



Office of the Information Commissioner

Freedom of information for Western Australia



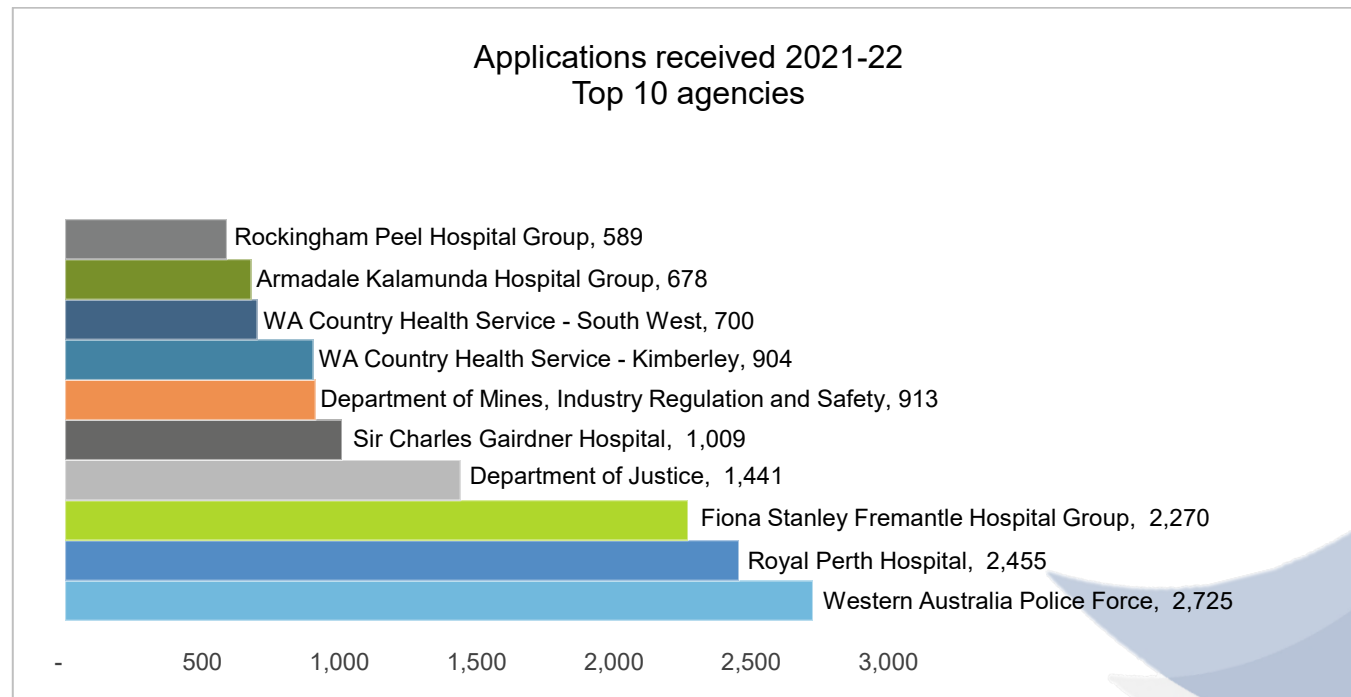
ANNUAL REPORT 2021/22



Disclosures and legal compliance

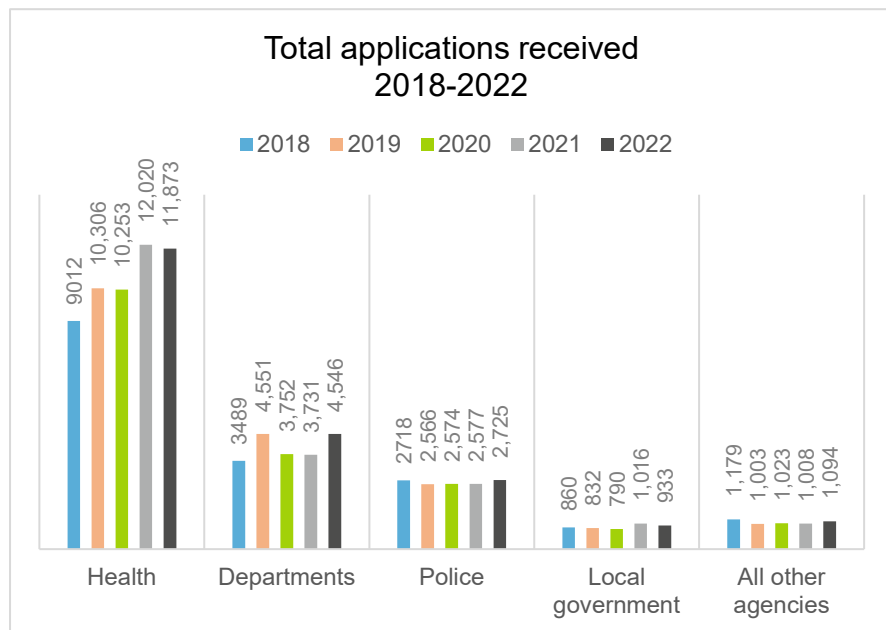
FOI in the sector

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 2021/22 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.



