



Office of the Information Commissioner

Freedom of information for Western Australia



ANNUAL REPORT 2019/2020



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 data as follows:

- 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 complaints and applications made to the OIC during the year, and their outcomes. Details of Supreme Court appeals are outlined under Significant Issues and Trends.

For reference, a 'complaint' is a request for external review of a decision made by an agency under the FOI Act. An 'application' refers to other types of requests made to the Commissioner, including: a request to lodge an application for external review 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 in respect of the OIC's operations are also included in this section.

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Table 1: Applications received and dealt with by the Information Commissioner

APPLICATIONS RECEIVED AND DEALT WITH BY THE COMMISSIONER	RECEIVED	DEALT WITH
Complaints - valid	166	148
Complaints - informal / invalid	25	27
Section 66(6) - applications - no internal review	8	9
Section 66(4) - applications - out of time	2	2
Section 13(5) - applications for extension of time	3	3
Section 13(4) - applications for reduction of time	2	2
Section 35(1) waiver of requirement to consult	3	3
Section 48(3) request for destruction certificate	0	1
TOTAL	209	195

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

APPLICANT GROUP	#	AGENCY GROUP	#
Individual Citizen	128	Department (ex. Police & Health)	45
Company	13	Local Government	39
Member of Parliament	7	Police	29
Not for Profit	4	Board, Committee, Commission, Authority, Corporation	28
Media	4	Minister	13
Prisoner	10	Health-related	7
		University	5
TOTAL	166	TOTAL	166

Table 3: External review applications received by the Information Commissioner

AGENCY	Valid	Invalid	Total	AGENCY	Valid	Invalid	Total
State Agencies:				School Curriculum and Standards Authority	1	0	1
Acacia Prison	3	1	4	Solicitor General	1	0	1
Communities, Department of	9	0	9	State Administrative Tribunal	1	1	2
Edith Cowan University	2	0	2	Transport, Department of	2	0	2
Education, Department of	5	0	5	Treasury, Department of	1	0	1
EMHS - Corporate Office	1	0	1	University of Western Australia, The	3	0	3
EMHS - Royal Perth Hospital	0	1	1	WACHS - Goldfields	1	0	1
Forest Products Commission	1	0	1	Water and Environmental Regulation, Department of	2	0	2
Health, Department of	2	0	2	Water Corporation	9	1	10
Insurance Commission of Western Australia	1	0	1	WorkCover WA	1	0	1
Justice, Department of	11	1	12	<i>Sub-total: State Agencies</i>	<i>114</i>	<i>14</i>	<i>128</i>
Legal Aid Western Australia	2	0	2	Local Agencies:			
Legal Profession Complaints Committee	0	1	1	Augusta-Margaret River, Shire of	1	0	1
Local Government, Sport and Cultural Industries, Dept of	3	2	5	Bayswater, City of	0	2	2
Lotteries Commission	1	0	1	Belmont, City of	1	0	1
Main Roads Western Australia	4	0	4	Bunbury, City of	2	0	2
Mental Health Commission	1	0	1	Busselton, City of	3	0	3
Mines, Industry Regulation and Safety, Department of	7	0	7	Cambridge, Town of	3	0	3
NMHS - Mental Health	0	2	2	Canning, City of	4	1	5
NMHS - Osborne Park Hospital	1	0	1	Cue, Shire of	0	1	1
NMHS - PathWest Laboratory Medicine WA	1	0	1	Dardanup, Shire of	1	0	1
Police, Western Australia	29	4	33	Kalgoorlie-Boulder, City of	1	0	1
Premier and Cabinet, Department of the	1	0	1	Karratha, City of	2	0	2
Public Advocate, Office of the	2	0	2	Melville, City of	3	0	3
Public Transport Authority	2	0	2	Mundaring, Shire of	2	0	2
Public Trustee Western Australia	3	0	3	Port Hedland, Town of	1	0	1

