

Freedom **O**f **I**nformation



**INFORMATION COMMISSIONER
WESTERN AUSTRALIA
ANNUAL REPORT TO THE
PARLIAMENT 2007/08**



OFFICE OF THE
INFORMATION COMMISSIONER

DEAR MR PRESIDENT
DEAR MR SPEAKER

In accordance with the provisions of the *Financial Management Act 2006* and the *Freedom of Information Act 1992*, I submit my report for the year ended 30 June 2008 which has been prepared in compliance with the provisions and reporting requirements of both Acts.

A handwritten signature in blue ink, appearing to be 'JL', with a long horizontal stroke extending to the right.

JOHN LIGHTOWLERS
A/INFORMATION COMMISSIONER
25 September 2008

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OVERVIEW

1. OVERVIEW



John Lightowers

1.1 COMMISSIONER'S SUMMARY

This is the fifteenth year of operation of laws conferring upon people in Western Australia a legally enforceable right of access to documents of all State and local government agencies, and providing the public with the means to ensure that personal information in documents held by State and local government agencies is accurate, complete, up-to-date and not misleading. Cumulatively during the past 15 years, over 90,000 FOI applications have been made. The majority of applicants seek access to their personal information. About 90% of applicants have been given access to either full or edited copies of what they want. Each year the total number of FOI applications continues to grow. This year, the number of FOI applications made to agencies reached an all time record of 11,255.

“...improvements in timeliness have been achieved...as well as being the highest customer satisfaction level for the past 5 years.”

Most applications seeking external review by the FOI Commissioner of agency's decisions are made by private individuals (about 70%). Applications by corporate bodies (mainly businesses), make up the next largest category of applicants (about 16%), while relatively few applications are made by journalists and politicians (about 6% and 4% respectively).

This last year has been an eventful one:

❖ Proposed legislation intended to reform the way freedom of information laws operate, and to introduce new privacy laws, completed passage in the Legislative Assembly and progressed to the Legislative Council of the State Parliament.

❖ In December 2007 Acting Information Commissioner C P Shanahan SC delivered his decision in *Re West Australian Newspapers Ltd & Anor and Salaries And Allowances Tribunal* [2007] WAICmr 20, which was subsequently the subject of an appeal to the Western Australian Supreme Court.

❖ A review was undertaken by my Office into the Department of Health's FOI processes, implementing a recommendation made to the Parliament by the Corruption and Crime Commissioner in January 2008.

❖ A backlog of complaints before my Office was addressed, with the result that by the end of the financial year no complaints were more than 12 months old; the percentage of complaints on hand aged over 3 months decreased during the year from 54% to 27%; and the average time for dealing with complaints was reduced from 136.4 active days to 91.6.

❖ Improvements in timeliness have been achieved along with a high level of customer satisfaction. The overall satisfaction of parties with the external review process this year was 88%, which is a big improvement over last year's 75% satisfaction level, as well as being the highest customer satisfaction level for the past 5 years.

In November 2007, I was appointed Acting Information Commissioner for a term of up to one year. In February 2008 the office was

relocated to another floor in the building shared with other co-located accountability agencies to make added room available for the Ombudsman's office.

I commend the 9 staff of the office who, during the inevitable disruption associated with appointment of a new Acting Information Commissioner and relocation of the office, were able to significantly improve the timeliness of complaints handling with no loss of quality, while at the same time taking on significant added work associated with considering the impact of proposed amending legislation and carrying out a major review of FOI processes within the Health Department.

Particular developments of note during the year under review were as follows.

FOI Amendments and Privacy Legislation:

The *Information Privacy Bill 2007* and the *Freedom of Information Amendment Bill 2007* completed passage in the Legislative Assembly in November 2007 and were, at the close of the financial year, before the Legislative Council. If these Bills are enacted in their current form, the Office of the Information Commissioner will be replaced by the newly created Office of the Privacy and Information Commissioner, which will have functions under both pieces of legislation. The legislation will allow, but not require, concurrent appointment of the Ombudsman to the new office. The external review decision making function of the Information Commissioner will be removed from the Information Commissioner and transferred to the State Administrative Tribunal, with the new Privacy and Information Commissioner no longer undertaking a determinative

function but retaining a conciliation function. It is hoped that these proposals will facilitate the timely disposition of disputed requests for access to documents. Notably in this regard, the Office of the Information Commissioner has shown in the past year it is able to deal with and resolve complaints in a timely fashion. The achievement of reducing the average time taken to finalise complaints from 136.4 days to 91.6 days and resolving all outstanding complaints over 12 months old, demonstrates that the Office of the Information Commissioner, following the current processes, is able to meet and exceed benchmark performance in dispute resolution.

Supreme Court Appeal: One appeal to the Supreme Court was lodged during the current financial year. That appeal related to two concurrent complaints dealt with by Acting Information Commissioner C P Shanahan SC, who was found to have correctly concluded that the Salaries and Allowances Tribunal is not a 'court' for the purposes of the FOI Act. Those complaints raised some unique issues. The disputed document contained information directly related to the remuneration of then Acting Information Commissioner Wookey. She decided to disqualify herself from dealing with those two complaints, in order to avoid any perception of a conflict of interest and possible perceptions of bias. Acting Information Commissioner CP Shanahan SC was appointed for the purpose of dealing with the relevant complaints. While in these very unusual circumstances it took some 9 months to locate a suitably experienced person who was available to act as Commissioner to deal with these complaints, once Acting Commissioner Shanahan was appointed he was able to promptly produce a preliminary view on an initial point of law within 2 months of his appointment. The agency's response to that preliminary view then required additional time to be allowed for submissions from the parties; the need to consult some 80 additional third parties; and

“...the Office of Information Commissioner, following the current processes, is able to meet and exceed benchmark performance in dispute resolution.”

a detailed response to matters raised in those submissions which was contained in a second preliminary view that was issued on 23 October 2007. This resulted in a total of 9 months passing between the Acting Commissioner's initial appointment and delivery of his final decision on 10 December 2007. A further 3 months passed between delivery of the Acting Commissioner's decision and the outcome of the Supreme Court appeal on 20 March 2008. In dismissing the appeal and confirming the Acting Information Commissioner's decision (*Salaries and Allowances Tribunal v West Australian Newspapers Ltd* [2008] WASC 39), His Honour Chief Justice Martin noted the importance of the timely determination of requests for information access in the achievement of the objects of the FOI Act.

Review of Department of Health FOI Processes: In its report dated 25 January 2008 on the investigation of alleged misconduct concerning Dr Neale Fong, former Director General of the Department of Health, the Corruption and Crime Commission recommended to the Parliament that matters relating to the appropriateness and adequacy of the FOI processes and record-handling of the Department of Health, as detailed in its report, be referred to the Office of the Information Commissioner and the State Records Commission. A detailed review was undertaken into the FOI process followed by the Department of Health in that particular matter, with the full cooperation of that Department. The results of that review, and recommendations for improvements to those processes, are included in full later in this annual report.

Resolution of Outstanding FOI Complaints: On 1 July 2007, there were 6 complaints before the Information Commissioner that were more than 12 months old. By 30 June 2008 all 6 had been resolved and there were no complaints aged 12 months or more awaiting determination. The percentage of complaints on hand aged

over 3 months has also decreased over this period from 54% to 27%. As previously mentioned, during the year under review the average time to finalise complaints was reduced from 136.4 active days to 91.6, and at the same time parties surveyed have indicated the highest level of satisfaction with the external review process for five years. However, the improved timeliness in resolving complaints has come at a cost in terms of the rate of conciliation, which has declined over this period from 73.7% to 61.5%.

Timeliness: While section 71 of the FOI Act gives the Commissioner a wide discretion to suspend inquiries or proceedings on a complaint in order to pursue a negotiated settlement, ultimately the passage of time can erode the relevance and meaning of the information being sought. Accordingly, I have taken the approach that effluxion of time may itself make it necessary for me to cease efforts for a conciliated outcome and to determine a complaint by formal decision, rather than extend to the parties the maximum amount of time within which to reach a conciliated outcome. I have also confined the range of complaints in which parties may be given a "preliminary view" of the possible outcome of their complaint, to those where there are significant uncertainties about facts or circumstances underlying the complaint, so that the parties can correct possible errors of fact and bring further evidence or make additional submissions. However, in most cases, as long as the parties are given a reasonable opportunity to make submissions, I have proceeded to a formal decision where negotiations or conciliation have not been productive.

"...I have taken the approach that effluxion of time may itself make it necessary for me to cease efforts for a conciliated outcome and to determine a complaint by formal decision..."

My appointment as Acting Information Commissioner took effect on 1 November 2007 for a term of up to 12 months. While I have done what I can to plan for and prepare the office for the possible passage of the FOI amendments and privacy legislation referred previously, I have been principally guided by the mandate in section 63(1) of the FOI Act which says that the main function of the Commissioner is to deal with complaints about access applications and applications for amendment of personal information. This has therefore been the primary focus of my attention and the efforts of the office during my period of appointment. Measured in terms of dealing with increasing workloads within existing resources while delivering both improved timeliness and customer satisfaction, I believe the office has succeeded in its main task, and I thank all the staff for their dedication and professionalism.

“Section 70(2) of the FOI Act requires the FOI Commissioner to conduct FOI proceedings with as little formality and technicality and with as much expedition as will allow for proper consideration of the issues and as permitted by the FOI Act.”

1.2 OPERATIONAL STRUCTURE

The office of Information Commissioner is established by s.55(1) of the FOI Act and the occupant is directly accountable to Parliament for the performance of the functions prescribed by the FOI Act. The office is independent of executive government and reports directly to the Parliament and not to, or through, a Government Minister. The Acting Information Commissioner is appointed under s.59(1) of the FOI Act by the Governor and is empowered to exercise all the functions of the Information Commissioner. The Attorney General is the Minister responsible for the administration of the FOI Act, but has no role under the legislation.

The main function of the office is to provide independent external review of agencies' decisions by dealing with complaints about

decisions made by agencies under the FOI Act. Other responsibilities prescribed by the FOI Act include:

- (i) ensuring that agencies are aware of their responsibilities under the FOI Act [s.63(2)(d)];
- (ii) ensuring members of the public are aware of the FOI Act and their rights under it [s.63(2)(e)];
- (iii) providing assistance to members of the public and agencies on matters relevant to the FOI Act [s.63(2)(f)]; and
- (iv) recommending to Parliament legislative or administrative changes that could be made to help the objects of the FOI Act be achieved [s.111(4)].

The Mission Statement and desired outcome reflect the functions and the broad ideals of openness, accountability and responsibility behind the FOI legislation.

MISSION

Public understanding and confidence in the decision-making process of government agencies through access to relevant information

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

- ❖ Being accepted by participants as an independent and impartial review authority.
- ❖ Being recognised by agencies as a model of “best practice” for the FOI complaint review process.
- ❖ Serving as an example to agencies of accountability and responsibility.

RELEVANT LEGISLATION

Freedom of Information Act 1992

Freedom of Information Regulations 1993

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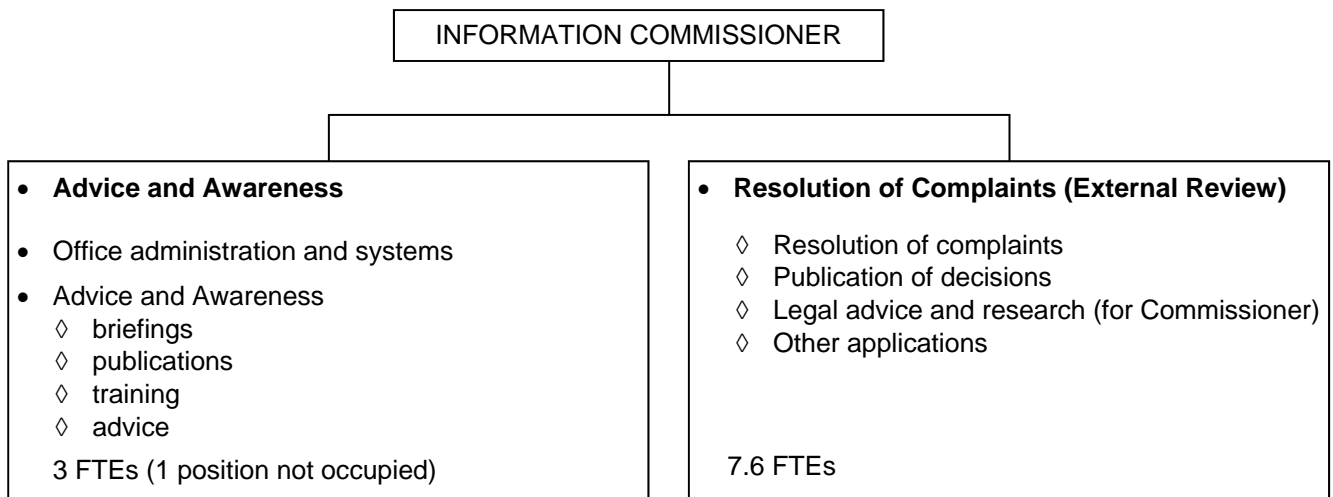
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STAFF


Back row L to R: Tony Pruyn, Senior Investigations Officer; Vivien Hillyard, Investigations Officer; John Lightowlers, A/Information Commissioner; Kim Bracknell, Information Services Manager; Rachel Crute, Legal Officer (Research and Investigations).

Front row L to R: Sylvie de Laroche, Personal Assistant; Michelle Fitzgerald, Administrative Assistant; Grace Grandia, Advisory/Projects Officer; Tim Kennedy, Senior Legal Officer; Anne Marshall, Legal Officer.

OFFICE STRUCTURE



1.3 PERFORMANCE MANAGEMENT FRAMEWORK

1.3.1 Outcome Based Management Framework

Desired Outcome: The primary desired outcome is access to documents and observance of processes in accordance with the FOI Act.

The Office of the Information Commissioner provides an FOI complaint mechanism and advisory service which is independent, objective and fair, and which balances the competing needs of applicants, agencies and Parliament, subject to the requirements and processes prescribed in the FOI Act. The Information Commissioner has a statutory duty to undertake these functions and the Office accordingly has two service teams – *Resolution of Complaints (External Review)* and *Advice and Awareness*.

The desired outcome of the Office of the Information Commissioner is aligned with the strategic planning framework for the public sector developed by the Department of the Premier and Cabinet entitled: *Better Planning: Better Futures*, available at: <http://www.dpc.wa.gov.au/PSMD/Publications/Pages/Publications.aspx>.

In particular, of the five goals espoused by the public sector framework, the mission statement, desired outcome and services provided by the Office of the Information Commissioner directly support 2 of these goals in the manner outlined in the table below.

The Office of the Information Commissioner’s outcome-based management framework did not change during 2007/08.

The Office of the Information Commissioner did not share any responsibilities with other agencies in 2007/08.

Government Goals	Desired Outcome of the Office of the Information Commissioner	Services provided by the Office of the Information Commissioner
Better Services - Enhancing the quality of life and wellbeing of all people throughout Western Australia by providing high quality, accessible services.	Access to documents and observance of processes in accordance with the FOI Act	Advice and Awareness
Governance and Public Sector Improvement - Developing and maintaining a skilled, diverse and ethical public sector serving the Government with consideration of the public interest.		Resolution of Complaints (External Review)

**AGENCY
PERFORMANCE -
REPORT ON
OPERATIONS**

2. AGENCY PERFORMANCE—REPORT ON OPERATIONS

2.1 SIGNIFICANT DECISIONS DURING THE YEAR

The following section of this Report describes several significant complaints dealt with during the reporting year.

Closest relative: Two complaints (*Re J and Police Force of Western Australia* [2008] WAICmr 5 and *Re Knowles and Royal Perth Hospital and Wade* [2008] WAICmr 25) required consideration of the meaning of the term “closest relative”, as used in s.32(3) of the FOI Act, in the context of competing claims by different children of a deceased person. The FOI Act recognises the need to balance the right of access to information in the possession of government agencies against the need to protect personal privacy. Where an applicant requests access to a document which contains personal information relating to another person (the third party), the agency may not give access to the document unless it has taken steps to consult with the third party as to whether the document is exempt under clause 3 of Schedule 1 (personal information). The third party can seek a review of a decision to give access if the decision conflicts with his or her views. Section 32(2) provides that if a third party is dead, then his or her closest relative should be consulted. The issue that arose for determination in the two complaints was who, as between different children, should be regarded as the closest relative of a deceased person for the purposes of the FOI Act. Submissions were made arguing that the closest relative should be determined not according to the order of ‘closeness’ that applies when dealing with matters relating to guardianship or administration of estates but, rather, by reference to the ‘nearness’ of the personal relationship between the deceased and a surviving child. In one case, a younger surviving child argued that that child was closer to the deceased parent than older siblings by virtue of having had a nearby residence to the deceased and in terms of frequency of visiting and assisting the de-

ceased during that person’s lifetime. In the other case, it was argued that, as the deceased had become estranged from the eldest surviving child and had written letters confirming this estrangement, a younger surviving child should be taken to be the closest relative. In both cases, I decided that the ordinary meaning of the term “closest relative”, as used in the FOI Act, lead to an interpretation that favoured the eldest surviving child being taken to be the ‘closest’ relative to the deceased. Some guidance was obtained from the approach taken in the *Guardianship and Administration Act 1990* which prefers the elder or eldest of two or more children as being the “nearest relative” for the purposes of that Act. It is noted that the *Freedom of Information Amendment Bill 2007* will clarify this issue by replacing the term “closest relative” with the term “nearest relative” in the FOI Act and adopting the definition of that term as used in the *Guardianship and Administration Act 1990*.

Courts and tribunals: The Supreme Court in *Salaries and Allowances Tribunal v West Australian Newspapers Ltd* [2008] WASC 39 confirmed the decision of Acting Information Commissioner C P Shanahan SC in *Re West Australian Newspapers Ltd & Anor and Salaries And Allowances Tribunal* [2007] WAICmr 20. As a result of the Supreme Court’s decision, it is now clearly established that the Salaries and Allowances Tribunal is not a ‘court’ for the purposes of the FOI Act. The effect is that documents and records held by the Tribunal are open to requests for

“The FOI Act recognises the need to balance the right of access to information in the possession of government agencies against the need to protect personal privacy.”

access made under the FOI Act. In consequence, the objects of the FOI Act - which are to enable the public to participate more effectively in the governing of the State, and to make the persons and bodies who are responsible for State and local government more accountable to the public - are served by providing a right of access to documents held by the Tribunal.

Increasing complexity of complaints: A significant proportion (8%) of complaints for external review related to disputes between mining and exploration companies seeking or objecting to disclosure of information held by Government agencies, principally the Department of Industry and Resources, or by the relevant Minister. A number of these complaints sought access to information provided under State Agreements (agreements between the State Government and mining

These complaints are indicative of the growing complexity of matters that are coming before the Information Commissioner.

University research: My decision in *Re Whitely and Curtin University of Technology* [2008] WAICmr 24 dealt with a complaint from an applicant who was seeking access to documents containing ethical considerations; consultations undertaken with parents of affected children; and research funding arrangements relating to a Curtin University of Technology research project into Attention Deficit Hyperactivity Disorder. A number of the requested documents were released to the applicant by the University. However, the University refused the applicant access to some of the requested documents at first instance, as well as on internal review, claiming a number of exemptions relating to deliberative processes; confidential commu-

“These complaints are indicative of the growing complexity of matters that are coming before the Information Commissioner.”

companies that have been ratified by the Parliament). As State Agreements do not expressly exclude application of the FOI Act, the FOI Act applies to allow for applications for access to information held by agencies that was provided under State Agreements. Most of these complaints involved claims for several exemptions including commercial confidentiality, confidential communications and legal professional privilege. Each of those complaints required staff of my office to examine voluminous documents and to interpret numerous statutes and agreements. In addition, a number of other complaints during the year sought access to records associated with litigation before the High Court involving Betfair Pty Ltd, a company jointly owned by the Sporting Exchange Ltd (Betfair’s parent company in the United Kingdom) and Publishing and Broadcasting Ltd, which was seeking to establish a national internet based betting exchange business.

nications; commercial and business information considerations; protection of the State’s financial or property affairs; and impairment of the effective operations of the agency. A third party - a pharmaceutical company, Eli Lilly Australia Pty Ltd - also made submissions to me opposing the disclosure of some of the requested documents. However, I found on external review that the requested documents were not exempt, except for a small amount of personal information, and that there was no good reason why the complainant and the public, generally, should not be made aware of the contents of all of the disputed documents.

2.2 INVESTIGATIONS, HEARINGS AND DECISIONS ON COMPLAINTS

Section 70(2) of the FOI Act requires the Information Commissioner to conduct FOI proceedings with as little formality and technicality and with as much expedition as will allow

for a proper consideration of the issues and as permitted by the FOI Act. Usually, complaints are dealt with on the basis of the papers – principally involving the written submissions and an examination of the requested information and other relevant evidence. On some occasions, a complaint may be investigated by way of the parties appearing before staff or before the Information Commissioner in more formal hearings. This year only one such hearing was held. In most cases, written submissions of the parties to the complaint are received, considered and, where appropriate, exchanged between the parties, and investigations undertaken of decisions into, for example, the adequacy of

time); 13(5) (extension of time); 35(1) (waiver of requirement to consult); 66(4) (lodge a complaint out of time); and 66(6) (lodge a complaint without internal review) of the FOI Act.

The process under the FOI Act is that a written application must be made to the agency holding - or likely to hold - the documents sought. The agency must deal with the application in accordance with the FOI Act and give the applicant (and in some cases third parties) written notice of its decision - and if access is refused, reasons - within a maximum of 45 days. If the applicant or a defined third party is dissatisfied with the agency's

“The external review process is intended to be speedy, accessible and informal where possible and practicable.”

searches undertaken by agencies in order to identify the requested documents. Following that process, and when reasonable opportunities for conciliation are exhausted; investigations and inquiries completed; and issues still remain in dispute between the parties, the Information Commissioner proceeds to make a formal decision on the complaint pursuant to section 76 of the FOI Act. Those decisions are required to be published either in full or in an abbreviated, summary or note form, in order to ensure that the public is adequately informed of the grounds on which decisions are made. A copy of a decision is given to the parties to the complaint, and is otherwise disseminated by the *Advice and Awareness* sub-program. This year, 35 formal decisions were published, of which 14 were decision notes or summaries.

2.3 EXTERNAL REVIEW

The *Resolution of Complaints (External Review)* team deals with complaints lodged by access applicants, applications for amendment of personal information and third parties seeking external review of decisions made by agencies under the FOI Act. The external review team also deals with applications made under sections 13(4) (reduction of

decision, one or more of those parties may apply to the agency for internal review of the decision. An officer of the agency who is not subordinate to the original decision-maker must deal with the internal review application and give the person seeking review written notice of its decision and reasons, if necessary, within a maximum of 15 days.

Generally, it is only after that process is completed that a complainant or third party who remains dissatisfied with the agency's decision can make a complaint to the Information Commissioner. The role of the Information Commissioner is to conduct a full merits review of the agency's decision. Following that review, the Information Commissioner can decide to confirm, vary or set aside the agency's decision and substitute it with the Information Commissioner's decision. The Information Commissioner's decision is binding on the parties, subject only to a right of appeal to the Supreme Court on a question of law.

The emphasis in the external review process is on informal resolution processes such as conciliation and negotiation where appropriate. Where conciliation cannot be achieved, the determinative function, which involves

more formal processes, is undertaken. The external review process is intended to be speedy, accessible and informal where practicable. It is the policy of the Information Commissioner to avoid, where possible, too technical an approach to external review, whilst recognising that it is necessary and desirable for the external review process to conform to the statutory requirements of the FOI Act; the principles of administrative law; and accepted professional standards of practice in merit review.

Each member of the external review team has been given broad delegated authority by the Information Commissioner to enable those officers to manage and deal with complaints assigned to them, having regard to the nature of each complaint, the issues in dispute between the parties and an initial assessment as to whether there are real prospects that a particular complaint may be resolved through negotiation and conciliation.

