

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).

Catherine Fletcher

INFORMATION COMMISSIONER

Catherine Feetcher

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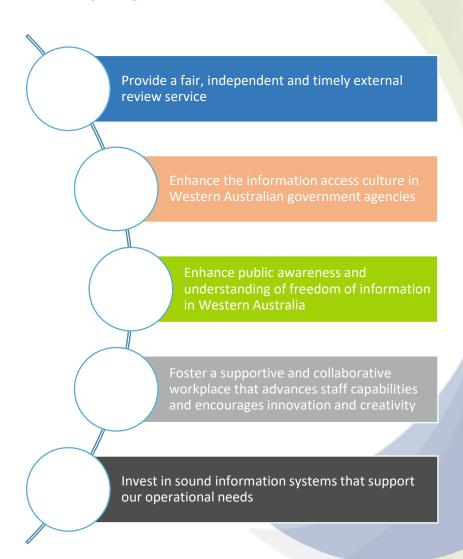
About this report

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



OIC Statistics

Section 111 of the FOI Act requires the Commissioner to provide a report to the Speaker of the Legislative Assembly and the President of the Legislative Council on the operation of the legislation during the reporting period. As well as providing data on the operation of the FOI Act across the sector (see following section on Agency Statistics), the Commissioner is required to provide the following information:

- the number of external review applications made to the Commissioner and the results of those applications;
- the number of other applications made to the Commissioner and the results of those applications; and
- the number of appeals to the Supreme Court and results of those appeals.

The following is the statistical data reflecting external review applications and other applications made to the OIC during the year, and their outcomes. Details of Supreme Court appeals are outlined under Significant Issues.

For reference, 'other' applications refer to requests made to the Commissioner other than applications for external review. including: requests to lodge external review applications when no internal review has been completed, or the time limit within which to lodge an external review has expired; requests from agencies to waive the requirement to consult with third parties; and requests for an extension or reduction of time within which agencies are required to deal with an application.

Other statistical data referred to throughout this report in respect of the OIC's operations are also included in this section.

Index to tables

- Applications received and dealt with by the Commissioner
- 2 Breakdown of valid external review applications made to the Commissioner
- External review applications received by the 3 Commissioner (valid and invalid)
- Invalid applications for external review finalised 4
- Other applications received 5
- Outcome of external reviews finalised (by agency and 6 category)
- Outcomes of other applications finalised 7
- 8 **Published decisions**
- 9 FOI training and presentations
- 10 **OIC** publications
- 11 Injury management targets

Table 1: Applications received and dealt with by the Commissioner

Applications received and dealt with by the Commissioner	Received	Dealt with
External review applications – valid	156	134
External review applications – informal / invalid	15	17
Section 66(6) applications – no internal review	11	12
Section 66(4) applications – out of time	7	7
Section 13(5) applications – extension of time	0	0
Section 13(4) applications – reduction of time	1	1
section 13(7) applications - extension of time	0	0
Section 35(1) – waiver of requirement to consult	2	1
Section 48(3) – request for destruction certificate	0	0
TOTAL	192	172

Table 2: Breakdown of valid external review applications made to the Commissioner

Applicant group	No.	Agency group	No.
Individual citizen	125	Department (ex. Police & Health)	54
Company	12	Local Government	33
Not-for-profit	9	Police	18
Media	5	Health related	13
Prisoner	4	Board, Committee, Commission, Authority, Corporation	27
Member of Parliament	1	University	2
Government agency	0	Minister	9
		Other	0
TOTAL	156	TOTAL	156

Table 3: External review applications received by the Commissioner (valid and invalid)

AGENCY	VALID	INVALID	TOTAL
State Agencies			
Acacia Prison	2		2
Biodiversity, Conservation and Attractions, Department of	1		1
Child and Adolescent Health Service	1		1
Communities, Department of	2	1	3
Curtin University	1		1
Edith Cowan University	1		1
Education, Department of	5	1	6
Energy, Mines, Industry Regulation and Safety, Department of	6		6
Fire and Emergency Services, Department of	4		4
Health, Department of	1		1
Justice, Department of	11	3	14
Legal Aid Western Australia	0	1	1
Local Government, Sport and Cultural Industries, Department of	3	1	4
Main Roads Western Australia	3		3
Metropolitan Cemeteries Board	8		8
Mines, Industry Regulation and Safety, Department of	3		3
NMHS - Mental Health	1		1
NMHS - Sir Charles Gairdner Hospital	5		5
North Metropolitan TAFE	1		1