AGENCY	Valid	Invalid	Total
South Perth, City of	2	0	2
Stirling, City of	1	1	2
Subiaco, City of	5	0	5
Swan, City of	1	0	1
Toodyay, Shire of	2	0	2
Victoria Park, Town of	2	1	3
Wanneroo, City of	2	0	3
<i>Sub-total: Local Agencies</i>	<i>39</i>	<i>6</i>	<i>45</i>
Ministers:			
Environment, Minister for	2	0	2
Fisheries, Minister for	1	0	1
Health, Minister for	1	0	1
Local Government, Minister for	1	0	1
Mines and Petroleum, Minister for	1	0	1
Planning, Minister for	1	0	1
Regional Development, Minister for	2	0	2
Tourism, Minister for	1	0	1
Transport, Minister for	3	0	3
<i>Sub-total: Ministers</i>	<i>13</i>	<i>0</i>	<i>13</i>
Agency unknown:			
	0	5	5
<i>Sub-total: Unknown</i>	<i>0</i>	<i>5</i>	<i>5</i>
TOTAL:	166	25	191



Table 4: Other applications received

AGENCY	OUT OF TIME s.66(4)	NO INTERNAL REVIEW s.66(6)	REDUCTION OF TIME s.13(4)	EXTENSION OF TIME s.13(5)	WAIVER s.35(1)	REQUEST FOR DESTRUCTION CERTIFICATE s.48(3)	TOTAL
Armadale, City of	0	0	0	0	1	0	1
Communities, Department of	0	1	0	1	0	0	2
Finance, Department of	0	1	0	0	0	0	1
Melville, City of	0	0	2	0	0	0	2
Perth, City of	0	0	0	0	1	0	1
Police, Western Australia	2	2	0	0	0	0	4
Public Transport Authority	0	2	0	0	0	0	2
SMHS - Fiona Stanley Hospital	0	1	0	0	0	0	1
Swan, City of	0	0	0	0	1	0	1
Toodyay, Shire of	0	1	0	0	0	0	2
Water and Environmental Regulation, Department of	0	0	0	2	0	0	2
TOTAL	2	8	2	3	3	0	19

Table 5: Outcome of external reviews finalised (by agency and category)

AGENCY	CONCILIATED	PUBLISHED DECISION BY INFORMATION COMMISSIONER			DECLINED UNDER s.67(1)(a) or s.67(1)(b)	TOTAL MATTERS FINALISED
		AGENCY DECISION CONFIRMED	AGENCY DECISION VARIED	AGENCY DECISION SET ASIDE AND SUBSTITUTED		
State Agencies:						
Augusta-Margaret River, Shire of	1	0	0	0	0	1
Botanic Gardens and Parks Authority	1	0	0	0	0	1
C&AHS - Perth Children's Hospital	1	0	0	0	0	1
Communities, Department of	5	0	0	0	3	8
Curtin University	0	0	1	0	0	1
Edith Cowan University	1	0	0	0	0	1
Education, Department of	2	0	0	0	0	2
EMHS - Royal Perth Hospital	1	0	0	0	0	1
Forest Products Commission	1	0	0	0	0	1
Health, Department of	0	0	0	0	1	1
Insurance Commission of Western Australia	1	0	0	0	0	1
Justice, Department of	9	0	2	0	5	16
Legal Aid Western Australia	0	1	0	0	0	1
Local Government, Sport and Cultural Industries, Department of	1	1	0	0	3	5
Lotteries Commission	0	0	0	0	1	1
Main Roads Western Australia	0	1	0	0	3	4
Mental Health Commission	0	0	0	0	1	1
Mines, Industry Regulation and Safety, Department of	3	0	0	0	1	4
Murdoch University	1	1	0	0	0	2
NMHS - Mental Health	3	0	0	0	0	3
Planning, Lands and Heritage, Department of	1	0	0	0	0	1
Police, Western Australia	16	0	0	0	10	26

