



Office of the Information Commissioner

Freedom of information for Western Australia



ANNUAL REPORT 2022/23

This page has been left blank intentionally

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.

Contact Details

Office address

Albert Facey House
469 Wellington Street
PERTH WA 6000 ([map](#))

Telephone

(08) 6551 7888

Freecall for WA country regions

1800 621 244

Email

info@oic.wa.gov.au

Website

www.oic.wa.gov.au

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

Albert Facey House, 469 Wellington Street Perth WA 6000
Telephone: (08) 6551 7888
Freecall (WA country): 1800 621 244
Email: info@oic.wa.gov.au
Web: <https://www.oic.wa.gov.au>

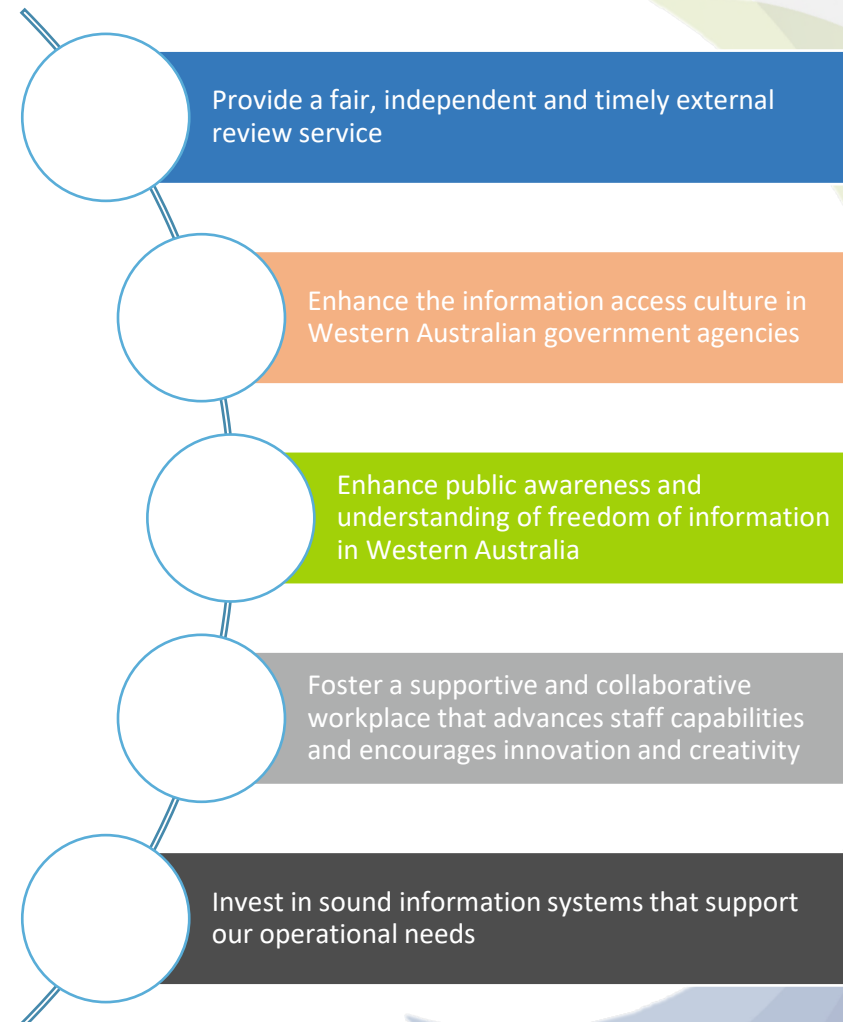
About this report

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



Contents

Overview

What is freedom of information?	1
Executive Summary	2
2022/23 highlights	5
About the Office of the Information Commissioner	6
Performance management framework	7

Operational performance

Snapshot of financial and operational performance indicators	9
External Review	10
Advice and Awareness	27
Our workplace	37

Significant issues

Recommended legislative and administrative changes	41
Submissions and consultations	43
Supreme Court appeals	43
Information Access Study 2023	44
National Metrics about Information Access Rights	45
Standing Committee on Public Administration	47

FOI research project by Monash University	47
Agencies not dealing with access applications within statutory timeframes	48
Accountability Agency Collaborative Forum	49
Association of Information Access Commissioners	49
International Conference of Information Commissioners	50
Information Management	51

Disclosures and legal compliance

FOI in the Sector	52
Financial disclosures	59
Governance disclosures	60

Key performance indicators

Key effectiveness indicators	65
Key efficiency indicators	67

Financial statements

Statement of comprehensive income	72
Statement of financial position	73
Statement of changes in equity	74
Statement of cashflows	75
Note 1: Basis of preparation	76

