



**Office of the  
Information Commissioner**

*Freedom of information for Western Australia*

# **DISABILITY ACCESS AND INCLUSION PLAN 2019**

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**JULY 2019 – 2024**

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- by email
- on website

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## INTRODUCTION

The *Disability Services Act 1993* defines that disability is any continuing condition that restricts everyday activities. Disability can affect a person's capacity to communicate, interact with others, learn and get about independently.

### Types of disability include:

- Sensory - affecting vision and/or hearing.
- Neurological - affecting a person's ability to control their movements.
- Physical - affecting mobility and/or a person's ability to use their upper or lower body.
- Intellectual - affecting a person's judgement, ability to learn and communicate.
- Cognitive - affecting a person's thought processes, personality and memory resulting.
- Psychiatric - affecting a person's emotions, thought processes and behaviour.

The purpose of this Disability Access and Inclusion Plan (**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 Office of the Information Commissioner (**the OIC**). The OIC will, whenever required, consult with people with a disability, their families, carers, and disability organisations to ensure that barriers to access and inclusion are addressed appropriately.

## ACCESS AND INCLUSION POLICY STATEMENT

The OIC is committed to achieving the seven desired outcomes of the DAIP.

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.

## ROLE OF THE INFORMATION COMMISSIONER

The office of Information Commissioner is established by section 55(1) of the [Freedom of Information Act 1992 \(WA\)](#) (**the FOI Act**) and the occupant is directly accountable to Parliament for the performance of the functions prescribed by the FOI Act. The Information Commissioner (**the Commissioner**) is independent of executive government and reports directly to the Parliament and not to, or through, a Government Minister.

The main functions of the Commissioner are to review decisions of agencies in respect of freedom of information applications and to ensure that agencies and the public are aware of their respective responsibilities and rights under the FOI Act. The Commissioner also recommends to Parliament legislative or administrative changes that could be made to help the objects of the FOI Act be achieved.

The following principles, or values, are part of the corporate philosophy of the OIC:

- being accepted by participants as an independent and impartial review body;
- being recognised by agencies as a model of ‘best practice’ for the FOI external review process; and
- being an example of accountability and responsibility.

The OIC aims to provide an external review mechanism and an advisory service which is independent, objective and fair, and which balances the needs of applicants, agencies, and Parliament.

## WHAT RIGHTS DO I HAVE UNDER THE FOI ACT?

The objects of the FOI Act are to enable the public to participate more effectively in governing the State and to make the persons and bodies that are responsible for State and local government more accountable to the public. This is achieved in the FOI Act by providing for public access to government documents, and enabling the public to ensure that their personal information in government documents is accurate, complete, up-to-date and not misleading.

The FOI Act applies to documents held by Ministers, most State government agencies (such as departments, public hospitals, public universities, and State government authorities) and local government.

Documents accessible under the FOI Act include (but are not limited to) maps, plans, diagrams, graphs, drawings, photographs, videos, audiotapes, CCTV footage and electronic records, including emails.

Individuals can also apply to have their own personal information in government documents amended if they believe that information is inaccurate, incomplete, out-of-date or misleading.

It is important to note that applications under the FOI Act are made to the agency that hold the documents in the first instance, and the decision whether to give access or amend

personal information is made by that agency. Generally, there are then two avenues of review available if an applicant is dissatisfied with the agency's decision: firstly by requesting the agency conduct a review of the decision (internal review); which can then be followed by review by the Commissioner (external review) if the applicant is dissatisfied with the internal review decision.

## **INFORMATION, SERVICES AND FACILITIES**

The OIC has two statutory service outputs - Resolution of Complaints (External Review), and Advice and Awareness. None of the core functions of the OIC are contracted out.

### **Resolution of Complaints (External Review)**

External review applications are lodged by applicants who are dissatisfied with the outcome of their FOI application, and want the Commissioner to conduct an external review.

The FOI Act requires proceedings be conducted with as little formality and technicality as possible. Therefore, when dealing with an external review, wherever possible the conduct of external review proceedings is not unduly legalistic or formal. The preferred method of resolution is by negotiating a conciliated outcome between the parties. However, where a conciliated outcome cannot reasonably be achieved, the Commissioner is required to make a determination which usually includes publishing a written decision with reasons.

Parties to an external review can appeal the Commissioner's decision to the Supreme Court, but this is limited to a question of law within the decision only, and not because an applicant remains dissatisfied with the outcome.

### **Advice and Awareness**

The Advice and Awareness team provide members of the public and agencies with assistance in exercising their respective rights and obligations under the FOI Act. Advice given is general in nature and not legally binding.