AGENCY	CONCILIATED	PUBLISHED DECISION BY INFORMATION COMMISSIONER			DECLINED UNDER s.67(1)(a) or s.67(1)(b)	TOTAL MATTERS FINALISED
		AGENCY DECISION CONFIRMED	AGENCY DECISION VARIED	AGENCY DECISION SET ASIDE AND SUBSTITUTED		
Premier and Cabinet, Department of the	2	0	0	0	0	2
Primary Industries and Regional Development, Department of	1	0	0	0	0	1
State Administrative Tribunal	1	0	0	0	0	1
Transport, Department of	0	0	0	0	2	2
University of Western Australia, The	1	0	0	0	0	1
Water and Environmental Regulation, Department of	3	0	0	0	0	3
Water Corporation	3	1	0	0	3	7
WorkCover WA	2	0	0	0	0	2
<i>Sub-total: State Agencies</i>	<i>61</i>	<i>5</i>	<i>3</i>	<i>0</i>	<i>33</i>	<i>102</i>
<i>Percentage of agency group/percentage of total</i>	<i>59.8%</i>	<i>4.9%</i>	<i>2.9%</i>	<i>0.0%</i>	<i>32.4%</i>	<i>68.9%</i>
Local Agencies:						
Bunbury, City of	0	0	0	0	1	1
Cambridge, Town of	1	0	0	0	0	1
Canning, City of	2	0	0	0	1	3
Fremantle, City of	1	0	0	0	0	1
Kalamunda, City of	1	0	0	0	0	1
Kalgoorlie-Boulder, City of	1	0	0	0	0	1
Karratha, City of	2	0	0	0	0	2
Melville, City of	7	0	0	0	4	11
Mundaring, Shire of	2	0	0	0	0	2
Perth, City of	1	0	0	0	0	1
Subiaco, City of	2	0	0	0	0	2
Swan, City of	1	0	0	0	0	1
Toodyay, Shire of	2	0	1	0	0	3
Victoria Park, Town of	1	0	0	0	0	1
Vincent, City of	1	0	0	0	0	1

AGENCY	CONCILIATED	PUBLISHED DECISION BY INFORMATION COMMISSIONER			DECLINED UNDER s.67(1)(a) or s.67(1)(b)	TOTAL MATTERS FINALISED
		AGENCY DECISION CONFIRMED	AGENCY DECISION VARIED	AGENCY DECISION SET ASIDE AND SUBSTITUTED		
Wanneroo, City of	0	0	0	0	1	1
York, Shire of	1	0	0	0	0	1
<i>Sub-total: Local Agencies</i>	<i>26</i>	<i>0</i>	<i>1</i>	<i>0</i>	<i>7</i>	<i>34</i>
<i>Percentage of agency group/percentage of total</i>	<i>76.5%</i>	<i>0.0%</i>	<i>2.9%</i>	<i>0.0%</i>	<i>20.6%</i>	<i>23.0%</i>
Ministers:						
Education and Training, Minister for	1	0	0	0	0	1
Environment, Minister for	1	0	0	0	1	2
Fisheries, Minister for	1	0	0	0	0	1
Planning, Minister for	1	0	0	0	0	1
Regional Development, Minister for	1	0	0	0	1	2
Tourism, Minister for	0	0	0	0	1	1
Transport, Minister for	3	0	0	0	1	4
<i>Sub-total: Ministers</i>	<i>8</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>4</i>	<i>12</i>
<i>Percentage of agency group/percentage of total</i>	<i>66.7%</i>	<i>0.0%</i>	<i>0.0%</i>	<i>0.0%</i>	<i>33.3%</i>	<i>8.1%</i>
TOTAL COUNT	95	5	4	0	44	148
TOTAL PERCENTAGE	64.2%	3.4%	2.7%	0.0%	29.7%	100%