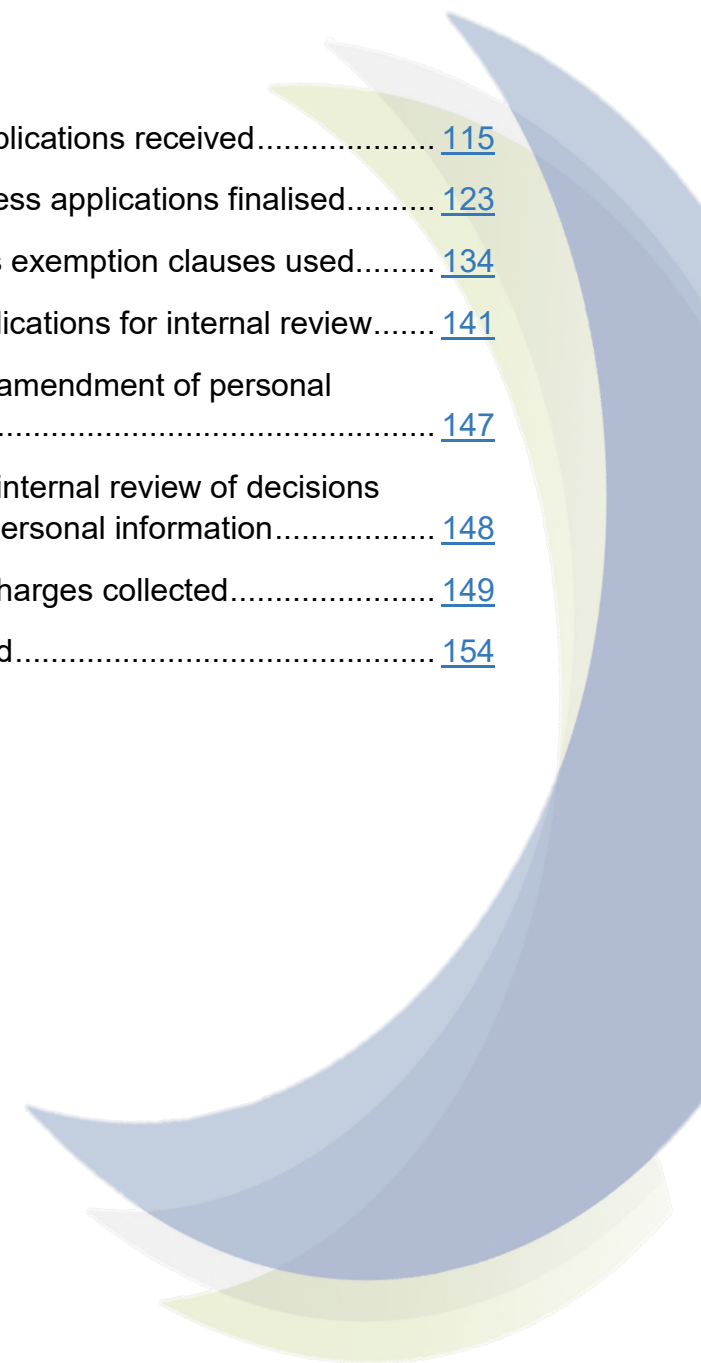
Note 2: Use of our funding	77
Note 3: Our funding sources	80
Note 4: Key assets	81
Note 5: Other assets and liabilities	83
Note 6: Financing	84
Note 7: Financial instruments and contingencies	85
Note 8: Other disclosures	85
Note 9: Explanatory statement	88

OIC statistics

Table 1: Applications received and dealt with	96
Table 2: Breakdown of valid external review applications	96
Table 3: External review applications received by the Commissioner	97
Table 4: Invalid applications for external review finalised	99
Table 5: Other applications received	100
Table 6: Outcome of external reviews finalised	102
Table 7: Outcomes of other applications finalised	106
Table 8: Published decisions	108
Table 9: FOI training and presentations	109
Table 10: OIC online publications	111
Table 11: Injury management targets	113

Agency statistics

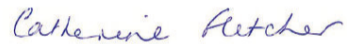
Table 12: Valid access applications received	115
Table 13: Outcome of access applications finalised	123
Table 14: Number of times exemption clauses used	134
Table 15: Outcome of applications for internal review	141
Table 16: Applications for amendment of personal information	147
Table 17: Applications for internal review of decisions regarding amendment of personal information	148
Table 18: Fees paid and charges collected	149
Table 19: Charges reduced	154



Key Performance Indicators

Certification of Key Performance Indicators

We hereby certify that the key performance indicators are based on proper records, are relevant and appropriate for assisting users to assess the performance of the Office of the Information Commissioner, and fairly represent the performance of the Office of the Information Commissioner for the financial year ended 30 June 2023.



