



**Office of the
Information Commissioner**

Freedom of information for Western Australia

Annual Report 2023/24



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 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.



18 September 2024

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

ANNUAL REPORT TO 30 JUNE 2024

In accordance with section 63 of the *Financial Management Act 2006* I hereby submit my report for the reporting period ended 30 June 2024.

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).

A handwritten signature in blue ink that reads "Catherine Fletcher".

Catherine Fletcher
INFORMATION COMMISSIONER

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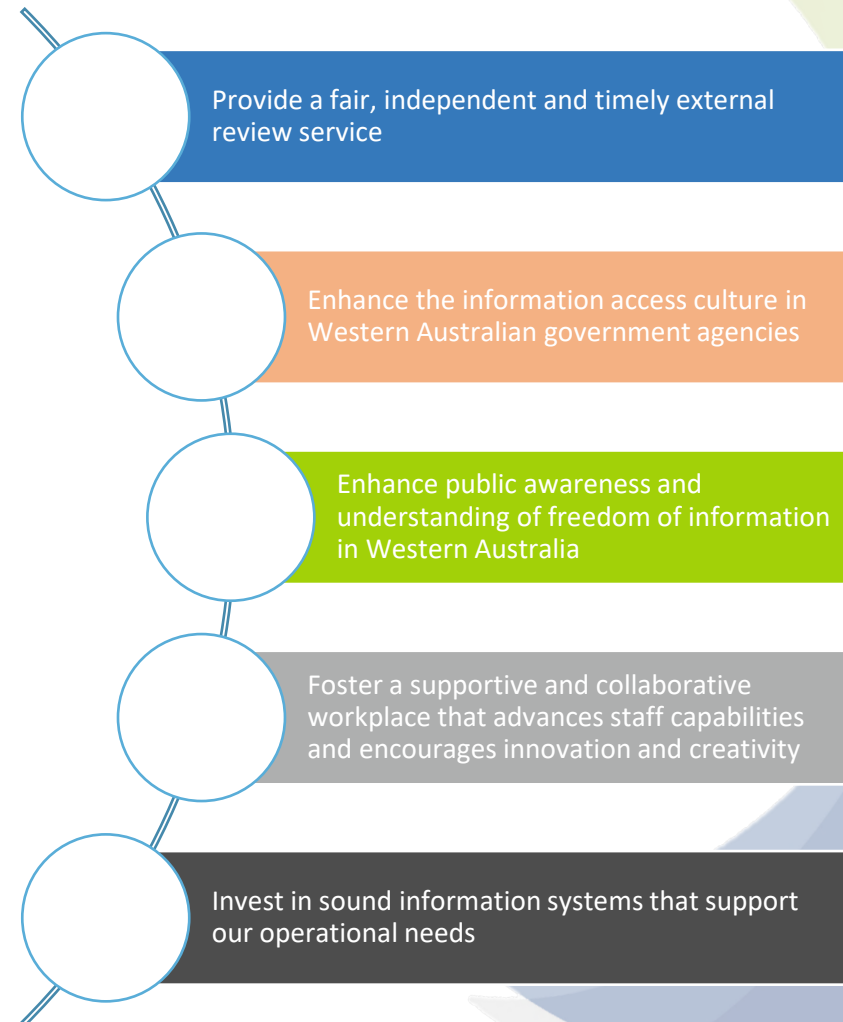
About this report

Welcome to the annual report of the Office of the Information Commissioner (**the OIC**) for 2023/24.

The aim of this report is to provide a comprehensive overview of our performance during the reporting year, provide insight into the goals and operations of the OIC, 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 (**WA**) 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. 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 objects of the FOI Act align with the intention of agency annual reports – greater accountability and transparency. We trust that this report on our activities and performance during the last reporting year provides valuable insight into our operations and outcomes and the operation of the FOI Act in WA.

Strategic goals



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 2023/24 is set out in detail in the statistical tables in the [Agency Statistics](#) chapter of this report. The following is an overview of some of key data.