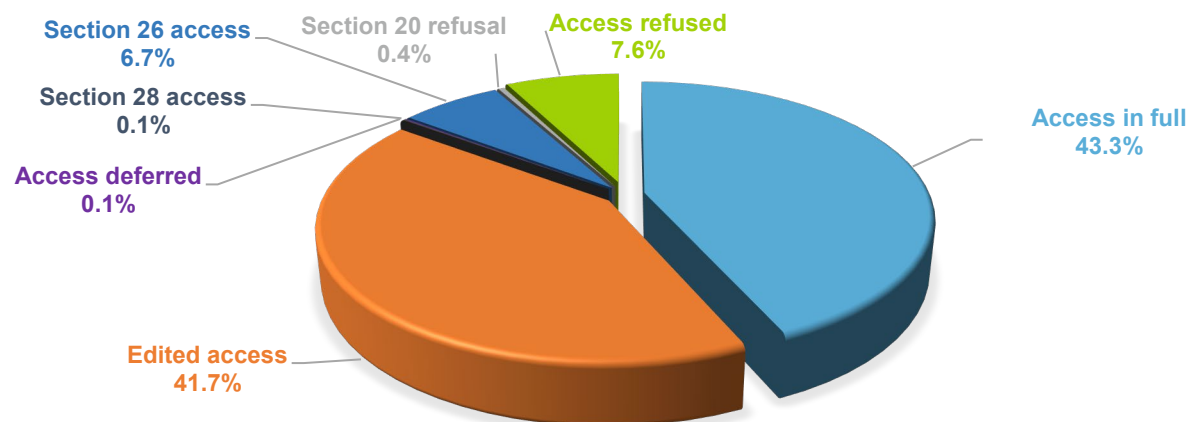
Valid access applications received by agencies

Agency category	2021/22
Health-related agencies	11,873
Departments (except Police and Health-related agencies)	4,546
Police	2,725
All other agencies (Boards, Committees, Commissions, Authorities, Corporations; Ministers; and Universities):	1,094
Local government	931
TOTAL	21,169



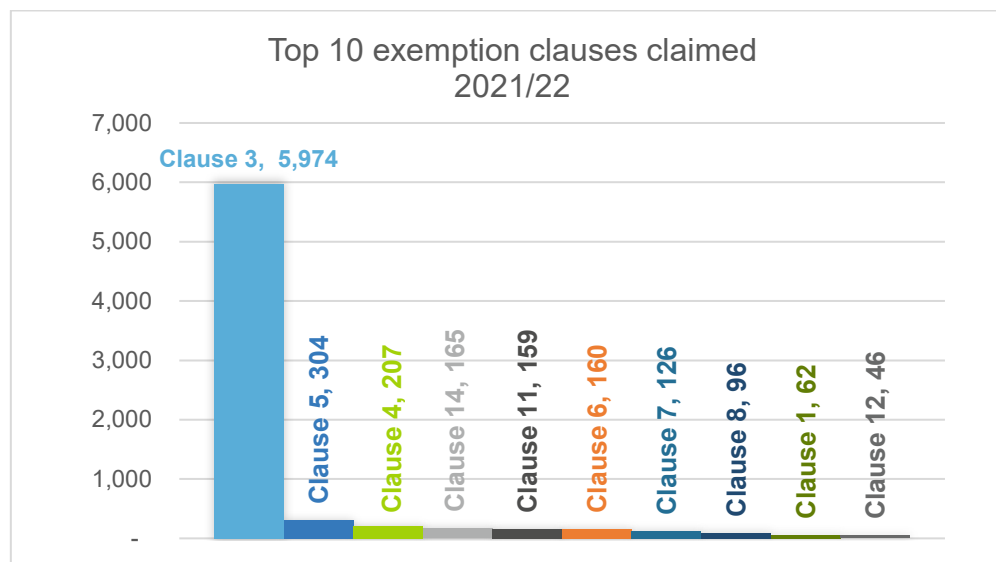
Agency decisions

- 19,370 decisions were made by agencies in response to access applications during the year, a 6.3% increase from 2021-21.
- A further 1,376 applications were withdrawn.
- 85.3% 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.
- 14.7% 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 under section 20 of the FOI Act on the ground that it would divert an substantial and unreasonable portion of the agency’s resources away from its other operations.
- This is the first year agencies have been required to report section 20 decisions separately. These types of decisions have previously been counted under ‘access refused’. 31 agencies reported a total of 78 decisions were made under section 20 during the reporting period.