Catherine Fletcher
Information Commissioner

6 October 2023



Tony Pruyn
Manager External Review

6 October 2023

Nexia Perth Audit Services Pty Ltd



Government Goal

Safe, Strong and Fair Communities:

Supporting our local and regional communities to thrive.

Desired outcome

Access to documents and observance of processes in accordance with the *Freedom of Information Act 1992 (the FOI Act)*.

Description

Under the FOI Act, the main function of the Information Commissioner (**the Commissioner**) is to provide independent external review of agencies' decisions by dealing with complaints about decisions made by agencies under the FOI Act. The Commissioner's other responsibilities include:

- ensuring that agencies are aware of their responsibilities under the FOI Act;
- ensuring members of the public are aware of the FOI Act and their rights under it;
- providing assistance to members of the public and agencies on matters relevant to the FOI Act; and
- recommending to Parliament legislative or administrative changes that could be made to help the objects of the FOI Act to be achieved.

The Office of the Information Commissioner (**the OIC**) is made up of the Commissioner and the staff appointed by the Governor to assist the Commissioner to discharge those functions and responsibilities under delegated authority. These functions take the form of two outputs.

Service 1: Resolution of Complaints

Service 2: Advice and Awareness

The intent of the FOI Act is to ensure that proceedings on external review are conducted with as little formality and technicality as the requirements of the FOI Act and a proper consideration of the matters before the Commissioner permit. Therefore, when dealing with external reviews (complaints), the policy of the Commissioner is to ensure that wherever possible the conduct of external review proceedings is not unduly legalistic or formal. Accordingly, the preferred method of resolving complaints is by negotiating a conciliated outcome between the parties. However, where a conciliated outcome cannot reasonably be achieved, the Commissioner is required to make a determination and will either publish a written decision with reasons or decide to stop dealing with a matter which is lacking in substance under section 67 of the FOI Act.

Officers delivering the Advice and Awareness output also emphasise the spirit of the FOI Act when delivering advisory services. Wherever possible, agencies are encouraged to release information outside the FOI process where it is appropriate to do so and, where necessary, to follow the correct processes for dealing with an access application or an application for amendment of personal information under the

FOI Act. Policy development within agencies that establishes routine information disclosure outside formal FOI processes is encouraged to minimise the impact of the obligations on the day-to-day operations of agencies. Many potential disputes are also resolved informally with assistance from the OIC.

The Key Performance Indicators (**the KPIs**) of the OIC detailed below have been designed to reflect the satisfaction of parties who utilise the services of the OIC, show the extent to which conciliation is achieved and measure efficiency by relating workload to costs. There are three Effectiveness KPIs and two Efficiency KPIs, which are summarised below.

Key Effectiveness Indicators

1. Satisfaction of parties with external review process.
2. Satisfaction of agencies with advice and guidance provided.
3. The extent to which complaints were resolved by conciliation.

Key Efficiency Indicators

1. Average cost of external reviews finalised.
2. Average cost of advisory services delivered per recipient.

Key effectiveness indicators

Satisfaction of parties with external review process

	2019	2020	2021	2022	2023
Target	85%	85%	85%	85%	85%
Outcome	82%	78%	76%	80%	85%

The above indicator shows the level of satisfaction with the external review process by the parties to each of the external reviews finalised during the year.

A Post Review Questionnaire (**PRQ**) is sent to the parties to an external review to seek their views on whether there was an independent, objective and fair process with an emphasis on user-friendly processes which met their needs. Four key questions are asked:

Were you satisfied with the outcome of the external review?

1. Regardless of the outcome, were you satisfied with the manner in which the external review was conducted by the OIC?
2. Do you consider that you were kept adequately informed regarding the progress of the external review?

3. Was the officer assigned to the external review professional in his or her dealings with you?

A PRQ was sent to 214 parties who participated in an external review process following finalisation of the review process. 84 participants returned a completed PRQ. 59 responses were received from agencies and 25 were received from complainants. The total response rate from all participants was 39%.

The outcome of answers to question 2 above is used to calculate this indicator. The answers to questions 1, 3 and 4 are also used by the OIC, but for internal management purposes. Information in response to all four questions is taken into account when reviewing external review procedures.