Agency category access applications received	No.	%
Boards, Committees, Commissions, Authorities, Corporations	612	2.8%
Departments (except Police and Health related agencies)	4,263	19.2%
Health Related Agencies	12,904	58.1%
Local Governments	964	4.3%
Ministers	55	0.2%
Police	3,397	15.3%
Universities	32	0.1%
TOTAL	22,227	100

Figure 15 – Access applications received in 2023/24

MOST ACCESS APPLICATIONS RECEIVED 2023/24 (TOP 10 AGENCIES)	Application received
SMHS - Rockingham Peel Group	630
WACHS - South West	669
EMHS - Armadale Kalamunda Group	700
WACHS - Kimberley	714
Energy, Mines, Industry Regulation and Safety, Department of	746
NMHS - Sir Charles Gairdner Hospital	1,221
Justice, Department of	1,391
SMHS - Fiona Stanley Fremantle Hospital Group	2,580
Police Force, Western Australia	3,397
Royal Perth Bentley Group	3,575
TOTAL	15,623

Figure 16 – Top ten agencies by number access applications received

See Table 12 for details of all agencies.

Valid access applications received by agencies

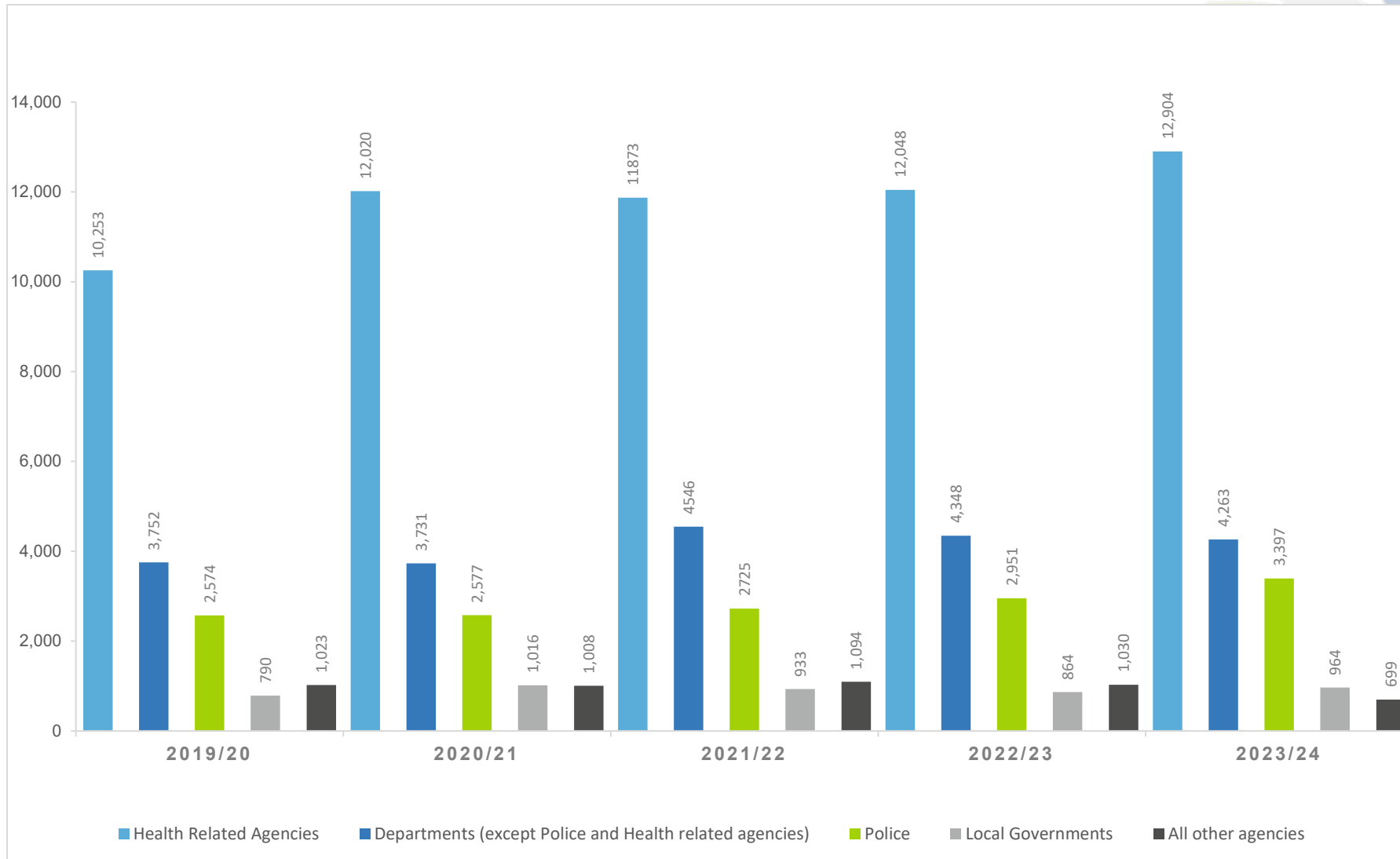


Figure 17 – Valid access applications received over five years by agency group

Agency decisions

- 19,697 decisions were made by agencies in response to access applications during the year compared to 18,998 decisions in 2022/23 (a 3.6% increase in decisions made by agencies). See Table 13.
- A further 1,899 applications were withdrawn.
- The difference between the total number of access applications received by agencies and the number finalised by a formal decision of the agency is explained by a number of applications being withdrawn and a number not being finalised with the reporting period.

Access given in part or in full

Agencies can decide to give an access applicant access to the requested documents in full or in part (edited access) or to refuse access to the requested documents.

- 86.8% of all agency 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% of all agency 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 a substantial and unreasonable portion of the agency's resources away from its other operations.