AGENCY	VALID	INVALID	TOTAL
Office of the Public Advocate	1		1
PathWest Laboratory Medicine WA	1		1
Planning, Lands and Heritage, Department of	2	2	4
Police Force, Western Australia	18	3	21
Public Transport Authority	1		1
Small Business Development Corporation	1		1
SMHS - Fiona Stanley Fremantle Hospitals Group	1		1
State Administrative Tribunal	2		2
State Solicitor's Office	1		1
The Legal Practice Board of WA	3		3
Premier and Cabinet, Department of the	6		6
University of Western Australia, The	0	1	1
Transport, Department of	4		4
WACHS - Central Office	1		1
WACHS - Midwest	2		2
Water and Environmental Regulation, Department of	2		2
Water Corporation	8		8
WorkCover Western Australia Authority (WorkCover WA)	1		1
Sub-total: State Agencies	114	13	127
Local Governments			
Albany, City of	1		1
Augusta-Margaret River, Shire of	1		1
Bayswater, City of	1		1

AGENCY	VALID	INVALID	TOTAL
Cambridge, Town of	2		2
Canning, City of	1		1
Claremont, Town of	1		1
Cockburn, City of	1		1
Dardanup, Shire of	1		1
Gingin, Shire of	1		1
Gosnells, City of	1		1
Karratha, City of	1		1
Mandurah, City of	0	1	1
Melville, City of	7		7
Mosman Park, Town of	3		3
Nedlands, City of	1		1
Serpentine Jarrahdale, Shire of	1		1
Stirling, City of	3		3
Subiaco, City of	1		1
Swan, City of	1		1
Vincent, City of	2		2
Wanneroo, City of	2		2
Sub-total: Local Government Agencies	33	1	34
Ministers			
Attorney General	2		2
Emergency Services, Minister for	1		1
Energy; Environment; Climate Action, Minister for	2		2

AGENCY	VALID	INVALID	TOTAL
Local Government, Minister for	1		1
Minister for Transport; Tourism Deputy Premier; Treasurer;	2		2
Police; Corrective Services; Racing and Gaming; Defence Industry; Veterans Issues, Minister for	1		1
Sub-total: Ministers	9	0	9
Agency status unconfirmed			
Other	0	1	1
Sub-total: Agency status unconfirmed	0	1	1
TOTAL	156	15	171

Table 4: Invalid applications for external review finalised

AGENCY	No.
State Agencies	
Communities, Department of	1
Education, Department of	1
Justice, Department of	3
Legal Aid Western Australia	1
Local Government, Sport and Cultural Industries, Department of	1
NMHS - Corporate Office	1
Planning, Lands and Heritage, Department of	2
Police Force, Western Australia	3
University of Western Australia, The	1
Sub-total: State Agencies	14
Local Governments	
Mandurah, City of	1
Melville, City of	1
Sub-total: Local Governments	2
Agency status unconfirmed	
Other	1
Sub-total: Agency status unconfirmed	/1
TOTAL	17

Table 5: Other applications received under the FOI Act

ACENCY	OUT OF TIME	NO INTERNAL REVIEW	REDUCTION OF TIME	WAIVER	TOTAL
AGENCY	s.66(4)	s.66(6)	s.13(4)	s35(1)	
Albany, City of		1			1
Cambridge, Town of		1			1
Education, Department of		1	1		2
Justice, Department of		2			2
Melville, City of	1				1
Metropolitan Cemeteries Board		2			2
Nedlands, City of	1				1
North Regional TAFE				1	1
Notre Dame University (status to be confirmed)	1				1
Planning, Lands and Heritage, Department of	2				2
Police Force, Western Australia	1	2			3
Salaries and Allowances Tribunal				1	1
Swan, City of		1			1
Wanneroo, City of	1				1
Western Power		1			1
TOTAL	7	11	1	2	21

No applications under section 48(3) (request for destruction certificate) were received.