That delegation enables external review team members to determine the procedure to be followed in dealing with each complaint, with a view to achieving a conciliated outcome. The procedures followed by members of the external review team during the negotiation and conciliation process are necessarily flexible. For example, in most complaints, conciliation will be pursued through face to face meetings and discussions, usually with officers of the relevant agency in the first instance and then with the complainant. In other complaints - for example, where one or more of the parties resides at a significant distance from the metropolitan area - the procedure adopted will include telephone discussions and correspondence with the parties, as well as inviting the parties to provide written submissions outlining their respective positions on a complaint. Where it is considered appropriate, external review officers have travelled outside the metropolitan area to meet and discuss the issues in dispute with complainants. Submissions are usually exchanged between the parties, in order to

clarify and narrow the issues in dispute between the parties and to give each party an opportunity to respond to the other's case.

The total number of complaints against decisions of agencies (including the informal/invalid complaints lodged with my office in the reporting period) was 123. That means that only 1.20% of all applications dealt with by agencies under the FOI Act (11,015) in the reporting period resulted in complaints being lodged with my office.

In previous annual reports, the former Acting Information Commissioner noted that an unusual feature of the 2004/05, 2005/06 and 2006/07 reporting periods was that almost one quarter of the total number of valid complaints made to the Information Commissioner were lodged by a small number of complainants and that, in most of those cases, the second or third complaints received by the Information Commissioner were in relation to successive access applications made to the same agency by the same complainant. A similar pattern was evident in the 2007/08 reporting period. In this reporting period, a total of 38 complaints (including five informal/invalid complaints) - almost 31% of all of the complaints to my office - were lodged by 8 complainants and, in most cases, the second or third complaints received by my office were in relation to successive access applications made to the same agency by the same complainant.

“...only 1.20% of all applications dealt with by agencies under the FOI Act (11,015) in the reporting period resulted in complaints being lodged with my office.”

2.3.1 External Review Applications and Other Applications

A total of 155 applications, composed of 123 complaints (including 20 informal/invalid complaints) and 32 other kinds of applications under the FOI Act were received in 2007/2008. Table 1 shows the kinds of applications received.

TABLE 1: APPLICATIONS RECEIVED BY THE INFORMATION COMMISSIONER

APPLICATIONS FOR EXTERNAL REVIEW	NUMBER
Complaints (including informal/invalid)	123
Section 66(6) applications (No internal review)	12
Section 66(4) applications (Out of time)	8
Sections 66(4) and 66(6) applications	1
Section 35(1): Waiver of requirement to consult	2
Section 13(4): Applications for reduction of time	4
Section 13(5): Applications for extension of time	4
Section 48(3): Request for destruction certificate	1
TOTAL	155

2.3.2 Complaints

Complaints may be made in respect of an agency's decision to:

- ❖ refuse access to documents;
- ❖ give access to documents;
- ❖ give access to edited copies of documents;
- ❖ refuse to deal with access applications;
- ❖ defer giving access to documents;
- ❖ apply section 28 of the FOI Act;
- ❖ impose a charge or require the payment of a deposit; or
- ❖ not to amend personal information or make a notation as requested.

The 20 informal/invalid complaints received included complaints about the manner in which an agency had processed or dealt with the complainant's access application or application for amendment, but was not a complaint about a decision of a kind set out in s.65(1) or s.65(3) of the FOI Act.

Table 2 shows a summary of complaints received by agency type.

TABLE 2: COMPLAINTS RECEIVED (BY AGENCY TYPE)

AGENCY TYPE	COMPLAINTS		INFORMAL/INVALID		TOTAL	
	No.	%	No.	%	No.	%
State	68	55.28	13	10.57	81	65.85
Minister	9	7.32	2	1.63	11	8.94
Local	26	21.14	5	4.06	31	25.20
TOTAL	103	84	20	16	123	100

Table 3 details the number of complaints received in 2007/08 and the agencies concerned.

TABLE 3: COMPLAINTS RECEIVED

AGENCY	COMPLAINTS	INVALID	TOTAL	AGENCY	COMPLAINTS	INVALID	TOTAL
Agriculture and Food, Department of	2		2	Consumer and Employment Protection,	3		3
Agriculture and Food, Minister for	1		1	Corrective Services, Department of		1	1
Attorney General	2		2	Curriculum Council		1	1
Attorney General, Department of the	1	1	2	Curtin University of Technology	1	1	2
Bassendean, Town of	1		1	East Perth Redevelopment Authority		1	1
Belmont, City of	1		1	East Pilbara, Shire of	1		1
Bentley Hospital, SMAHS	2		2	Edith Cowan University	3	1	4
Broome, Shire of	1		1	Education and Training, Department of	4		4
Busselton, Shire of		1	1	Environment and Conservation,	1		1
Cambridge, Town of	1		1	Fisheries, Department of	2		2
Canning, City of	1		1	Fremantle, City of	1		1
Child Protection, Department for	1		1	Fremantle Hospital and Health Service		1	1
Graylands Selby-Lemnos and Special Care Health Service, NMAHS	3	1	4	Planning and Infrastructure, Minister for	1	1	2
Harvey, Shire of	1		1	Planning and Infrastructure, Department for	2	1	3
Health, Minister for	3		3	Police Force of Western Australia	5	3	8
Health, Department of	2		2	Premier and Cabinet, Department of the	2		2
Heritage Council of Western Australia	1		1	Princess Margaret Hospital for Children, C&AHS	1		1
Housing and Works, Minister for	1		1	Psychologists Registration Board	1		1
Housing and Works, Department of	1		1	Public Trust Office	1		1
Indigenous Affairs, Department of	2		2	Racing and Wagering Western Australia	1		1
Industry and Resources, Department of	8		8	Racing, Gaming and Liquor, Department	1		1
Insurance Commission of Western Australia	1		1	Real Estate and Business Agents Supervisory Board	2		2
Joondalup, City of	2	1	3	Rottnest Island Authority	1		1
Kalamunda, Shire of	3		3	Royal Perth Hospital, SMAH	2		2
Kimberley College of TAFE	1		1	Serpentine-Jarrahdale, Shire of	2	1	3
Land Authority (LandCorp), Western Australian	2	1	3	Settlements Agents Supervisory Board	1		1
Legal Practitioners Complaints Committee, The	1		1	South Perth, City of	2		2
Local Government, Minister for	1		1	Stirling, City of	1		1
Mandurah, City of	1		1	Swan, City of	1	1	2
Medical Board of Western Australia	1	1	2	Toodyay, Shire of		1	1
Metropolitan Cemeteries Board	1		1	Treasury and Finance, Department of	1		1
Mundaring, Shire of	5		5	WorkSafe Western Australia	1		1
Murdoch University	1		1	Workers Compensation and Rehabilitation Commission (WorkCover)	1		1
Nedlands, City of	1		1				
				TOTAL	103	20	123

2.3.3 Other Applications

Other applications received fell into the following categories:

- ❖ applicants or third parties seeking to lodge complaints out of time pursuant to s.66(4) of the FOI Act, or without internal review pursuant to s.66(6), or both;
- ❖ agencies seeking waiver of the requirement to consult with third parties when processing an application pursuant to s.35(1);
- ❖ applicants seeking a reduction of the permitted period of 45 days within which

an agency must deal with an application (s.13(4)) and agencies seeking an extension of the permitted period (s.13(5)); and

- ❖ agencies requesting that the Information Commissioner issue a certificate authorising the destruction of a document (s.48(3)).

Thirty-two “other” applications were received in 2007/08, the same number received in the previous reporting period. Table 4 gives a detailed breakdown of these applications and the agencies concerned.

TABLE 4: OTHER APPLICATIONS RECEIVED

AGENCY	OUT OF TIME s.66(4)	NO INTERNAL REVIEW s.66(6)	BOTH s.66(4) & s.66(6)	WAIVER OF REQ'MENT TO CONSULT s.35(1)	REDUCTION OF TIME s.13(4)	EXTENSION OF TIME s.13(5)	REQUEST FOR DESTRUCTION CERTIFICATE S.48(3)	TOTAL
Bassendean, Town of	1							1
Belmont, City of		1						1
Bentley Health Service, SMAH							1	1
Consumer and Employment Protection, Department of		1						1
Edith Cowan University		1						1
Education and Training, Department of					1			1
Energy, Office of						1		1
Environment and Conservation, Department of				1				1
Forest Products Commission	1							1
Health, Department of	1							1
Industry and Resources, Department of	1							1
Kalamunda, Shire of		1			1	1		3
Kalgoorlie-Boulder, City of			1					1
Land Authority (LandCorp), Western Australian		1						1
Manjimup, Shire of		1						1
Nedlands, City of					1			1
Planning and Infrastructure, Department for	1	2						3
Police Force of Western Australia		1						1
Premier and Cabinet, Department of the	1	2						3
Public Advocate, Office of the		1						1
Public Transport Authority	2							2
Salaries and Allowances Tribunal				1				1
Subiaco Redevelopment Authority						1		1
University of Western Australia, The						1		1
Vincent, Town of					1			1
TOTAL	8	12	1	2	4	4	1	32

2.3.4 External Review Outcomes

A total of 174 applications, made up of 138 complaints (including informal/invalid complaints) and 36 other applications were finalised during the year. Table 5 gives details of the types of applications dealt with in the 2007/08 reporting period.

TABLE 5: APPLICATIONS DEALT WITH

TYPE OF APPLICATION	NUMBER
Complaints (including informal/invalid)	138
Section 66(4) Out of time	8
Section 66(6) No internal review	15
Both Section 66(4) and (6)	2
Application for reduction of time	4
Application for extension of time	4
Application for waiver of requirement to consult	2
Application for destruction certificate	1
TOTAL	174

Table 6 shows a summary of the outcomes of complaints finalised during the year, by agency category.

TABLE 6: OUTCOME OF COMPLAINTS FINALISED (BY AGENCY CATEGORY)

AGENCY TYPE	CONCILIATED		PUBLISHED DECISION		DECLINED		TOTAL	
	No.	%	No.	%	No.	%	No.	%
State	46	54.12	33	38.82	6	7.06	85	72.65
Minister	8	80.00	2	20.00	0	0.00	10	8.55
Local	19	86.36	1	4.55	2	9.09	22	18.80
Total	73	62.39	36	30.77	8	6.84	117	100.00

Note: Table 6 excludes Informal/Invalid complaints

It can be seen from Table 6 that only 38.82% of complaints concerning decisions of State Government agencies, 20% of complaints concerning decisions of Ministers and 4.55% of complaints concerning decisions of local government agencies required resolution by way of a formal decision. Resolution by conciliation was achieved in 54.12% of complaints concerning State Government agencies' decisions, 86.36% of complaints concerning local government agencies' decisions and 80% of complaints concerning decisions by Ministers.

A total of 138 complaints (including 21 informal/invalid complaints) were finalised in the 2007/08 reporting period. Of the 117

formal complaints, as defined in the FOI Act, that were finalised in the 2007/08 reporting period, 36 proceeded to a published decision. One of those published decisions, being the decision made by Acting Information Commissioner C P Shanahan SC, was in relation to two complaints. The agencies' decisions were confirmed on 28 occasions; varied on one occasion; and set aside and substituted on 7 occasions. Seventy two (61.5%) of the valid complaints resolved in the 2007/08 reporting period were resolved by conciliation, without the need for a formal decision. Seven complaints were declined under s.67(1)(a) of the FOI Act (no jurisdiction) and one complaint was declined under s.67(1)(b) of the FOI Act (lacking in substance).

TABLE 7: OUTCOME OF COMPLAINTS FINALISED

AGENCY	CONCILIATED	PUBLISHED DECISION BY INFORMATION COMMISSIONER			DECLINED UNDER s.67(1)(a) & s.67(1)(b) *	TOTAL MATTERS FINALISED
		AGENCY DECISION CONFIRMED	AGENCY DECISION VARIED	AGENCY DECISION SET ASIDE AND SUBSTITUTED		
Agriculture and Food, Minister for	1					1
Agriculture and Food, Department of		1				1
Albany, City of		1				1
Armadale, City of	1					1
Attorney General	1	1				2
Attorney General, Department of the		1			1	2
Augusta-Margaret River, Shire of	1					1
Bassendean, Town of	1					1
Belmont, City of	1					1
Bentley Health Service, SMAHS	1	1				2
Busselton, Shire of					1	1
Cambridge, Town of	1					1
Child Protection, Department for	1					1
Consumer and Employment Protection, Department of	4	1				5
Corrective Services, Department of					1	1
Corrective Services, Minister for					1	1
Culture and the Arts, Department of					1	1
Curriculum Council					1	1
Curtin University of Technology	1			1	1	3
East Perth Redevelopment Authority					1	1
East Pilbara, Shire of	1					1
Edith Cowan University		4			1	5
Education and Training, Department of	1		1		1	3
Environment and Conservation, Department of	2					2
Fisheries, Department of	1					1
Fremantle, City of	1					1
Fremantle Hospital and Health Service					1	1
Graylands Selby-Lemnos and Special Care Health Service	2	1			1	4
Great Southern Development Commission	1					1
Harvey, Shire of	1					1
Health, Minister for	2					2
Health, Department of	3					3
Heritage, Minister for	1					1
Heritage Council of Western Australia		1		1		2

TABLE 7: OUTCOME OF COMPLAINTS FINALISED (cont...)

AGENCY	CONCILIATED	PUBLISHED DECISION BY INFORMATION COMMISSIONER			DECLINED UNDER s.67(1)(a) & s.67(1)(b) *	TOTAL MATTERS FINALISED
		AGENCY DECISION CONFIRMED	AGENCY DECISION VARIED	AGENCY DECISION SET ASIDE AND SUBSTITUTED		
Housing and Works, Department of	1					1
Indigenous Affairs, Department of	1					1
Industry and Resources, Department of	6	1				7
Insurance Commission of Western Australia	1					1
Joondalup, City of	1				2	3
Kimberley College of TAFE	1					1
Land Authority (LandCorp), Western Australian	1				2	3
Legal Aid Western Australia					1	1
Legal Practitioners Complaints Committee, The	2					2
Local Government, Minister for	1					1
Mandurah, City of	1					1
Medical Board of Western Australia		1			1	2
Metropolitan Cemeteries Board		1				1
Mundaring, Shire of	5					5
Murdoch University		1			1	2
National Trust of Australia (WA)				1		1
Nedlands, City of	1					1
Planning and Infrastructure, Minister for	2	1			1	4
Planning and Infrastructure, Department for	1	1			1	3
Police Force of Western Australia	3	4		1	4	12
Premier and Cabinet, Department of the	1	1				2
Princess Margaret Hospital for Children, C&AHS	1					1
Psychologists Registration Board	1					1
Public Trust Office	1					1
Racing and Wagering Western Australia				1		1
Racing, Gaming and Liquor, Department of	1	2				3
Rottnest Island Authority	1					1
Royal Perth Hospital	1					1
Salaries and Allowances Tribunal				2		2
Serpentine-Jarrahdale, Shire of					1	1
Settlement Agents Supervisory Board	1					1
South Perth, City of	1				1	2
South West Development Commission		1				1
Sport and Recreation, Department of	1					1
Stirling, City of	1					1
Swan, City of	1				1	2

TABLE 7: OUTCOME OF COMPLAINTS FINALISED (cont...)

AGENCY	CONCILIATED	PUBLISHED DECISION BY INFORMATION COMMISSIONER			DECLINED UNDER s.67(1)(a) & s.67(1)(b) *	TOTAL MATTERS FINALISED
		AGENCY DECISION CONFIRMED	AGENCY DECISION VARIED	AGENCY DECISION SET ASIDE AND SUBSTITUTED		
Swan Health Service	1					1
Toodyay, Shire of					1	1
Water Corporation		1				1
Wheatbelt Health Region	1					1
Worker's Compensation and Rehabilitation Commission (WorkCover)	1					1
WorkSafe Western Australia		1				1
TOTAL	73	28	1	7	29	138

* *The Information Commissioner does not deal with a complaint if it is outside his jurisdiction and may not deal with it if it is frivolous, vexatious, misconceived or lacking in substance (s.67 of the FOI Act). Table 7 includes Informal/Invalid complaints. Eight of the 29 complaints declined related to formal complaints and the remaining 21 related to informal/invalid complaints.*

TABLE 8: PUBLISHED DECISIONS

DECISION NUMBER	COMPLAINANT	RESPONDENT	DECISION DATE
D0122007	"C"	Police Force of Western Australia	20/07/2007
D0132007	De Graaf	Police Force of Western Australia	20/07/2007
D0142007	Poprzeczny and Simmonds	Water Corporation	15/08/2007
D0152007	Deacons	Heritage Council of Western Australia	17/08/2007
D0162007	Weygers	Department of Education and Training	31/10/2007
D0172007	"C"	Graylands Selby-Lemnos and Special Care Health Service	31/10/2007
D0182007	Addisons	Department of Racing, Gaming and Liquor	04/12/2007
D0192007	Addisons	Department of Racing, Gaming and Liquor	04/12/2007
D0202007**	WA Newspapers Ltd and Civil Service Association of Western Australia	Salaries and Allowances Tribunal and Mercer Australia Pty Ltd	10/12/2007
D0212007	Deacons	National Trust of Australia (WA)	20/12/2007
D0222007	Mallet	Edith Cowan University	21/12/2007
D0012008	Sideris	City of Joondalup	14/01/2008
D0022008	Deacons	Heritage Council of Western Australia	15/01/2008
D0032008	Addisons	Racing and Wagering Western Australia	01/02/2008

** D0202007 finalised two complaints: F2006197 & F2006237

TABLE 8: PUBLISHED DECISIONS (cont...)

DECISION NUMBER	COMPLAINANT	RESPONDENT	DECISION DATE
D0042008	Boddington Resources Pty Ltd, Trovex Pty Ltd and Moutier Pty Ltd	Department of Industry and Resources	05/02/2008
D0052008	"J"	Police Force of Western Australia	29/02/2008
D0062008	Magenta Technologies Pty Ltd	Police Force of Western Australia	06/03/2008
D0072008	Ross	Department of the Premier and Cabinet	07/03/2008
D0082008	Preston	Murdoch University	13/03/2008
D0092008	Burns	Department of Agriculture and Food	01/04/2008
D0102008	"A"	City of Albany and Darcy Smith	04/04/2008
D0112008	Buswell	South West Development Commission	16/04/2008
D0122008	Mallet	Edith Cowan University	24/04/2008
D0132008***	Mallet	Edith Cowan University	29/04/2008
D0142008	Knapinski	Department of Consumer and Employment Protection	06/05/2008
D0152008	"B"	Bentley Health Service	16/05/2008
D0162008	McAuley	Metropolitan Cemeteries Board	22/05/2008
D0172008	Midland Brick Company Pty Ltd	WorkSafe WA	22/05/2008
D0182008	Bozinovski	Medical Board of Western Australia	27/05/2008
D0192008	Campbell	Police Force of Western Australia	30/05/2008
D0202008	West Australian Newspapers Ltd	Attorney General	30/05/2008
D0212008	Stapleton	Attorney General	06/06/2008
D0222008	Sideris	Minister for Planning and Infrastructure	18/06/2008
D0232008	Sideris	Department for Planning and Infrastructure	23/06/2008
D0242008	Whitely	Curtin University of Technology	25/06/2008

*** D0132008 finalised 2 complaints: F2008038 & F2008119

2.3.5 Other Applications

There were 36 other applications finalised this year. They were applications to make a complaint out of time (s.66(4)) or where internal review had not been applied for or completed (s.66(6)); applications for waiver of the requirement to consult third parties (s.35(1)); applications seeking a destruction certificate (s.48(3)); applications for a reduction of the permitted time for an agency to deal with an access application (s.13(4)); and applications for an extension of the permitted time for an agency to deal with an access application (s.13(5)). These, together with the outcomes, are shown in Table 9.

TABLE 9: OUTCOME OF OTHER APPLICATIONS FINALISED

AGENCY	NO INTERNAL REVIEW s.66(6)			OUT OF TIME s.66(4)		BOTH s.66(4) and 66(6)	REDUCTION OF TIME s.13(4)			EXTENSION OF TIME S.13(5)			WAIVER OF REQUIREMENT TO CONSULT s.35(1)		APPLICATION FOR DESTRUCTION CERTIFICATE s.48(3)	TOTAL MATTERS FINALISED
	W	A	R	W	R		W	C	R	W	C	R	W	A		
Bassendean, Town of				1												1
Belmont, City of	1															1
Bentley Health Service, SMAH															1	1
Consumer and Employment Protection, Department of			1													1
Edith Cowan University		1														1
Education and Training, Department of							1									1
Energy, Office of											1					1
Environment and Conservation, Department of													1			1
Forest Products Commission				1												1
Health, Department of					1											1
Industry and Resources, Department of				1												1
Kalamunda, Shire of	1								1	1						3
Kalgoorlie-Boulder, City of						1										1
Land Authority (LandCorp), Western Australian	1															1
Manjimup, Shire of			1													1
Nedlands, City of									1							1
Planning and Infrastructure, Department for	1		1		1											3
Planning and Infrastructure, Minister for	2															2
Police Force of Western Australia	1		1													2
Premier and Cabinet, Department of the	1		1		1											3
Public Advocate, Office of the	1															1
Public Transport Authority				2												2
Salaries and Allowances Tribunal														1		1
Subiaco Redevelopment Authority										1						1
University of Western Australia, The											1					1
Victoria Plains, Shire of						1										1
Vincent, Town of								1								1
TOTAL	9	1	5	5	3	2	2	1	1	1	2	1	1	1	1	36

Key: A—Approved; C—Conciliated; R—Refused; W—Withdrawn

2.4 ADVICE AND AWARENESS

The *Advice and Awareness* team provides members of the public and agencies with advice and assistance in exercising their respective rights and obligations by giving advice on how to follow the correct procedures for making or dealing with an application under the FOI Act. Policy development within agencies is encouraged so that the impact of the obligations imposed on the day-to-day operations of agencies by the FOI Act is minimised. Many potential disputes are resolved informally with the assistance of my staff.

All members of my staff undertake the following functions for which the *Advice and Awareness* team is primarily responsible:

- ❖ training courses for agency staff;
- ❖ targeted workshops/seminars;
- ❖ provision of assistance, briefings and advice to agencies on the processes required by the FOI Act;
- ❖ provision of advice and assistance to members of the public on the procedure for exercising their rights under the FOI Act;
- ❖ visits to country regions;
- ❖ briefings to community groups;
- ❖ production of articles providing advice and guidance on the workings of the FOI Act;
- ❖ distribution of brochures to assist applicants;
- ❖ answering enquiries by e-mail, telephone or at the counter;
- ❖ dealing with general correspondence;
- ❖ maintenance of statistical data and other information to assist in reporting to Parliament; and
- ❖ executive support including matters relating to the management and funding of the Office.

2.4.1 Training Courses and Briefings

The Office is proactive in raising awareness and understanding of the procedures and processes prescribed by the FOI Act. Apart from requests received for training or assistance, public sector needs are identified from a survey of agencies. Due to staff turnover, there is a periodic need in agencies for new staff to be briefed on the FOI process and agencies' obligations. This is done by conducting workshops, special forums, briefings, seminars, or presentations for FOI Coordinator's and decision-makers. These are conducted on an interactive basis, allowing for immediate response to questions and clarification of issues concerning FOI procedures and practices. The Office provides speakers in response to invitations from any organisations requiring an explanation of the FOI process.

A number of formal briefings, presentations and training sessions were conducted throughout the year under review. General briefings are tailored in each case to meet the needs of applicants or agencies. Briefings, presentations and training sessions given by staff of the Office are shown in Table 10 on the following page.