- While a substantial amount of access application across the sector result in access in part or in full, the amount and kind of access given varies greatly between the agency groups. For health-related agencies, 86.9% of applications result in access being given in full. 79% of access applications to local government result in edited access being given to the requested documents. See Figure 19 for an indication of access across all the agencies. Figure 20 demonstrates the difference in access provided by between the different agency groups.

Exemptions claimed by agencies

The most commonly claimed exemption to refuse access continues to be clause 3(1) of Schedule 1 to the FOI Act. Clause 3(1) provides that information is exempt if its disclosure would reveal personal information about an individual. Clause 3(1) was claimed in 4,268 decisions. This was more than eight times the next most claimed exemption, clause 5, which was claimed 508 times. Clause 5 of Schedule 1 to the FOI Act lists a number of exemptions that relate to law and public safety. A summary of claimed exemptions by agency groups is summarised at Figure 22.

For detail of the exemptions claimed by all agencies see Table 14.

Decisions to refuse to deal with an access application

Agencies can decide to refuse to deal with an access application under section 20 of the FOI Act if dealing with the application would involve a substantial and unreasonable diversion of the agency's resources.

This is the third year that agencies have been required to report section 20 decisions separately. These types of decisions have previously been counted under 'access refused'. 41 agencies reported a total of 108 decisions made under section 20 during the reporting period. This is an increase from the previous reporting period, both in number of agencies making a decision under section 20 (31 in 2022/23) and number of decisions made under section 20 (79 in 2022/23).

The developing trend in the number of decisions by agencies to refuse to deal with access application under section 20 will be monitored by the OIC. Agencies should only refuse to deal with an application under section 20 if dealing with the application would involve a substantial and unreasonable diversion of the agency's resources. To rely on section 20, an agency must first take reasonable steps to assist the access applicant to change the application to reduce the amount of work needed to deal with it.

