 for details of all agencies.

### Agency decisions

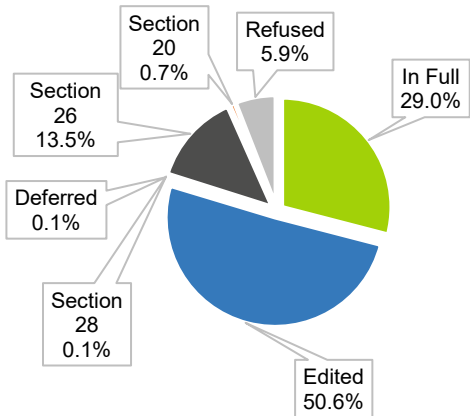
- 18,998 decisions were made by agencies in response to access applications during the year, a 1.9% decrease from 2021-22. See Table 13.
- A further 1,752 applications were withdrawn.
- 86.6% of decisions resulted in the applicant receiving some form of access, whether in full; in part; by way of deferred access under section 25 of the FOI Act; or through a medical practitioner in accordance with section 28 of the FOI Act.
- 13.4% of decisions were to refuse access to documents in full, either under section 26 of the FOI Act on the basis that the documents could not be found or did not exist; because the documents were exempt in full; or because the agency refused to deal with an access application under section 20 of the FOI Act on the ground that it would divert an substantial and unreasonable portion of the agency’s resources away from its other operations.
- This is the second year that agencies have been required to report section 20 decisions separately. These types of decisions have previously been counted under ‘access refused’. 31 agencies reported a total of 79 decisions were made under section 20 during the reporting period.



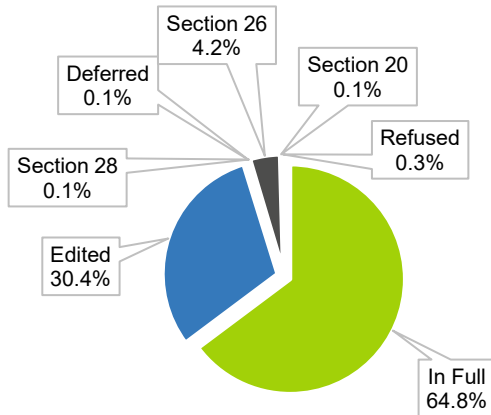


SUMMARY Agency Groups	DECISION OUTCOMES													
	In Full		Edited		Deferred		Section 28		Section 26		Section 20		Refused	
	No.	(%)	No.	(%)	No.	(%)	No.	(%)	No.	(%)	No.	(%)	No.	(%)
Boards, Committees, Commissions, Authorities, Corporations	386	45.0%	386	45.0%	0	0.0%	1	0.1%	56	6.5%	2	0.2%	27	3.1%
Departments (except Police and Health related agencies)	938	25.5%	1901	51.7%	5	0.1%	4	0.1%	558	15.2%	29	0.8%	244	6.6%
Health-related Agencies	7386	64.8%	3468	30.4%	13	0.1%	8	0.1%	478	4.2%	10	0.1%	38	0.3%
Local Governments	98	12.7%	566	73.6%	6	0.8%	0	0.0%	58	7.5%	9	1.2%	32	4.2%
Ministers	20	24.4%	34	41.5%	2	2.4%	0	0.0%	22	26.8%	2	2.4%	2	2.4%
Police	574	26.3%	627	28.8%	0	0.0%	2	0.1%	60	2.8%	25	1.1%	891	40.9%
Universities	2	6.7%	25	83.3%	0	0	0	0.0%	1	3.3%	2	6.7%	0	0.0%
<b>TOTAL</b>	<b>9,404</b>	<b>49.5%</b>	<b>7,007</b>	<b>36.9%</b>	<b>26</b>	<b>0.1%</b>	<b>15</b>	<b>0.1%</b>	<b>1,233</b>	<b>6.5%</b>	<b>79</b>	<b>0.4%</b>	<b>1,234</b>	<b>6.5%</b>
<b>GRAND TOTAL</b>	<b>18,998</b>													

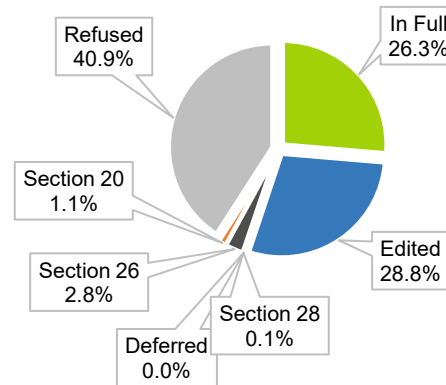
### State government agencies (excluding Police & Health-related)