TABLE 10: FORMAL TRAINING AND PRESENTATIONS

DATE	PRESENTATION STYLE	AUDIENCE
29 August 2007	FOI Coordinator's Workshop	Officers from State and local government agencies
26 September 2007	FOI Coordinator's Workshop	Officers from State and local government agencies
24 October 2007	Decision-makers Forum	Officers from State and local government agencies
7 November 2007	FOI Briefing	Graylands Selby-Lemnos and Special Care Health Service
14 December 2007	FOI Briefing	Chemistry Centre
15 January 2008	FOI Coordinator's Workshop	Officers from State and local government agencies
22 January 2008	FOI Briefing	City of Nedlands
23 January 2008	FOI Briefing	Rossmoyne Rotary
10 March 2008	FOI Briefing	Graylands Selby-Lemnos and Special Care Health Service
6 February 2008	FOI Briefing	Rottnest Island Authority
13 February 2008	FOI Briefing	Rottnest Island Authority
19 February 2008	FOI Coordinator's Workshop	Officers from State and local government agencies
10 March 2008	FOI Briefing	Graylands Selby-Lemnos and Special Care Health Service
18 March 2008	Decision-makers Forum	Officers from State and local government agencies
2 April 2008	FOI Briefing	Probus - Mt Pleasant
16 April 2008	FOI and Privacy Laws Presentation	WA Chapter of Australian Records Management Association
24 April 2008	FOI Coordinator's Workshop	Officers from State and local government agencies
7 May 2008	FOI Coordinator's Workshop	Officers from State and local government agencies
21 May 2008	FOI Coordinator's Workshop	Officers from State and local government agencies
12 June 2008	FOI Briefing	Grievance Forum - Officers from State government agencies
19 June 2008	FOI and Privacy Laws Presentation	Perth Legal Counsel Forum

2.4.2 FOI Coordinator Workshops

Workshops are scheduled based on the level of demand and are conducted by the office, at no charge to agencies. Seven one-day FOI Coordinator workshops were held during the year in the metropolitan and regional areas. The course introduces participants to the FOI legislation and the requirements which must be observed when dealing with an FOI application. Each session covers requests for information and the process to follow; exemptions; third party consultation; application fees and charges; notices of decision; and the role of the Information Commissioner. Participants have the opportunity to raise issues of concern and

have the process explained to them in a practical way. Participants meet staff of the Office who can be contacted should they require assistance when dealing with FOI requests. A comprehensive manual is provided to each participant at the course, for future reference.

A benefit of the shared resources arising from collocation with other accountability agencies is that we were able to host the majority of the FOI Coordinator's workshops in 2007/08 at our own premises. Feedback from participants who attended the workshops was very positive.

TABLE 11: FOI COORDINATOR'S WORKSHOPS - ATTENDEES

Acacia Prison (1)	Manjimup, Shire of (1)
Agriculture and Food, Department of (1)	Melville, City of (1)
Armadale Health Service (2)	Metropolitan Cemeteries Board (1)
Attorney General, Department of the (1)	Mindarie Regional Council (1)
Belmont, City of (1)	Mirrabooka Community Mental Health (1)
Bentley Hospital (3)	Murray, Shire of (1)
Bunbury Regional Hospital (1)	Osborne Park Hospital (1)
Carnarvon Hospital (1)	Peel Health Campus (1)
Chemistry Centre (WA) (1)	Perth, City of (1)
Child Protection, Department of (1)	Planning and Infrastructure, Office of the Minister for (1)
Claremont, Town of (1)	Plantagenet, Shire of (1)
Consumer and Employment Protection, Department of (14)	Police Force of Western Australia (2)
Corrective Services, Department of (1)	Public Sector Standards Commissioner, Office of the (1)
Cunderdin, Shire of (1)	Rockingham-Kwinana District Hospital (2)
East Perth Redevelopment Authority (2)	Rottneet Island Authority (1)
Edith Cowan University (3)	Royal Perth Hospital (1)
Education and Training, Department of (1)	Serpentine Jarrahdale, Shire of (2)
Education and Training; South West, Office of the Minister for (1)	South Perth, City of (1)
Energy; Resources; Industry and Enterprise, Office of the Minister for (1)	State Library WA (2)
Environment and Conservation, Department of (2)	Stirling, City of (2)
Exmouth Hospital (1)	Subiaco, City of (1)
Fremantle Hospital (2)	Swan TAFE (2)
Fremantle, City of (3)	Swan, City of (1)
Geraldton Hospital (3)	Treasury and Finance, Department of (5)
Graylands Hospital (1)	University of Western Australia, The (1)
Harvey, Shire of (1)	WA Country Health Service – Area Office (1)
Health Review, Office of (3)	WA Country Health Service – Goldfields (2)
Health, Department of (1)	WA Country Health Service – Kimberley (1)
Horizon Power (2)	WA Country Health Service – Pilbara (1)
Industry and Resources, Department of (1)	WA Country Health Service – Wheatbelt (1)
Joondalup Health Campus (1)	Wanneroo, City of (2)
Joondalup, City of (1)	Water Corporation (2)
Kununurra District Hospital (1)	Water, Department of (1)
Landgate (4)	Western Australian Electoral Commission (1)
Legal Aid Western Australia (1)	Western Australian Museum (1)
Legal Practice Board, The (1)	Western Power (2)
Legal Practitioners Complaints Committee. The (2)	York, Shire of (1)
Mandurah, City of (12)	Note: # of officers in attendance shown in brackets

2.4.3 Decision-makers' Forums

The half-day decision-makers' forum assists staff in agencies, including senior managers, to act as the decision-maker in respect of an application. It covers the options available to agencies when responding to large applications; assisting an applicant to re-define the scope of the application; recommended procedures before refusing to deal with an application; the process of decision-making; exemptions; the public interest test; the prepa-

ration of a notice of decision that complies with the FOI Act; and the internal and external review processes. Attendees also establish contact with staff of my office who may be called for advice in the future, which is especially useful for those agencies that do not receive many applications. Two of these were conducted in 2007/2008, attended by a total of 30 officers of State Government agencies and 3 officers of local government agencies.

TABLE 12: DECISION MAKER'S FORUMS - ATTENDEES

Armadale Health Service (1)	King Edward Memorial / Princess Margaret Hospitals (1)
City of Nedlands (1)	Legal Practice Board, The (1)
City of Wanneroo (1)	Mirrabooka Community Mental Health (1)
Department of Consumer and Employment Protection (3)	Office of Health Review (3)
Department of Environment and Conservation (1)	Public Sector Standards Commissioner, Office of the (2)
Department of Industry and Resources (1)	Police Force of Western Australia (1)
Department of the Attorney General (1)	Shire of Manjimup (1)
Department of Treasury and Finance (5)	Swan Kalamunda Health Service (2)
Department of Water (3)	Synergy (1)
Edith Cowan University (1)	Water Corporation (1)
Graylands Hospital (1)	

Note: # of officers in attendance is shown in brackets

2.4.4 Web Site and Electronic Communications

The Office web site (www.foi.wa.gov.au) contains an extensive amount of information about the FOI process. It is structured into sections including: *What is FOI?* which describes the objects of the FOI Act; *Publications* which contains the FOI Act and Regulations, brochures and articles giving guidance on the FOI process; *Frequently Asked Questions (FAQs)* which contains guides to the FOI process and some of the most frequently cited exemption clauses; and *Decisions* which contains copies of all formal decisions made on complaints.

The web site allows searches of published decisions to be conducted in a variety of

ways, such as searching by agency or complainant name; by exemption clause or section of the FOI Act; by catchword; and many more. This is a valuable resource for agencies and members of the public to research the interpretation given to particular exemptions and sections of the FOI Act. Such ready access to precedents contributes to a higher level of understanding and application of the legislation by decision-makers.

There are also links to other related web sites. The section *What's New/Training* contains the latest news and training information available. *Contact Us* provides our contact details.

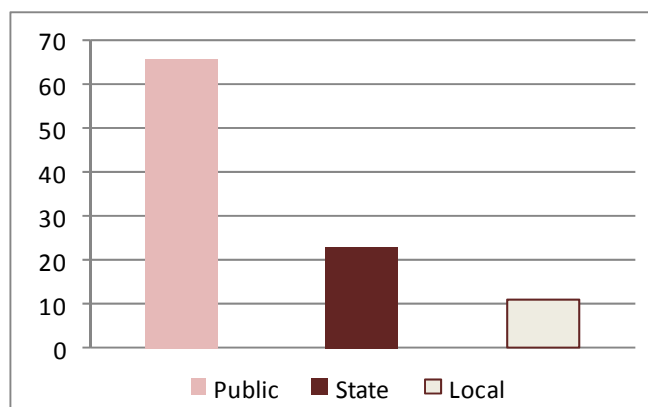
We have received positive feedback about our web site, particularly for its user-friendly links and the amount of information readily available. There has been a steadily increasing number of user sessions, which illustrates a high level of interest in FOI generally; in the process to follow in making an application; and in my published decisions. Over the course of the 2007/08 financial year there were 175,213 distinct visits made to the web site. Any suggestions regarding the site or resources available online are welcome and appreciated: please send them to info@foi.wa.gov.au.

E-mail is utilised by the office wherever possible. Data, such as annual statistics from agencies and responses from participants to surveys of satisfaction levels, is also obtained through this medium where possible or via forms which can be completed and submitted online through our website.

2.4.5 Telephone Enquiries

There were 1,942 telephone enquiries received during the year (2,020 in 2006/07). Over 66% (1,282) of telephone enquiries received (64% in 2006/07) were from members of the public seeking advice on how to make an application, or to enquire about or confirm their review rights. The balance were from officers of State (23%-448) and local government (11%-212) agencies seeking assistance in dealing with access applications or advice regarding other statutory obligations under the FOI Act.

FIGURE 1
Telephone Enquiries



2.4.6 Written Enquiries

Written requests for advice and misdirected access applications are dealt with almost exclusively by members of the *Advice and Awareness* team. The average turnaround time for responses to written enquiries of this nature is two days. These matters are separately identified and reported on as part of the *Advice and Awareness* output.

There were 302 written enquiries for advice and assistance received and dealt with during the year. The written enquiries were received by letter and by email.

Seventy two of these were misdirected access applications. That is, they were applications which should have been sent to the agency holding the documents sought and not to this Office. As in past years, the agencies the subject of the greatest number of misdirected applications were the Police Force of Western Australia (24) and the Department of Corrective Services (14). Written enquiries, including misdirected applications, resulted in advice being given to the correspondent as to the proper procedures to be followed or other matters relating to the administration of the FOI Act. In some cases, where the enquiry was from an applicant, enquiries were also made with the agency concerned to ascertain the status of the application to assist this Office in responding helpfully to the applicant and, if necessary, advice was also given to the agency in those cases.

Table 11 shows a summary of applications that were mistakenly directed to this office instead of to the agency holding the documents.

TABLE 13: MISDIRECTED APPLICATIONS RECEIVED

AGENCY	TOTAL	AGENCY	TOTAL
Acacia Prison	2	Graylands Selby-Lemnos and Special Care Health Service, NMAHS	2
Attorney General, Department of the	1	Insurance Commission of Western Australia	1
Bentley Hospital, SMAH	1	Joondalup Health Campus	1
Chapman Valley, Shire of	1	Melville, City of	1
Child Protection, Department for	1	PathWest Laboratory Medicine WA	1
Communities, Department for	1	Planning and Infrastructure, Department for	3
Consumer and Employment Protection, Department of	1	Police Force of Western Australia	24
Corrective Services, Department of	14	Psychologists Registration Board of WA	1
Corrective Services, Minister for	1	Royal Perth Hospital, SMAH	2
Disability Services Commission	1	Sir Charles Gairdner Hospital, NMAHS	3
Environment and Conservation, Department of	1	Women's and Newborn Health Service, NMAHS	1
Fire and Emergency Services Authority	1	Unknown Agency	7
		TOTAL	73

2.4.7 Information Statement Survey

To determine the level of compliance with s.96 of the FOI Act - which requires agencies to publish an up-to-date Information Statement about the agency every twelve months - a survey was incorporated within the annual statistical return and sent to 152 State government and 140 local government agencies.

The survey was in three parts: the first required the agency to provide statistics as required by s.111(3) of the FOI Act; the second asked for feedback on the advisory services provided by my Office; and the third requested information in relation to the agency's Information Statement. Responses were received from 271 government agencies (93%). Of those responses, 5 State government agencies (3%) failed to complete the Information Statement section as did 16 of the local government agencies (11%).

The survey asked agencies to respond to the

following questions about the agency's Information Statement:

- ❖ ***Are the details contained in your Information Statement current?***
- ❖ ***When was the Information Statement last reviewed and updated?***
- ❖ ***When was your Information Statement last republished?***
- ❖ ***Is the Information Statement published in your agency's annual report or as a "stand alone" document?***
- ❖ ***In what form is the Information Statement published (hardcopy, electronic, both)?***
- ❖ ***If available in electronic form, what is the web address of the document?***
- ❖ ***If only available in hardcopy form, and a copy has not been provided within the last 12 months, when can a current copy be expected to be delivered to my office?***

Responses to the question “When was your Information Statement last reviewed?” indicated that 29% of responding agencies last reviewed their Information Statements in 2008; 39% in 2007; 9% in 2006; and 8.5% before 2005. Fourteen and a half percent (14.5%) did not indicate or did not respond.

Agencies’ responses indicated that 23% published an Information Statement in 2008; 39% in 2007; 10% in 2006; and 8% before 2005. Twenty-eight (20%) did not indicate or did not respond.

One hundred and seventy agencies advised that their Information Statement is published as a stand alone document; 98 agencies incorporated the statement in their annual report; and a number did not respond.

One hundred and nine agencies (40%) stated that the Information Statement was available in hardcopy; 44 (16%) stated that it was available electronically; and 115 (43%) stated it was available both as a hardcopy document and electronically, and a number did not respond.

Only 79 State and local government agencies have provided the Information Commissioner with an electronic copy or hard copy of their updated Information Statement in the past 12 months. All of the Information Statements received have been analysed for compliance with the FOI Act, which prescribes what the Information Statement is required to contain, which includes:

- ❖ a statement of the structure and functions of the agency;
- ❖ a description of the ways in which the functions of the agency (including, in particular, the decision-making functions) affect members of the public;
- ❖ a description of any arrangements that exist to enable members of the public to participate in the formulation of the agency’s policy and the performance of the agency’s functions;
- ❖ a description of the kinds of documents that are usually held by the agency in-

cluding: which kinds of documents can be inspected at the agency under a written law other than the FOI Act (whether or not inspection is subject to a fee or charge); which kinds of documents can be purchased; and which kinds of documents can be obtained free of charge;

- ❖ a description of the agency’s arrangements for giving members of the public access to the documents mentioned above, including details of library facilities of the agency that are available for use by members of the public;
- ❖ a description of the agency’s procedures for giving members of the public access to the documents of the agency under Part 2 of the FOI Act including: the designation of the officer or officers to whom initial inquiries as to access to documents can be made; and the address or addresses at which access applications can be lodged; and
- ❖ a description of the agency’s procedures for amending personal information in the documents of the agency under Part 3 of the FOI Act including: the designation of the officer or officers to whom initial inquiries as to amendment of personal information can be made; and the address or addresses at which applications for amendment of personal information can be lodged.

Of the Information Statements provided, the majority did describe their agency’s structure and function, the kinds of documents held, the operation of the FOI Act and the agency’s FOI procedures. Fewer contained information concerning the ways in which their functions affect members of the public or how the public can participate, if at all, in the formulation of policy or carrying out of functions.

A number of the Information Statements described the agency’s structure and functions but did not describe the FOI process which would be of assistance to applicants. Other agencies adequately described the FOI process but did not give sufficient details about the agency.

Each agency that provided an Information Statement has been given feedback about its Information Statement and, where necessary, how it can be changed to comply with the FOI Act.

One of the issues of concern outlined in previous annual reports of the Information Commissioner was the application fee and charges. A number of Information Statements outlined a regime of fees and charges that did not accord with the prescribed regime. Each individual agency whose statement did not comply has been notified that the application fee and charges that can be imposed are those prescribed by the *Freedom of Information Regulations 1993* and they therefore cannot be varied by individual agencies.

A previously identified issue which remains of concern is that some agencies require access applicants to complete an application form prepared by the agency. There is no requirement under the FOI Act for an access applicant to complete an application form provided by an agency. The FOI Act requires that applications be in writing; give enough information to enable identification of the requested documents; give an address in Australia; and be lodged at the agency accompanied by an application fee (where the application is for non-personal information). If an application in that form is received by an agency, it is a valid application regardless of whether it is on an agency provided form and must be dealt with by the agency accordingly. Although the use of a *pro forma* form may be helpful to the agency and, in some cases, may help the applicant to make a valid application, an agency cannot insist on its own form being used and, if it refuses to accept or deal with an application solely on that basis, it will be in breach of its obligations under the FOI Act.

Forty-four agencies reported their Information Statements were available on the web. The agency's websites were checked with varying results. Of the 44 agencies, the Information

Statements of 35 were readily accessible via the agency's website. Unfortunately, however, 1 was difficult to locate and, in a further 8 cases could not be found. The Information Statements of 7 agencies could be improved by providing additional detail. I recommend to those agencies that enhancements be made on their websites to make the Information Statement more readily accessible. If it is not easily accessible by my staff, then it will not be easily accessible by members of the public and therefore not serving the purpose intended by the FOI Act. My office continues to monitor the website of each agency that has advised that its Information Statement is published on its website to ascertain if each is easy to access. Feedback will be given where this is not the case.

It is the responsibility of agencies to comply with the FOI Act, and my office will continue to monitor the use of the internet to publish Information Statements and will follow up with those agencies that do not meet their responsibilities under ss.96-97.

“My office continues to monitor the website of each agency that has advised that its Information Statement is published on its website to ascertain if each is easy to access.”

2.5 ADMINISTRATION

My statutory function under the FOI Act necessitates the delivery of a range of services to the public, agencies and Parliament, and include:

- ❖ *complaint resolution;*
- ❖ *giving advice about the FOI Act and procedures;*
- ❖ *the publication of formal decisions on complaints;*
- ❖ *the distribution of awareness raising and educational material;*
- ❖ *talks and information sessions for community groups;*
- ❖ *a free-call telephone line for country callers;*
- ❖ *a web site located at <http://www.foi.wa.gov.au>;*
- ❖ *a telephone advisory service;*
- ❖ *FOI training sessions;*
- ❖ *specifically tailored meetings or advisory sessions for agencies; and*
- ❖ *providing an annual report on the workings of the legislation.*

The Office has a Customer Service Charter and Code of Conduct, which all staff are required to observe. Copies are available on request.

Performance standards have been established to ensure that all staff undertake their duties in a manner that is a credit to the professional and independent status of the Office.

STAFF CHANGES

Except for my appointment in November 2007 as Acting Information Commissioner following the expiry of former Acting Information Commissioner Darryl Wookey's term of appointment, there has been no resignations or appointments of new staff to the office. During the year Mr David Paice was seconded to the office from the

Department of the Premier and Cabinet to assist during the absence on extended leave of a staff member.

SUPPORT SERVICES

Corporate service support, consisting of financial and human resources services including workplace safety, disability services, equal opportunity employment and language services when required, is provided by the Department of the Attorney General under a service agreement. Due to the small size of the office, human resource reporting requirements are met by the Department. The assistance provided by relevant staff of the Department of the Attorney General is acknowledged and appreciated.

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SIGNIFICANT ISSUES AND TRENDS

3. SIGNIFICANT ISSUES AND TRENDS

3.1 Conciliation rate

The faster turnaround of complaints seeking external review has come at a price in terms of conciliated outcomes. The Office has always had a strong commitment to resolving complaints by mediation and conciliation where practicable. Section 71 of the FOI Act provide wide powers for the Information Commissioner to suspend inquiries, investigations and other proceedings so that efforts can be made to pursue conciliation or negotiation between the parties. During the reporting year, the conciliation rate declined from 73.7% at 30 June 2007 to 61.5% as at 30 June 2008. While the decline in the conciliation rate is disappointing, I am mindful that s.70(2) of the FOI Act requires that external review proceedings are conducted with as little formality and technicality, and as much expedition as the requirements of the FOI Act and a proper consideration of the matter permit, and that s.76(3) further provides that the Information Commissioner

of data over that 15 year period reveals on its face a worrying trend towards fewer decisions by agencies to give applicants full unedited access to documents, with greater editing of documents.

The proportion of agency decisions to give full access has fallen from a high of 77% in 1993/94 to 55% for 2007/08. While this current year has shown a slight improvement in the proportion of full access given, the long term trend remains a concern. The proportion of edited access decisions has increased over the same period from 14% to 29%. Decisions to refuse access have remained relatively constant at around 10% of applications to agencies. The Office follows up with agencies to ensure that data reported under s.111(2) of the FOI Act accurately reflects the correct FOI processes and decisions within agencies. For example, agencies need to correctly classify applications for access to documents as applications for access to “personal” or “non-

“An average of over 90% of all access applicants are given full or part access by agencies.”

has to make a decision on a complaint within 30 days unless it is impracticable to do so. In light of those provisions, I believe that, on balance, it is preferable to resolve complaints quickly, even if it means a reduction in the rate of conciliation of complaints. It is also noted that for the three years to 2004 the Office had an average conciliation rate of about 60%. Thus the current year decline in the conciliation rate should be seen in that context.

3.2 Reduction in the proportion of agency decisions to give full access

An average of over 90% of all access applicants are given full or part access by agencies. This figure has been relatively stable since the FOI Act first commenced operation 15 years ago. However, analysis

personal” information and levy the appropriate application fee. The former Information Commissioner, Ms B Keighley-Gerardy, dealt with this issue in two of her decisions, *Re Burkala and City of Belmont* [1994] WAICmr 25, and *Re Humphrey and Humphrey and the Public Advocate* [1997] WAICmr 23. Where personal information about the applicant only is sought, then the scope of such applications should result in personal information about third parties being removed from the requested documents because it is outside the scope of the application, rather than being treated as exempt personal information that is edited out of the requested documents.

The continuing trend away from granting full access to documents does not necessarily point to an increasing culture of concealment. Some comfort is to be gained from closer

analysis of the available data. Since the FOI Act commenced in 1993, many agencies, particularly those that are the chief recipients of FOI applications (the Police Force of WA, public hospitals, Department of Corrective Services and Department of the Attorney General) have put in place arrangements for administrative access to documents as an alternative to using the FOI process. Thus personal health records, criminal histories and court transcripts about an individual are now able to be accessed by that individual outside the FOI process. As a result, individuals can get access to more routine information about themselves rather than needing to rely on their statutory rights under the FOI Act to obtain the information desired. FOI access procedures would have, on this evidence, gradually become used only for access in cases of greater complexity or sensitivity and more 'one off' matters. This practice on the part of State and local government agencies is to be encouraged as it enables members of the public to access personal and non-contentious information

goes some way to help explain the trend towards a growing proportion of FOI applications being dealt with by way of edited access rather than full access. Nonetheless, the decline in full access is a concern and I intend to more closely examine the reasons for increased edited access to information, and to continue to promote openness and transparency to agencies by way of our *Advice and Awareness* program.

3.3 Information Statements

Part 5 of the FOI Act provides for publication of information about agencies in Information Statements. Section 96(1) requires all State and local government agencies, other than a Minister or an exempt agency, to publish or update annually Information Statements about their operations and decision-making functions, and to provide a copy to the Information Commissioner. Soon after commencement of the FOI Act, the then Attorney General, as Minister responsible for administration of the FOI Act, approved

“...the decline in full access is a concern and I intend to more closely examine the reasons for increased edited access to information, and to continue to promote openness and transparency...”

held by agencies quickly and readily, and reflects the objects and intent of the FOI Act. Increasing numbers of requests for personal information of this type are now able to be dealt with administratively. As those requests are not counted as FOI applications, they are not, therefore, reflected in the FOI statistics.

Supporting this interpretation is the data on the proportion of FOI applications for non-personal information (which more frequently require edited access). This has increased markedly over time from 21% of all applications in the first full year of FOI (1994/95) to 40% in 2007/08. That is, applications for non-personal information have increased at about the same rate as the decline in the proportion of applications given full access and over the same period. This

under s.96(1) the publication of Information Statements by agencies as either discrete documents, or by incorporation into the agency's Annual Report. The Attorney General had also indicated that agencies should follow guidelines for the preparation of these documents issued by the Information Commissioner from time to time. Agencies are also required to make available their internal manuals, rules, guidelines and policies that affect members of the public. It is common practice for agencies to publish their Information Statement and relevant manuals, rules and guidelines electronically on their internet site.