Table 6: Invalid applications for external review finalised

AGENCY	#No
Acacia Prison	1
EMHS - Royal Perth Hospital	2
Justice, Department of	1
Legal Profession Complaints Committee	1
Local Government, Sport and Cultural Industries, Dep't of	2
NMHS – King Edward Memorial Hospital	1
NMHS - Mental Health	2
Police, Western Australia	4
State Administrative Tribunal	1
Water Corporation	1
<i>Sub-total: State Agencies</i>	<i>16</i>
Bayswater, City of	2
Canning, City of	1
Cue, Shire of	1
Stirling, City of	1
Victoria Park, Town of	1
<i>Sub-total: Local Agencies</i>	<i>6</i>
Agency unknown:	5
<i>Sub-total: Agency Unknown</i>	<i>5</i>
TOTAL:	27

Table 7: Published decisions

Decision No.	Complainant	Agency	Decision Date
D0012020	Rawet	Main Roads Western Australia	13/02/2020
D0022020	Toodyay Progress Association Inc.	Shire of Toodyay	12/03/2020
D0032020	'V'	Curtin University	18/03/2020
D0042020	'W'	Department of Local Government, Sport and Cultural Industries	1/05/2020
D0052020	National Tertiary Education Industry Union	Murdoch University	20/05/2020
D0062020	Dickens	Water Corporation	28/05/2020
D0072020	Lee	Department of Justice	26/06/2020
D0082020	'X'	Legal Aid Western Australia	26/06/2020

Table 8: Outcome of other applications finalised

AGENCY	OUT OF TIME s.66(4)	NO INTERNAL REVIEW s.66(6)	NO INTERNAL REVIEW s.66(6)	EXTENSION OF TIME s.13(5)	EXTENSION OF TIME s.13(5)	REDUCTION OF TIME s.13(4)	WAIVER TO CONSULT s.35(1)	WAIVER TO CONSULT s.35(1)	REQUEST FOR DESTRUCTION CERTIFICATE s.48(3)	TOTAL
	Refused	Refused	Withdrawn	Refused	Allowed	Refused	Refused	Conciliated	Conciliated	
State Agencies:										
Communities, Department of	0	1	0	1	0	0	0	0	0	2
Finance, Department of	0	1	0	0	0	0	0	0	0	1
Mines, Industry Regulation and Safety, Dept of	0	0	1	0	0	0	0	0	0	1
Police, Western Australia	2	2	0	0	0	0	0	0	0	4
Public Transport Authority	0	2	0	0	0	0	0	0	0	2
SMHS - Fiona Stanley Hospital	0	1	0	0	0	0	0	0	0	1
SMHS - Rockingham Peel Group	0	0	0	0	0	0	0	0	1	1
Water and Environmental Regulation, Dept of	0	0	0	1	1	0	0	0	0	2
<i>Sub-total: State Agencies</i>	<i>2</i>	<i>7</i>	<i>1</i>	<i>2</i>	<i>1</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>1</i>	<i>14</i>
Local Agencies:										
Armadale, City of	0	0	0	0	0	0	0	1	0	1
Melville, City of	0	0	0	0	0	2	0	0	0	2
Perth, City of	0	0	0	0	0	0	1	0	0	1
Swan, City of	0	0	0	0	0	0	1	0	0	1
Toodyay, Shire of	0	1	0	0	0	0	0	0	0	1
<i>Sub-total: Local Agencies</i>	<i>0</i>	<i>1</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>2</i>	<i>2</i>	<i>1</i>	<i>0</i>	<i>6</i>
TOTAL	2	8	1	2	1	2	2	1	1	20