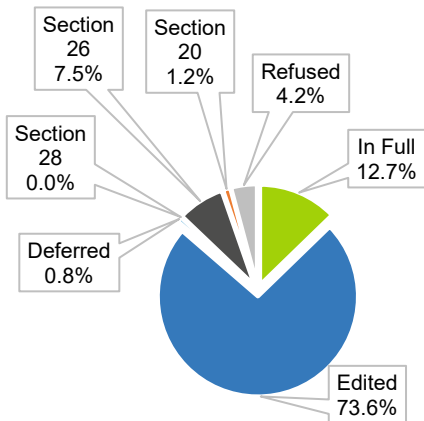
### Health-related agencies



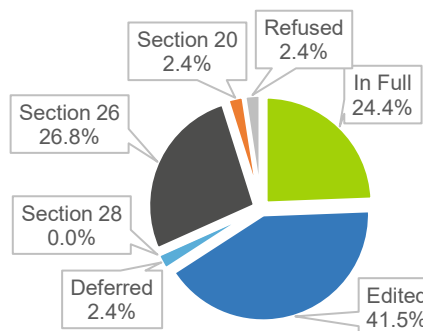
### Western Australia Police Force



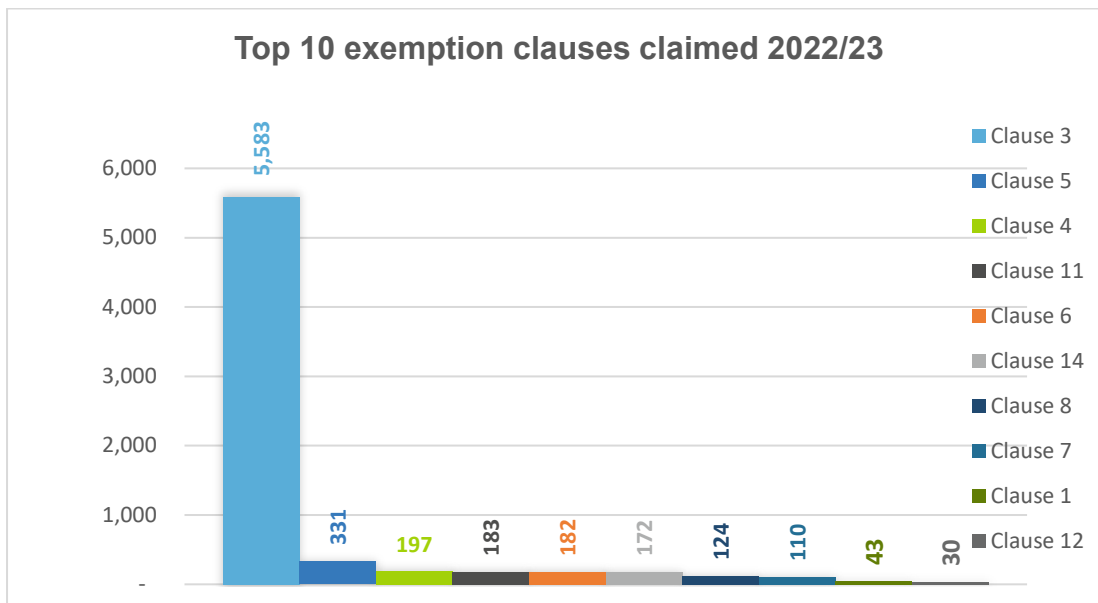
### Local Governments



### Ministers



## Exemptions



AGENCY CATEGORY	EXEMPTION CLAUSE (Schedule 1 of the FOI Act)															
	1	2	3	4	4A	5	6	7	8	9	10	11	12	13	14	15
Boards, Committees, Commissions, Authorities, Corporations	3	0	224	17	0	2	121	22	10	0	5	1	0	0	2	2
Departments (except Police and Health related agencies)	25	2	1,787	103	0	159	35	50	56	0	18	171	20	3	161	0
Health Related Agencies	2	2	2,243	7	0	5	4	0	25	0	0	0	0	0	3	0
Local Governments	0	1	502	65	0	40	15	29	19	0	3	3	0	0	3	0
Ministers	14	0	31	3	0	1	2	4	4	0	0	0	7	0	0	0
Police	2	0	788	0	0	122	0	0	3	0	0	4	4	0	3	0
Universities	0	0	9	2	0	2	5	6	7	0	0	4	0	0	0	0
<b>TOTAL</b>	<b>46</b>	<b>5</b>	<b>5,584</b>	<b>197</b>	<b>0</b>	<b>331</b>	<b>182</b>	<b>111</b>	<b>124</b>	<b>0</b>	<b>26</b>	<b>183</b>	<b>31</b>	<b>3</b>	<b>172</b>	<b>2</b>

## Fees and charges imposed by agencies

No fees or charges apply for applications that are limited to personal information about the applicant only. However, if the applicant is seeking more than their own personal information (a non-personal application), an application fee of \$30 is required to make a valid access application under the FOI Act. If it is a non-personal application, the agency may also impose charges for dealing with the application in accordance with the FOI Act and FOI Regulations. However, agencies are not *required* to impose charges.

- A total of \$177,495 in access application fees was collected by agencies in the reporting period.