When they were first introduced, the publication requirements in Part 5 of the FOI Act were said, according to the FOI Implementation Committee's 1993

Guidelines, to form part of the means by which State and local government agencies are accountable, by increasing opportunities for effective participation by members of the public in government.

Agencies are required to provide the Information Commissioner with a copy of its Information Statement as soon as practicable after publication. Most, but not all, agencies conform to this statutory requirement. While the FOI Act does not prescribe a role for the Information Commissioner with respect to these documents, nor is there a sanction for non-compliance, the Information Commissioner's Office has implemented a program to survey all State and local government agencies to ascertain how they have published their Information Statements during the year. The Office follows up with those agencies that have not confirmed in the latest survey responses that they have complied with their statutory responsibilities to publish their Information Statement.

It is arguable that the statutory Information Statement requirement in its current form is now reaching its "use by" date. The recently published review of Queensland's Freedom of Information Act in June 2008 (<http://www.foireview.qld.gov.au/>) provides a glimpse of a possible future direction. It noted that that State's "statement of affairs" model, which is similar to Western Australia's Information Statements, requiring agencies to

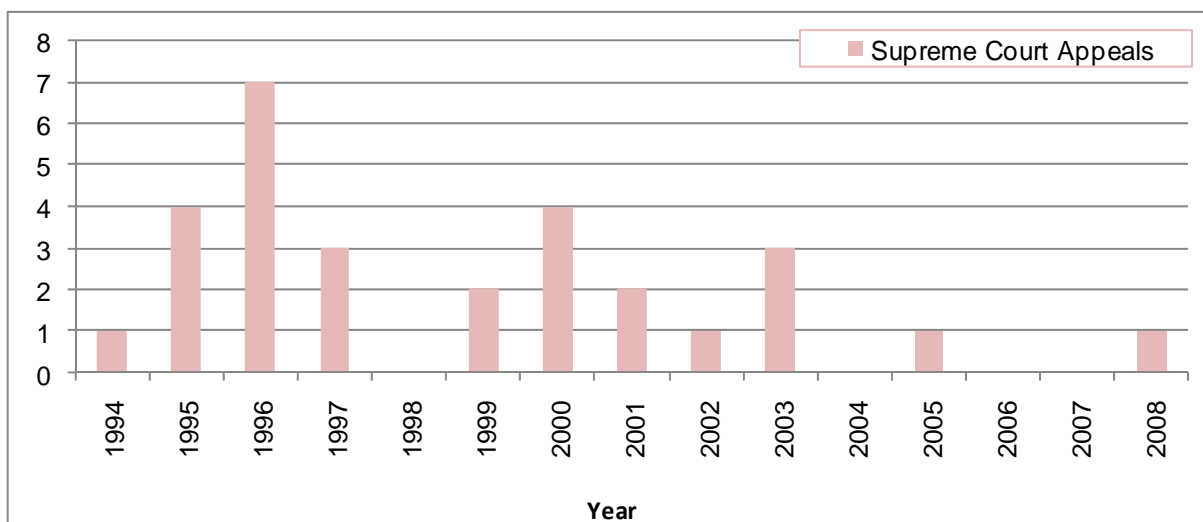
publish general categories of information holdings, was 15 years old and out of date. The review recommended the adoption of a new model which would provide an online single entry point of searchable metadata comprising published information from all agencies. As a first step, agency-based pilot programs would be established as a means of ironing out practical issues ahead of a public sector wide endeavour.

The developments in Queensland will be monitored by my Office. In the meantime, I consider that the Information Statement still performs a useful role in helping to ensure that information concerning the operation of agencies (and in particular the policy, rules and practices followed by agencies in their dealings with members of the public) and the documents they hold are kept up-to-date and made available to the public, thereby promoting an increased awareness of how government operates.

3.4 Supreme Court appeals

Under s.85 of the FOI Act a party to a complaint may appeal to the Supreme Court on a question of law arising out of certain decisions of the Information Commissioner relating to an application for access to a document or amendment of personal information. The agency to which the access application was made or transferred is a party to the appeal, even if it is neither the

FIGURE 2: Supreme Court Appeals relating to FOI matters



appellant nor the respondent. Various other appeal avenues also apply where an exemption certificate has been issued, although it should be noted that, in Western Australia, no exemption certificate has ever been issued under s.36 of the FOI Act and the *Freedom of Information Amendment Bill 2007* proposes to abolish exemption certificates.

This year there was one appeal to the Supreme Court. Since commencement of the FOI Act in 1993, there has been a gradual decline in the number of Supreme Court appeals relating to FOI matters, as indicated in Figure 2 on the previous page.

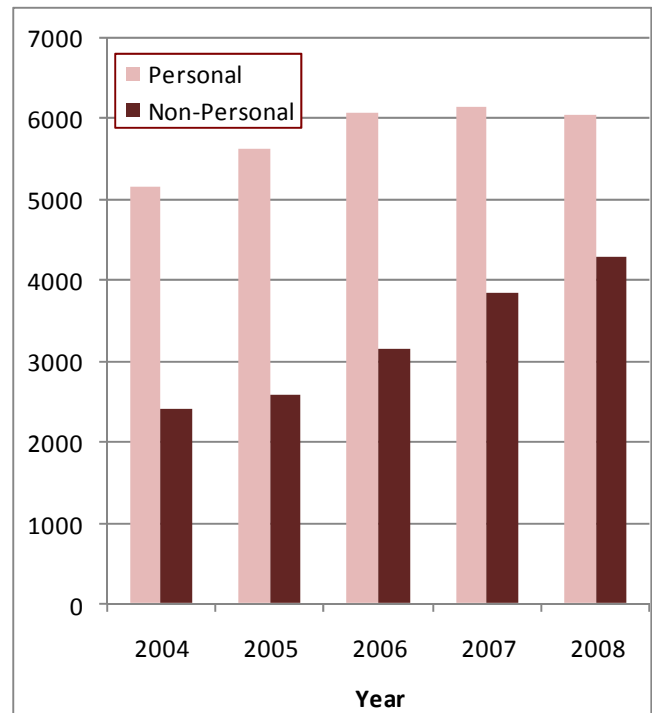
In all, since commencement of the FOI Act, there have been 12 FOI appeals to the Supreme Court that have proceeded to a decision (although a number of additional appeals reflected in Figure 2 were lodged but were withdrawn or otherwise did not proceed to a decision). Nine of the 12 appeals heard have been made by an agency as appellant, rather than by individual complainants. Since 2002, there have been only 3 appeals, two made by agencies and one by an applicant. The reducing trend in appeals is an indicator that the scope and interpretation of the FOI Act is becoming better understood and accepted as experience with the FOI Act

3.5 Agency Statistics 2008

Section 111 of the FOI Act requires that the Information Commissioner's annual report to the Parliament includes 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 2007/08 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

FIGURE 3
Number of Applications Decided—All Agencies



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 3,323 at the end of the first full financial year of operation of the FOI Act (1994/95) to 11,255 in the year under review. That represents an increase of approximately 238% in 13 years from 1995 and 8% from last year (10,416).

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 (1,696 - a decrease of 4% from last year), with the next highest being received by Royal Perth Hospital (1,468 - an increase of 23.7% from last year) and Sir Charles Gairdner Hospital (961 - an increase of 8.3%), and another 3,877 in total received by various other health service providers (hospitals, health services and the Department of Health), representing a total increase of 17.7% over last year.

SIGNIFICANT ISSUES AND TRENDS continued

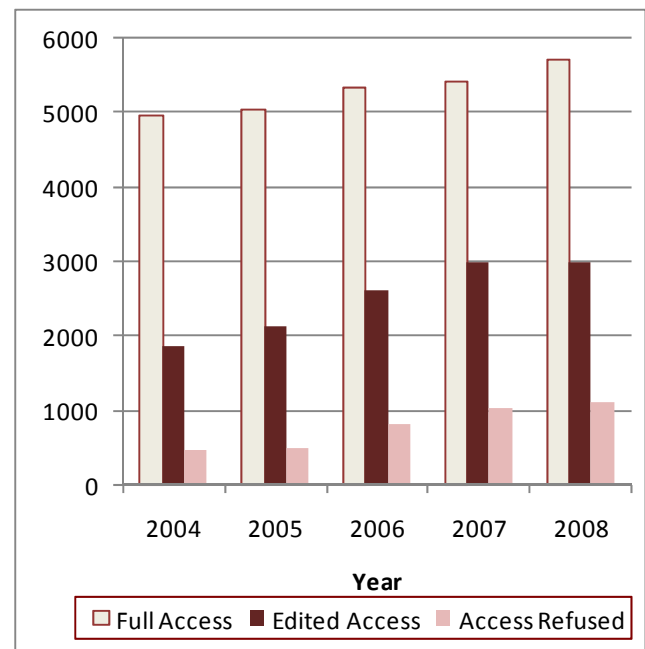
The very low amount of application fees and charges collected by the health services (for example, a total of \$270.00 in application fees - i.e. nine application fees - and \$0 in additional charges collected by Royal Perth Hospital) suggests that the vast majority of access applications to health-related agencies was for personal information - for example, medical records - about the access applicant, for which no application fee or other charge is payable.

Of the 11,255 applications received by agencies in 2007/08, 516 (just over 4.6%) were received by local government agencies and 10,739 (95.4%) by State Government agencies. Of the local government agencies, the City of Joondalup received the highest number of applications (47), followed by the City of Mandurah (37), the City of Stirling (33), the Shire of Kalamunda (31), the City of Swan (28) and the City of Wanneroo (24). A number of local government agencies located in the country areas reported having received either no applications or just the one application.

Of the applications made to State Government agencies, 94 were made to Ministers, similar to the number made to Ministers last year (86). The Minister receiving the highest number of applications was the Hon J A McGinty, Attorney General; Minister for Health; Electoral Affairs (22), with the next highest being the Hon A MacTiernan, Minister for Planning and Infrastructure (19). Hon F M Logan, the Minister for Energy; Resources; Industry and Enterprise and Hon M McGowan, Minister for Education and Training; South West received 10 and 8 applications respectively. Of the decisions on access made by Ministers in the reporting period, 24 (34%) were to give full access; 33 (47%) were to give access to edited copies of documents; and 12 (17%) were to refuse access. The exemptions claimed by Ministers were 13 x clause 1 (Cabinet and Executive Council documents); 29 x clause 3 (personal information); 3 x clause 4 (commercial or business information of private persons); 6 x clause 6 (deliberative processes of government); 6 x clause 7 (legal

professional privilege); 1 x clause 8 (confidential communications); and 1 x clause 10 (the State's financial or property affairs).

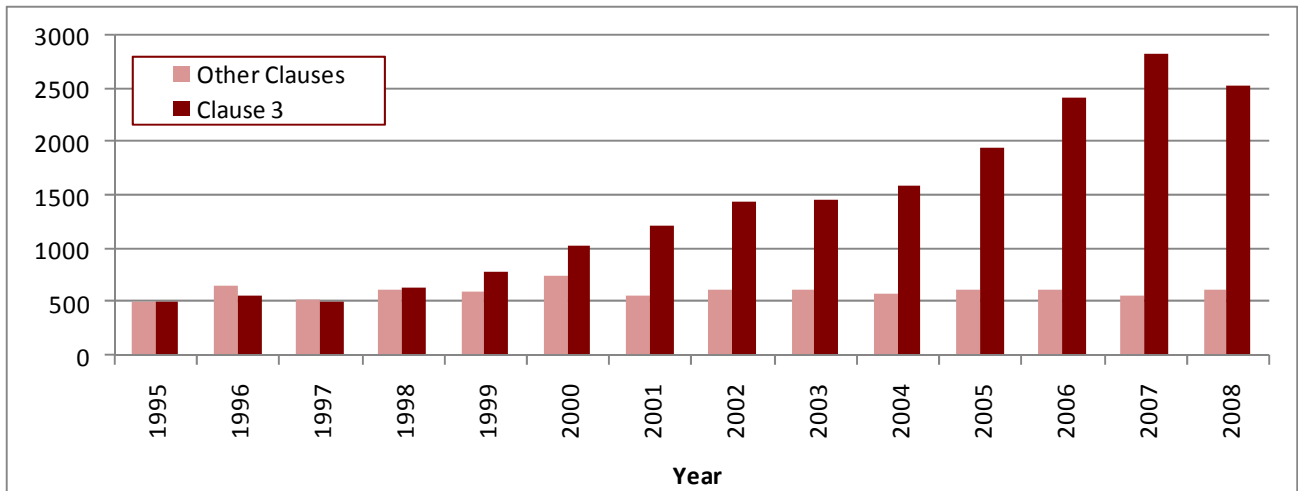
FIGURE 4
Outcome of Decisions—All Agencies



The statistical tables also reveal that 9770 decisions on access applications were made by State Government agencies under the FOI Act in 2007/08. Of those decisions made, 58.2% resulted in the applicant being given access in full to the documents sought; 30.3% resulted in the applicant being given access to edited copies of the documents sought; and just over 0.3% 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 89% of the 9,770 decisions made by agencies on FOI applications were to the effect that access in some form was given. Only 11% 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 from both state and local government sectors was clause 3, which exempts from disclosure personal information

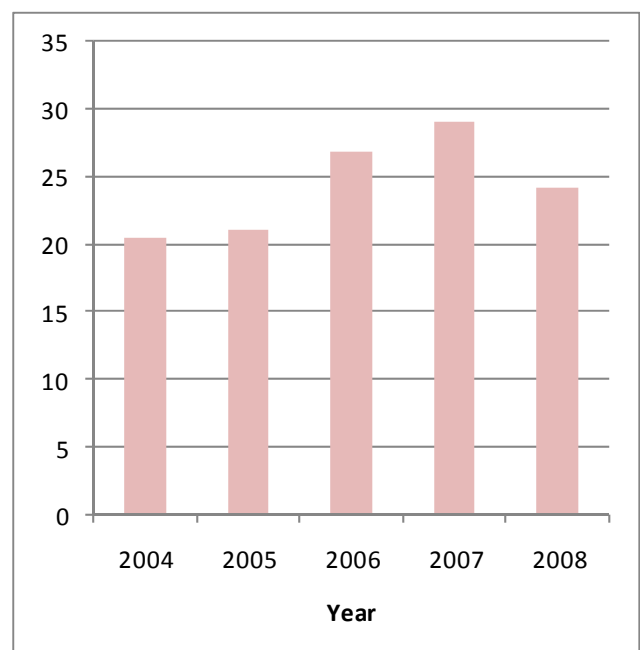
FIGURE 5: Use of Exemption Clauses —All Agencies



about individuals other than the applicant. That clause was claimed 2,530 times in the year under review. Figure 5 above compares the use of this clause with all other clauses used since 1994/95, which indicates increasing use of the exemption to protect personal privacy. The next most frequently claimed exemptions were: clause 7, which protects from disclosure documents which would be privileged from production in legal proceedings on the ground of legal professional privilege (131 times); clause 4, which relates to certain commercial or business information of private individuals and organisations (also 131 times); and clause 6, which relates to the deliberative processes of government (94 times). The amendment made to the FOI Act in 2004 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 in 2005 to 90 in 2008. 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 226 applications for internal review of decisions relating to access applications during 2007/08. This represents about 2% of all decisions made and about 21% of decisions made to refuse access. In the year under review, 221 applications for internal review were dealt with. The decision under review was confirmed on 142 occasions, varied on 63 occasions, reversed on six occasions and the application for internal review was withdrawn on 10 occasions. Ten applications for amendment of personal information were made to agencies during the year. All ten applications

FIGURE 6
Average Days —All Agencies



SIGNIFICANT ISSUES AND TRENDS continued

were dealt with, resulting in personal information being amended on three occasions, not amended on three occasions and amended, but not as requested, on four occasions. The five reported applications for internal review of decisions relating to the amendment of personal information resulted in the initial decision being confirmed on four occasions and reversed on one occasion.

The number of applications decided by agencies increased, as did the number of occasions on which full access was given.

The average time taken by agencies to deal with access applications (24 days) decreased by approximately five days from the previous year, and is still well within the maximum period of 45 days permitted by the FOI Act. The decrease in the average is welcome, given the increase in the number of access applications being dealt with.

trend over the preceding 2 years. The rise in average access charges would be consistent with the observed trend towards more complex FOI applications.

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 is 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 7
Average Charge for Access —All Agencies



The average amount of charges imposed by agencies for dealing with access applications increased substantially in comparison with the previous year—by almost double from \$7 per non-personal application in 2006/07 to over \$15 in 2007/08, reversing the downward

DISCLOSURES
AND
LEGAL
COMPLIANCE

4. DISCLOSURES AND LEGAL COMPLIANCE

4.1 RECOMMENDED LEGISLATIVE AND ADMINISTRATIVE CHANGES

Section 111(4) requires the Information Commissioner to include in his or her annual report any recommendations as to legislative or administrative changes that could be made to help the objects of the FOI Act to be achieved. The following matters are included.

4.1.1 Reporting to the Parliament

When considering the appropriate method and timing for the Information Commissioner to report on the outcome of the review into the FOI processes of the Department of Health, it became apparent that there is no express power in the FOI Act for the Information Commissioner to directly report to Parliament from time to time on any significant issue, other than through the Annual Report. There is no equivalent power to submit and table a report from time to time, such as applies to:

- ❖ the Auditor General under s.24(1) and 25(1) of the *Auditor General Act 2006*;
- ❖ the Commissioner of the Corruption and Crime Commission under s.84, 85 and 88 of the *Corruption and Crime Commission Act 2003*;
- ❖ the Parliamentary Commissioner for Administrative Investigations under s.27 (1) of the *Parliamentary Commissioner Act 1971*;
- ❖ the Public Sector Standards Commissioner under section 21(1)(h) of the *Public Sector Management Act 1994*; and
- ❖ the State Records Commission under s.64 of the *State Records Act 2000*.

While it is arguable that the general power of the Information Commissioner under s.64 of the FOI Act to do “all things necessary or convenient to be done for or in connection with the performance of the Commissioner’s functions” may allow the Information

Commissioner to report on an issue arising in connection with the Commissioner’s functions at any time to the Speaker of the Legislative Assembly and to the President of the Legislative Council and request that officeholder to lay the report before the Parliament, it would be clearer and more in keeping with the model applying to the other independent accountability agencies previously mentioned, for the FOI Act to be amended to explicitly provide that the Information Commissioner may report from time to time to each House of Parliament on any matter arising in connection with the functions of the Commissioner. I recommend such an amendment.

4.1.2 Manner of release of documents requested under FOI

During the year, a number of instances have occurred where documents applied for under FOI have been released outside the FOI process to parties other than the FOI access applicant. That is, where an applicant is going through the FOI process for documents and the agency gives access to the same documents (before giving them to the applicant) either publicly or to separate parties outside the FOI process.

How to allow documents to be made available quickly outside FOI is an issue not just for Western Australia. It was reported in the national press that the Commonwealth Department of Agriculture Fisheries and Forestry had been asked by its Minister to consider ways in which information could be made publicly available ahead of an FOI request where this was in the public interest, rather than waiting for access to be determined as a result of an FOI request.

The FOI Act was not intended to replace alternative practices for giving information outside FOI or to discourage their use. It was intended as a means of exercising rights where access is not available by other customary means.

In June 2008 the Queensland Government received a recommendation that addresses this issue. Section 18.4 of the report by the FOI Independent Review Panel of Queensland's FOI Act chaired by Dr David Solomon AM had this to say (at page 234):

"...The Panel considers that if FOI is to achieve its goals and be effective, it needs to be properly used by journalists, MPs, academic researchers and NGOs. Adopting the UK practice of simultaneous publication of information obtained by requestors (even though the amount of such material put on agency websites only ranges from about 1 to 5 per cent of the total released) would be undesirable. A media organisation that may have paid thousands of dollars to obtain the information would undoubtedly consider itself badly done by if its competitors were to get the information simultaneously and for no cost. The material would not have become available but for the efforts of the organisation's staff in seeking it out, and the time as well as money it had spent on the particular FOI request. In a sense, they have invested intellectual capital in FOI and they are entitled to their reward.

The Panel considers that where an agency is going to publish on its website information that has been provided to a requestor, it should delay posting that information until 24 hours after the requestor has received it. A delay of this length is suggested by the nature of the 24 hour news cycle of most media organisations.

While this will have an important benefit for journalists, it is not intended that they should be singled out for special treatment. The delayed publication rule should apply generally, for all FOI applicants."

I agree with that view. Because the timely release of information outside FOI should be encouraged and not constrained by

statutory rules, no legislative change is recommended. However, I consider that an administrative change would be appropriate. Where an FOI application has been made for documents that are being considered for general release outside FOI, it is recommended to agencies dealing with FOI requests that the FOI access applicant should receive some priority of access (say 24 hours) ahead of the general release. In this way, the applicant's outlay of time, effort and expense in seeking the information, is recognised.

4.1.3 Delegations

The delegation power in s.79 prohibits the Commissioner from delegating the power under s.75 to require production of documents and under s.76 to make decisions. In my view, this restriction means the exercise of the investigatory and decision-making powers is necessarily limited to the individual Commissioner's availability, which, given the Office's commitment to making more timely decisions, is problematic. Consequently, in order to ameliorate this constraint, I recommend that the FOI Act be amended to allow the powers in s.75 and 76 to be exercised by delegation to senior staff members (such as a Deputy or Assistant Commissioner). Consistency of decisions can be assured because the normal rules for construction of the power to delegate (contained in s.59 of the *Interpretation Act 1984*) mean that the Commissioner is not precluded by such a delegation from exercising the power, and can impose conditions, qualifications and exceptions on such delegations.

4.1.4 Waiver of application fees

FOI applications for access to personal information are free. An application fee (currently \$30) is prescribed for FOI applications for non-personal information. In addition to the application fee, agencies can impose an hourly processing charge and photocopying costs for dealing with an application for non-personal information.

The *Freedom of Information Regulations 1993* empower agencies to waive the processing charges and copying costs and set out the principles for doing so. Under s.16(1) of the FOI Act, agencies may waive collection of a charge for processing an application under FOI for access to documents, in accordance with those principles. However there is some uncertainty whether s.16(1) authorises waiver of the application fee as distinct from the processing charges, taking into account clause 8 of the Glossary to the FOI Act which applies an inclusive definition of the meaning of charges for dealing with applications. The Office is aware that a few agencies either do not collect or choose to waive the application fee in certain instances, notwithstanding that there is some doubt whether they have power to waive this fee. There seems to be no good reason why agencies should be empowered to waive the processing charge but not the application fee. It is recommended that the FOI Act be amended to make it clear that agencies are empowered to waive both application fee and processing charges, in accordance with the principles set out in the regulations. This will remove the existing uncertainty.

4.2 Compliance with Other Acts

Compliance with legislative and associated reporting requirements which apply to the Office and which is not dealt with elsewhere in this report is reported below.

Disability Services Act 1993 (s.29): Development of a Disability Access and Inclusion Plan (DAIP) has now been completed. The six desired outcomes of our DAIP have largely been met, with ongoing initiatives planned to be introduced in 2008/09 to address issues identified.

Equal Opportunity Act 1984 (s.146): An EEO/Diversity Management Plan was submitted in September 2003 and is effective to 2008. The Office has developed strategies for EEO outcomes so no action in this area

was required in the reporting period. Apart from the Acting Information Commissioner, no recruitment was undertaken in the reporting period. The Office currently has only 10 officers, including the Information Commissioner, comprising of 6 women (60%) and 4 men (40%). One is part-time and there is a diversity of backgrounds, including one officer from a non-English speaking background.

Electoral Act 1907 (s.1752E): There was no expenditure incurred on advertising, market research polling, direct mail or media advertising activities during the year.

State Records Act 2000 (s.61), and *State Records Commission Standards, Standard 2, Principle 6*: The Office Record Keeping Plan was approved by the State Records Office in November 2003 for a term of 5 years. Also in 2003, the Office administrative record keeping system was redesigned to adhere to the Keyword AAA record keeping system, and as part of that process the Office administrative and functional thesaurus was created. All previous administrative files were closed on 1 January 2003 and records from that date are now filed as set out in the thesaurus. The Office Records Manager has the responsibility of ensuring that all records are properly logged and filed. The Records Manager (and select other staff) have attended workshops and seminars on records management issues, and further staff instruction on the record keeping practices of the office will be conducted when the current Record Keeping Plan is reviewed in November 2008, as required by the State Records Office.