AGENCY	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	164	31.0%	278	52.6%	1	0.2%	0	0.0%	49	9.3%	10	1.9%	27	5.1%
Departments (except Police and Health related agencies)	1,060	27.7%	1,932	50.5%	7	0.2%	2	0.1%	550	14.4%	41	1.1%	232	6.1%
Health Related Agencies	10,007	84.7%	1,240	10.5%	3	0.0%	16	0.1%	486	4.1%	22	0.2%	38	0.3%
Local Governments	96	11.1%	686	79.0%	7	0.8%	2	0.2%	41	4.7%	11	1.3%	25	2.9%
Ministers	8	13.3%	27	45.0%	0	0.0%	0	0.0%	14	23.3%	7	11.7%	4	6.7%
WA Police	777	30.1%	810	31.4%	0	0.0%	0	0.0%	62	2.4%	16	0.6%	914	35.4%
Universities	4	16.0%	16	64.0%	0	0.0%	0	0.0%	2	8.0%	1	4.0%	2	8.0%
TOTAL	12,116	61.5%	4,989	25.3%	18	0.1%	20	0.1%	1,204	6.1%	108	0.5%	1,242	6.3%
Grand Total	19,697													

Figure 18 – Total decision outcomes according to agency group during the reporting year

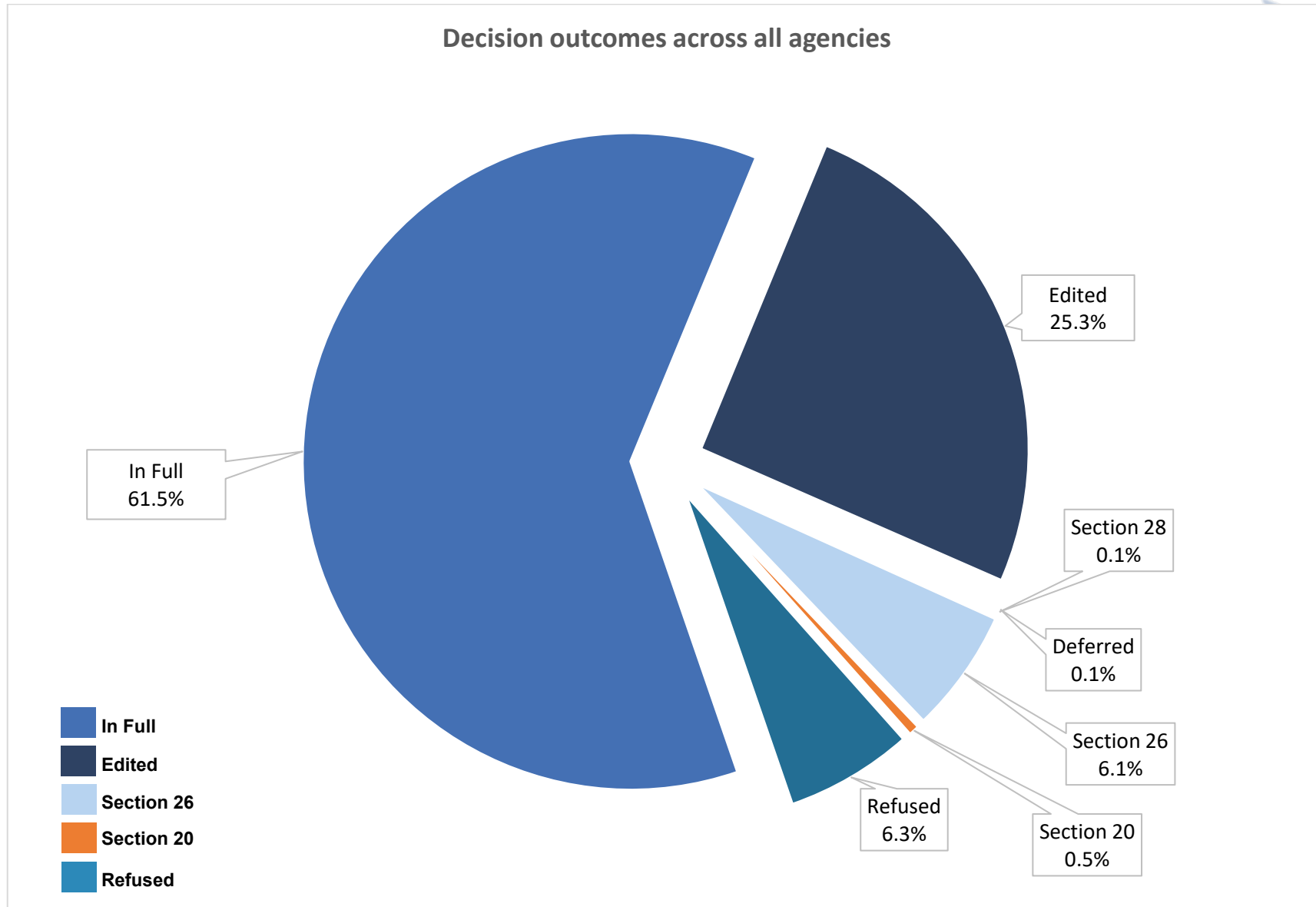


Figure 19 – Outcomes of decisions across agencies during the reporting year

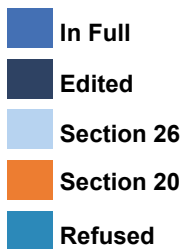
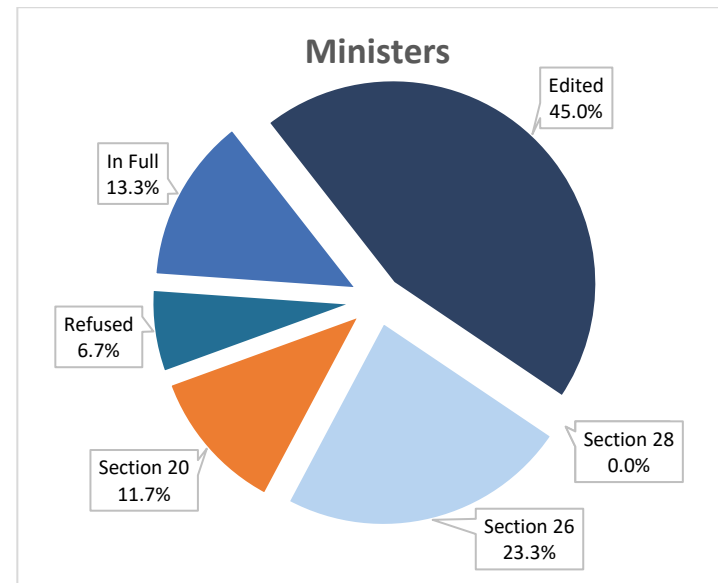
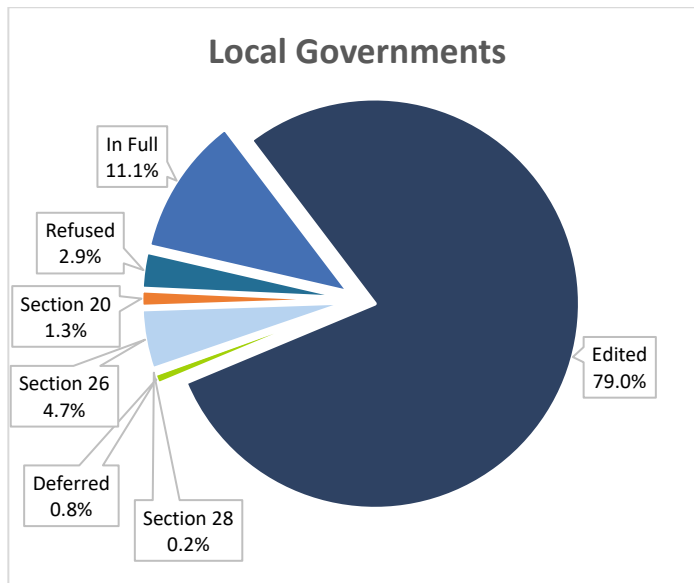
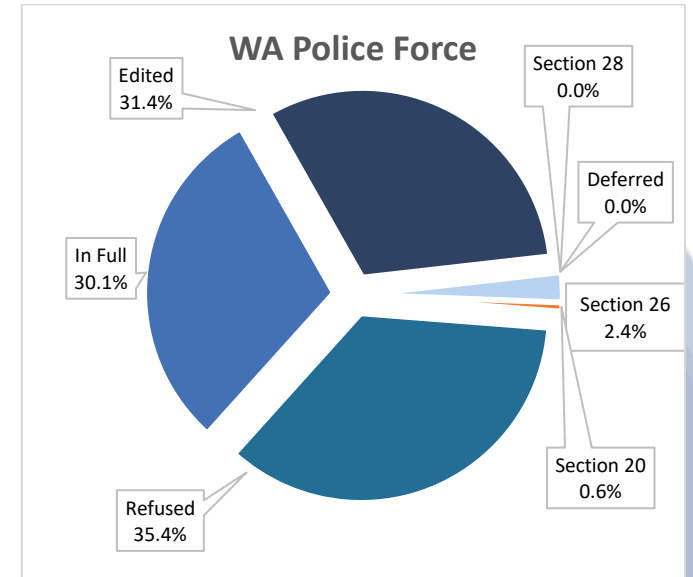
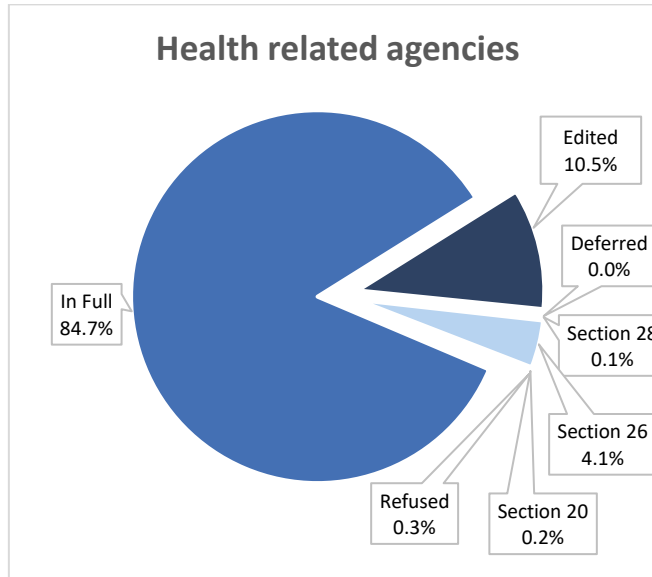
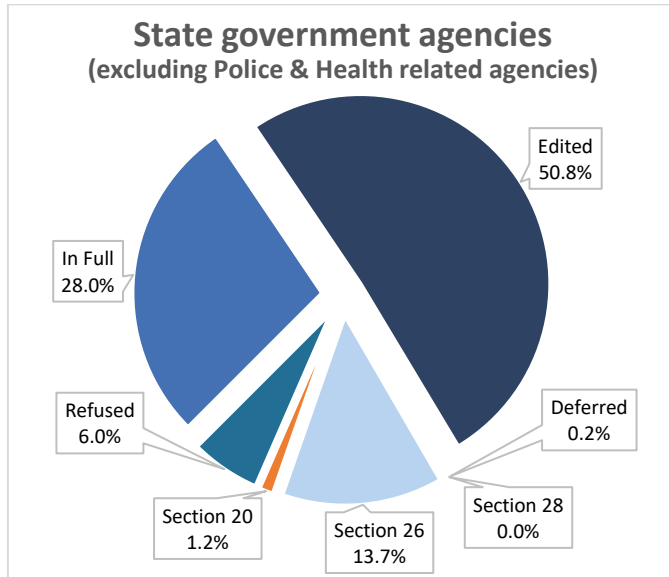