AGENCY CATEGORY	GIVE ACCESS				REFUSE ACCESS/ REFUSED TO DEAL		
	In Full No. (%)	Edited No. (%)	Deferred No. (%)	s.28 No. (%)	s.26 No. (%)	s.20 No. (%)	Refused No. (%)
Boards, Committees, Commissions, Authorities, Corporations	366 (40)	471 (51.4)	2 (0.2)	1 (0.1)	43 (4.7)	6 (0.7)	27 (2.9)
Departments (except Police and Health related agencies)	923 (23.7)	1,889 (48.5)	7 (0.2)	5 (0.1)	761 (19.5)	30 (0.8)	281 (7.2)
Health-related Agencies	6,617 (57.4)	4,448 (38.6)	9 (0.1)	11 (0.1)	368 (3.2)	15 (0.1)	58 (0.5)
Local Governments	92 (10.7)	659 (77)	5 (0.6)	0 (0)	58 (6.8)	9 (1.1)	33 (3.9)
Ministers	17 (22.4)	33 (43.4)	1 (1.3)	0 (0)	18 (23.7)	6 (7.9)	1 (1.3)
Police	378 (18.3)	552 (26.8)	0 (0)	0 (0)	48 (2.3)	10 (0.5)	1,072 (52)
Universities	0 (0)	35 (79.5)	2 (4.5)	0 (0)	2 (4.5)	2 (4.5)	3 (6.8)
TOTAL	8,393	8,083	26	17	1,298	78	1,475
Percentage	43.3%	41.7%	0.1%	0.1%	6.7%	0.4%	7.6%
GRAND TOTAL	19,370						

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	7	1	271	20	0	5	93	28	19	0	13	1	13	0	0	0
Departments (except Police and Health related agencies)	36	7	1,674	117	0	119	33	46	51	1	14	150	14	0	163	0
Health Related Agencies	0	2	2,696	5	1	5	11	1	6	0	0	3	1	0	0	0
Local Governments	1	3	523	60	0	42	11	28	14	0	1	0	0	0	0	0
Ministers	15	3	25	3	0	1	0	11	0	0	0	0	15	0	0	0
Police	3	0	752	0	0	132	4	3	1	0	0	3	1	0	2	0
Universities	0	0	33	2	0	0	8	9	5	0	5	2	2	0	0	0
TOTAL	62	16	5,974	207	1	304	160	126	96	1	33	159	46	0	165	0

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 \$185,844 in access application fees was collected by agencies in the reporting period.
- \$28,385 in charges was imposed by agencies, an average of \$4.47 per application for non-personal information. However, in the majority of cases, no charges were reported as charged.

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 24.9 days (33.1 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 services)	36	360
Health services	14	2180
Local government	15	68
TOTAL	65	2,608

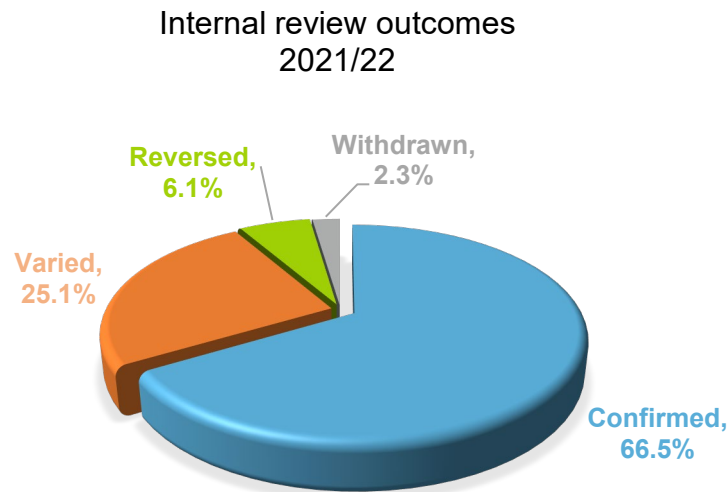
Of the 19,370 decisions made by agencies during the year, 13.5% were not dealt with in the permitted period compared to 15.8% in the previous year.