Occupational Health and Safety Act 1984: The Office is committed to an occupational safety and health and injury management system which has been established by the Office for the benefit of all staff. An injury management system was developed during the 2007/08 financial year which is compliant with the *Workers' Compensation and Injury Management Act 1981* and the associated

Workers' Compensation Code of Practice (Injury Management) 2005. The office has appointed the Information Services Manager as the occupational safety and health representative. A committee that consists of officers from the collocated accountability agencies meets on a regular basis to discuss a range of issues including matters related to occupational health and safety. Any matters of note to employees are raised at the bi-weekly office management meeting. Performance against injury management targets for 2007/08 is outlined in the table below:

Indicator	Target 2007/08	Actual 2007/08
Number of fatalities	Zero (0)	0
Lost time injury/ diseases incidence rate	Zero (0) or 10% reduction on previous year	0
Lost time injury severity rate	Zero (0) or 10% improvement on previous year	0

Premier's Circular 2005/02: Corruption Prevention: During the year the Office updated its Code of Conduct which outlines what is expected from staff in ensuring that high levels of independence, impartiality, honesty and confidentiality are observed at all times. The Office has also introduced a Public Interest Disclosure Policy, supported by internal procedures.

Public Sector Management Act 1994, s.31(1): There were no compliance issues arising during the financial year regarding the Public Sector Standards, the WA Code of Ethics, or our own agency Code of Conduct. The Office has also introduced a Grievance Policy based on the OPSSC Employee Grievance Resolution Standard.

Government Policies

The Office endeavours to comply with government policies insofar as they do not interfere with or compromise the independence of the operation of the Office from executive government.

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PERFORMANCE INDICATORS

Performance Indicator Certification

We hereby certify that the performance indicators are based on proper records, are relevant and appropriate for assisting users to assess the performance of the Office of the Information Commissioner, and fairly represent the performance of the Office of the Information Commissioner for the financial year ended 30 June 2008.



Tony Pruyn
Senior Investigations Officer

4 September 2008



John Lightowlers
A/Information Commissioner

4 September 2008



PERFORMANCE INDICATORS 2007/2008

DESIRED OUTCOME

Access to documents and observance of processes in accordance with the *Freedom of Information Act 1992* ('the FOI Act').

DESCRIPTION

Under the FOI Act, the main function of the Information Commissioner is to provide independent external review of agencies' decisions by dealing with complaints about decisions made by agencies under the FOI Act. The Commissioner's other responsibilities include:

- ensuring that agencies are aware of their responsibilities under the FOI Act;
- ensuring members of the public are aware of the FOI Act and their rights under it;
- providing assistance to members of the public and agencies on matters relevant to the FOI Act; and
- recommending to Parliament legislative or administrative changes that could be made to help the objects of the FOI Act to be achieved.

The Office of the Information Commissioner is made up of the Commissioner and the staff appointed by the Governor to assist the Commissioner to discharge those functions and responsibilities under delegated authority. These functions take the form of two services.

Service 1: Resolution of Complaints.**Service 2: Advice and Awareness.**

The intent of the FOI Act is to ensure that proceedings on external review are conducted with as little formality and technicality as the requirements of the FOI Act and proper consideration of the matters before the Commissioner permit. Therefore, when dealing with complaints, the policy of the Commissioner is to ensure that wherever possible the conduct of external review proceedings is not unduly legalistic or formal. Accordingly, the preferred method of resolving complaints 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 by making and publishing a written decision with reasons.

Officers delivering the Advice and Awareness service also emphasise the spirit of the FOI Act when delivering advisory services. Wherever possible, agencies are encouraged to release information outside the FOI process where it is reasonable to do so or, where necessary, to follow the correct processes for dealing with an access application or an application for amendment of personal information under the FOI Act. Policy development within agencies which establishes routine information disclosure outside formal FOI processes is encouraged so that the impact of the obligations placed on agencies by the FOI Act on the day-to-day operations of those agencies is minimised. Many potential disputes are also resolved informally with assistance from the Office.

The Performance Indicators ('the PIs') of the Office detailed below have been designed to reflect the satisfaction of parties who utilise the services of the Office, show the extent to which conciliation is achieved and measure efficiency by relating workload to costs. There are three Effectiveness PIs and two Efficiency PIs, which are summarised below:

Effectiveness performance indicators

1. Satisfaction of parties with external review process.
2. Satisfaction of agencies with advice and guidance provided.
3. The extent to which complaints were resolved by conciliation.

Efficiency performance indicators

4. Average cost of external reviews finalised.
5. Average cost of advisory services delivered per recipient.

1. EFFECTIVENESS PERFORMANCE INDICATORS

1.1 Satisfaction of parties with external review process

	2004	2005	2006	2007	2008
Target	90%	90%	86%	80%	85%
Actual	86%	86%	85%	75%	88%

The above indicator shows the level of satisfaction with the external review process by the parties to each of the complaints finalised during the year.

A Post Review Questionnaire (PRQ) is sent to the parties to an external review to seek their views on whether there was an independent, objective and fair process with an emphasis on user-friendly processes which met their needs. Three key questions are asked:

1. Were you satisfied with the external review process?
2. Do you consider that you were kept adequately informed regarding the progress of your case?
3. Was the officer assigned to your case professional in his or her dealings with you?

A PRQ was sent to each of 210 parties who participated in an external review process following finalisation of the review process. Of the 210 PRQs sent, 141 participants (67%) responded by returning a completed PRQ. 81 responses were received from agencies; 55 were received from complainants; and 5 were received from third parties.

The outcome of answers to question 1 above is used to calculate this indicator. The answers to questions 2 and 3 are also used by the Office, but for internal performance management of complaints officers. Information in response to all three questions is taken into account when reviewing external review procedures.

Of the 141 responders, 124 (88%) answered ‘yes’ to question 1 and confirmed that they were satisfied with the external review process.

1.2 Satisfaction of agencies with advice and guidance provided

	2004	2005	2006	2007	2008
Target	98%	(a)	98%	98%	98%
Actual	100%	(a)	98%	97%	97%

The Advice and Awareness section of the Office provides a range of advisory services. Those services are provided indirectly through published information and the internet website of the Office. Advice is also given in person by telephone, email and counter enquiries and through group training presentations and briefings.

A survey was sent to each of 306 State and local government agencies and Ministers. Of the 306 surveys sent, 285 agencies (93%) responded by returning a completed survey.

Of the 285 respondent agencies, 206 confirmed receiving advice and guidance from this office.

Of those 206 agencies that received advice, 200 agencies (97%) expressed satisfaction with the advice and guidance provided to them by this office.

(a) Until 2000, surveys of agencies were undertaken annually. At that time the results indicated a consistently high level of satisfaction. In order to reduce the burden on agencies the survey was then conducted biennially. Therefore, a survey was not conducted in 2001, 2003 and 2005.

Having reviewed the practice of biennial surveys in 2006, a survey is now conducted on an annual basis in conjunction with the annual statistical returns of agencies.

1.3 The extent to which complaints were resolved by conciliation

The external review model adopted by the Office emphasizes informal resolution processes such as negotiation and conciliation, wherever possible. If a complaint cannot be resolved by conciliation between the parties to the complaint, the Information Commissioner is required to make a formal determination.

The PI set out in 1.3 is designed to represent the success rate of the preferred resolution method. Therefore, the PI shows, as a percentage, those complaints finalized by conciliation as opposed to those complaints that required a decision by the Information Commissioner.

	2005	2006	2007	2008
Target	n/a	70%	74%	75%
Actual	66%	72%	74%	62%

In total, 433 matters of all types were finalised by the Office in 2007/08. However, of those 433 matters, only 117 were complaints, as defined in s.65 of the FOI Act. Of the 117 complaints resolved in 2007/08, 72 (62%) were resolved by conciliation. That is, as a result of negotiations conducted by the Office the parties agreed that no issues remained in dispute which required a decision by the Information Commissioner.

Note: The reduced outcome in 2008 of complaints resolved by conciliation is primarily due to a policy decision by the Commissioner to expedite the final determination of complaints. This is the subject of comment in the Commissioner’s overview section of this Report.

2. EFFICIENCY PERFORMANCE INDICATORS

The Office currently operates with 10 FTEs to deliver services under the two main functions prescribed by the FOI Act. As the primary function of the Office is to deal with complaints received under the FOI Act, approximately 70% of the Office’s resources are allocated to the complaint resolution (external review) function. The other main function of the Office is to provide advisory services to agencies and to the public. About 30% of the Office’s resources are allocated to the delivery of advice and awareness services.

**2.1 Service 1 - Resolution of Complaints
Average cost of external reviews finalised**

Included in calculating this PI are only those matters dealt with by the Resolution of Complaints section of the Office in 2007/08 which were technically formal “complaints” (see s.65 of the FOI Act) and applications that required a determination under the FOI Act rather than general complaints or requests for assistance that are not technically “complaints”. General requests for assistance or for the intervention of the Office, including misdirected applications, are reported on as part of the service of the Advice and Awareness section. Most of those kinds of matters are dealt with by officers in the Advice and Awareness section of the Office.

	2005	2006	2007	2008
Target	n/a	\$4166	\$5548	\$6692
Actual	\$5413	\$5270	\$6456	\$5869

The table above reflects the costs incurred in resolving complaints and applications (eg. to lodge a complaint out of time; permission not to consult; etc.) that may require a determination. It is calculated by dividing the number of complaints and applications resolved by the Office in 2007/08 (174) into the net accrual cost for the Resolution of Complaints service (\$1,021,267- as advised by DOTAG).

Variations in the actual and target average cost are due primarily to fluctuations in the number of matters received and resolved in particular financial years.

**2.2 Service 2 – Advice and Awareness Services
Average cost of advisory services delivered per recipient**

In calculating this PI the total service units delivered by the Advice and Awareness section of the Office in 2007/08 was used. The service units recorded by the Office relate to where direct advisory services were provided. Those units will consist of a total of all telephone calls attended, written advice given by email and letter, counter inquiries attended and recipients of training and briefings.

	2005	2006	2007	2008
Budget	n/a	\$55	\$120	\$152
Actual	\$184	\$105	\$92	\$107

The table above reflects the average cost of providing advice and awareness services to recipients. It is calculated by dividing the total number of recipients of advice and awareness services provided by the Office in 2007/08 (2817) into the net accrual cost for the Advice and Awareness service (\$302,801 - as advised by DOTAG).

Variations in the actual and target average cost are due primarily to fluctuations in the number of matters received and resolved in particular financial years.

In past financial years, the Independent Audit Opinion of the Auditor General has been provided in two separate certifications, one for the Performance Indicators and one for the Financial Statements. This year both certifications are again provided within the one document, a copy of which can be found on page 56.

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FINANCIAL STATEMENTS

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OFFICE OF THE INFORMATION COMMISSIONER
CERTIFICATION OF FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2008

Source Reference

FMA
2006 sec62(2b)
TI 947

The accompanying financial statements of the Office of the Information Commissioner have been prepared in compliance with the provisions of the Financial Management Act 2006 from proper accounts and records to present fairly the financial transactions for the financial year ending 30 June 2008 and the financial position as at 30 June 2008.

AASB 110.17

At the date of signing we are not aware of any circumstances which would render any particulars included in the financial statements misleading or inaccurate.

A. Andersson.

Alan Andersson
Chief Finance Officer

4 September 2008

John Lightowlers

John Lightowlers
A/Information Commissioner

4 September 2008





Auditor General

INDEPENDENT AUDIT OPINION

To the Parliament of Western Australia

OFFICE OF THE INFORMATION COMMISSIONER FINANCIAL STATEMENTS AND KEY PERFORMANCE INDICATORS FOR THE YEAR ENDED 30 JUNE 2008

I have audited the accounts, financial statements, controls and key performance indicators of the Office of the Information Commissioner.

The financial statements comprise the Balance Sheet as at 30 June 2008, and the Income Statement, Statement of Changes in Equity, Cash Flow Statement, Schedule of Income and Expenses by Service, and Summary of Consolidated Account Appropriations and Income Estimates for the year then ended, a summary of significant accounting policies and other explanatory Notes.

The key performance indicators consist of key indicators of effectiveness and efficiency.

Information Commissioner's Responsibility for the Financial Statements and Key Performance Indicators

The Information Commissioner is responsible for keeping proper accounts, and the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards (including the Australian Accounting Interpretations) and the Treasurer's Instructions, and the key performance indicators. This responsibility includes establishing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements and key performance indicators that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; making accounting estimates that are reasonable in the circumstances; and complying with the Financial Management Act 2006 and other relevant written law.

Summary of my Role

As required by the Auditor General Act 2006, my responsibility is to express an opinion on the financial statements, controls and key performance indicators based on my audit. This was done by testing selected samples of the audit evidence. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion. Further information on my audit approach is provided in my audit practice statement. Refer "<http://www.audit.wa.gov.au/pubs/Audit-Practice-Statement.pdf>".

An audit does not guarantee that every amount and disclosure in the financial statements and key performance indicators is error free. The term "reasonable assurance" recognises that an audit does not examine all evidence and every transaction. However, my audit procedures should identify errors or omissions significant enough to adversely affect the decisions of users of the financial statements and key performance indicators.

**Office of the Information Commissioner
Financial Statements and Key Performance Indicators for the year ended 30 June 2008**

Audit Opinion

In my opinion,

- (i) the financial statements are based on proper accounts and present fairly the financial position of the Office of the Information Commissioner at 30 June 2008 and its financial performance and cash flows for the year ended on that date. They are in accordance with Australian Accounting Standards (including the Australian Accounting Interpretations) and the Treasurer's Instructions;
- (ii) the controls exercised by the Information Commissioner provide reasonable assurance that the receipt, expenditure and investment of money, the acquisition and disposal of property, and the incurring of liabilities have been in accordance with legislative provisions; and
- (iii) the key performance indicators of the Information Commissioner are relevant and appropriate to help users assess the Information Commissioner's performance and fairly represent the indicated performance for the year ended 30 June 2008.



COLIN MURPHY
AUDITOR GENERAL
8 September 2008

FINANCIAL STATEMENTS continued**OFFICE OF THE INFORMATION COMMISSIONER****Income Statement***For the year ended 30 June 2008*

	Note	2008 \$	2007 \$
COST OF SERVICES			
Expenses			
Employee benefits expense	6	941,939	948,195
Supplies and services	7	185,100	143,585
Depreciation expense	8	14,747	21,910
Accommodation expenses	9	162,532	98,676
Other expenses	10	<u>62,017</u>	<u>61,905</u>
Total cost of services		<u>1,366,335</u>	<u>1,274,271</u>
Income			
<i>Revenue</i>			
Other revenue	11	<u>4,398</u>	<u>4,345</u>
Total Revenue		<u>4,398</u>	<u>4,345</u>
<i>Gains</i>			
Gain on disposal of non-current assets	12	<u>-</u>	<u>-</u>
Total Gains		<u>-</u>	<u>-</u>
Total income other than income from State Government		<u>4,398</u>	<u>4,345</u>
NET COST OF SERVICES		<u>1,361,937</u>	<u>1,269,926</u>
INCOME FROM STATE GOVERNMENT			
Service appropriation	13	1,368,000	1,246,000
Liabilities assumed by the Treasurer		3,289	5,079
Resources received free of charge		<u>59,569</u>	<u>44,670</u>
Total income from State Government		<u>1,430,858</u>	<u>1,295,749</u>
SURPLUS /(DEFICIT) FOR THE PERIOD		<u>68,921</u>	<u>25,823</u>

The Income Statement should be read in conjunction with the accompanying notes.

OFFICE OF THE INFORMATION COMMISSIONER

Balance Sheet

As at 30 June 2008

	Note	2008 \$	2007 \$
ASSETS			
Current Assets			
Cash and cash equivalents	22	92,201	71,213
Receivables	15	2,775	5,837
Amounts receivable for services	16	30,000	33,000
Other current assets	17	<u>4,491</u>	<u>5,078</u>
Total Current Assets		<u>129,467</u>	<u>115,128</u>
Non-Current Assets			
Restricted cash and cash equivalents	14	8,864	5,864
Amounts receivable for services	16	-	-
Property, plant and equipment	18	<u>19,945</u>	<u>13,875</u>
Total Non-Current Assets		<u>28,809</u>	<u>19,739</u>
TOTAL ASSETS		<u>158,276</u>	<u>134,867</u>
LIABILITIES			
Current Liabilities			
Payables	19	83,271	34,990
Provisions	20	<u>112,869</u>	<u>187,575</u>
Total Current Liabilities		<u>196,140</u>	<u>222,565</u>
Non-Current Liabilities			
Provisions	20	<u>63,179</u>	<u>84,266</u>
Total Non-Current Liabilities		<u>63,179</u>	<u>84,266</u>
Total Liabilities		<u>259,319</u>	<u>306,831</u>
NET ASSETS		<u>(101,043)</u>	<u>(171,964)</u>
EQUITY			
Contributed equity	21	27,000	25,000
Accumulated surplus/(deficit)		<u>(128,043)</u>	<u>(196,964)</u>
TOTAL EQUITY		<u>(101,043)</u>	<u>(171,964)</u>

The Balance Sheet should be read in conjunction with the accompanying notes.

FINANCIAL STATEMENTS continued

OFFICE OF THE INFORMATION COMMISSIONER

Statement of Changes in Equity

For the year ended 30 June 2008

	Note	2008 \$	2007 \$
Balance of equity at start of period		<u>(171,964)</u>	<u>(197,787)</u>
CONTRIBUTED EQUITY	21		
Balance at start of period		25,000	25,000
Capital contribution		2,000	-
Distribution to owners		<u>-</u>	<u>-</u>
Balance at end of period		<u>27,000</u>	<u>25,000</u>
ACCUMULATED SURPLUS	21		
Balance at start of period		(196,964)	(222,787)
Surplus/(deficit) for the period		<u>68,921</u>	<u>25,823</u>
Balance at end of period		<u>(128,043)</u>	<u>(196,964)</u>
Balance of equity at end of period		<u>(101,043)</u>	<u>(171,964)</u>
Total income and expense for the period		<u>68,921</u>	<u>25,823</u>

(a) The aggregate net amount attributable to each category of equity is: surplus \$68,921
(2007: surplus \$25,823)

The Statement of Changes in Equity should be read in conjunction with the accompanying notes.

OFFICE OF THE INFORMATION COMMISSIONER

Cash Flow Statement

For the year ended 30 June 2008

	Note	2008 \$	2007 \$
CASH FLOWS FROM STATE GOVERNMENT			
Service appropriation		1,338,000	1,216,000
Capital contributions		2,000	-
Holding account drawdowns		<u>33,000</u>	<u>35,000</u>
Net cash provided by State Government		<u>1,373,000</u>	<u>1,251,000</u>
Utilised as follows:			
CASH FLOWS FROM OPERATING ACTIVITIES			
Payments			
Employee benefits		(920,573)	(827,663)
Supplies and services		(415,083)	(346,303)
GST payments on purchases		(34,269)	(25,278)
Receipts			
Receipts from services		4,398	4,345
GST receipts on sales		37,331	161
GST receipts from taxation authority		<u>-</u>	<u>24,547</u>
Net cash provided by/(used in) operating activities	23	<u>(1,328,196)</u>	<u>(1,170,191)</u>
CASH FLOWS FROM INVESTING ACTIVITIES			
Proceeds from sale of non-current physical assets		-	-
Purchase of non-current physical assets		<u>(20,816)</u>	<u>(2,575)</u>
Net cash provided by/(used in) investing activities		<u>(20,816)</u>	<u>(2,575)</u>
Net increase/(decrease) in cash and cash equivalents		23,988	78,234
Cash and cash equivalents at the beginning of period		<u>77,077</u>	<u>(1,157)</u>
CASH AND CASH EQUIVALENTS AT THE END OF PERIOD	22	<u>101,065</u>	<u>77,077</u>

The Cash Flow Statement should be read in conjunction with the accompanying notes.

Schedule of Income and Expenses by Service

	Complaint Resolution		Advice & Awareness		TOTAL	
	2008	2007	2008	2007	2008	2007
	\$	\$	\$	\$	\$	\$
COST OF SERVICES						
Expenses						
Employee benefits expense	745,569	742,222	196,370	205,973	941,939	948,195
Supplies and services	131,735	102,052	53,365	41,533	185,100	143,585
Depreciation expense	11,776	15,994	2,971	5,916	14,747	21,910
Accommodation expenses	115,070	71,071	47,462	27,605	162,532	98,676
Carrying value of non-current assets disposed of	-	-	-	-	-	-
Other expenses	55,395	47,598	6,622	14,307	62,017	61,905
Total cost of services	1,059,545	978,937	306,790	295,334	1,366,335	1,274,271
Income						
Revenues						
Other revenue	4,398	4,345	-	-	4,398	4,345
Total Revenue	4,398	4,345	-	-	4,398	4,345
Gains						
Gain on disposal of non-current assets						
Total Gains						
Total income other than income from State Government	4,398	4,345	-	-	4,398	4,345
NET COST OF SERVICES	1,055,147	974,592	306,790	295,334	1,361,937	1,269,926
INCOME FROM STATE GOVERNMENT						
Service appropriation	957,600	872,200	410,400	373,800	1,368,000	1,246,000
Liabilities assumed by the Treasurer	2,401	3,708	888	1,371	3,289	5,079
Resources received free of charge	43,485	32,609	16,084	12,061	59,569	44,670
Total income from State Government	1,003,486	908,517	427,372	387,232	1,430,858	1,295,749
Surplus/(deficit) for the period	(51,661)	(66,075)	120,582	91,898	68,921	25,823

The Schedule of Expenses and Revenues by Service should be read in conjunction with the accompanying notes.

DELIVERY OF SERVICES

Item 63 Net amount appropriated to deliver services

Amount Authorised by Other Statutes
- Freedom of Information Act 1992

Total appropriations provided to deliver services

CAPITAL

Capital Contribution

GRAND TOTAL OF APPROPRIATIONS

Details of Expenses by Services

Review and Complaint Resolution

Advice and Awareness

Total Cost of Services

Less total revenues from ordinary activities

Net Cost of Services

Adjustment ⁽⁶⁾

Total appropriations provided to deliver services

Capital Expenditure

Purchase of non-current physical assets

Adjustments for other funding sources

Capital Contribution (appropriation)

⁽⁶⁾ Adjustments are related to movements in cash balances and other accrual items such as receivables, payables and superannuation.

The Summary of Consolidated Fund Appropriations and Revenue Estimates is to be prepared on an accruals basis.

The Summary of Consolidated Fund Appropriations, Variance to Budget and Actual should be read in conjunction with the accompanying notes.

This Summary provides the basis for the Explanatory Statement information requirements of TI 945, set out in Note 25.

	2008 Estimate \$	2008 Actual \$	Variance \$	2008 Actual \$	2007 Actual \$	Variance \$
	980,000	1,197,000	217,000	1,197,000	1,083,000	114,000
	169,000	171,000	2,000	171,000	164,000	7,000
	1,149,000	1,368,000	219,000	1,368,000	1,247,000	121,000
	2,000	2,000	-	2,000	-	2,000
	1,151,000	1,370,000	219,000	1,370,000	1,247,000	123,000
	856,000	1,059,545	203,545	1,059,545	978,937	80,608
	367,000	306,790	(60,210)	306,790	295,334	11,456
	1,223,000	1,366,335	143,335	1,366,335	1,274,271	92,064
	(4,000)	(4,398)	(398)	(4,398)	(4,345)	(53)
	1,219,000	1,361,937	142,937	1,361,937	1,269,926	92,011
	(70,000)	6,063	76,063	6,063	(22,926)	28,989
	1,149,000	1,368,000	219,000	1,368,000	1,247,000	121,000
	-	20,816	20,816	20,816	2,575	18,241
	2,000	(18,816)	(20,816)	(18,816)	(2,575)	(16,241)
	2,000	2,000	-	2,000	-	2,000

OFFICE OF THE INFORMATION COMMISSIONER

Notes to the Financial Statements

for the year ended 30 June 2008

1 Office of the Information Commissioner Mission and Funding

The mission of the Office of the Information Commissioner (the "Commission" for the purpose of these notes) is stated as follows:

To promote public understanding and confidence in the decision making process of government agencies through access to relevant information.