The Advice and Awareness team aims to emphasise the objects and intent of the FOI Act when delivering advisory services. Agencies are encouraged to proactively release information outside the FOI process whenever reasonable to do so. This can be achieved by developing policies which establish routine information disclosure outside formal FOI processes. This can minimise the impact some formal FOI processes can have on the day-to-day operations of agencies. Many potential disputes are also resolved informally with assistance from the Advice and Awareness team.

The OIC conducts regular [workshops](#); forums; briefings; seminars; and presentations for FOI Coordinators, decision-makers, CEOs and other agency staff. These are conducted on an interactive basis, allowing for immediate response to questions and clarification of issues concerning FOI procedures and practices.

The OIC can also provide speakers on invitation. Briefings are tailored in each case to meet the needs of the audience.

## **PEOPLE WITH A DISABILITY LODGING FOI APPLICATIONS**

The right to make an FOI application to an agency is available to any person. Section 12(1) of the FOI Act outlines the requirements of a valid FOI application, as follows:

- (1) *The access application has to -*
  - (a) *be in writing; and*
  - (b) *give enough information to enable the requested documents to be identified; and*
  - (c) *give an address in Australia to which notices under this Act can be sent; and*
  - (d) *give any other information or details required under the regulations; and*
  - (e) *be lodged at an office of the agency with any application fee payable under the regulations.*

The right to make an FOI application is available to those with a disability. However, the very nature of the requirements in section 12(1) could pose a difficulty to those with a disability or language barrier. For instance, a person with vision impairment or neurological disabilities being required to lodge an application in writing, or a person with psychological or intellectual disability ensuring they provide meaningful correspondence to allow the required information to be identified.

It is important to note that, as outlined above, FOI applications are made directly to the agency that hold the documents a person wishes to access or have amended. They are not made directly to the OIC – it is only if an applicant wishes to have an agency’s decision reviewed that they deal directly with the OIC in the external review process. It is therefore incumbent on agencies, at this stage of the process, that they have their own DAIP in operation and can assist persons with a disability to make a valid FOI application.

In this regard, the FOI Act itself has specific provisions that go some way to ensuring all members of the public have the opportunity to make valid FOI applications, as follows.

Section 11(2) and (3)	<p>(2) <i>If the circumstances of the applicant require it, an agency has to take reasonable steps to help a person to make an access application to the appropriate agency in a manner that complies with this Act.</i></p> <p>(3) <i>In particular, if an application does not comply with the requirements of section 12 the agency has to take reasonable steps under subsection (2) to help the applicant to change the application so that it complies with those requirements.</i></p>
Section 98(b)	<p><i>Without limiting the ability of persons to make applications on behalf of other persons generally, an access application or application for amendment may be made -</i></p> <p>...</p> <p>(b) <i>on behalf of an intellectually handicapped person by the person's closest relative or guardian.</i></p>

The term 'intellectually handicapped person' is outdated, but it is the term currently used in the FOI Act. The OIC's [Annual Reports](#) have recommended to Parliament that this term should be replaced with a more appropriate term such as 'persons with an intellectual disability'.

## PEOPLE WITH A DISABILITY WHO USE OUR SERVICES

### OIC Services

In respect of lodging an application for external review with the OIC, people with a disability have the option of allowing someone (of their choosing) to do so on their behalf. However, this may not be preferable or suitable and the OIC acknowledges that a person with a disability should have the freedom to lodge their application and liaise with the OIC solely. It is the responsibility of the OIC to ensure they can do this.

In addition, it is incumbent on the OIC to ensure people with a disability have the opportunity to liaise directly with OIC staff to obtain advice on their rights and obligations under the FOI Act. [Brochures](#) which provide general and specific advice are available in hardcopy or on the OIC's website, but this may not be accessible to some.

### OIC Facilities

The OIC is situated at the Albert Facey House. The training and meeting rooms used are located on the ground floor and are wheelchair accessible, as are all facilities throughout the building. Wheelchair access is catered for when accessing the OIC's offices via the lifts.

## CONSULTATION

Staff within the OIC were consulted as part of the DAIP review and asked to provide feedback on any instances whereby persons with a disability that they have interacted with have been disadvantaged when dealing with our office, or accessing their rights under the FOI Act. While no actual instances were recorded, staff did provide feedback on potential improvements to our practices and publications, which have been incorporated into the strategies for improvement below.

We also advertised the review on our website and in the *West Australian*, inviting submissions in respect of the draft DAIP and feedback on any adverse experiences accessing our facilities and services. No responses were received.

## OBJECTIVES AND STRATEGIES TO OVERCOME IDENTIFIED BARRIERS

The following tables outline any identified barriers to accessing the OIC’s facilities and services, and the planned course of action to improve them.