Table 9: Formal training and presentations

DATE	PRESENTATION STYLE	TYPE
11/07/2019	FOI Decision Writing Workshop – DWW-2019-2	D
07/08/2019	FOI Coordinators Workshop – FCW-2019-5	C
12/09/2019	FOI Coordinators Workshop – FCW-2019-6	C
18/09/2019	WA Country Health Service Wheatbelt – Combined FOI and ROI presentation	A
2/10/2019	FOI Decision Writing Workshop – DWW-2019-3	D
18/10/2019	Training for Department of Justice	A
18/10/2019	FOI in WA Briefing – Objective	B
18/10/2019	Piddington Society – FOI and Open Government	S
30/10/2019	FOI Coordinators Workshop – FCW-2019-7	C
31/10/2019	City of Rockingham	A
31/10/2019	City of Rockingham	D
21/11/2019	FOI in WA Conference	E
3/12/2019	FOI Coordinators Workshop – FCW-2019-8	C
16/12/2019	Minerals Research Industry of WA	A
29/01/2020	FOI Decision Writing Workshop – DWW-2020-1	D
04/02/2020	RE: Government accountability – Law and Practice Unit	S
20/02/2020	FOI Coordinators Workshop – FCW-2020-1	C
24/02/2020	FOI Briefing for Health Consumer Council	B
18/03/2020	FOI Coordinators Workshop – FCW-2020-2	C

A = Agency briefing

B =Community briefing

C = FOI Coordinators training

D = Decision-makers training

E = Event

S = Speaking engagement

Table 10: Attendees at presentations

TRAINING SESSIONS (No.)	STATE GOVERNMENT	LOCAL GOVERNMENT	COMMUNITY	TOTAL
FOI Coordinators workshops (6)	69	31	0	100
Decision Writing workshops (4)	35	46	0	81
<i>Sub-total:</i>	<i>104</i>	<i>77</i>	<i>0</i>	<i>181</i>
BRIEFINGS (No.)				TOTAL
Agency briefings (4)	33	65	0	98
Community briefings (2)	0	0	69	69
Other FOI related speaking engagements (2)	0	0	81	81
<i>Sub-total:</i>	<i>33</i>	<i>65</i>	<i>150</i>	<i>248</i>
EVENTS (No.)				TOTAL
FOI in WA Conference (1)	245	76	0	321
<i>Sub-total:</i>	<i>245</i>	<i>76</i>	<i>0</i>	<i>321</i>
GRAND TOTAL	382	218	150	750

Table 11: Misdirected applications dealt with

Year	Department of Justice *	Western Australia Police	Other	Total
2008/2009	15	33	25	73
2009/2010	15	20	30	65
2010/2011	13	13	31	57
2011/2012	6	11	12	29
2012/2013	4	12	13	29
2013/2014	8	4	12	24
2014/2015	5	5	18	28
2015/2016	2	5	19	26
2016/2017	7	4	15	26
2017/2018	8	20	36	64
2018/2019	4	9	18	31
2019/2020	10	8	17	35
TOTAL	97	144	246	487
PERCENTAGE	20%	30%	51%	100%

* Includes Acacia Prison and Melaleuca Remand & Reintegration Facility

Table 12: OIC publications

Information Sheets for Members of the Public	Information Sheets for Agency officers
Applying for documents during the COVID-19 pandemic*	Amendment of personal information
Amendment of personal information	Calculating charges
Can I get everything I want under FOI?	Consulting third parties
Can others access information about me or my business?	Flowchart - Dealing with an FOI application
Can the agency refuse to deal with my application?	Key FOI principles for agencies
Children and people with intellectual difficulties	Key questions for decision-makers to consider
How long should it take to deal with an access application?	How long should it take to deal with an access application?
How much does it cost?	Information Statements and other required publications
Is FOI my best option?	Large, complex or time-consuming applications
Requirements for a valid access application	Making submissions to the Information Commissioner
Review of agency decisions	Releasing documents that may be technically exempt
Role of the Information Commissioner	Repeated requests and unreasonable conduct
Steps for access applicants	The exemptions
The public interest	Thinking outside the FOI box
What documents can I ask for?	Training for agencies
What happens in an external review?	What if the documents cannot be found?
What if the agency says it doesn't have the documents?	What if there are many third parties to consult?
What if the agency delays making a decision	What is personal information?
What is personal information?	What happens in an external review?
Who do I contact to ask for documents?	Writing a notice of decision