The Commission is funded by parliamentary appropriations. It does not provide services on a fee-for-service basis. The financial statements encompass all funds through which the Commission controls resources to carry on its functions.

2 Australian Equivalents to International Financial Reporting Standards

General

The Commission's financial statements for the year ended 30 June 2008 have been prepared in accordance with Australian equivalents to International Financial Reporting Standards (AIFRS), which comprise a Framework for the Preparation and Presentation of Financial Statements (the Framework) and Australian Accounting Standards (including the Australian Accounting Interpretations).

In preparing these financial statements the Commission has adopted, where relevant to its operations, new and revised standards and interpretations from their operative dates as issued by the Australian Accounting Standards Board (AASB) and formerly the Urgent Issues Group (UIG).

The Australian Accounting Interpretations are adopted through AASB 1048 'Interpretation and Application of Standards' and are classified into those corresponding to International Accounting Standards Board (IASB) Interpretations and those only applicable in Australia.

The AASB has decided to maintain the Statements of Accounting Concepts (SAC 1 and SAC 2) and has continued to revise and maintain accounting standards and the interpretations that are of particular relevance to the Australian environment, especially those that deal more specifically with not-for-profit entity issues and/or do not have an equivalent IASB Standard or Interpretation.

Early Adoption of Standards

The Commission cannot early adopt an Australian Accounting Standard or Australian Accounting Interpretation unless specifically permitted by TI 1101 'Application of Australian Accounting Standards and Other Pronouncements'. No standards and interpretations that have been issued or amended but are not yet effective have been early adopted by the Commission for the financial year ended 30 June 2008.

3 Summary of Significant Accounting Policies

Significant accounting policies

The following accounting policies have been adopted in the preparation of the financial statements. Unless otherwise stated, these policies are consistent with those adopted in the previous year.

(a) General Statement

The financial statements constitute a general purpose financial report which has been prepared in accordance with the Australian Accounting Standards, the Framework, Statements of Accounting Concepts and other authoritative pronouncements of the AASB as applied by the Treasurer's Instructions (TI's). Several of these are modified by the Treasurer's Instructions to vary the application, disclosure, format and wording. For example, AASB 116 requires land and buildings to be measured at cost or fair value; TI 954 mandates the fair value option.

OFFICE OF THE INFORMATION COMMISSIONER

Notes to the Financial Statements*for the year ended 30 June 2008*

The Financial Management Act and the Treasurer's Instructions are legislative provisions governing the preparation of financial statements and take precedence over the Accounting Standards, the Framework, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board.

Where modification is required and has a material or significant financial effect upon the reported results, details of that modification and the resulting financial effect are disclosed in the notes to the financial statements.

Modifications or clarifications to accounting standards through the TI's are to provide certainty and ensure consistency and appropriate reporting across the public sector.

(b) Basis of Preparation

The financial statements have been prepared in accordance with Accounting Standard AAS29 'Financial Reporting by Government Departments' on the accrual basis of accounting using the historical cost convention.

The accounting policies adopted in the preparation of the financial statements have been consistently applied throughout all periods presented unless otherwise stated.

The financial statements are presented in Australian dollars and all values are rounded to the nearest dollar.

(c) Reporting Entity

The reporting entity comprises the Commission and no other related bodies.

(d) Contributed Equity

UIG Interpretation 1038 'Contributions by Owners Made to Wholly-Owned Public Sector Entities' requires transfers in the nature of equity contributions to be designated by the Government (the owner) as Contributions by Owners (at the time of, or prior to, transfer) before such transfers can be recognised as equity contributions. Capital contributions (appropriations) have been designated as contributions by owners by TI 955 'Contributions by Owners Made to Wholly Owned Public Sector Entities' and have been credited directly to Contributed Equity.

(e) Income**Revenue Recognition**

Revenue is measured at the fair value of consideration received or receivable. Revenue is recognised for the major business activities as follows:

Revenue is recognised from the sale of goods and disposal of other assets when the significant risks and rewards of ownership control transfer to the purchaser and can be measured reliably.

Revenue is recognised upon delivery of the service to the client or by reference to the stage of completion of the transaction.

Service appropriations are recognised as revenues at nominal value in the period in which the Commission gains control of the appropriated funds. The Commission gains control of appropriated funds at the time those funds are deposited into the Commission's bank account or credited to the holding account held at the Department of Treasury and Finance. See note 13 'Income from State Government' for further detail.

OFFICE OF THE INFORMATION COMMISSIONER

Notes to the Financial Statements

for the year ended 30 June 2008

The Treasurer may make a determination providing for prescribed receipts to be retained for services under the control of the Commission. In accordance with the determination specified in the 2007-2008 Budget Statements, the Commission retained \$4,398 in 2008 (2007: \$4,345) from the following:

- executive vehicle scheme
- other receipts

Gains

Gains may be realised or unrealised and are usually recognised on a net basis. These include gains arising on the disposal of non-current assets and some revaluations of non-current assets.

(f) Property, Plant and Equipment

Items of property, plant and equipment costing \$1,000 or more are recognised as assets and the cost of utilising assets is expensed (depreciated) over their useful lives. Items of property, plant and equipment costing less than \$1,000 are recognised as an expense in the Income Statement (other than where they form part of a group of similar items which are significant in total).

All items of property, plant and equipment are initially recognised at cost. For items of property, plant and equipment acquired at no cost or for nominal cost, the cost is their fair value at the date of acquisition.

After recognition as an asset, the cost model is used for the measurement of property, plant and equipment. Items of property, plant and equipment are stated at historical cost less accumulated depreciation and accumulated impairment losses. See note 18 'Property, Plant and Equipment'.

All non-current assets having a limited useful life are systematically depreciated over their estimated useful lives in a manner that reflects the consumption of their future economic benefits.

Depreciation is calculated using the straight line method, using rates which are periodically reviewed. Estimated useful lives for each class of depreciable asset are:

Office equipment	2 to 5 years
Computers	2 years

(g) Impairment of Assets

Property, plant and equipment are tested for any indication of impairment at each balance sheet date. Where there is an indication of impairment, the recoverable amount is estimated. Where the recoverable amount is less than the carrying amount, the asset is considered impaired and is written down to the recoverable amount and an impairment loss is recognised. As the Commission is a not-for-profit entity, unless an asset has been identified as a surplus asset, the recoverable amount is the higher of an asset's fair value less cost to sell and depreciated replacement cost.

The risk of impairment is generally limited to circumstances where an asset's depreciation is materially understated, where the replacement cost is falling or where there is a significant change in useful life. Each relevant class of asset is reviewed annually to verify that the accumulated depreciation reflects the level of consumption or expiration of assets' future economic benefits and to evaluate any impairment risk from falling replacement costs.

See note 3(m) 'Receivables' for impairment of receivables.

OFFICE OF THE INFORMATION COMMISSIONER

Notes to the Financial Statements

for the year ended 30 June 2008

(h) Leases

The Commission holds operating leases for buildings and motor vehicles. The lessors effectively retain all of the risks and benefits incidental to ownership of the items held under the operating leases. Lease payments are expensed on a straight line basis over the lease term as this represents the pattern of benefits derived from the leases.

(i) Financial Instruments

In addition to cash and bank overdraft, the Commission has two categories of financial instrument:

- Loans and receivables; and
- Financial liabilities measured at amortised cost.

These have been disaggregated into the following classes:

Financial Assets

- Cash and cash equivalents
- Restricted cash and cash equivalents
- Receivables

Financial Liabilities

- Payables

Initial recognition and measurement of financial instruments is at fair value which normally equates to the transaction cost or the face value. Subsequent measurement is at amortised cost using the effective interest method.

The fair value of short-term receivables and payables is the transaction cost or the face value because there is no interest rate applicable and subsequent measurement is not required as the effect of discounting is not material.

(j) Cash and Cash Equivalents

For the purpose of the Cash Flow Statement, cash and cash equivalents include restricted cash and cash equivalents. These are comprised of cash on hand and short-term deposits with original maturities of three months or less that are readily convertible to a known amount of cash and which are subject to insignificant risk of changes in value.

(k) Accrued Salaries

The accrued salaries suspense account (see note 14 'Restricted Cash and Cash Equivalents') consists of amounts paid annually into a suspense account over a period of ten financial years to largely meet the additional cash outflow in each eleventh year when 27 pay days occur instead of the normal 26. No interest is received on this account. The last pay day in 2007/08 was 26 June, therefore an accrual of 2 days was necessary in this financial year.

Accrued salaries (see note 21 'Other Liabilities') represent the amount due to staff but unpaid at the end of the financial year, as the pay date for the last pay period for that financial year does not coincide with the end of the financial year. Accrued salaries are settled within a fortnight of the financial year end. The Commission considers the carrying amount of accrued salaries to be equivalent to its net fair value.

OFFICE OF THE INFORMATION COMMISSIONER

Notes to the Financial Statements

for the year ended 30 June 2008

(l) Amounts Receivable for Services (Holding Account)

The Commission receives funding on an accrual basis that recognises the full annual cash and non-cash cost of services. The appropriations are paid partly in cash and partly as an asset (Holding Account receivable) that is accessible on the emergence of the cash funding requirement to cover items such as leave entitlements and asset replacement. See also note 13 'Income from State Government' and note 16 'Amounts Receivable for Services'.

(m) Receivables

Receivables are recognised and carried at original invoice amount less an allowance for any uncollectible amounts (i.e. impairment). The collectability of receivables is reviewed on an ongoing basis and any receivables identified as uncollectible are written-off. The allowance for uncollectible amounts (doubtful debts) is raised when there is objective evidence that the Commission will not be able to collect the debts. The carrying amount is equivalent to fair value as it is due for settlement within 30 days. See also note 3(i) 'Financial Instruments' and note 15 'Receivables'.

An allowance for impairment of receivables can only be raised if there is objective evidence of impairment.

(n) Payables

Payables are recognised at the amounts payable when the Commission becomes obliged to make future payments as a result of a purchase of assets or services. The carrying amount is equivalent to fair value, as they are generally settled within 30 days. See also note 3(i) 'Financial Instruments' and note 19 'Payables'.

(o) Provisions

Provisions are liabilities of uncertain timing and/or amount and are recognised where there is a present legal, equitable or constructive obligation as a result of a past event and when the outflow of resources embodying economic benefits is probable and a reliable estimate can be made of the amount of the obligation. Provisions are reviewed at each balance sheet date. See note 20 'Provisions'.

(i) Provisions - Employee Benefits

The liability for annual and long service leave expected to be settled within 12 months after the end of the balance sheet date is recognised and measured at the undiscounted amounts expected to be paid when the liabilities are settled. Leave liabilities are in respect of services provided by employees up to the balance sheet date.

A liability for long service leave is recognised after an employee has completed four years of service. An actuarial assessment of long service leave undertaken by Price Waterhouse Coopers in 2004 determined that the liability measured using the short hand method was not materially different from the liability measured using the present value of expected future payments.

All annual leave and unconditional long service leave provisions are classified as current liabilities as the Commission does not have an unconditional right to defer settlement of the liability for at least 12 months after the balance sheet date.

This method of measurement of the liability is consistent with the requirements of AASB 119 'Employee Benefits'.

Employees may contribute to the Pension Scheme, a defined benefit pension scheme now closed to new members or the Gold State Superannuation (GSS) Scheme, a defined benefit lump sum scheme also closed to new members. Both schemes are administered by the Government Employees Superannuation Board (GESB).

OFFICE OF THE INFORMATION COMMISSIONER

Notes to the Financial Statements*for the year ended 30 June 2008*

The Commission has no liabilities for superannuation charges under the Pension or the GSS Schemes. The liabilities for the unfunded Pension Scheme and the unfunded GSS Scheme transfer benefits due to members who transferred from the Pension Scheme, are assumed by the Treasurer. All other GSS Scheme obligations are funded by concurrent contributions made by the Commission to the GESB. The concurrently funded part of the GSS Scheme is a defined contribution scheme as these contributions extinguish all liabilities in respect of the concurrently funded GSS Scheme obligations.

The GESB makes all benefit payments in respect of the Pension and GSS Schemes, and is recouped by the Treasurer for the employer's share.

Employees commencing employment prior to 16 April 2007 who are not members of either the Pension or the GSS Schemes became non-contributory members of the West State Superannuation (WSS) Scheme. Employees commencing employment on or after 16 April 2007 became members of the GESB Super (GESBS) Scheme. Both of these schemes are accumulation schemes. The Commission makes concurrent contributions to the GESB on behalf of employees in compliance with the Commonwealth Government's Superannuation Guarantee (Administration) Act 1992. The WSS Scheme and the GESBS Scheme are defined contribution schemes as these contributions extinguish all liabilities in respect of the WSS Scheme and the GESBS Scheme.

See also note 3(p) 'Superannuation expense'.

(ii) Provisions - Other

Employment on-costs, including workers' compensation insurance, are not employee benefits and are recognised separately as expenses and liabilities when the employment, to which they relate to, has occurred. Employment on-costs are included as part of 'Other Expenses' and are not included as part of the Commission's 'Employee Benefits Expense'. The related liability is included in 'Employment on-costs provision'. See note 10 'Other Expenses' and note 20 'Provisions'.

(p) Superannuation Expense

The following elements are included in calculating the superannuation expense in the Income Statement:

- Defined benefit plans - Change in the unfunded employer's liability (I. e. current service cost and actuarial gains and losses) assumed by the Treasurer in respect of current employees who are members of the Pension Scheme and current employees who accrued a benefit on transfer from that Scheme to the GSS Scheme
- Defined contribution plans - Employer contributions paid to the GSS (concurrent contributions), the West State Superannuation Scheme (WSS), and the GESB Super Scheme (GESBS).

Defined benefit plans - in order to reflect the true cost of services, the movements (I. e. current service cost and actuarial gains and losses) in the liabilities in respect of the Pension Scheme and the GSS Scheme transfer benefits are recognised as expenses directly in the Income Statement. As these liabilities are assumed by the Treasurer (see note 3(o)), a revenue titled 'Liabilities assumed by the Treasurer' equivalent to the expense is recognised under 'Income from State Government' in the Income Statement. See note 13 'Income from State Government'.

Defined contribution plans - in order to reflect the Commission's true cost of services, the Commission is funded for the equivalent of employer contributions in respect of the GSS Scheme (excluding transfer benefits). These contributions were paid to the GESB during the year and placed in a trust account administered by the GESB on behalf of the Treasurer. The GESB subsequently paid these employer contributions in respect of the GSS Scheme to the Consolidated Account.

OFFICE OF THE INFORMATION COMMISSIONER

Notes to the Financial Statements

for the year ended 30 June 2008

The GSS Scheme is a defined benefit scheme for the purposes of employees and whole-of-government reporting. However, apart from the transfer benefit, it is a defined contribution plan for agency purposes because the concurrent contributions (defined contributions) made by the agency to the GESB extinguish the agency's obligations to the related superannuation liability.

The superannuation expense does not include payment of pensions to retirees, as this does not constitute part of the cost of services provided by the Commission in the current year.

(q) Resources Received Free of Charge

Resources received free of charge that can be reliably measured are recognised as income and as assets or expenses as appropriate, at fair value.

(r) Comparative Figures

Comparative figures are, where appropriate, reclassified to be comparable with the figures presented in the current financial year.

4 Services of the Office of the Information Commissioner

Information about the Commission's services is set out in the Schedule of Income and Expenses by Service.

The services of the Commission are:

Service 1 - Resolution of complaints

Provides an independent review and complaint resolution process which resolves cases in a timely manner and balances the competing needs and expectations of applicants, agencies and Parliament within legislative requirements prescribed by the Freedom of Information Act 1992.

Service 2 - Freedom of Information advice and awareness

Provides objective advice and information to members of the public and staff of agencies to assist in the proper lodgement and processing of applications under the Freedom of Information Act 1992. Proposes initiatives to enhance administrative efficiency in agencies when dealing with applications received.

The Department of the Attorney General provides overall corporate support in respect of human resources and financial services (see note 13 for details of charge).

5 Disclosure of Changes in Accounting Policy and Estimates -

Initial application of an Australian Accounting Standard

The Department has applied the following Australian Accounting Standards and Australian Accounting Interpretations effective for annual reporting periods beginning on or after 1 July 2007 that impacted on the Department:

1. AASB 7 'Financial Instruments: Disclosures' (including consequential amendments in AASB 2005-10 'Amendments to Australian Accounting Standards [AASB 132, AASB 101, AASB 114, AASB 117, AASB 133, AASB 139, AASB 1, AASB 4, AASB 1023 & AASB 1038]'). This Standard requires new disclosures in relation to financial instruments and while there is no financial impact, the changes have resulted in increased disclosures, both quantitative and qualitative, of the Department's exposure to risks, including enhanced disclosure regarding components of the Department's financial position and performance, and changes to the way of presenting certain items in the notes to the financial statements.

OFFICE OF THE INFORMATION COMMISSIONER

Notes to the Financial Statements

for the year ended 30 June 2008

Interpretation 1038 ‘Contributions by Owners Made to Wholly-Owned Public Sector Entities 1 July 2008
The existing requirements in AAS27, AAS 29 and AAS 31 have been transferred to the above new and existing topic-based Standards and Interpretation. These requirements remain substantively unchanged. The new and revised Standards make some modifications to disclosures, otherwise there will be no financial impact.

The following Australian Accounting Standards and Interpretations are not applicable to the Commission as they will have no impact or do not apply to not-for-profit entities:

AASB Standards
and Interpretations

AASB 8	'Operating Segments'
AASB 1049	'Financial Reporting of General Government Sectors by Governments'
AASB 2007-1	'Amendments to Australian Accounting Standards arising from AASB Interpretation 11 [AASB 2]'
AASB 2007-2	'Amendments to Australian Accounting Standards arising from AASB Interpretation 12 [AASB 1, AASB 117, AASB 118, AASB 120, AASB 121, AASB 127, AASB 131 & AASB 139]' - paragraphs 1 to 8
AASB 2007-3	'Amendments to Australian Accounting Standards arising from AASB 8 [AASB 5, AASB 6, AASB 102, AASB 107, AASB 119, AASB 127, AASB 134, AASB 136, AASB 1023 & AASB 1038]'
Interpretation 10	'Interim Financial Reporting and Impairment'
Interpretation 11	'AASB 2 - Group and Treasury Share Transactions'

	2008	2007
	\$	\$
6 Employee Benefits Expense		
Wages and salaries(a)	792,015	747,575
Superannuation – defined contribution plans(b)	98,169	78,313
Superannuation – defined benefit plans(c)(d)	3,289	5,079
Long service leave(e)	48,466	117,228
Annual Leave(e)	-	-
Other related expenses	-	-
	941,939	948,195

- (a) Includes the value of the fringe benefit to the employee plus the fringe benefits tax component.
- (b) Defined contribution plans include West State and Gold State (contributions paid).
- (c) Defined benefit plans include Pension scheme and Gold State (pre-transfer benefit).
- (d) An equivalent notional income is also recognised (see note 13 'Income from State Government')
- (e) Includes a superannuation contribution component.

Employment on-costs such as workers' compensation, insurance are included at Note 10 "Other Expenses".

The employment on-costs liability is included at Note 20 "Provisions".

OFFICE OF THE INFORMATION COMMISSIONER

Notes to the Financial Statements

for the year ended 30 June 2008

7 Supplies and Services

Goods and supplies	32,596	30,430
Services and contracts	152,504	113,155
	<u>185,100</u>	<u>143,585</u>

8 Depreciation Expense

Equipment	14,747	21,910
	<u>14,747</u>	<u>21,910</u>

9 Accommodation Expenses

Building rental operating lease expense	162,532	98,676
	<u>162,532</u>	<u>98,676</u>

10 Other Expenses

Communication expenses	10,613	13,521
Printing and binding	3,274	1,833
Equipment and vehicles operating lease expense	19,433	16,800
Electricity	5,960	4,816
Insurance	-	2,545
Repairs and maintenance	3,807	2,657
Other expenses ^(a)	18,930	19,733
	<u>62,017</u>	<u>61,905</u>

^(a) Includes workers compensation insurance; facilities, equipment and plant hire; bank fees; freight charges; storage and transportation; computing licences; staff travel and accommodation; staff training; and other staff costs.

2008	2007
\$	\$

11 Other Revenue

Contributions to motor vehicles scheme	1,524	1,519
Other revenue	2,874	2,826
	<u>4,398</u>	<u>4,345</u>

12 Net Gain on Disposal of Non-current Assets

<u>Proceeds from Disposal of Non-current Assets</u>		
Equipment	-	-
	<u>-</u>	<u>-</u>

13 Income from State Government

Appropriation received during the year:		
Service appropriations ^(a)	1,368,000	1,246,000
	<u>1,368,000</u>	<u>1,246,000</u>

The following liabilities have been assumed by the Treasurer during the financial year:

- Superannuation ^(b)	3,289	5,079
	<u>3,289</u>	<u>5,079</u>

OFFICE OF THE INFORMATION COMMISSIONER

Notes to the Financial Statements

for the year ended 30 June 2008

Resources received free of charge ^(c)		
Determined on the basis of the following estimates provided by agencies:		
Department of the Attorney General		
- corporate services	56,323	41,682
Department of Housing and Works (Commercial Property Branch)		
- property management services (notional management)	3,246	2,988
	<u>59,569</u>	<u>44,670</u>
	<u>1,430,858</u>	<u>1,295,749</u>

^(a) Service appropriations are accrual amounts reflecting the full cost of services delivered. The appropriation revenue comprises a cash component and a receivable (asset). The receivable (holding account) comprises the depreciation expense for the year and any agreed increase in leave liability during the year.

^(b) The assumption of the superannuation liability by the Treasurer is a notional income to match the notional superannuation expense reported in respect of current employees who are members of the Pension Scheme and current employees who have a transfer benefit entitlement under the GSS Scheme. (The notional superannuation expense is disclosed at note 6 "Employee Benefits Expense".)

^(c) Where assets or services have been received free of charge or for nominal cost, the Commission recognises revenue (except where the contributions of assets or services are in the nature of contributions by owners in which case the Commission shall make a direct adjustment to equity) equivalent to the fair value of the assets and/or the fair value of those services that can be reliably determined and which would have been purchased if not donated, and those fair values shall be recognised as assets or expenses, as applicable.

14 Restricted Cash and Cash Equivalents

Accrued salaries suspense account ^(a)	8,864	5,864
	<u>8,864</u>	<u>5,864</u>

^(a) Amount held in the suspense account is only to be used for the purpose of meeting the 27th pay in a financial year that occurs every 11 years.

15 Receivables

Debtors	-	-
GST receivable	2,775	5,837
	<u>2,775</u>	<u>5,837</u>

16 Amounts Receivable for Services

Current	30,000	33,000
Non-current	-	-
	<u>30,000</u>	<u>33,000</u>

This represents the non-cash component of service appropriations. See note 3(l) 'Amounts Receivable for Services (Holding Account)'. It is restricted in that it can only be used for asset replacement or payment of leave liability.

