

AGENCIES OVERVIEW

OVERVIEW OF APPLICATIONS DEALT WITH BY AGENCIES

Section 111 of the FOI Act requires that the Information Commissioner's annual report to the Parliament include certain specified information relating to the number and nature of applications under the FOI Act dealt with by agencies during the year. To enable that to occur, agencies are also required by s.111 to provide the Information Commissioner with the specified information. That information for 2005/06 is set out in detail in the statistical tables at the end of this report. The following is an overview.

The primary responsibility for making decisions on FOI applications and otherwise giving effect to the provisions of the FOI Act rests with agencies. Applications under the FOI Act are made in the first instance to the government agency holding or likely to hold the document sought, and the agency must deal with and decide the application. As can be seen from a review of previous annual reports of the Information Commissioner, the number of access applications made to agencies under the FOI Act has steadily increased, from 3323 at the end of the first full financial year of operation of the FOI Act (1994/95) to 9591 in the year under review. That represents an increase of approximately 188% in 11 years from 1995 and 10% from last year (8697).

From the statistical tables at the end of this report, it can be seen that, as in recent previous years, the Police Force of Western Australia received the highest number of applications made to a single agency (1543—an increase of 6.5% from last year), with the next highest being received by Royal Perth Hospital (1121—a very slight decrease of about 1.25% from last year) and Sir Charles Gairdner Hospital (1005—an increase of about 17%) respectively, and another 2846 in total received by various other health service providers (hospitals, health services and the Department of Health).

The very low amount of application fees and charges collected by the health services (for example, a total of \$210.00 in applications fees - i.e. seven application fees - and only \$124 in additional charges collected by Royal Perth Hospital) suggests that the vast majority of access applications to that agency is, as in previous years, for personal information - for example, medical records - about the access applicant, for which no application fee or other charge is payable.

Of the 9591 applications received by agencies in 2005/06, 418 (just over 4%) were received by local government agencies and 9173 (96%) by State Government agencies. Of the local government agencies, the City of Melville received the highest number of applications (29), followed by the City of Joondalup and the City of Stirling (each with 26), the City of Wanneroo (22) and the City of Perth (20). A number of the small country local Government agencies reported having received none or one.

Of the applications made to State Government agencies, 98 were made to Ministers, almost double the number made to Ministers last year. As was the case last year, the Minister receiving the highest number of applications was the Minister for Planning and Infrastructure (19), with the next highest being the Attorney General; Minister for Health; Electoral Affairs (12). The Minister for Police and Emergency Services; Community Safety; Water Resources; Sport and Recreation and the Minister for Education and Training received 11 and 10 applications respectively. Of the decisions on access made by Ministers in the reporting period, 20 (30%) were to give full access; 36 (55%) were to give access to edited copies of documents; and 10 (15%) were to refuse access. The exemptions claimed by Ministers were 7 x clause 1 (Cabinet and Executive Council documents); 40 x clause 3 (personal information); 11 x clause 4 (commercial or business information of private persons); 3 x clause 6 (deliberative process of government); and 6 x clause 7 (legal professional privilege).

The statistical tables also reveal that 8767 decisions on access applications were made by agencies

under the FOI Act in 2005/06. Of those decisions made, 60.8% resulted in the applicant being given access in full to the documents sought; 29.7% resulted in the applicant being given access to edited copies of the documents sought; and just over 0.2% resulted in either access being given but deferred, or being given in accordance with s.28 of the FOI Act (by way of an approved medical practitioner). Those figures indicate that approximately 90.8% of the 8767 decisions made by agencies on FOI applications were to the effect that access in some form was given. Only 9.2% of the decisions made were to refuse access. That is consistent with the similar statistics for the previous year.

Also consistent with previous years, the exemption clause most frequently claimed by agencies was clause 3, which exempts from disclosure personal information about individuals other than the applicant. That clause was claimed 2425 times in the year under review. The next most frequently claimed exemptions were: clause 4, which relates to certain commercial or business information of private individuals and organisations (126 times); clause 7, which protects from disclosure documents which would be privileged from production in legal proceedings on the ground of legal professional privilege (122 times); and clause 6, which relates to the deliberative processes of government (103 times). The 2004 amendment to clause 5, which relates to law enforcement, public safety and property security, resulted in a significant decrease in the use of this exemption from 170 times in the previous reporting period to 90 in this period. Prior to the amendment, clause 5(1)(b) exempted from disclosure documents that would reveal the investigation of a contravention or possible contravention of the law in a particular case. The amendment was to delete the words “reveal the” and replace them with “prejudice an”. The effect of that is that, to establish the exemption, an agency must now be able to show that disclosure could reasonably be expected to cause some harm to an investigation.

Agencies received 155 applications for internal review of decisions relating to access applications during 2005/06. This represents about 2% of all decisions made and about 19% of decisions made to refuse access. In the year under review 148 applications for internal review were dealt with. The decision under review was confirmed on 111 occasions, varied on 29 occasions, reversed on three occasions and the application for internal review was withdrawn on 5 occasions. Thirty three applications for amendment of personal information were made to agencies during the year. Thirty two such applications were dealt with, resulting in personal information being amended on one occasion, not amended on twenty six occasions and amended, but not as requested, on three occasions. The six reported applications for internal review of decisions relating to the amendment of personal information resulted in the initial decision being confirmed on five occasions and varied on one occasion.

