



Office of the Information Commissioner

Freedom of information for Western Australia



ANNUAL REPORT 2020/21



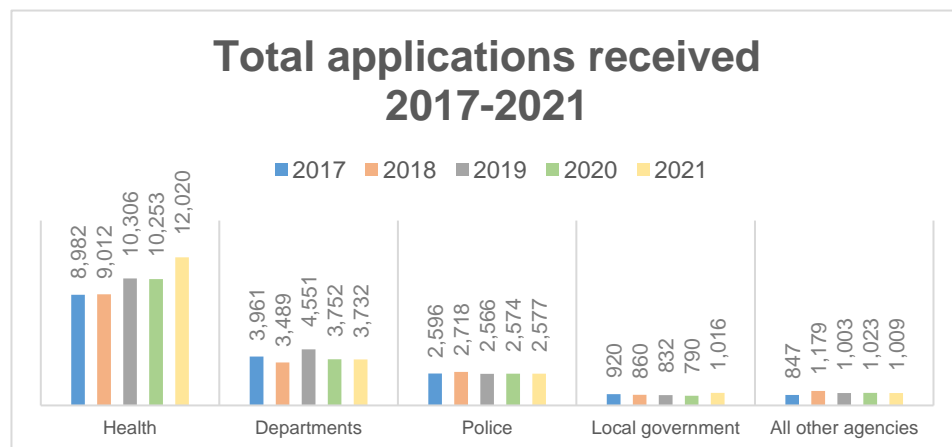
Disclosures and legal compliance

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 2020/21 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	2020/21
Health-related agencies	12,020
Departments (except Police and Health-related agencies)	3,732
Police	2,577
Local government	1,016
All other agencies:	1,009
-Boards, Committees, Commissions, Authorities, Corporations (900)	
-Ministers (58)	
-Universities (51)	
TOTAL	20,354



10.7%
increase in total
number of access
applications made to
agencies

28.6%
increase in the
number of access
applications made to
local governments

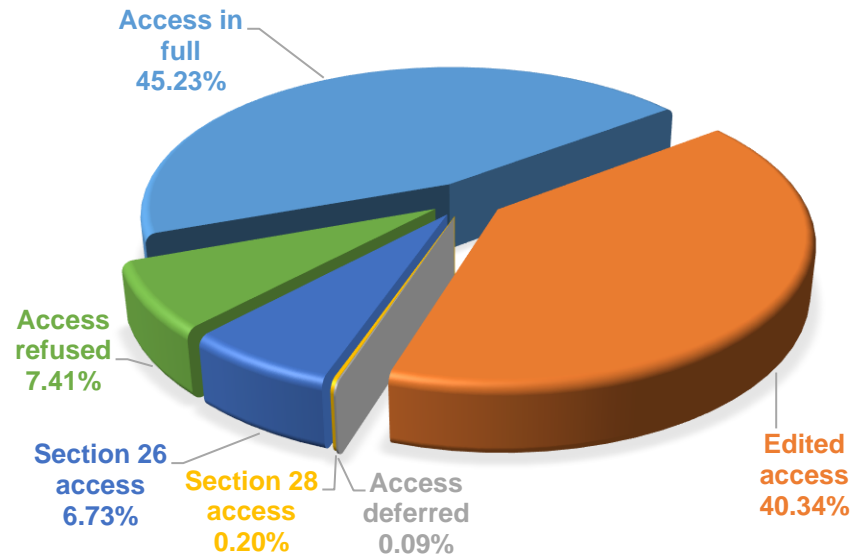
17.2%
increase in the
number of access
applications made to
health-related
agencies