- \$47,893 in charges was imposed by agencies, an average of \$7.58 per application for non-personal information. However, in the majority of cases, no charges were reported as imposed.

Information about the fee for making a non-personal access application and the charges that an agency may impose in relation to a non-personal access application is available in the OIC publication – [How much does it cost?](#)

## Agency timeframes for dealing with access applications

An agency is required to deal with an access application as soon as is practicable; and in any event, within the permitted period. The permitted period is 45 days after the access application is received or such other period as is agreed

between the agency and the access applicant, or such other period as is allowed by the Commissioner.

The average time for dealing with access applications in the reporting period was 26.5 days (24.9 days last year), which remains within the 45 days provided in the FOI Act.

## Decisions made outside the permitted period

Agency type	# of agencies	# of matters
State government (not including health services)	33	455
Health services	18	1,898
Local government	20	57
<b>TOTAL</b>	<b>71</b>	<b>2,410</b>

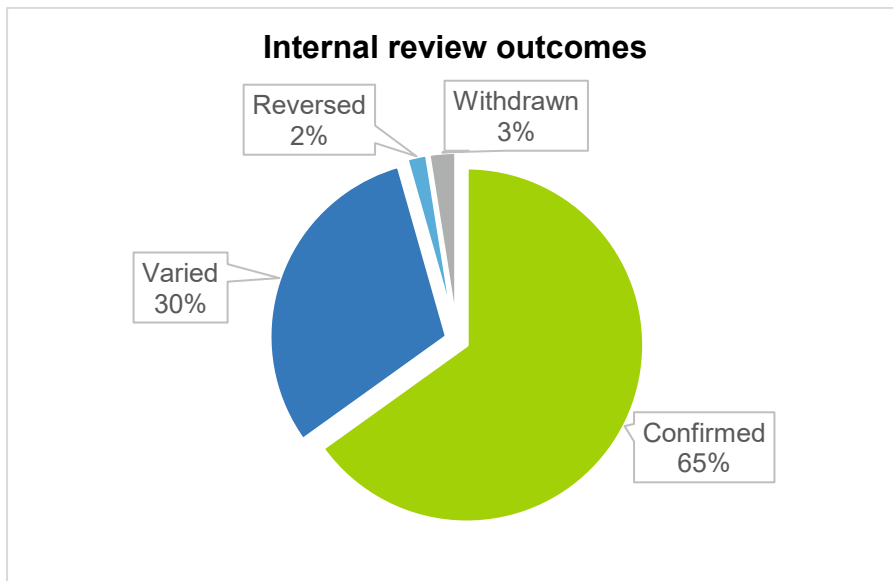
Of the 18,998 decisions made by agencies during the year, 12.7% were not dealt with in the permitted period compared to 13.5% in the previous year.

59.4% of agencies that dealt with a valid access application during the reporting period dealt with all their access applications within the permitted period.