62.4% 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?](#)

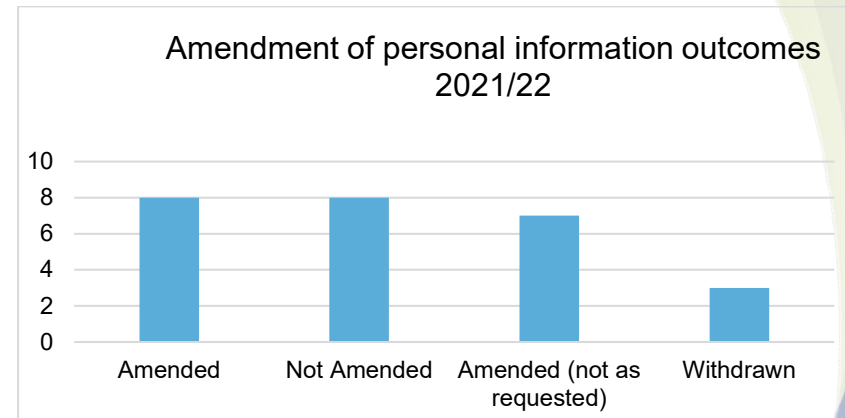
Internal review

- Agencies received 350 applications for internal review of decisions relating to access applications. This represents 1.7% of all decisions made.
- 108 (31.2%) internal review applications finalised during the reporting period resulted in the initial decision being varied or reversed.



Amendment of personal information

- 22 applications for amendment of personal information were received and 26 applications were finalised.
- 7 applications for internal review of amendment decisions were received and 12 decisions were made, 83.3% of which were to confirm the initial decision.



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 no instances of a corporate credit card being used for private expenses

Asset replacement

The OIC's strategic asset plan approved for 2019/20 includes expenditure to invest in a document management system. These funds were carried over into 2020/21 and again into 2021/22.

As outlined earlier in this report, research into a fit for purpose document management system commenced during the year and is ongoing.

Employment and industrial relations

Staff profile

The following profile show the staff numbers as at 30 June of each year indicated.

	2022	2021
Full-time permanent	6	7
Full-time contract (incl secondment)	3	1
Part-time contract	0	1
Part-time measured on a FTE basis	2.25	3

The OIC also has contracted three full-time temporary staff at 30 June 2022.

Staff movements

- In September 2021 a six month secondment arrangement to Lotterywest was approved for the Senior Legal Officer. By agreement the officer returned in February 2022.
- In November 2021 a secondment arrangement to the Department of Fire and Emergency Services was approved for an Investigations/Legal Officer, initially for a term of three months that was subsequently extended and finally made permanent in February 2022.
- In December 2021, a six month contract appointment was made to the Senior Legal Officer position.
- In January 2022, the Principal Legal Officer position became vacant; an Investigations/Legal Officer commenced 12 months parental leave; and two six month secondments were arranged from the Department of Transport and the Department of Local Government, Sport and Cultural Industries.

- In May 2022 a recruitment process commenced to permanently fill the Principal Legal Officer position. From February 2022 the role had been filled in-house through an acting arrangement. An appointment was made in early July 2022.

Staff development

Continuing Professional 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.

The *Legal Profession Uniform Law Application Act 2022* was passed in Parliament in April 2022, which will repeal the above laws as of 1 July 2022. This will mean that the government lawyers employed by the OIC will no longer be taken to hold a practising certificate (although this is subject to transitional arrangements). Instead, they will be required to apply for, and hold, a practising certificate to engage in legal practice and compliance with CPD obligations will be a condition on their practising certificates. The OIC will continue to support those officers with their CPD.

Other professional development

Staff are encouraged to attend various learning opportunities that arise. During the period, 105 events were attended by

staff members during the year. 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 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, one conflict was registered by the officer 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.

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. A project to provide translated materials commenced during the year.

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 their induction, 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 no complaints.

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

Records management

Last year it was reported that the OIC had submitted a report to the State Records Office (**SRO**) on its recordkeeping plan with proposed actions to be taken, including an update of the plan.

A partial update to the recordkeeping plan has been undertaken. Work has also commenced to develop a separate records disaster recovery plan and to create a vital records register. Feedback has been received from the SRO on the initial draft provided, which the OIC proposes to finalise by December 2022.