Agency decisions

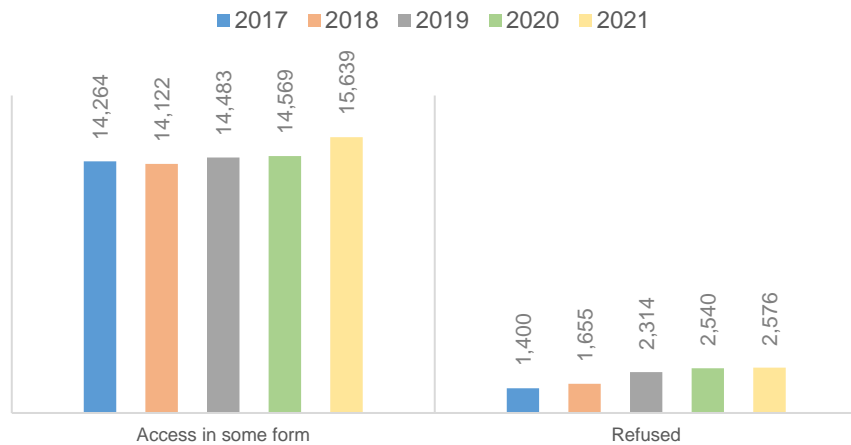
Agency category	Give access				Refuse access	
	Access in full No. (%)	Edited Access No. (%)	Deferred access No. (%)	Access under s.28 No. (%)	s.26 No. (%)	Refused No. (%)
Boards, Committees, Commissions, Authorities, Corporations	354 (40.3)	450 (51.3)	0 (0)	0 (0)	46 (5.2)	28 (3.2)
Departments (except Police and Health-related agencies)	543 (16.1)	1,909 (56.7)	6 (0.2)	4 (0.1)	647 (19.2)	256 (7.6)
Health-related agencies	6,905 (61.9)	3,701 (33.2)	9 (0.1)	32 (0.3)	419 (3.7)	95 (0.8)
Local Governments	115 (12.4)	725 (78.5)	2 (0.2)	0 (0)	46 (5)	36 (3.9)
Ministers	13 (31.7)	18 (43.9)	0 (0)	0 (0)	7 (17.1)	3 (7.3)
Police	306 (17)	518 (28.7)	0 (0)	0 (0)	60 (3.3)	921 (51)
Universities	2 (4.9)	27 (65.9)	0 (0)	0 (0)	1 (2.4)	11 (26.8)
TOTAL	8,238	7,348	17	36	1,226	1,350
Percentage	45.23%	40.34%	0.09%	0.20%	6.73%	7.41%
GRAND TOTAL	18,215					

- 18,215 decisions were made by agencies in response to access applications during the year.
- A further 884 access applications were withdrawn.
- 85.9% 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.
- 14.1% 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 on the ground that it would divert a substantial and unreasonable portion of the agency's resources away from its other operations, as outlined under section 20 of the FOI Act.
- This year agencies were given the option of reporting section 20 decisions separately, and have been advised that it will be a requirement for the 2021/22 reporting year. This year 15 agencies reported a total of 40 decisions were made under section 20, and those have been counted as 'access refused' in this report, as in previous years.