Information about timeframes under the FOI Act is available in the OIC publication – [How long should it take to deal with an access application?](#)

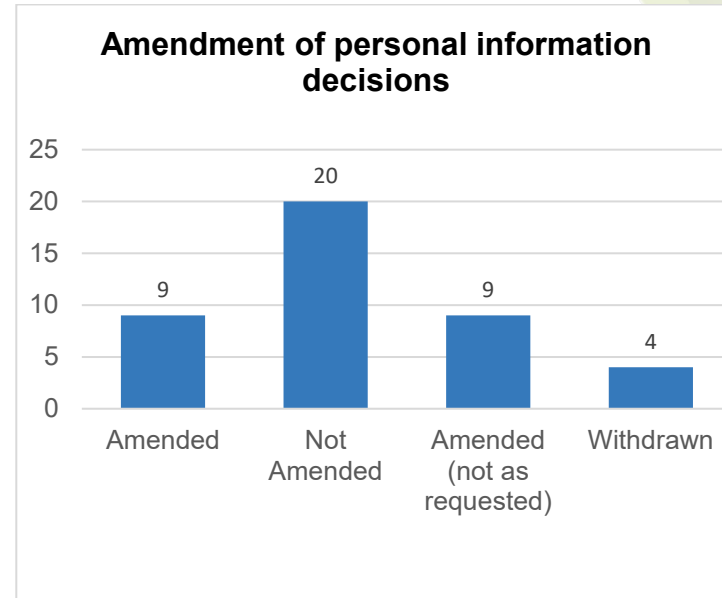
### Internal review

- Agencies received 290 applications for internal review of decisions relating to access applications. This represents 1.5% of all decisions made.
- 103 (32.4%) internal review applications finalised during the reporting period resulted in the initial decision being varied or reversed.



### Amendment of personal information

- 33 applications for amendment of personal information were received and 42 applications were finalised.



- 7 applications for internal review of amendment decisions were received and 8 decisions were made, 100% of which were to confirm the initial decision.

## Financial disclosures

### *Fees and charges*

The external review services provided by the OIC are free of charge. The fees and charges prescribed by the FOI Act for making an FOI application are paid directly to the agency receiving the application.

### *Capital works*

No capital works projects were completed during the reporting period.

As outlined earlier in this report, \$1.4 million in funding from the Digital Capability Fund was approved for 2023/24 to replace the current case management system and procure a fit-for-purpose document management system.

### *Employment and industrial relations*

#### Staff profile

The following profile shows staff numbers as at 30 June of each year indicated.

	2023	2022
Full-time permanent	5	6
Full-time contract	5	3
Part-time measured on a FTE basis	2.7	2.25
On secondment	0	2

The OIC also has contracted two temporary staff at 30 June 2023 (one full-time and one part-time).

#### Staff movements

- In July 2022 a permanent appointment was made to the Principal Legal Officer position.
- In August 2022 a 12 month contract appointment was made to the Senior Legal Officer position.
- In August 2022 a 18 month contract appointment was made to the Communications Project Officer position.
- In December 2022 a 12 month contract appointment was made to the Review Officer position.
- In January 2023 the Clerical Officer resigned.
- In January 2023, a permanent appointment was made to the Investigations Officer position, following a 12 month secondment.
- In June 2023 a two year contract appointment was made to the Executive Assistant position.

### *Staff development*

#### Continuing Professional Development (CPD)

The *Legal Profession Uniform Law Application Act 2022* commenced on 1 July 2022, repealing the *Legal Profession Act 2008*. Under the *Legal Profession Uniform Law Application Act 2022*, government lawyers employed by the OIC are required to apply for, and hold, a practising certificate to engage in legal practice. Compliance with CPD obligations is

a condition on their practising certificates. The OIC continues to support those officers with their CPD.

### Other professional development

Staff are encouraged to attend various learning opportunities that arise. During the period, 50 events were attended by staff during the year. The availability of webinars and online training has increased opportunities for staff to attend more events.

In addition to seminars and workshops, when relevant, the OIC provides the opportunity for staff to achieve qualifications that promote skills development and career progress.

### *Workers' compensation*

There were no workers' compensation claims made during the reporting period.

## Governance disclosures

- No senior officers, or firms of which senior officers are members, or entities in which senior officers have substantial interests, had any interests in existing or proposed contracts with the OIC other than normal contracts of employment service.
- The OIC has no boards or committees, and therefore no remuneration costs in this regard.

### *Corporate credit card*

There were no instances of a corporate credit card being used for private expenses.

### *Expenditure on advertising, market research, polling and direct mail*

No expenditure was spent on advertising agencies, polling organisations, direct mail organisations or media advertising organisations.