Of the 84 respondents, 71 (85%) answered 'yes' to question 2 and confirmed that they were satisfied with the manner in which the external review was conducted by the OIC.

Satisfaction of agencies with advice and guidance provided

	2019	2020	2021	2022	2023
Target	98%	98%	98%	98%	98%
Outcome	99%	98%	100%	98%	98%

The Advice and Awareness section of the OIC provides a range of advisory services. Those services are provided direct

by telephone, email and counter enquiries and through group training presentations and briefings and indirectly through published information and the website of the OIC.

A survey is conducted on an annual basis in conjunction with the annual statistical returns of agencies. The survey was sent to each of 278 State and local government agencies and Ministers. Of the 278 surveys sent, 242 agencies (87%) responded by returning a completed survey. Of the 242 respondent agencies, 133 (54.9%) confirmed receiving advice and guidance from this office.

Of those 133 agencies that received advice, 131 agencies (98%) expressed satisfaction with the advice and guidance provided to them by this office.

The extent to which external reviews (complaints) were resolved by conciliation

The external review model adopted by the OIC emphasises informal resolution processes such as negotiation and conciliation, wherever possible. If an external review cannot be resolved by conciliation between the parties, the Commissioner is required to make a formal determination.

This KPI is designed to represent the success rate of the preferred resolution method. Therefore, the KPI shows, as a percentage, those external reviews finalised by conciliation as opposed to those that required a decision by the Commissioner.

	2019	2020	2021	2022	2023
Target	70%	70%	70%	70%	70%
Outcome	82%	64%	63%	70%	68%

In total, 394 matters of all types were finalised by the OIC in 2022/23. However, of those 394 matters, only 139 were complaints (external reviews), as defined in s.65 of the FOI Act. Of the 139 external reviews resolved in 2022/23, 94 (68%) were resolved by conciliation. That is, as a result of inquiries conducted by the OIC, no issues remained in dispute which required a decision by the Commissioner.

Key efficiency indicators

The OIC delivers services under the two main functions prescribed by the FOI Act. As the primary function of the OIC is to deal with external reviews (complaints) received under the FOI Act, approximately 70% of the OIC's resources are allocated to that function. The other main function of the OIC is to provide advisory services to agencies and to the public. About 30% of the OIC's resources are allocated to the delivery of advice and awareness services.

Output 1 - Resolution of Complaints ***Average cost of external reviews finalised***

Included in calculating this KPI are only those matters dealt with by the Resolution of Complaints section of the OIC in

2022/23 which were formal "complaints" (see s.65 of the FOI Act) and applications that required a determination under the FOI Act rather than general administrative complaints or requests for assistance that are not technically "complaints" as per the FOI Act. General requests for assistance or for the intervention of the OIC, including misdirected applications, are reported on as part of the output of the Advice and Awareness Services. Most of those kinds of matters are dealt with by officers in the Advice and Awareness section of the OIC.

	2019	2020	2021	2022	2023
Budget	\$10,966	\$7,206	\$6,788	\$7,016	\$8,472
Actual	\$7,414	\$7,709	\$7,155	\$9,674	\$10,085

The table above reflects the costs incurred in resolving external reviews and applications (e.g. to lodge an external review out of time; permission not to consult; etc.) that may require a determination. It is calculated by dividing the number of external reviews and applications resolved by the OIC in 2022/23 (193) into the "Total Cost of Services" for the Resolution of Complaints output.

Note: The variation in the actual average cost is primarily due to the fluctuations in the number and complexity of matters received and resolved each financial year. The same fluctuations influence the calculation of estimates for budget purposes.

Output 2 – Advice and Awareness Services

Average cost of advisory services delivered per recipient

In calculating this KPI, the total output units delivered by the Advice and Awareness section of the OIC in 2021/22 was used. The output units recorded by the OIC relate to where direct advisory services were provided. Those units will consist of a total of all telephone calls attended, written advice given by email and letter, counter inquiries attended and recipients of training and briefings.

	2019	2020	2021	2022	2023
Budget	\$215	\$364	\$324	\$219	\$348
Actual	\$316	\$283	\$215	\$331	\$370

The table above reflects the average cost of providing advice and awareness services to recipients. It is calculated by dividing the total number of recipients of advice and awareness services provided by the OIC in 2022/23 (2,447) into “Total Cost of Services” for the Advice and Awareness output.

Note: The variation in the actual average cost is primarily due to the fluctuations in the number advisory service units delivered each financial year. The same fluctuations influence the calculation of estimates for budget purposes.