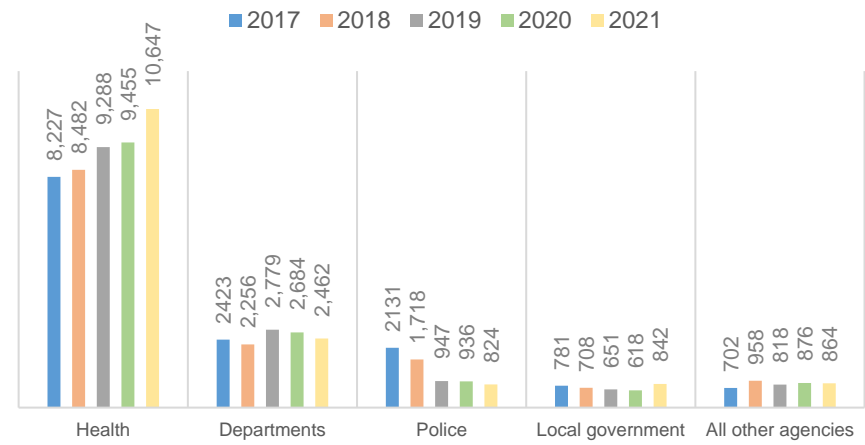
Agency decisions made 2020/21



Total outcomes 2017-2021



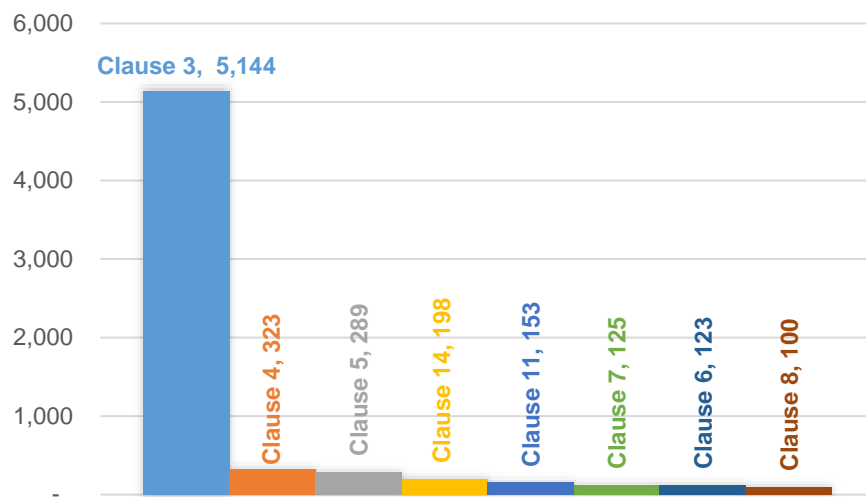
Access provided in some form 2017-2021



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	1	0	257	18	0	7	47	27	15	0	6	2	3	0	0	1
Departments (except Police and Health-related agencies)	34	5	1734	226	0	164	57	57	47	0	11	144	14	1	196	0
Health-related agencies	2	2	2001	6	0	4	6	5	12	0	0	3	2	0	1	0
Local Governments	0	0	502	69	0	23	5	22	17	0	2	1	0	0	0	0
Ministers	7	0	12	3	0	1	0	6	2	0	3	0	3	0	0	0
Police	6	0	612	0	0	90	5	6	1	0	0	2	0	0	1	0
Universities	0	0	26	1	0	0	3	2	6	0	2	1	0	0	0	0
TOTAL	50	7	5,144	323	0	289	123	125	100	0	24	153	22	1	198	1

Top 8 exemption clauses claimed 2020/21



78%
of exemption
claims were
clause 3

Clause 3
*Exempts from disclosure
personal information
about individuals
(subject to
limitations)*

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. Agencies are not required to impose charges.

- A total of \$137,884 in access application fees was collected by agencies in the reporting period.
- \$38,093 in charges was imposed by agencies. An average of \$5.98 was charged per access application. However, in the majority of access applications no charges were 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 Information Commissioner.

The average time for dealing with access applications in the reporting period was 33.1 days (33.7 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-related agencies services)	36	349
Health-related agencies	15	2457
Local government	14	63
TOTAL	65	2,869

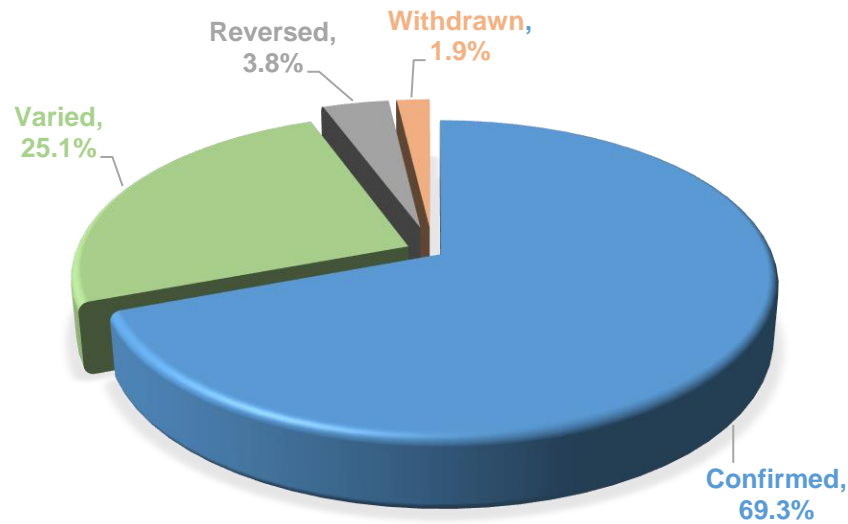
- Of the 15,215 valid applications made to agencies during the year, 15.8% were not dealt with in the permitted period, compared to 12.5% last year.
- 64.3% of agencies reported that they dealt with all their access applications within the permitted period.

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 302 applications for internal review of decisions relating to access applications. This represents 1.7% of all decisions made.
- 92 (28.8%) internal review applications resulted in the initial decision being varied or reversed.