### *Conflicts of interest*

The OIC maintains a Conflicts of Interest Register. During the reporting period, two conflicts were registered by the officers concerned and appropriate measures were put in place to manage that potential conflict.

### *Gifts register*

The OIC has a gifts policy that has been modelled on the practice guide published by the Integrity Coordinating Group. This policy requires the maintenance of a gifts register, which is published on our [website](#). Small gifts for services provided (predominantly for briefings or speaking engagements) are generally accepted and shared within the office. Gifts that are promoting services or where a discretionary authority exists with the gift recipient (e.g. purchasing discretion), are declined.

During the reporting year, there were no gifts registered as accepted.

### *Disability Access and Inclusion Plan*

As required under the *Disability Services Act 1993*, the OIC has a published Disability Access and Inclusion Plan (**DAIP**). The purpose of the DAIP is to ensure that people with

disability, their families, and carers are able to fully access the range of services and facilities of the OIC.

The DAIP outlines the seven desired outcomes the OIC has committed to achieving:

1. People with a disability have the same opportunities as other people to access the services of, and any events organised by, a public authority.
2. People with a disability have the same opportunities as other people to access the buildings and other facilities of a public authority.
3. People with a disability receive information from a public authority in a format that will enable them to access the information as readily as other people are able to access it.
4. People with a disability receive the same level and quality of service from the staff of a public authority as other people receive from the staff of that public authority.
5. People with a disability have the same opportunities as other people to make complaints to a public authority.
6. People with a disability have the same opportunities as other people to participate in any public consultation by a public authority.
7. People with a disability have the same opportunities as other people to obtain and maintain employment with a public authority.

The OIC's DAIP also addresses the issue of people with disability being able to exercise their rights under the FOI Act.

The FOI Act requires that applications must be made in writing, and the OIC recognises this may present an obstacle for people with disability. As FOI applications are made directly to the relevant State or local government agency, the onus is on those agencies to ensure all applicants have the same opportunity to make an FOI application. This is encapsulated in sections 11(2) and 11(3) of the FOI Act, which require agencies to take reasonable steps to help applicants to make a valid FOI application.

A yearly progress report on the initiatives in the DAIP has been lodged with the Department of Communities. The majority of strategies are ongoing practices, such as maintaining access to premises and employment opportunities that may arise.

During the year, the following initiatives were achieved that correspond to the outcomes of the DAIP.

- The OIC entered into a service delivery agreement with the Commonwealth to provide services to the Indian Ocean Territories (**IOT**). OIC publications outlining the FOI process were translated into Chinese and Cocos Malay and provided to the local councils for the IOT community, allowing services to be provided and available to the community in traditionally non-English speaking regions.
- Captioning has been added to the video on the OIC homepage 'The right to access government documents'. The video explains the fundamentals of access to government information. This allows information regarding the rights available to members of the public under the FOI Act to be viewed and understood without sound.



The DAIP is available on the OIC's [website](#), or copies can be requested from this office.

### ***Compliance with Public Sector Standards and ethical codes***

The OIC operates under an established code of conduct that references the WA Public Sector Code of Ethics (**the Code**). The OIC also has an employee grievance resolution policy in place. All new staff are provided with a copy of the Code and grievance policy as part of their induction, and these documents are also available to all staff on the OIC's knowledge management system.

The OIC has an integrity officer who reports on integrity issues at the staff monthly meetings, in order to raise awareness and ensure that staff are aware of their obligations in relation to integrity.

### ***Complaints about the OIC***

The OIC's complaints policy and procedures has been developed in line with the *Australian and New Zealand Standard Guidelines for complaint handling in organizations AS/NZS 10002:2014*. A complaint under the OIC complaints policy and procedure is an expression of dissatisfaction about the actions or services of the OIC, or the associated conduct of the Commissioner and/or OIC staff, and may be either a general comment or a formal complaint that requires investigation and response.

Complaints made to the OIC about the way that a State or local government has managed an FOI request, or about the

outcome of FOI requests, are not covered by the OIC complaints policy.

During the reporting year, the OIC received no formal complaints.

A copy of the complaints procedure is available on the OIC's [website](#).

### ***Records management***

During the reporting period the review of the OIC's record-keeping plan (**RKP**) was completed. The updated RKP was submitted to the State Records Office and subsequently approved in December 2022. Included with the revised RKP was a separate records disaster recovery plan and a vital records register.