*For the purpose of outcomes under the Disability Access and Inclusion Plan, the term ‘a public authority’ only relates and refers to this office, the OIC.*

### Outcome 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.



<b><u>Strategies</u></b>	<b><u>Timeline</u></b>
Provide a mechanism on the OIC website for people with a disability to comment on access to our services, including being able to exercise their rights under the FOI Act.	Ongoing
Ensure organised events consider accessibility for people with a disability.	Ongoing
Consult with relevant bodies to assist in consideration as to how people with a disability can exercise their rights under the FOI Act.	Ongoing



### Outcome 2

People with a disability have the same opportunities as other people to access the buildings and other facilities of a public authority.

<b><u>Strategies</u></b>	<b><u>Timeline</u></b>
Ensure physical access to the OIC’s premises is equally available to all persons, regardless of disability.	Ongoing

### Outcome 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.



<b><i>Strategies</i></b>	<b><i>Timeline</i></b>
Update publications and website advising that publications can be provided in alternative formats on request.	Ongoing
Include audio links for publications on the website.	2020
Upgrade OIC website to ensure content meets WCAG guidelines.	2020
Website and forms to be compatible with screen readers.	2020
Website translation for the top five languages spoken in WA other than English.	2021
Ensure access and inclusion is integrated into all documents through inclusive language.	2019



### Outcome 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.

<b><i>Strategies</i></b>	<b><i>Timeline</i></b>
Create and disseminate to staff disability access and inclusion policy.	Immediate
Maintain staff communication skills to cater to a diverse range of capabilities.	Ongoing
National Relay Service availability.	2021
Create policy on use of translation services.	2019

### Outcome 5

People with a disability have the same opportunities as other people to make complaints to a public authority.



<b><i>Strategies</i></b>	<b><i>Timeline</i></b>
Ensure that the current complaints policy is accessible, and gives effect, for people with a disability to lodge complaints and/or grievances in relation to the OIC.	2019





### Outcome 6

People with a disability have the same opportunities as other people to participate in any public consultation by a public authority.

<b><i>Strategies</i></b>	<b><i>Timeline</i></b>
Ensure requests for public consultations are conducted in a way that will invite and include people with a disability.	Ongoing
Ensure the OIC’s current DAIP is available for public comment.	2019

### Outcome 7

People with a disability have the same opportunities as other people to obtain and maintain employment with a public authority.



<b><i>Strategies</i></b>	<b><i>Timeline</i></b>
Ensure that recruitment activities are accessible to people with a disability.	Ongoing
Ensure staff with disabilities are provided with appropriate support to carry out their responsibilities.	Ongoing

## MONITORING, REVIEWING AND REPORTING

To ensure the effectiveness of this DAIP, regular monitoring, reviewing and reporting is necessary.

### Monitoring

Performance measures to monitor the extent to which the OIC’s access and inclusion strategies have increased and enhanced the availability of services and facilities for people with a disability are as follows:

- Include in various feedback forms a section on access and inclusion for those with disabilities.
- Include a feedback facility on the OIC’s website on the accessibility and readability of the website and various publications.
- Publish the approved DAIP on the OIC’s website and provide a feedback mechanism.
- Maintain data on the accessibility of our facilities whenever a training event or formal meeting is arranged.

A two person committee has been formed and six monthly review meetings scheduled to ensure the monitoring function is maintained and strategies progressed.

## Review

The [Disability Services Act 1993](#) requires that agencies review their DAIP every five years and submit the reviewed document to the [Department of Communities](#). While the OIC is committed to doing this, more regular reviews can be conducted. Depending on the ongoing feedback of stakeholders, the OIC will review and update the DAIP as required. Feedback will continually be sought through the monitoring process which will assist in enhancing the DAIP at any time.

As part of this review, many of the strategies outlined in the OIC's first DAIP were still found to be relevant as an ongoing endeavour and have been retained. Some initiatives went only part way to fulfil the strategies and further work is required.

## Reporting

Reporting in the OIC's annual report on the actions undertaken to implement the DAIP is mandatory and, in addition, a progress report is required to be lodged with the Department of Communities by 31 July each year. These two requirements provide the incentive to ensure a yearly review is conducted, and a new DAIP lodged with the Department of Communities if amendments are made as a result of the review.

## Promotion

The DAIP will be made available on the OIC's website, and advice of its availability advertised in the *West Australian* newspaper, the OIC annual report and the OIC newsletter.

## Agents and contractors

Agents and contractors to the OIC will be expected to conduct their business in a manner consistent with the principles of this DAIP. This will be specified during any contract negotiation with external parties, and an appropriate mechanism put in place for those parties to report back to the OIC on their compliance. As part of future DAIP reviews and monitoring, agent and contractor compliance will be included.