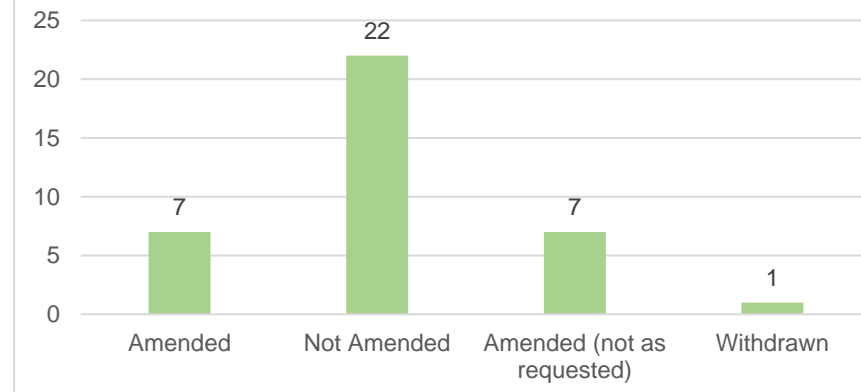
Internal review outcomes 2020/21



Amendment of personal information

- 39 applications for amendment of personal information were received and 37 applications were finalised during 2020/21.
- 8 applications for internal review of amendment decisions were received during the year.
- 7 decisions were made on internal review of amendment decisions, all of which were to confirm the initial decision.

Amendment of personal information outcomes 2020/21



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.

Workers' compensation

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

Corporate credit card

There were three instances of a corporate credit card being used for private expenses, outlined below. All were unintentional errors reported immediately by the officer.

- An officer used their corporate card instead of their personal card to register to attend an event, costing \$10.00. The error was brought to the attention of the Chief Finance Officer who made arrangements with the cardholder for the amount to be reimbursed. The reimbursement of \$10.00 was received in August 2020.
- An officer made a payment using the corporate PayPal account instead of their private account. The officer brought the error to the attention of the Administrative Support Officer who made arrangements with the cardholder for the amount to be reimbursed. The reimbursement of \$3.00 was received in November 2020.

- An officer used the corporate card instead of their personal card to pay for parking at a City of Perth parking facility for a private function. The error was brought to the attention of the Acting Executive Officer who made arrangements with the cardholder for the amount to be reimbursed. The reimbursement of \$12.32 was received in June 2021.

Asset replacement

The OIC's strategic asset plan approved for 2019/20 proposed to spend \$31,000 to upgrade equipment and invest in a document management system. These funds were carried over into 2020/21.

In July 2020 a new document centre was purchased, at a cost of \$9,000. The balance remains unspent, pending further research into a fit for purpose document management system, and update of the existing operating environment to support any new system.

Employment and industrial relations

Staff profile

	2021	2020
Full-time permanent	7	7
Full-time contract	1	1
Part-time contract	1	0
Part-time measured on a FTE basis	3	2.2

Staff movements

- A recruitment process was conducted in early 2020 to appoint two Investigations/Legal Officers. These appointments were delayed due to restricted working arrangements in the early stages of the COVID-19 pandemic. Appointments of one full-time permanent FTE and one 0.6 FTE on a six month contract commenced in July 2020. The six month contract was subsequently extended until January 2023.
- From 8 January 2021, the substantive occupant of the Senior Legal Officer position returned to part-time hours of 0.8 FTE. The hours had been temporarily increased to full-time from 15 May 2020.

In addition to staff appointments, the OIC accepted the short-term secondment of a research officer from the Legislative Assembly from January to March 2021 during the Parliamentary recess period.

Staff development

Continuing Staff Development (CPD)

The OIC employs legal practitioners who, under section 36(3) of the *Legal Profession Act 2008*, are taken to hold local practising certificates. Those legal practitioners maintain and broaden their legal knowledge by obtaining CPD points in accordance with the *Legal Profession Rules 2009*. The OIC maintains a register of CPD points attained by each legal staff member.

Other professional development

Staff are encouraged to attend various learning opportunities that arise. During the period, over 136 events were attended by various staff members during the year. The increase in webinars and online training has provided greater opportunity 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.

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.

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, no conflicts were registered.