*New publication in 2019/20

Information about the External Review Process	Information about the FOI Process	Guides to Exemptions under the FOI Act
External review procedure – guide for parties	COVID-19 Managing FOI timeframes and potential office closures *	Clause 4(2) – Information that has a commercial value
Producing documents to the Information Commissioner – guide for agencies	Accessing Government documents in Western Australia	Clause 4(3) – Business, professional, commercial or financial affairs
Documents that cannot be found or do not exist – guide for access applicants *	Third parties and their rights - guide for the public	Clause 6 – Deliberative processes of Government
Preparing for a conciliation conference - guide for parties	Calculating time and days guide	Clause 7 – Legal professional privilege
Understanding the conciliation process - guide for parties	Dealing with personal information about an officer of an agency	Clause 8 – Confidential communications
Consulting with third parties during external review - guide for agencies	FOI Coordinators Manual	Other publications
Decisions of the Information Commissioner – guide for access applicants	Dealing with requests for documents related to an 'exempt agency'	Information Statement Guidelines
Decisions of the Information Commissioner – guide for agencies		OIC Newsletter
Decisions of the Information Commissioner – guide for third parties		

**New publication in 2019/20*

Table 13: FOI in WA Conference program

Welcome, Keynote Speech and Panel Discussion	
8:45 - 9:00	Conference Opening – Catherine Fletcher, Information Commissioner
9:00 - 9:40	Keynote speech - Emeritus Professor Geoff Gallop AC
9:40 - 10:30	Panel Discussion - The role and challenges of FOI and open government in the current environment Catherine Fletcher, Information Commissioner; Geoff Gallop; Caroline Spencer, the Auditor General; Joanne Kummrow, Public Access Deputy Commissioner at the Office of the Victorian Information Commissioner and Ian Cowie, CEO of the City of Gosnells
Concurrent Session One - 11:00 to 11:40	
Freedom of information and protection of privacy - balancing rights and managing conflicts State Solicitors Office	
Skills for effective communication in the FOI process Office of the Information Commissioner	
Dealing with applications 'on behalf of' Office of the Information Commissioner	
Concurrent Session Two - 11:50 to 12:30	
Seeking the views of third parties Office of the Information Commissioner	
What happens on internal and external review? Office of the Information Commissioner	
FOI in WA - how we fare and compare Information Commissioner	

How to remain effective and healthy in a high pressured environment Fiona Stanley Fremantle Hospitals Group	
Concurrent Session Three - 1:20 to 2:00	
I want my records and I want them now State Records Office	
Panel Discussion – Proactive disclosure of digital information Office of the Information Commissioner, City of Perth and City of Vincent	
Key recent decisions of the Information Commissioner Office of the Information Commissioner	
How to remain effective and healthy in a high pressured environment Fiona Stanley Fremantle Hospitals Group	
Concurrent Session Four - 2:10 to 2:50	
Open By Design: Building a Culture of Openness – and Making it Real Objective Corp Ltd	
Dealing with documents related to Ministers Department of the Premier and Cabinet	
FOI and dogs, disputes and discontent Office of the Information Commissioner	
Seeking the views of third parties Office of the Information Commissioner	
3:15 - 4:00	Closing session and Q & A session with the Information Commissioner and staff of the OIC

Table 14: Injury management targets

Measure	Actual		Results against target	
	2018/19	2019/20	Target	Comment on Result
Number of fatalities	0	0	Zero (0)	No lost time injuries were experienced in the reporting period.
Lost time injury and/or disease incidence rate (LTI/D)	0	0	Zero (0) or 10% reduction	
Lost time injury and/or disease severity	0	0	Zero (0) or 10% reduction	
Percentage of injured workers returned to work within:	(i) 13 weeks:	N/A	Greater than or equal to 80%	
	(ii) 26 weeks:	N/A	Greater than or equal to 80%	
Percentage of managers trained in occupational safety, health and injury management responsibilities	100%	100%	Greater than or equal to 80%	