Table 6: Outcome of external reviews finalised (by agency and category)

		PUBLISHE	D DECISION UNDER	SECTION 76			
			AGENCY DECISION		DECISION UNDER s.67(1)(a)	DECISION UNDER s.67(1)(b)	TOTAL
AGENCY	CONCILIATED	CONFIRMED	VARIED	SET ASIDE AND SUBSTITUTED			MATTERS FINALISED
State Agencies							
Acacia Prison	1	0	0	0	0	0	1
Biodiversity, Conservation and Attractions, Department of	0	1	0	0	0	0	1
DevelopmentWA	2	0	0	0	0	0	2
Edith Cowan University	1	0	0	0	0	0	1
Education, Department of	6	0	0	0	0	0	6
Electoral Commission, Western Australian	1	0	0	0	0	0	1
EMHS - Corporate Office	1	0	0	0	0	0	1
Energy, Mines, Industry Regulation and Safety, Department of	1	0	0	0	0	0	1
Fire and Emergency Services, Department of	1	0	0	0	0	1	2
Forest Products Commission	0	1	0	0	0	0	1
Health and Disability Services Complaints Office	1	0	0	0	0	0	1
Health, Department of	0	0	0	0	0	1	1
Jobs, Tourism, Science and Innovation, Department of	0	1	0	0	0	0	1
Justice, Department of	5	0	0	0	3	0	8
Local Government Standards Panel	0	1	0	0	0	0	1

SIGNIFICANT ISSUES & EVENTS

DISCLOSURES & LEGAL COMPLIANCE

KEY PERFORMANCE INDICATORS

FINANCIAL STATEMENTS

OIC STATISTICS

AGENCY STATISTICS

		PUBLISHE	D DECISION UNDER	SECTION 76			
			AGENCY DECISION		DECISION	DECISION	TOTAL
AGENCY	CONCILIATED	CONFIRMED	VARIED	SET ASIDE AND SUBSTITUTED	UNDER s.67(1)(a)	UNDER s.67(1)(b)	MATTERS FINALISED
Local Government, Sport and Cultural Industries, Department of	0	1	0	0	0	0	1
Main Roads Western Australia	3	0	1	0	0	1	5
Mental Health Commission	0	1	0	0	0	0	1
Metropolitan Cemeteries Board	3	0	0	0	1	0	4
Mines, Industry Regulation and Safety, Department of	4	1	0	1	0	0	6
NMHS - Corporate Office	1	0	0	0	1	0	2
NMHS - Mental Health	2	0	0	0	0	0	2
NMHS - Sir Charles Gairdner Hospital	2	0	0	0	0	0	2
North Metropolitan TAFE	0	0	0	0	0	1	1
Planning, Lands and Heritage, Department of	1	0	0	0	0	0	1
Police Force, Western Australia	12	1	1	0	1	4	19
Public Trustee Western Australia	1	0	0	0	0	0	1
SMHS - Fiona Stanley Hospital	2	0	0	0	0	0	2
State Administrative Tribunal	0	0	0	0	0	1	1
Premier and Cabinet, Department of the	1	0	0	0	0	1	2
The University of Western Australia	0	0	0	1	0	0	1
Tourism Commission, Western Australian	1	0	0	0	0	0	1
Transport, Department of	2	0	0	0	0	0	2

ISSUES &

EVENTS

		PUBLISHE	D DECISION UNDER	SECTION 76			
			AGENCY DECISION	N:	DECISION	DECISION UNDER s.67(1)(b)	TOTAL
AGENCY	CONCILIATED	CONFIRMED	VARIED	SET ASIDE AND SUBSTITUTED	UNDER s.67(1)(a)		MATTERS FINALISED
WACHS - South West	1	0	0	0	0	0	1
Water and Environmental Regulation, Department of	0	1	0	0	0	1	2
Water Corporation	1	0	0	0	0	0	1
WorkCover Western Australia Authority (WorkCover WA)	1	0	0	1	0	0	2
Sub-total: State Agencies	58	9	2	3	6	11	89
Percentage of agency group/ percentage of total	65.2%	10.1%	2.2%	3.4%	6.7%	12.4%	100.0%
Local Government Agencies							
Albany, City of	1	0	0	0	0	0	1
Bayswater, City of	4	0	0	0	0	0	4
Busselton, City of	0	2	0	0	0	0	2
Cambridge, Town of	1	0	0	0	0	0	1
Cockburn, City of	1	0	0	0	0	0	1
Dardanup, Shire of	2	0	0	0	0	0	2
Joondalup, City of	2	0	0	0	1	0	3
Kalgoorlie-Boulder, City of	1	0	0	0	0	0	1
Melville, City of	4	1	0	0	3	4	12
Mosman Park, Town of	1	0	0	0	0	0	1
Nedlands, City of	0	0	0	0	0	1	1
Rockingham, City of	1	0	0	0	0	0	1
Serpentine Jarrahdale, Shire of	1	0	0	0	0	0	1