Figures 1-4 on the following page illustrate the performance of agencies in respect of FOI in the year under review. The number of applications decided by agencies increased, as did the number of occasions on which full access was given. As it did last year, the average time taken by agencies to deal with access applications (app. 27 days) increased, by approximately six days, from the previous year, but is still well within the maximum period of 45 days permitted by the FOI Act. It does not appear to be a significant increase, given the increase in the number of access applications being dealt with, but, as I indicated in my last two annual reports, my office will continue to monitor it. The average amount of charges imposed by agencies for dealing with access applications decreased in comparison with the previous year.

Although the conclusions that can be drawn from statistics such as these are limited, in my view these figures are a positive indicator that, overall, agencies are giving effect to the FOI Act in the manner in which it was intended to operate. Of course, there continue to be particular instances where that is not the case, and it is the ongoing goal of my office, both through the external review of complaints and through our advisory and educational activities, to ensure these positive trends continue and that problem areas are identified and addressed.

FIGURE 1

Number of Applications Decided—All Agencies

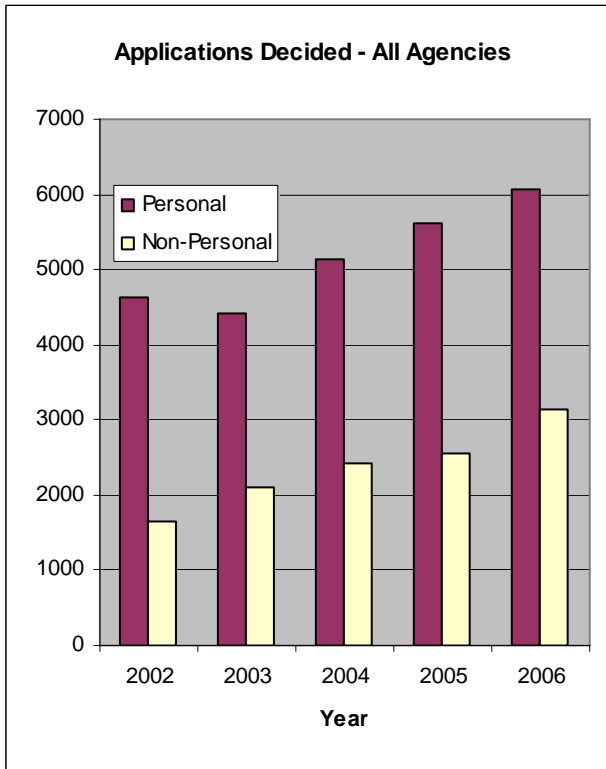


FIGURE 2

Average Days Taken to Deal with Applications – All Agencies

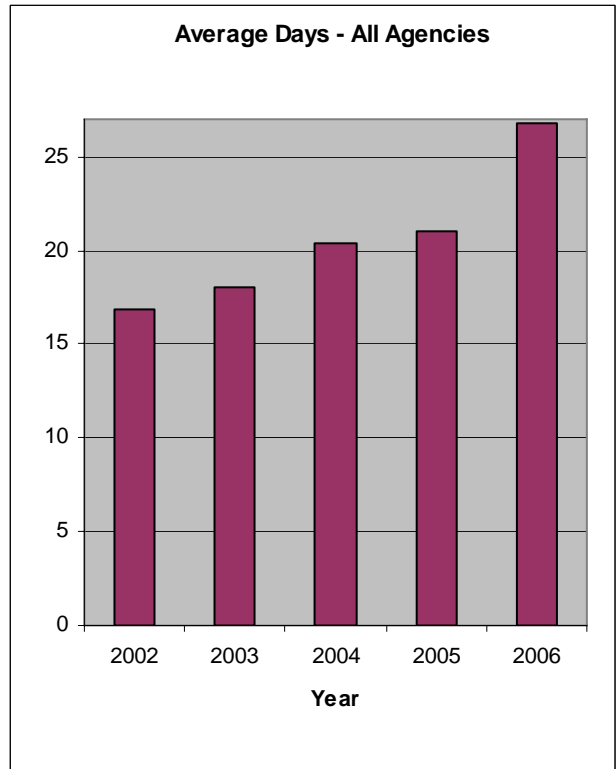


FIGURE 3

Average Charges Imposed —All Agencies (\$)

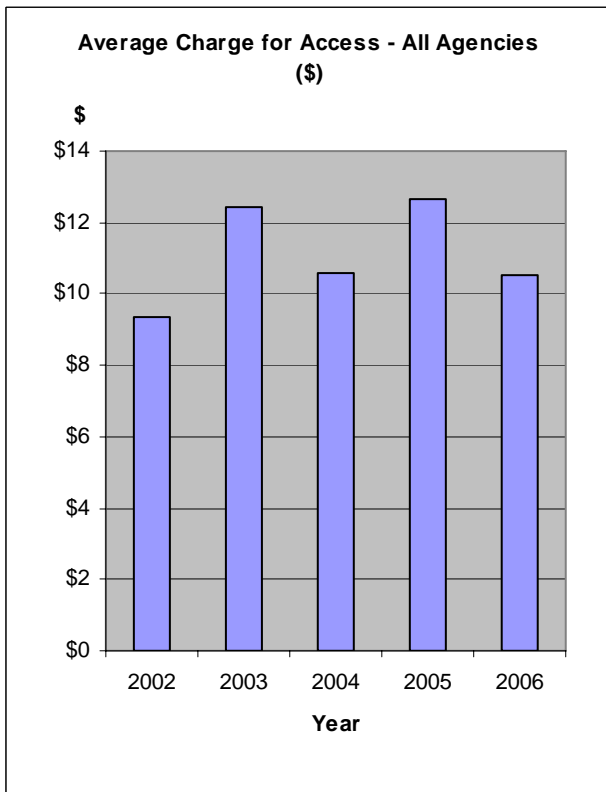


FIGURE 4

Outcome of Decisions—All Agencies