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 publishes a Disability Access and Inclusion Plan (**DAIP**). The purpose of the DAIP is to ensure that people with a 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 a 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 a 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. Specific strategies that aim to improve current services and practices are focussed on updating the OIC's website to make it more accessible, such as by including audio links and translations.

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 an induction pack, and these documents are also available to all staff on the OIC's knowledge management system.

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 one formal complaint from a member of the public, relating to the manner in which a staff member dealt with their enquiry. The matter was investigated by the Commissioner. It was acknowledged that some additional information could have been provided when dealing with the initial enquiry but that the officer had provided all possible assistance within the remit of the OIC. Some additional information to complement the initial advice was provided as part of the Commissioner's response. No further correspondence was received in respect of the complaint.

Our aim is to provide a response to complaints within 20 days of receipt. In this instance the response was provided in 23 days.

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

Occupational safety, health and injury management

The OIC is committed to an occupational safety, health and injury management system which has been established for the benefit of all staff. A documented injury management system is

in place which is compliant with the *Workers' Compensation and Injury Management Act 1981* and the associated *Workers' Compensation Code of Practice (Injury Management) 2005*. This system has been formally introduced to staff and is made available through the OIC's knowledge management system.

Relevant staff are conversant with occupational health and safety and injury management policies, procedures and programs in order to meet legislative requirements, and all staff are provided the opportunity to report any issues at the monthly staff meetings via a standing agenda item for this purpose. There were no reported injuries or fatalities during the reporting period (see [Table 12](#)).

Risk management

The OIC has an established Risk Management Steering Committee (**RMSC**). During the year, the RMSC has continued to focus on business continuity, safe work practices and the general health and safety of staff arising from the COVID-19 pandemic.

The RMSC recognises that business continuity and issues resulting from COVID-19 is only one aspect of the OIC's overall risk management. *Treasurer's Instruction 825* requires the OIC to assess the risks relating to financial risks; reputational risks; operational risks; project risks; shared risks with other agencies; and emerging risks such as climate change risks and cybersecurity risks.

To assist with the OIC's risk management, the OIC proposes to engage external consultants to review our current processes and documentation, including our risk management policy and

procedures and risk register; and to provide recommendations regarding our ongoing risk management.

During the reporting year, the following outcomes were achieved.

Action plans

The OIC's action plan for extended remote operations was revised during the year, taking into account staff feedback following the lockdowns in early 2020. The action plan outlines the actions to be taken, and resources to be used, to facilitate critical business activities continuing in the event that the OIC is required to operate remotely for an extended period. It also outlines the response teams for each functional area and the responsibilities of individual staff members.

Remote working risk register

A register of potential risks and mitigation actions for remote working has been developed and continues to be monitored.

Cybersecurity

The OIC worked with the Office of Digital Government (**ODG**) to discuss the status of the OIC's information technology and improve the overall security of the OIC's systems. In June 2021 the ODG conducted a vulnerability assessment of the OIC's network for the purpose of identifying security deficiencies and providing mitigation recommendations. A report on the findings was received in July 2021, and the issues and recommendations are being addressed.

Financial risk

As required by *Treasurer's Instruction 1201*, agencies are required to maintain an internal audit function and form an Internal Audit Committee to oversee that function. The Internal Audit Committee met twice during the year and recommended the OIC engage alternate internal audit providers, as the same consultants had been used for over three years.

Financial risk and compliance issues have traditionally been addressed during internal and external audits. As part of the review of the OIC's overall management of risks, financial risks will be incorporated into the broader risk management of the OIC.

Records management

Last year it was reported that the OIC had submitted a report to the State Records Office (**SRO**), after a review of its recordkeeping plan, and that the following actions were proposed to be finalised by March 2021, together with a full review of the OIC's recordkeeping plan:

- conducting a formal evaluation of the recordkeeping system;
- developing a records disaster recovery plan separate from the current recordkeeping plan and business continuity plan;
- creating a separate vital records register and include mechanisms for review;
- implementing the disposal policy; and

- testing of performance indicators for comparison to prior testing.

A preliminary review of the OIC's current recordkeeping plan has been carried out. Work has commenced to update the recordkeeping plan, to develop a separate records disaster recovery plan and to create a vital records register. The OIC was unable to meet the March 2021 due date and received an extension from the SRO to September 2021.