SIGNIFICANT ISSUES & EVENTS

DISCLOSURES & LEGAL COMPLIANCE

KEY PERFORMANCE INDICATORS

FINANCIAL STATEMENTS

OIC STATISTICS

AGENCY STATISTICS

		PUBLISHEI	D DECISION UNDER	SECTION 76			
			AGENCY DECISION	l:	DECISION UNDER s.67(1)(a)	DECISION UNDER s.67(1)(b)	TOTAL
AGENCY	CONCILIATED	CONFIRMED	VARIED	SET ASIDE AND SUBSTITUTED			MATTERS FINALISED
Vincent, City of	1	0	0	0	0	0	1
Wanneroo, City of	1	1	0	0	0	0	2
Waroona, Shire of	1	0	0	0	0	0	1
Sub-total: Local Government Agencies	22	4	0	0	4	5	35
Percentage of agency group/ percentage of total	62.9%	11.4%	0.0%	0.0%	11.4%	14.3%	100.0%
Ministers							
Attorney General	2	0	0	0	0	0	2
Education and Training, Minister for	0	0	0	0	0	1	1
Electoral Affairs, Minister for	1	0	0	0	0	0	1
Emergency Services, Minister for	1	0	0	0	0	0	1
Forestry, Minister for	1	0	0	0	0	0	1
Lands, Minister for	1	0	0	0	0	0	1
Local Government, Minister for	0	1	0	0	0	0	1
Mines and Petroleum, Minister for	1	0	0	0	0	0	1
Transport, Minister for	1	0	0	0	0	0	1
Sub-total: Ministers	8	1	0	0	0	1	10
Percentage of agency group/ percentage of total	80.0%	10.0%	0.0%	0.0%	0.0%	10.0%	100.0%
TOTAL	88	14	2	3	10	17	134
TOTAL PERCENTAGE	65.7%	10.4%	1.5%	2.2%	7.5%	12.7%	100.0%

OVERVIEW

Table 7: Outcomes of other applications finalised

	REDUCTION OF TIME	WAIVER	OUT OF TIME	NO INTERNAL REVIEW		TOTAL	
AGENCY	s.13(4)	35(1)	s.66(4)				
	Refused	Allowed	Refused	Refused	Withdrawn		
State Agencies							
Education, Department of	1	0	0	1	0	2	
Justice, Department of	0	0	0	2	0	2	
Metropolitan Cemeteries Board	0	0	2	0	0	2	
North Regional TAFE	0	0	0	2	0	2	
Notre Dame University (status to be confirmed)	0	1	0	0	0	1	
Planning, Lands and Heritage, Department of	0	0	1	0	0	1	
Police Force, Western Australia	0	0	1	1	1	3	
Western Power	0	0	0	1	0	1	
Sub-total: State Agencies	1	1	4	7	1	14	
Local Government Agencies					0		
Albany, City of	0	0	0	1	0	1	
Busselton, City of	0	0	0	1	0	1/	
Cambridge, Town of	0	0	1	0	0	1	
Melville, City of	0	0	1	0	0	/1	
Nedlands, City of	0	0	0	1	0	1	
Swan, City of	0	0	1	0	0	1	
Wanneroo, City of	0	0	0	1	0	1	
Sub-total: Local Government Agencies	0	0	3	4	0	7	
TOTAL	1	1	7	11	1	21	