Figure 20 – Outcomes of decisions by agency type

Top 10 Exemptions

Clause No.	Description	No. of Claims	%
Clause 3	Personal Information	4,268	72.6
Clause 5	Law enforcement, public safety and property security	508	8.6
Clause 4	Trade secrets, commercial and business information	215	3.7
Clause 11	Effective operation of agencies	207	3.5
Clause 6	Deliberative processes of Government	186	3.2
Clause 8	Confidential communications	132	2.2
Clause 14	Information protected by certain statutory provisions	125	2.1
Clause 7	Legal professional privilege	123	2.1
Clause 1	Cabinet and Executive Council	70	1.2
Clause 12	Contempt of Parliament or court	41	0.7
TOTAL		5,875	100

Figure 21 – Top 10 exemption clauses claimed during the reporting year

For detail, see Table 16 and Table 17.

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	8	0	250	15	0	3	127	31	9	0	0	1	1	0	0	0
Departments (except Police and Health related agencies)	42	4	1,752	110	0	247	33	45	94	0	14	190	23	1	120	0
Health Related Agencies	0	0	739	2	0	4	4	4	5	0	0	4	1	0	1	0
Local Governments	0	0	487	82	0	44	17	39	14	0	1	3	1	0	0	0
Ministers	17	1	23	3	0	0	4	1	0	0	0	0	10	0	0	0
WA Police	3	0	1,001	2	0	209	1	3	5	0	0	8	5	0	4	0
Universities	0	0	16	1	0	1	0	0	5	0	0	1	0	0	0	0
Total	70	5	4,268	215	0	508	186	123	132	0	15	207	41	1	125	0

Figure 22 – Exemption clauses by agency category

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 \$251,119 in access application fees was collected by agencies in the reporting period.
- \$42,926 in charges was imposed by agencies, an average of \$6.26 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 34.3 days (26.5 days last year), which remains within the 45 days provided in the FOI Act. In 2013/14 the average time to for dealing with access applications was 22.9 days. Five years ago, in 2018/19 it was 34.6 days.

Decisions made outside the permitted period

Agency type	No. of agencies	No. of matters
State government (not including health services)	28	438
Health services	14	1,769
Local government	15	43
TOTAL	57	2,230

Figure 23 – Total decisions made outside the timeframe during the reporting year

Of the 19,697 decisions made by agencies during the year, 8.8% were not dealt with in the permitted period compared to 12.7% in the previous year.

87.8% 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 310 applications for internal review of decisions relating to access applications. This represents 1.6% of all decisions made by agencies in respect of access applications.
- 96 (28.3%) internal review applications finalised during the reporting period resulted in the initial decision being varied or reversed.

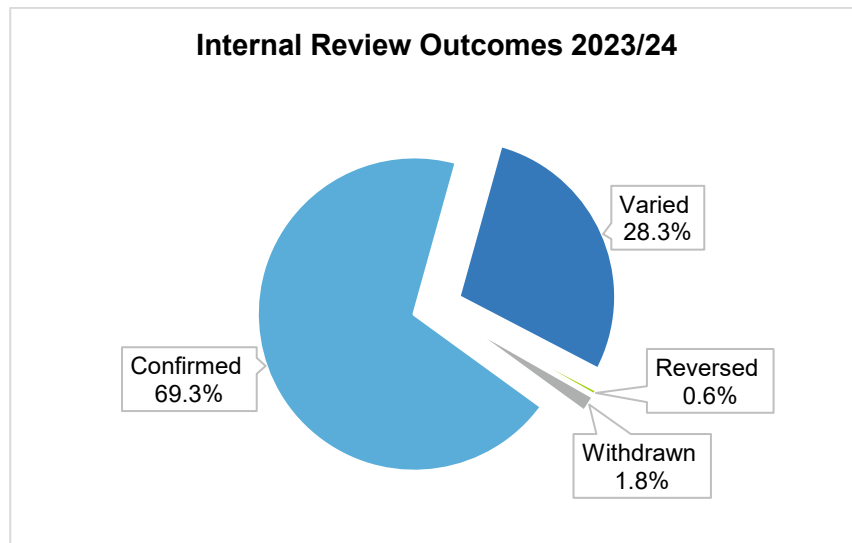


Figure 24 – Internal review outcomes during the reporting year

Amendment of personal information

- 101 applications for amendment of personal information were received across agencies and 103 applications were finalised, including six applications being withdrawn. See Table 16 for detail about the number of applications for amendment received and the decisions made in respect of those applications.