OFFICE OF THE INFORMATION COMMISSIONER

Notes to the Financial Statements

for the year ended 30 June 2008

	2008	2007
	\$	\$
17 Other Assets		
Prepayments	4,491	5,078
	<u>4,491</u>	<u>5,078</u>
18 Property, Plant and Equipment		
<u>Office equipment and computers</u>		
At cost	197,511	176,695
Accumulated depreciation	(177,566)	(162,820)
	<u>19,945</u>	<u>13,875</u>
<u>Reconciliation</u>		
Reconciliation of the carrying amounts of property, plant and equipment at the beginning and end of the reporting period are set out below.		
Carrying amount at start of year	13,875	33,210
Additions	20,817	2,575
Depreciation	(14,747)	(21,910)
Carrying amount at end of year	<u>19,945</u>	<u>13,875</u>
19 Payables		
Current		
Trade and other creditors	76,425	31,525
Accrued salaries	6,846	3,465
	<u>83,271</u>	<u>34,990</u>
20 Provisions		
<u>Current</u>		
Employee benefits provision		
Annual leave ^(a)	10,470	36,019
Long service leave ^(b)	93,747	129,155
Superannuation on-cost	7,505	17,056
	<u>111,722</u>	<u>182,230</u>
Other provisions: Employment on-costs ^(c)		
Carrying amount at start of year	5,345	4,689
Additional provisions recognised	(4,198)	656
Carrying amount at end of year	<u>1,147</u>	<u>5,345</u>
	<u>112,869</u>	<u>187,575</u>
<u>Non-current</u>		
Employee benefits provision		
Long service leave ^(b)	58,439	73,919
Superannuation on-cost	4,091	7,925
	<u>62,530</u>	<u>81,844</u>
Other provisions: Other employee on-costs ^(c)		
Carrying amount at start of year	2,422	2,222
Additional provisions recognised	(1,773)	200
Carrying amount at end of year	<u>649</u>	<u>2,422</u>
	<u>63,179</u>	<u>84,266</u>

OFFICE OF THE INFORMATION COMMISSIONER

Notes to the Financial Statements

for the year ended 30 June 2008

(a) Annual leave liabilities have been classified as current as there is no unconditional right to defer settlement for at least 12 months after balance sheet date.

(b) Long service leave liabilities have been classified as current where there is no unconditional right to defer settlement for at least 12 months after balance sheet date.

(c) The settlement of annual and long service leave liabilities gives rise to the payment of employment on-costs including workers' compensation insurance. The provision is the present value of expected future payments. The associated expense is included in note 10 'Other expenses'.

2008	2007
\$	\$

21 Equity

Liabilities exceed assets for the Information Commissioner and there is therefore no residual interest in the assets of the Information Commissioner. This deficiency arose through expenses such as depreciation and accrual of employee entitlements for leave not involving the payment of cash in the current period being recognised in the Balance Sheet.

Contributed equity		
Balance at the start of period	25,000	25,000
Capital contributions ^(a)	2,000	-
Balance at end of period	27,000	25,000

(a) Capital contributions (appropriations) have been designated as contributions by owners in Treasurer's Instruction TI 955 'Contributions by Owners Made to Wholly Owned Public Sector Entities' and are credited directly to equity.

Accumulated surplus/(deficit)		
Balance at the start of period	(196,964)	(222,787)
Result for the period	68,921	25,823
Balance at end of period	(128,043)	(196,964)

22 Notes to the Cash Flow Statement

Reconciliation of cash

Cash at the end of the financial year as shown in the Cash Flow Statement is reconciled to the related items in the Balance Sheet as follows:

Cash and cash equivalents	92,201	71,213
Restricted cash and cash equivalents (see note 14)	8,864	5,864
	101,065	77,077

Reconciliation of net cost of services to net cash flows provided by/(used in) operating activities

Net cost of services	(1,361,937)	(1,269,926)
Non-cash items:		
Depreciation expense	14,747	21,910
Superannuation expense	3,289	5,079
Resources received free of charge	59,569	44,670
Net (gain)/loss on sale of equipment	-	-

OFFICE OF THE INFORMATION COMMISSIONER

Notes to the Financial Statements

for the year ended 30 June 2008

(Increase)/decrease in assets:		
Current receivables	-	-
Other current assets	587	(746)
Increase/(decrease) in liabilities:		
Current payables	48,281	(1,635)
Current provisions	(74,706)	24,060
Non-current provisions	(21,087)	6,969
Net change in GST receivables/payables	3,062	(571)
Net cash provided by/(used in) operating activities	<u>(1,328,195)</u>	<u>(1,170,190)</u>

23 Commitments

Commitments in relation to leases contracted for at the reporting date but not recognised as liabilities are payable as follows:

Within 1 year	168,188	139,632
Later than 1 year and not later than 5 years	502,074	527,168
Greater than 5 years	-	8,148
	<u>670,262</u>	<u>674,948</u>
Representing:		
Non-cancellable operating leases	<u>670,262</u>	<u>674,948</u>
	<u>670,262</u>	<u>674,948</u>

24 Explanatory Statement

Significant variations between estimates and actual results for income and expense as presented in the financial statement titled 'Summary of Consolidated Account Appropriations and Income Estimates' are shown below.

Explanations are provided in accordance with TI 945. Significant variations are considered to be those greater than 10% or \$20,000.

(i) Significant variances between estimate and actual for 2008 - total appropriations to deliver services:

Total appropriation to deliver services for the year Under -\$219,000

The original appropriations for 2007/08 as per the budget statements did not include appropriations for office rent, in anticipation of the passage of privacy legislation and changes to the FOI Act, allowing for possible amalgamation of the office with the State Ombudsman. Separate appropriations were applied for, and granted, after the budget was published.

Review and Complaints Under -\$203,545

Expenses were increased this year due to extra salary payments: (a) a secondment to the office and an existing officer increasing their part-time hours while a senior officer was on extended personal leave; (b) the payment to an independent Senior Counsel who was appointed A/Information Commissioner for the purpose of dealing with a specific matter where the current A/Information Commissioner may have been seen to have a conflict of interest; and (c) the long service leave payout to the former A/Information Commissioner.

Advice and Awareness Under \$60,210

Expenses for this service have reduced since the abolition of a level 9 position as 80% of those expenses were allocated to this service.

OFFICE OF THE INFORMATION COMMISSIONER
Notes to the Financial Statements
for the year ended 30 June 2008

(ii) Significant variances between actuals for 2007 and 2008 - total appropriation to deliver services:

Total appropriation to deliver services for the year	Under	-\$121,000
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The Commissioner's tenancy was renewed in July 2007. Accommodation costs were not included in the original appropriations for 2007/08. Extra appropriations were requested and approved to cover this expense.

Advice and Awareness	Under	-\$11,456
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No significant variance.

(iii) Significant variances between estimate and actual for 2008 - Capital Contribution:

No significant variance.

(iv) Significant variances between actuals for 2007 and 2008 - capital contribution:

No significant variance.

25 Financial Instruments

(a) **Financial Risk Management Objectives and Policies**

Financial instruments held by the Commission are cash and cash equivalents, restricted cash and cash equivalents, finance leases, Treasurer's advances and receivables and payables. All of the Commission's cash is held in the public bank account (non-interest bearing) apart from restricted cash held in a special purpose account. The Commission has limited exposure to financial risks. The Commission's overall risk management program focuses on managing the risks identified below.

Credit risk arises when there is the possibility of the Commission's receivables defaulting on their contractual obligations resulting in financial loss to the Commission. The Commission measures credit risk on a fair value basis and monitors risk on a regular basis.

The maximum exposure to credit risk at balance sheet date in relation to each class of recognised financial assets is the gross carrying amount of those assets inclusive of any provisions for impairment, as shown in the table at Note 26(b).

Credit risk associated with the Commission's financial assets is minimal because the main receivable is the amounts receivable for services (holding account). For receivables other than government, the Commission trades only with recognised, creditworthy third parties. The Commission has policies in place to ensure that sales of products and services are made to customers with an appropriate credit history. In addition, receivable balances are monitored on an ongoing basis with the result that the Commission's exposure to bad debts is minimal. There are no significant concentrations of credit risk.

The Commission is not exposed to interest rate risk because it has no borrowings other than a finance lease.

The Commission is exposed to liquidity risk through its trading in the normal course of business. Liquidity risk arises when the Commission is unable to meet its financial obligations as they fall due.

The Commission has appropriate procedures to manage cash flows including drawdowns of appropriations by monitoring forecast cash flows to ensure that sufficient funds are available to meet its commitments.

OFFICE OF THE INFORMATION COMMISSIONER

Notes to the Financial Statements

for the year ended 30 June 2008

The Commission does not trade in foreign currency and is not materially exposed to other price risks. Other than as detailed in the Interest rate sensitivity analysis table at Note 26(b), the Commission is not exposed to interest rate risk because apart from minor amounts of restricted cash, all other cash and cash equivalents and restricted cash are non-interest bearing, and have no borrowings other than the Treasurer's advance (non-interest bearing) and finance leases (fixed interest rate).

(b) Categories of Financial Instruments

In addition to cash and bank overdraft, the carrying amounts of each of the following categories of financial assets and financial liabilities at the balance sheet date are as follows

	2008	2007
	<u>\$</u>	<u>\$</u>
Financial Assets		
Cash and cash equivalents	92,201	71,213
Restricted cash and cash equivalents	8,864	5,864
Loans and receivables(a)	-	-
Financial Liabilities		
Financial liabilities measured at amortised cost	76,424	31,525

(a) The amount of loans and receivables excludes GST recoverable from the ATO (statutory receivable).

(b) Financial Instrument Disclosures

The following table details the exposure to liquidity risk and interest rate risk as at the balance sheet date. The Commission's maximum exposure to credit risk at the balance sheet date is the carrying amount of the financial assets as shown on the following table. The table is based on information provided to senior management of the Commission. The contractual maturity amounts in the table are representative of the undiscounted amounts at the balance sheet date. An adjustment for discounting has been made where material.

The Commission does not hold any collateral as security or other credit enhancements relating to the financial assets it holds.

The Commission does not hold any financial assets that had to have their terms renegotiated that would have otherwise resulted in them being past due or impaired.

OFFICE OF THE INFORMATION COMMISSIONER
Notes to the Financial Statements
for the year ended 30 June 2008

2008	Weighted average interest rate	Variable Interest Rate	Non-Interest Bearing	Within 1 year	1-2 years	2 - 3 years	3 - 4 years	4 - 5 years	Over 5 years	Adjustment for discounting	Total
	%	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Financial assets											
Cash and cash equivalent assets			92,201								92,201
Restricted cash and cash equivalent assets			8,864								8,864
Receivables											-
Loans and advances											-
Amounts receivable for services			30,000								30,000
Total financial assets			131,065	-	-	-	-	-	-	-	131,065
Financial liabilities											
Payables			76,424								76,424
Other borrowings											-
Finance lease liabilities											-
Total financial liabilities			76,424	-	-	-	-	-	-	-	76,424
Net financial asset/(liabilities)			54,641	-	-	-	-	-	-	-	54,641

OFFICE OF THE INFORMATION COMMISSIONER
Notes to the Financial Statements
for the year ended 30 June 2008

2007	Weighted average interest rate %	Variable Interest Rate	Non- Interest Bearing	Within 1 year	1-2 years	2 - 3 years	3 - 4 years	4 - 5 years	Over 5 years	Adjustment for discounting	Total
		\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Financial assets											
Cash and cash equivalent assets			71,213								71,213
Restricted cash and cash equivalent assets			5,864								5,864
Receivables											-
Loans and advances											-
Amounts receivable for services			33,000								33,000
Total financial assets			110,077	-	-	-	-	-	-	-	110,077
Financial liabilities											
Payables			31,525								31,525
Other borrowings											-
Finance lease liabilities											-
Total financial liabilities			31,525	-	-	-	-	-	-	-	31,525
Net financial assets/(liabilities)			78,552	-	-	-	-	-	-	-	78,552

a) The amount of receivables excludes GST recoverable from the ATO (statutory receivable)

The amounts disclosed are the contractual undiscounted cash flows of each class of financial liabilities

OFFICE OF THE INFORMATION COMMISSIONER
Notes to the Financial Statements
for the year ended 30 June 2008

26 Remuneration of Senior Officers

Remuneration

The number of senior officers, whose total of fees, salaries, superannuation, non-monetary benefits and other benefits for the financial year fall within the following bands, are:

\$	2008	2007
140,001 - 150,000		1
160,001 - 170,000		1
170,001 - 180,000	1	
180,001 - 190,000	1	
Total remuneration of senior officers:	\$363,470	\$311,483

The total remuneration includes the superannuation expense incurred by the Commission in respect of senior officers.

No senior officer was a member of the Pension Scheme during the financial year (2007: nil).

27 Remuneration of Auditor

Remuneration payable to the Auditor General for the financial year is as follows:

Auditing the accounts, financial statements and performance indicators	\$19,000	\$17,200
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The expense is included in note 7 'Supplies and services'.

28 Supplementary Financial Information

- . There was no public property written off by the Commission during the financial year (2007: nil).
- . There were no losses of public moneys, public and/or other property through theft, default or other causes during the financial year (2007: nil).
- . There were no gifts of public property provided by the Commission during the financial year (2007: nil).
- There were no contingent liabilities as at 30 June 2008 (2007: nil).
- . There were no events occurring after the balance sheet date (2007: nil).
- . The Commission had no related bodies during the financial year (2007: nil).
- . The Commission had no affiliated bodies during the financial year (2007: nil).

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STATISTICAL TABLES

STATISTICAL TABLES

TABLE 12
REQUESTS RECEIVED BY AGENCIES

AGENCY NAME	No.
Agriculture and Food Western Australia, Department of	17
Albany, City of	10
Albany Port Authority	0
Animal Resources Authority	0
Armadale, City of	5
Armadale Redevelopment Authority	0
Ashburton, Shire of	0
Attorney General, Department of the	38
Augusta-Margaret River, Shire of	0
Bassendean, Town of	3
Bayswater, City of	11
Belmont, City of	8
Beverley, Shire of	0
Boddington, Shire of	0
Botanic Gardens and Park Authority	1
Boyup Brook, Shire of	0
Bridgetown-Greenbushes, Shire of	1
Brookton, Shire of	0
Broome, Shire of	2
Broome Port Authority	0
Broomehill, Shire of	0
Bruce Rock, Shire of	0
Builders' and Painters' Registration Board	0
Building and Construction Industry Training Fund	1
Bunbury, City of	6
Bunbury Port Authority	0
Bunbury Water Board (Aqwest)	0
Burswood Park Board	0
Busselton, Shire of	12
Busselton Water	0
C Y O'Connor College of TAFE	0
C&AHS - Princess Margaret Hospital for Children	142
Cambridge, Town of	6
Canning, City of	11
Capel, Shire of	2
Carnamah, Shire of	0
Carnarvon, Shire of	0
Central West Coast College of TAFE	0
Challenger TAFE	2
Chance MLC, Hon K M	1
Chapman Valley, Shire of	0

AGENCY NAME	No.
Chemistry Centre Western Australia	0
Child Death Review Committee	0
Child Protection, Department for	68
Chittering, Shire of	7
Claremont, Town of	0
Cockburn, City of	9
College of Teaching, Western Australian	1
Collie, Shire of	0
Commissioner for Children and Young People, Office of the	0
Communities, Department for	0
Conservation Commission of Western Australia	0
Consumer and Employment Protection, Department of	655
Coolgardie, Shire of	0
Coorow, Shire of	0
Corrective Services, Department of	373
Corrigin, Shire of	0
Cottesloe, Town of	1
Country High School Hostels Authority, Office of the	0
Cranbrook, Shire of	0
Cuballing, Shire of	1
Culture and the Arts, Department of	2
Cunderdin, Shire of	0
Curriculum Council	0
Curtin University of Technology	12
Dampier Port Authority	1
Dandaragan, Shire of	0
Dardanup, Shire of	0
Denmark, Shire of	16
Dental Health Services	0
Derby-West Kimberley, Shire of	1
Disability Services Commission	11
Donnybrook-Balingup, Shire of	3
Dowerin, Shire of	0
Drug and Alcohol Office	0
Dumbleyung, Shire of	0
East Fremantle, Town of	1
East Perth Redevelopment Authority	3
East Pilbara, Shire of	3
Economic Regulation Authority	0
Edith Cowan University	11
Education and Training, Department of	61
Education Services, Department of	4

STATISTICAL TABLES continued**REQUESTS RECEIVED BY AGENCIES (cont...)**

AGENCY NAME	No.
Electoral Commission, Western Australian	0
Ellery MLC, Hon S M	2
Energy, Office of	7
Environment and Conservation, Department of	239
Equal Opportunity Commission	2
Esperance, Shire of	0
Esperance Port Authority	1
Exmouth, Shire of	1
Fire and Emergency Services Authority of Western Australia	63
Fisheries, Department of	9
Ford JP MLC, Hon J R	4
Forest Products Commission	0
Fremantle, City of	18
Fremantle Port Authority	2
Gascoyne Development Commission	0
Geraldton Port Authority	1
Geraldton-Greenough, City of	1
Gingin, Shire of	4
Gnowangerup, Shire of	0
Gold Corporation	1
Goldfields Esperance Development Commission	0
Goomalling, Shire of	0
Gosnells, City of	15
Government Employees Superannuation Board	1
Great Southern Development Commission	1
Great Southern TAFE	0
Greyhound Racing Association, Western Australian	0
Hairdressers Registration Board	0
Harvey, Shire of	6
Health, Department of	66
Health Promotion Foundation WA	0
Health Review, Office of	5
Heritage Council of Western Australia	1
Horizon Power	6
Housing and Works, Department of	84
Independent Market Operator	0
Indigenous Affairs, Department of	3
Industrial Relations Commission, Office of the Registrar	0
Industry and Resources, Department of	106
Insurance Commission of Western Australia	80
Irwin, Shire of	0
Jerramungup, Shire of	0

AGENCY NAME	No.
Joondalup, City of	47
Joondalup Health Campus	286
Kalamunda, Shire of	31
Kalgoorlie-Boulder, City of	6
Katanning, Shire of	0
Kellerberrin, Shire of	0
Kent, Shire of	0
Kimberley College of TAFE	2
Kimberley Development Commission	0
Kobelke MLA, Hon J C	3
Kojonup, Shire of	1
Kondinin, Shire of	0
Koorda, Shire of	0
Kwinana, Town of	2
Lake Grace, Shire of	0
Land Authority (LandCorp), Western Australian	10
Landgate	14
Law Reform Commission	0
Legal Aid Western Australia	6
Legal Practice Board, The	0
Legal Practitioners Complaints Committee, The	8
Leonora, Shire of	0
Local Government and Regional Development, Department of	8
Logan MLA, Hon F M	10
Lotteries Commission	1
MacTiernan MLA, Hon A	19
Main Roads Western Australia	32
Mandurah, City of	37
Manjimup, Shire of	8
McGinty BA MLA, Hon J A	22
McGowan MLA, Hon M	8
McHale MLA, Hon S M	6
Meat Industry Authority, Western Australian	0
Medical Board of Western Australia	19
Meekatharra, Shire of	0
Melville, City of	19
Menzies, Shire of	0
Merredin, Shire of	0
Metropolitan Cemeteries Board	1
Mid West Development Commission	0
Midland Redevelopment Authority	0
Minerals and Energy Research Institute of Western Australia	0

STATISTICAL TABLES continued

REQUESTS RECEIVED BY AGENCIES (cont...)

AGENCY NAME	No.
Mingenew, Shire of	0
Moora, Shire of	0
Morawa, Shire of	0
Mosman Park, Town of	4
Mt. Magnet, Shire of	0
Mukinbudin, Shire of	0
Mullewa, Shire of	0
Mundaring, Shire of	11
Murchison, Shire of	0
Murray, Shire of	13
Nannup, Shire of	0
Narembeen, Shire of	0
Narrogin, Shire of	0
Narrogin, Town of	1
National Trust of Australia (WA)	1
Nedlands, City of	9
NMAHS - Graylands Selby-Lemnos and Special Care Health Services	192
NMAHS - Osborne Park Hospital	45
NMAHS - Sir Charles Gairdner Hospital	961
NMAHS - Swan Kalamunda Health Service	213
NMAHS - Women's and Newborn Health Service	60
Northam, Shire of	0
Northampton, Shire of	0
Nurses and Midwives Board of Western Australia	0
PathWest Laboratory Medicine WA	10
Peel Development Commission	0
Peppermint Grove, Shire of	1
Perth, City of	12
Perth Market Authority	0
Pharmaceutical Council of Western Australia, The	0
Pilbara College of TAFE	0
Pilbara Development Commission	0
Planning and Infrastructure, Department for	244
Plantagenet, Shire of	0
Police Force of Western Australia	1,696
Port Hedland, Town of	3
Port Hedland Port Authority	0
Potato Marketing Corporation of Western Australia	0
Premier and Cabinet, Department of the	59
Psychologists Registration Board of WA	2
Public Advocate, Office of the	2
Public Sector Standards Commissioner, Office of the	5

AGENCY NAME	No.
Public Transport Authority	12
Public Trust Office	3
Quairading, Shire of	0
Quirk MLA, Hon M M	2
Racing and Wagering Western Australia	1
Racing, Gaming and Liquor, Department of	12
Ravensthorpe, Shire of	0
Ravlich MLC, Hon L	4
Ripper MLA, Hon E S	6
Roberts MLA, Hon M H	2
Rockingham, City of	10
Roebourne, Shire of	1
Rottneest Island Authority	3
Salaries and Allowances Tribunal	1
Sandstone, Shire of	0
Serpentine-Jarrahdale, Shire of	13
Shark Bay, Shire of	0
SMAH - Armadale-Kelmscott Memorial Hospital	243
SMAH - Bentley Hospital	124
SMAH - Fremantle Hospital	661
SMAH - Rockingham-Kwinana District Hospital	218
SMAH - Royal Perth Hospital	1,468
Small Business Development Corporation	1
South Perth, City of	7
South West Development Commission	1
South West Regional College of TAFE	0
Sport & Recreation, Department of	3
Sports Centre Trust	0
State Administrative Tribunal	6
State Supply Commission	0
Stirling, City of	33
Subiaco, City of	7
Subiaco Redevelopment Authority	2
Swan, City of	28
Swan TAFE	0
Synergy	2
Tambellup, Shire of	0
Tammin, Shire of	0
Templeman MLA, Hon D A	5
Three Springs, Shire of	0
Toodyay, Shire of	5

STATISTICAL TABLES continued**REQUESTS RECEIVED BY AGENCIES (cont...)**

AGENCY NAME	No.
Tourism Commission Western Australia	4
Trayning, Shire of	0
Treasury and Finance, Department of	24
Treasury Corporation, Western Australian	0
University of Western Australia, The	8
Upper Gascoyne, Shire of	0
Verve Energy	2
Victoria Park, Town of	9
Victoria Plains, Shire of	0
Vincent, Town of	4
WACHS - Goldfields	402
WACHS - Great Southern	126
WACHS - Kimberley	457
WACHS - Midwest	104
WACHS - Pilbara	55
WACHS - South West	228
WACHS - Wheatbelt	255
Wanneroo, City of	24
Waroona, Shire of	0
Water, Department of	186
Water Corporation	24
West Arthur, Shire of	0
West Coast College TAFE	4
Western Power	30
Wheatbelt Development Commission	0
Williams, Shire of	0
Wiluna, Shire of	0
Woodanilling, Shire of	0
Workers' Compensation & Rehabilitation Commission (WorkCover)	15
Wyalkatchem, Shire of	0
Wyndham-East Kimberley, Shire of	3
Yalgoo, Shire of	0
Yilgarn, Shire of	0
York, Shire of	3
Zoological Parks Authority	2
Total	11,255

Notes:

- (1) This table reflects the total number of applications lodged and includes applications which may have been transferred to another agency, withdrawn or which are still to be dealt with.
- (2) The number actually dealt with by a decision issued to the applicant is reflected in the following table.
- (3) If an agency does not appear in this table, this is because the required statistical data was not received in time for publication.