There were no requests for a destruction certificate

Table 8: Published decisions

Decision no.	Complainant	Agency	Decision date	Source	
D0102023	Forrest & Forrest Pty Ltd	Department of Mines, Industry Regulation and Safety	31/08/2023	<u>AustLII</u>	PDF
D0112023	McLerie	City of Melville	21/09/2023	AustLII	PDF
D0122023	Threadgold	City of Busselton	11/10/2023	AustLII	PDF
D0132023	Wren	WorkCover Western Australia Authority	24/10/2023	AustLII	PDF
D0142023	Rosser	Department of Mines, Industry Regulation and Safety	26/10/2023	AustLII	PDF
D0152023	Standen	Western Australia Police Force	27/10/2023	AustLII	PDF
D0162023	Pandevski	Main Roads Western Australia	01/11/2023	AustLII	PDF
D0172023	WA Justice Association	Mental Health Commission	30/11/2023	AustLII	PDF
D0182023	Alcoa of Australia Limited	Department of Biodiversity, Conservation and Attractions	22/12/2023	AustLII	PDF
D0192023	Α	Local Government Standards Panel	22/12/2023	AustLII	PDF
D0012024	Grainger	Department of Water and Environmental Regulation	31/01/2024	AustLII	PDF
D0022024	Macnish	City of Busselton	14/02/2024	AustLII	PDF
D0032024	Carrington	Western Australia Police Force	28/02/2024	AustLII	PDF
D0042024	Humphreys	Forest Products Commission	26/03/2024	AustLII	PDF
D0052024	City of Melville Residents and Ratepayers Association Inc	Minister for Local Government	30/06/2023	AustLII	PDF
D0062024	Pearlman	University of Western Australia	28/03/2024	<u>AustLII</u>	PDF
D0072024	Central Pilbara North Iron Ore Pty Ltd	Department of Jobs, Tourism, Science and Innovation	05/06/2024	AustLII	PDF
D0082024	G	City of Wanneroo	25/06/2024	<u>AustLII</u>	PDF
D0092024	City of Melville Residents and Ratepayers Association Inc	Department of Local Government, Sport and Cultural Industries	27/06/2024	<u>AustLII</u>	PDF

Table 9: FOI training and presentations

Date	Event	Total
Commissione	r's Speaking Engagements	
26/07/2023	Celebration of the 30 th Anniversary of the FOI Act	70
06/09/2023	Coffee with a CEO	8
29/09/2023	Australasian Study of Parliament Group	121
06/11/2023	John Curtin Institute of Public Policy – Address to Indian Civil Servants	10
10/11/2023	Curtin Law School Governance Event	N/A
12/02/2024	Law Society WA	174
13/02/2024	Public Sector Network	382
09/05/2024	Australian Society of Archivists WA	37
19/06/2024	Launch of the Monash Report	37
	Total: Commissioners Speaking Engagements	839
FOI Briefings		
06/09/2023	Electorate officers	7
14/09/2023	UWA Legal Internship Presentation	83
03/10/2024	Public Sector Leadership Council (PSLC)	12
14/02/2024	UWA Tech and Policy Lab Team Meeting	10
17/02/2023	Piddington Society Professional Legal Training	30
19/02/2023	City of Melville Elected Members	19
29/02/2023	FOI Briefing Legal Aid	30
01/03/2024	Local Government Network FOI Briefing	22
05/03/2024	City of Mandurah staff	17
05/03/2024	City of Mandurah Elected Members	17

SIGNIFICANT ISSUES & EVENTS

DISCLOSURES & LEGAL COMPLIANCE

KEY PERFORMANCE INDICATORS

FINANCIAL STATEMENTS

OIC STATISTICS

AGENCY STATISTICS

Date	Event	Total
05/03/2024	Local Government FOI practitioners	12
19/03/2024	Town of Claremont staff	8
05/04/2024	Department of Training and Work Force Development	55
11/04/2024	Department of Local Government, Sport and Cultural Industries	40
	Total: FOI Briefings	362
Training at Al	bert Facey House	
10/07/2023	Decision-writing workshop	12
17/08/2023	Decision-writing workshop	13
21/03/2024	Decision-writing workshop	10
18/04/2024	Decision-writing workshop	19
30/05/2024	FOI Coordinators workshop	15
20/06/2024	Decision-writing workshop	9
	Total: Training at Albert Facey House	78
Webinars		
28/09/2023	Wednesday Webinar - Let the sunshine in – a discussion with Emeritus Professor Peter Coaldrake AO to mark International Access to Information Day	21
28/02/2024	Wednesday Webinar – Setting up an access application and your agency's processes for success	10
27/03/2024	Wednesday Webinar – Up Close and Personal: Considering personal information in three scenarios	18
	Total: Webinars	49
Other		
02/11/2023	FOI in WA Conference	301
TOTAL ATTE	IDEES	1,629