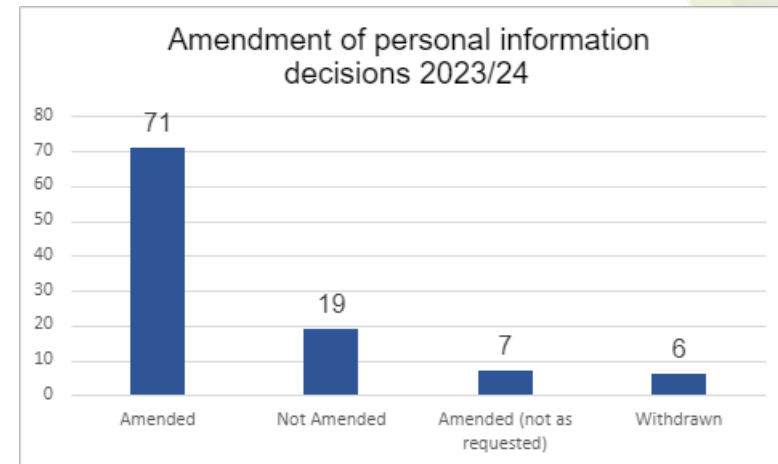


Figure 25 – Amendment of personal information decisions during the reporting year

Seven applications for internal review of amendment decisions were received within agencies, and eight decisions were made, 100% of which were to confirm the agency’s initial decision.

For greater detail about the number of requests for internal review of decisions in respect of applications for amendment of personal information received and the decisions made in respect of those applications for internal review, see Table 17.

Financial disclosures

Pricing policies of services provided

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

\$1.4 million in funding from the Government's Digital Capability Fund was approved for 2023/24 to procure a replacement case management system and a fit-for-purpose document management system for the OIC.

Phase 1 of the project (procurement of project management services) was initiated in January 2024 and a contract awarded in July 2024.

Employment and industrial relations

Staff profile

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

	2024	2023
Full-time permanent	7	5
Full-time contract	5	5
Part-time (measured on a FTE basis)	1.91	2.7
On secondment	2	2

Figure 26 – Total staff figures during the last two reporting years

Staff movements

During the reporting period, additional staff were recruited after OIC received additional funding for two years from 2022/23 to temporarily increase staff resources. The new appointments included two Review and Investigations Officers, a Senior Review and Investigations Officer, a Senior Systems Administrator and an Executive Assistant (appointed in June 2023). These appointments were not made permanent due to the finite nature of the funding.

Within the reporting period there have been the following staff movements:

- Five positions became vacant, including an officer with 30 years' experience at the OIC.
- Three new staff were recruited to fill two-year contract appointments, including secondments.
- Two new staff members were recruited on a 12-month contract, one being on secondment.
- One new staff member was recruited and appointed to a permanent position.
- A contract extension of two years was awarded to an existing contracted staff member.
- The Commissioner's appointment was extended for another 12 months to July 2025.

In addition to the above, six positions were permanently reclassified and two staff members commenced parental leave.

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 of 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. 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 relevant 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.
- The OIC made no act of grace payments.
- No expenditure was spent on advertising agencies, polling organisations, direct mail organisations or media advertising organisations.

Unauthorised use of credit cards

Officers of the OIC hold corporate credit cards where their functions warrant usage of this facility. Of the five cardholders, there were no instances of the cards being inadvertently used for private expenses.

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.

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.

During the reporting year, the OIC received three formal complaints.

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

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.

No new initiatives commenced during the year.

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

The five-year review of the DAIP is due in 2024/25.

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.

Records management

The OIC's five-year record-keeping plan (**RKP**) was reviewed and submitted to the State Records Office in December 2022.

The OIC manages its records both electronically and by way of paper record files.

Since 2020, the OIC has, by necessity following the global pandemic, moved towards retaining records electronically on a shared network, rather than only physical records. This ensures that staff can access the information they need when required to work remotely. While this has changed the manner in which records are kept, in the absence of a fully developed electronic document management system, administrative and functional records continue to be printed and physically filed.

As reported earlier in this report, funds were approved through the Digital Capability Fund in 2023/24 to replace the OIC's ageing case management system and introduce an electronic document records management system. The finalisation of this procurement is expected in 2024/25. The OIC recognises that a significant part of this project will be the review and development of new policies and procedures to accommodate the new systems and the move to digital record keeping practices and management.