Table 10: OIC online publications

Information sheets for members of the public	Source
Amendment of personal information	<u>PDF</u>
Applying for documents during the COVID-19 pandemic	PDF
Can I get everything I want under FOI?	PDF
Can others access information about me or my business?	PDF
Can the agency refuse to deal with my application?	PDF
Children and people with intellectual difficulties	PDF
How long should it take to deal with an access application?	PDF
How much does it cost?	PDF
Is FOI my best option?	PDF
Requirements for a valid access application	PDF
Review of agency decisions	PDF
Role of the Information Commissioner	PDF
Steps for access applicants	PDF
The public interest	PDF
What documents can I ask for?	PDF
What happens in an external review?	PDF
What if the agency says it doesn't have the documents?	PDF
What if the agency delays making a decision	PDF
What is personal information?	PDF
Who do I contact to ask for documents?	PDF

Information sheets for agency officers	Source
Amendment of personal information	PDF
Calculating charges	PDF
Consulting third parties	PDF
Flowchart - Dealing with an FOI application	PDF
Key FOI principles for agencies	PDF
Key questions for decision-makers to consider	PDF
How long should it take to deal with an access application?	PDF
Information Statements and other required publications	PDF
Large, complex or time-consuming applications	PDF
Making submissions to the Information Commissioner	PDF
Releasing documents that may be technically exempt	PDF
Repeated requests and unreasonable conduct	PDF
The exemptions	PDF
Thinking outside the FOI box	PDF
Training for agencies	// -
What if the documents cannot be found?	PDF
What if there are many third parties to consult?	<u>PDF</u>
What is personal information?	<u>PDF</u>
What happens in an external review?	<u>PDF</u>
Writing a notice of decision	PDF

Information about the external review process	Source
Consulting with third parties during external review - guide for agencies	<u>PDF</u>
Decisions of the Information Commissioner – guide for access applicants	<u>PDF</u>
Decisions of the Information Commissioner – guide for agencies	<u>PDF</u>
Decisions of the Information Commissioner – guide for third parties	<u>PDF</u>
Documents that cannot be found or do not exist – guide for access applicants	PDF
External review procedure – guide for parties	PDF
Exchange of submissions and procedural fairness - guide for parties	PDF
Preparing for a conciliation conference - guide for parties	PDF
Producing documents to the Information Commissioner – guide for agencies	<u>PDF</u>
Understanding the conciliation process - guide for parties	PDF
Information about the FOI Process	Source
Accessing Government documents in Western Australia	PDF
COVID-19 Managing FOI timeframes and potential office closures	<u>PDF</u>
Third parties and their rights - guide for the public	<u>PDF</u>
Calculating time and days guide	PDF
Dealing with personal information about an officer of an agency	<u>PDF</u>
FOI Coordinators Manual	<u>PDF</u>
Dealing with requests for documents related to an 'exempt agency'	<u>PDF</u>

Guides to Exemptions under the FOI Act	Source
Clause 4(2) – Information that has a commercial value	PDF
Clause 4(3) – Business, professional, commercial or financial affairs	PDF
Clause 6 – Deliberative processes of Government	PDF
Clause 7 – Legal professional privilege	PDF
Clause 8 – Confidential communications	PDF
Other publications	Source
Information Statement Guidelines	PDF
OIC Newsletter	-
Annual reports from 2001	-
Open by Design – the FOI Act and Information Release in WA	

Table 11: Injury management targets

Manager	Actual		Results against target		
Measure	2022/23	2023/24	Target	Comment on result	
Number of fatalities	0	0	Zero (0)		
Lost time injury and disease incidence rate	0	0	Zero (0) or 10% reduction	No lost time injuries were	
Lost time injury and severity rate	0	0	Zero (0) or 10% reduction	experienced in the reporting period.	
Percentage of injured workers returned to work within: (ii) 13 weeks (iii) 26 weeks	N/A N/A	N/A N/A	Greater than or equal to 80% Greater than or equal to 80%	reporting period.	
Percentage of managers trained in occupational safety, health and injury management responsibilities, including refresher training within three years	100%	100%	Greater than or equal to 80%		