TABLE 13
DECISIONS MADE—OUTCOME

Agency	Access In Full No. (%)	Edited Access No. (%)	Access Deferred No. (%)	Access s.28 No. (%)	Access Refused No. (%)
Agriculture and Food Western Australia, Department of	4(30.8)	6(46.2)	0(0.0)	0(0.0)	3(23.1)
Albany, City of	8(80.0)	2(20.0)	0(0.0)	0(0.0)	0(0.0)
Armadale, City of	0(0.0)	2(50.0)	0(0.0)	0(0.0)	2(50.0)
Attorney General, Department of the	3(12.5)	3(12.5)	0(0.0)	0(0.0)	18(75.0)
Bassendean, Town of	2(66.7)	0(0.0)	0(0.0)	0(0.0)	1(33.3)
Bayswater, City of	4(36.4)	5(45.5)	0(0.0)	0(0.0)	2(18.2)
Belmont, City of	1(14.3)	6(85.7)	0(0.0)	0(0.0)	0(0.0)
Botanic Gardens and Park Authority	0(0.0)	1(100.0)	0(0.0)	0(0.0)	0(0.0)
Bridgetown-Greenbushes, Shire of	1(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Broome, Shire of	1(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Bunbury, City of	6(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Busselton, Shire of	7(63.6)	4(36.4)	0(0.0)	0(0.0)	0(0.0)
C&AHS - Princess Margaret Hospital for Children	107(76.4)	1(15.0)	0(0.0)	0(0.0)	12(8.6)
Cambridge, Town of	1(16.7)	3(50.0)	0(0.0)	0(0.0)	2(33.3)
Canning, City of	4(40.0)	6(60.0)	0(0.0)	0(0.0)	0(0.0)
Capel, Shire of	1(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Challenger TAFE	0(0.0)	0(0.0)	0(0.0)	0(0.0)	2(100.0)
Chance MLC, Hon K M	0(0.0)	1(100)	0(0.0)	0(0.0)	0(0.0)
Child Death Review Committee	0(0.0)	0(0.0)	0(0.0)	0(0.0)	1(100.0)
Child Protection, Department for	0(0.0)	16(69.6)	0(0.0)	0(0.0)	7(30.4)
Chittering, Shire of	7(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Claremont, Town of	4(50.0)	4(50.0)	0(0.0)	0(0.0)	0(0.0)
Cockburn, City of	5(55.6)	3(33.3)	0(0.0)	0(0.0)	1(11.1)
Consumer and Employment Protection, Department of	72(11.6)	264(42.6)	0(0.0)	0(0.0)	283(45.7)
Corrective Services, Department of	235(71.2)	54(16.4)	1(0.3)	0(0.0)	40(12.1)
Cottesloe, Town of	1(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Cuballing, Shire of	0(0.0)	1(100.0)	0(0.0)	0(0.0)	0(0.0)
Culture and the Arts, Department of	2(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Curtin University of Technology	3(37.5)	4(50.0)	0(0.0)	0(0.0)	1(12.5)
Denmark, Shire of	1(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Derby-West Kimberley, Shire of	1(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Disability Services Commission	2(25.0)	2(25.0)	0(0.0)	0(0.0)	4(50.0)
East Perth Redevelopment Authority	0(0.0)	2(100.0)	0(0.0)	0(0.0)	0(0.0)
East Pilbara, Shire of	3(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Edith Cowan University	1(14.3)	5(71.4)	0(0.0)	0(0.0)	1(14.3)
Education and Training, Department of	16(38.1)	25(59.5)	0(0.0)	0(0.0)	1(2.4)
Education Services, Department of	0(0.0)	3(100.0)	0(0.0)	0(0.0)	0(0.0)
Ellery MLC, Hon S M	1(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Energy, Office of	0(0.0)	3(100.0)	0(0.0)	0(0.0)	0(0.0)
Environment and Conservation, Department of	7(3.1)	62(27.3)	1(0.4)	0(0.0)	157(69.2)

Note: Excludes applications that were withdrawn

STATISTICAL TABLES continued
DECISIONS MADE—OUTCOME (cont...)

Agency	Access In Full	Edited Access	Access Deferred	Access s.28	Access Refused
Equal Opportunity Commission	1(50.0)	1(50.0)	0(0.0)	0(0.0)	0(0.0)
Fire and Emergency Services Authority of WA	7(12.7)	47(85.5)	0(0.0)	0(0.0)	1(1.8)
Fisheries, Department of	2(22.2)	3(33.3)	0(0.0)	0(0.0)	4(44.4)
Ford MLC, Hon J R	0(0.0)	1(100.0)	0(0.0)	0(0.0)	0(0.0)
Fremantle, City of	2(11.8)	12(70.6)	0(0.0)	0(0.0)	3(17.6)
Fremantle Port Authority	1(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Geraldton Port Authority	1(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Geraldton-Greenough, City of	1(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Gingin, Shire of	3(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Gnowangerup, Shire of	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Gold Corporation	1(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Gosnells, City of	4(28.6)	10(71.4)	0(0.0)	0(0.0)	0(0.0)
Government Employees Superannuation Board	0(0.0)	0(0.0)	0(0.0)	0(0.0)	1(100.0)
Great Southern Development Commission	1(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Harvey, Shire of	3(75.0)	0(0.0)	0(0.0)	0(0.0)	1(25.0)
Health, Department of	16(30.8)	16(30.8)	0(0.0)	0(0.0)	20(38.5)
Health Review, Office of	3(60.0)	2(40.0)	0(0.0)	0(0.0)	0(0.0)
Heritage Council of Western Australia	0(0.0)	1(100.0)	0(0.0)	0(0.0)	0(0.0)
Horizon Power	5(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Housing and Works, Department of	17(22.7)	54(72.0)	0(0.0)	0(0.0)	4(5.3)
Indigenous Affairs, Department of	0(0.0)	3(100.0)	0(0.0)	0(0.0)	0(0.0)
Industry and Resources, Department of	4(4.1)	76(77.6)	0(0.0)	0(0.0)	18(18.4)
Insurance Commission of Western Australia	7(10.3)	56(82.4)	0(0.0)	0(0.0)	5(7.4)
Joondalup, City of	9(19.6)	29(63.0)	0(0.0)	0(0.0)	8(17.4)
Joondalup Health Campus	109(38.7)	166(58.9)	6(2.1)	0(0.0)	1(0.4)
Kalamunda, Shire of	4(13.8)	22(75.9)	0(0.0)	0(0.0)	3(10.3)
Kalgoorlie-Boulder, City of	6(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Kimberley College of TAFE	1(50.0)	0(0.0)	0(0.0)	0(0.0)	1(50.0)
Kobelke MLA, Hon J C	1(50.0)	0(0.0)	0(0.0)	0(0.0)	1(50.0)
Kojonup, Shire of	1(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Kwinana, Town of	0(0.0)	1(100.0)	0(0.0)	0(0.0)	0(0.0)
Land Authority (LandCorp), Western Australian	6(75.0)	0(0.0)	0(0.0)	0(0.0)	2(25.0)
Landgate	8(72.7)	1(9.1)	0(0.0)	0(0.0)	2(18.2)
Legal Aid Western Australia	4(80.0)	1(20.0)	0(0.0)	0(0.0)	0(0.0)
Legal Practitioners Complaints Committee, The	1(20.0)	3(60.0)	0(0.0)	0(0.0)	1(20.0)
Local Government and Regional Development,	2(28.6)	5(71.4)	0(0.0)	0(0.0)	0(0.0)
Logan MLA, Hon F M	4(80.0)	0(0.0)	0(0.0)	0(0.0)	1(20.0)
Lotteries Commission	1(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
MacTiernan MLA, Hon A	4(25.0)	11(68.8)	0(0.0)	0(0.0)	1(6.3)
Main Roads Western Australia	13(44.8)	16(55.2)	0(0.0)	0(0.0)	0(0.0)
Mandurah, City of	11(35.5)	19(61.3)	0(0.0)	0(0.0)	1(3.2)
Manjimup, Shire of	1(12.5)	6(75.0)	0(0.0)	0(0.0)	1(12.5)
McGinty MLA, Hon J A	4(25.0)	8(50.0)	0(0.0)	0(0.0)	4(25.0)

STATISTICAL TABLES continued

Agency	Access In Full	Edited Access	Access Deferred	Access s.28	Access Refused
McGowan MLA, Hon M	1(12.5)	4(50.0)	0(0.0)	0(0.0)	3(37.5)
McHale MLA, Hon S M	3(75.0)	0(0.0)	1(25.0)	0(0.0)	0(0.0)
Medical Board of Western Australia	2(11.8)	11(64.7)	0(0.0)	0(0.0)	4(23.5)
Melville, City of	5(26.3)	11(57.9)	0(0.0)	0(0.0)	3(15.8)
Metropolitan Cemeteries Board	0(0.0)	0(0.0)	0(0.0)	0(0.0)	1(100.0)
Mosman Park, Town of	0(0.0)	4(100.0)	0(0.0)	0(0.0)	0(0.0)
Mundaring, Shire of	3(27.3)	5(45.5)	0(0.0)	0(0.0)	3(27.3)
Murray, Shire of	1(10.0)	9(90.0)	0(0.0)	0(0.0)	0(0.0)
National Trust of Australia (WA)	0(0.0)	1(100.0)	0(0.0)	0(0.0)	0(0.0)
Nedlands, City of	2(22.2)	5(55.6)	0(0.0)	0(0.0)	2(22.2)
NMAHS - Graylands Selby-Lemnos and Special Care Health Services	34(18.2)	143(76.5)	1(0.5)	1(0.5)	8(4.3)
NMAHS - Osborne Park Hospital	41(93.2)	0(0.0)	0(0.0)	1(2.3)	2(4.5)
NMAHS - Sir Charles Gairdner Hospital	868	20(2.2)	1(0.1)	1(0.1)	2(0.2)
NMAHS - Swan Kalamunda Health Service	156	49(22.7)	0(0.0)	1(0.5)	10(4.6)
NMAHS - Women's and Newborn Health Service	51(91.1)	2(3.6)	0(0.0)	0(0.0)	3(5.4)
PathWest Laboratory Medicine WA	10(90.9)	0(0.0)	0(0.0)	0(0.0)	1(9.1)
Peppermint Grove, Shire of	1(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Perth, City of	1(8.3)	11(91.7)	0(0.0)	0(0.0)	0(0.0)
Planning and Infrastructure, Department for	30(16.1)	114(61.3)	3(1.6)	0(0.0)	39(21.0)
Plantagenet, Shire of	0(0.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Police Force of Western Australia	136(9.6)	1188	4(0.3)	0(0.0)	87(6.1)
Port Hedland, Town of	2(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Premier and Cabinet, Department of the	19(33.3)	16(28.1)	0(0.0)	0(0.0)	22(38.6)
Psychologists Registration Board of WA	0(0.0)	0(0.0)	0(0.0)	0(0.0)	1(100.0)
Public Advocate, Office of the	0(0.0)	1(50.0)	0(0.0)	0(0.0)	1(50.0)
Public Sector Standards Commissioner, Office of the	5(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Public Transport Authority	4(36.4)	5(45.5)	0(0.0)	0(0.0)	2(18.2)
Public Trust Office	0(0.0)	1(100.0)	0(0.0)	0(0.0)	0(0.0)
Quirk MLA, Hon M M	1(50.0)	1(50.0)	0(0.0)	0(0.0)	0(0.0)
Racing and Wagering Western Australia	0(0.0)	1(100.0)	0(0.0)	0(0.0)	0(0.0)
Racing, Gaming and Liquor, Department of	0(0.0)	11(100.0)	0(0.0)	0(0.0)	0(0.0)
Ravlich MLC, Hon L	1(25.0)	1(25.0)	0(0.0)	0(0.0)	2(50.0)
Ripper MLA, Hon E S	3(75.0)	1(25.0)	0(0.0)	0(0.0)	0(0.0)
Roberts MLA, Hon M H	1(50.0)	1(50.0)	0(0.0)	0(0.0)	0(0.0)
Rockingham, City of	9(90.0)	0(0.0)	0(0.0)	0(0.0)	1(10.0)
Roebourne, Shire of	1(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Rottneest Island Authority	2(66.7)	1(33.3)	0(0.0)	0(0.0)	0(0.0)
Salaries and Allowances Tribunal	1(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Serpentine-Jarrahdale, Shire of	4(28.6)	9(64.3)	0(0.0)	0(0.0)	1(7.1)
SMAH - Armadale-Kelmscott Memorial Hospital	228	3(1.3)	0(0.0)	1(0.4)	1(0.4)
SMAH - Bentley Hospital	44(38.9)	59(52.2)	4(3.5)	3(2.7)	3(2.7)

STATISTICAL TABLES continued
DECISIONS MADE—OUTCOME (cont...)

Agency	Access In Full	Edited Access	Access Deferred	Access s.28	Access Refused
SMAH - Fremantle Hospital	589(91.9)	46(7.2)	0(0.0)	1(0.2)	5(0.8)
SMAH - Rockingham-Kwinana District Hospital	196(93.8)	11(5.3)	0(0.0)	0(0.0)	2(1.0)
SMAH - Royal Perth Hospital	1332(96.0)	50(3.6)	0(0.0)	0(0.0)	6(0.4)
Small Business Development Corporation	1(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
South Perth, City of	3(75.0)	1(25.0)	0(0.0)	0(0.0)	0(0.0)
South West Development Commission	1(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Sport & Recreation, Department of	1(50.0)	1(50.0)	0(0.0)	0(0.0)	0(0.0)
State Administrative Tribunal	0(0.0)	0(0.0)	0(0.0)	0(0.0)	6(100.0)
Stirling, City of	12(48.0)	8(32.0)	0(0.0)	0(0.0)	5(20.0)
Subiaco, City of	4(57.1)	1(14.3)	0(0.0)	0(0.0)	2(28.6)
Subiaco Redevelopment Authority	0(0.0)	0(0.0)	0(0.0)	0(0.0)	1(100.0)
Swan, City of	3(10.7)	24(85.7)	0(0.0)	0(0.0)	1(3.6)
Synergy	0(0.0)	1(50.0)	0(0.0)	0(0.0)	1(50.0)
Templeman MLA, Hon D A	0(0.0)	4(100.0)	0(0.0)	0(0.0)	0(0.0)
Toodyay, Shire of	0(0.0)	6(100.0)	0(0.0)	0(0.0)	0(0.0)
Tourism Commission Western Australia	2(50.0)	2(50.0)	0(0.0)	0(0.0)	0(0.0)
Treasury and Finance, Department of	8(42.1)	10(52.6)	0(0.0)	0(0.0)	1(5.3)
University of Western Australia, The	1(16.7)	5(83.3)	0(0.0)	0(0.0)	0(0.0)
Victoria Park, Town of	4(50.0)	1(12.5)	0(0.0)	0(0.0)	3(37.5)
Vincent, Town of	1(25.0)	3(75.0)	0(0.0)	0(0.0)	0(0.0)
WACHS - Goldfields	388(96.5)	0(0.0)	0(0.0)	0(0.0)	14(3.5)
WACHS - Great Southern	98(86.0)	4(3.5)	0(0.0)	0(0.0)	12(10.5)
WACHS - Midwest	100(98.0)	0(0.0)	0(0.0)	1(1.0)	1(1.0)
WACHS - Pilbara	56(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
WACHS - South West	226(98.7)	0(0.0)	0(0.0)	0(0.0)	3(1.3)
WACHS - Wheatbelt	184(92.0)	12(6.0)	0(0.0)	0(0.0)	4(2.0)
Wanneroo, City of	1(4.8)	15(71.4)	0(0.0)	0(0.0)	5(23.8)
Water, Department of	1(0.5)	10(4.9)	0(0.0)	0(0.0)	193
Water Corporation	19(76.0)	4(16.0)	0(0.0)	0(0.0)	2(8.0)
West Coast College TAFE	0(0.0)	3(75.0)	0(0.0)	0(0.0)	1(25.0)
Western Power	18(64.3)	6(21.4)	0(0.0)	3(10.7)	1(3.6)
Workers' Compensation & Rehabilitation Commission (WorkCover)	9(75.0)	2(16.7)	0(0.0)	0(0.0)	1(8.3)
Wyndham-East Kimberley, Shire of	2(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
York, Shire of	0(0.0)	2(66.7)	0(0.0)	0(0.0)	1(33.3)
Zoological Parks Authority	2(100.0)	0(0.0)	0(0.0)	0(0.0)	0(0.0)
Total	5712	2998	22	13	1095
Percentage	58.1%	30.5%	0.2%	0.1%	11.1%
Grand Total	9840				

TABLE 14
NUMBER OF TIMES EXEMPTION CLAUSES WERE USED BY AGENCIES

Agency	CLAUSE NUMBER OF EXEMPTION (Schedule 1 of the Act)															
	1	2	3	4	4A	5	6	7	8	9	10	11	12	13	14	15
	Agriculture and Food Western Australia, Department of	0	0	6	2	0	0	0	1	0	0	0	0	0	0	0
Armadale, City of	0	0	3	0	0	1	0	0	0	0	0	0	0	0	0	0
Attorney General, Department of the	0	0	1	0	0	0	2	2	0	0	0	0	0	0	0	0
Bassendean, Town of	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0
Bayswater, City of	0	0	4	1	0	2	0	0	0	0	0	0	0	0	0	0
Belmont, City of	0	0	1	0	0	3	0	2	1	0	0	0	0	0	0	0
Botanic Gardens and Park Authority	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0
Busseton, Shire of	0	0	4	0	0	0	0	0	0	0	0	0	0	0	0	0
C&AHS - Princess Margaret Hospital for Children	0	0	13	0	0	0	0	0	0	0	0	0	0	0	0	0
Cambridge, Town of	0	0	2	1	0	1	0	0	1	0	0	0	0	0	0	0
Canning, City of	0	0	6	0	0	0	0	1	0	0	0	0	0	0	0	0
Challenger TAFE	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0
Chance MLC, Hon K M	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0
Child Protection, Department for	0	0	20	0	0	7	0	1	0	0	0	0	0	0	0	0
Claremont, Town of	0	0	0	0	0	0	1	3	0	0	0	0	0	0	0	0
Cockburn, City of	0	0	3	0	0	0	0	0	1	0	0	0	0	0	0	0
Consumer and Employment Protection, Department of	0	0	249	7	0	3	0	20	0	0	0	0	0	0	0	0
Corrective Services, Department of	2	0	41	1	0	10	16	0	0	0	0	17	0	0	0	0
Cuballing, Shire of	0	0	1	0	0	0	0	0	1	0	0	0	0	0	0	0
Curtin University of Technology	0	0	6	6	0	0	4	0	6	0	0	5	0	0	0	0
Disability Services Commission	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0
Donnybrook-Balingup, Shire of	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
East Perth Redevelopment Authority	1	0	1	1	0	0	2	0	0	0	1	0	0	0	0	0
Edith Cowan University	0	0	5	1	0	0	0	0	0	0	0	0	0	0	0	0
Education and Training, Department of	2	0	24	0	0	0	1	1	0	0	0	0	0	0	0	0
Education Services, Department of	0	0	0	3	0	0	0	0	0	0	0	0	0	0	0	0
Energy, Office of	2	0	0	1	0	0	1	0	0	0	0	0	0	0	0	0
Environment and Conservation, Department of	0	0	56	0	0	2	2	1	0	0	0	0	0	0	0	0
Equal Opportunity Commission	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0
Fire and Emergency Services Authority of Western Australia	0	0	47	6	0	0	2	0	0	0	0	1	0	0	0	0
Fisheries, Department of	0	0	6	3	0	0	1	2	0	0	0	1	0	0	0	0
Fremantle, City of	0	0	11	2	0	2	0	2	0	0	0	0	0	0	0	0
Gosnells, City of	0	0	10	1	0	0	0	0	0	0	0	0	0	0	0	0
Health, Department of	0	1	16	1	0	1	0	2	1	0	0	1	0	0	0	0
Heritage Council of Western Australia	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
Housing and Works, Department of	0	0	51	6	0	0	3	2	0	0	1	0	0	0	0	0
Indigenous Affairs, Department of	0	0	3	1	0	0	0	0	0	0	0	0	0	0	0	0
Industry and Resources, Department of	3	0	58	21	0	0	2	15	4	0	2	0	0	0	0	0

Note: Agencies which did not cite exemptions are omitted.

STATISTICAL TABLES continued

NUMBER OF TIMES EXEMPTION CLAUSES WERE USED BY AGENCIES (cont...)

Agency	CLAUSE NUMBER OF EXEMPTION (Schedule 1 of the Act)															
	1	2	3	4	4A	5	6	7	8	9	10	11	12	13	14	15
Insurance Commission of Western Australia	0	0	56	1	0	0	3	17	0	0	0	0	0	0	0	0
Joondalup, City of	0	0	30	6	0	1	2	6	1	0	1	0	0	0	0	0
Kalamunda, Shire of	0	0	22	0	0	1	3	1	0	0	0	0	0	0	0	0
Kimberley College of TAFE	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
Kwinana, Town of	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
Landgate	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
Legal Aid Western Australia	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
Legal Practitioners Complaints Committee, The	0	0	0	0	0	0	0	4	0	0	0	0	0	0	0	0
Local Government and Regional Development, Department of	0	0	5	0	0	0	0	1	0	0	0	0	0	0	0	0
MacTiernan MLA, Hon A	2	0	11	0	0	0	1	3	0	0	1	0	0	0	0	0
Main Roads Western Australia	1	0	9	4	0	0	2	6	3	0	5	0	1	0	0	0
Mandurah, City of	0	0	17	3	0	3	0	1	1	0	0	0	0	0	0	0
Manjimup, Shire of	0	0	6	0	0	0	0	0	0	0	0	0	0	0	0	0
McGinty MLA, Hon J A	5	0	8	0	0	0	3	3	1	0	0	0	0	0	0	0
McGowan MLA, Hon M	4	0	4	0	0	0	1	0	0	0	0	0	0	0	0	0
Medical Board of Western Australia	0	0	6	2	0	9	11	7	5	0	0	0	0	0	0	0
Melville, City of	0	0	11	0	0	0	0	1	0	0	0	0	0	0	0	0
Mosman Park, Town of	0	0	4	0	0	0	0	0	0	0	0	0	0	0	0	0
Mundaring, Shire of	0	0	4	0	0	0	1	0	0	0	0	0	0	0	0	0
National Trust of Australia (WA)	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0
Nedlands, City of	0	0	7	0	0	1	0	0	0	0	0	0	0	0	0	0
NMAHS - Graylands Selby-Lemnos and Special Care Health Services	0	0	142	0	0	0	0	0	10	0	0	4	0	0	0	0
NMAHS - Sir Charles Gairdner Hospital	0	0	18	0	0	0	0	0	3	0	0	0	0	0	0	0
NMAHS - Swan Kalamunda Health Service	0	0	48	0	0	1	0	0	0	0	0	0	0	0	0	0
NMAHS - Women's and Newborn Health Service	0	0	2	0	0	1	0	0	0	0	0	0	0	0	0	0
PathWest Laboratory Medicine WA	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0
Perth, City of	0	0	12	5	0	0	0	0	0	0	0	0	0	0	0	0
Planning and Infrastructure, Department for	0	0	129	5	0	0	3	2	1	0	0	0	0	0	0	0
Police Force of Western Australia	1	1	1013	2	0	19	2	0	0	0	1	4	2	0	0	0
Premier and Cabinet, Department of the	11	0	14	3	0	0	7	6	0	0	0	0	0	0	0	0
Psychologists Registration Board of WA	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0
Public Advocate, Office of the	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0
Public Transport Authority	0	0	5	1	0	0	0	0	1	0	0	0	0	0	0	0
Public Trust Office	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
Quirk MLA, Hon M M	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Racing and Wagering Western Australia	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0
Racing, Gaming and Liquor, Department of	1	0	8	2	0	4	1	0	0	0	0	0	0	0	0	0
Ravlich MLC, Hon L	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Agency	CLAUSE NUMBER OF EXEMPTION (Schedule 1 of the Act)															
	1	2	3	4	4A	5	6	7	8	9	10	11	12	13	14	15
Ripper MLA, Hon E S	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0
Roberts MLA, Hon M H	0	0	1	1	0	0	1	0	0	0	0	0	0	0	0	0
Rottneest Island Authority	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0
Serpentine-Jarrahdale, Shire of	0	0	7	3	0	0	1	2	0	0	0	0	0	0	0	0
SMAH - Armadale-Kelmscott Memorial Hospital	0	0	3	0	0	0	0	0	0	0	0	0	0	0	0	0
SMAH - Bentley Hospital	0	0	61	0	0	4	0	0	0	0	0	0	0	0	0	0
SMAH - Fremantle Hospital	0	0	46	0	0	0	0	0	1	0	0	0	0	0	0	0
SMAH - Rockingham-Kwinana District Hospital	0	0	10	0	0	0	0	0	1	0	0	0	0	0	0	0
SMAH - Royal Perth Hospital	0	0	46	1	0	2	0	1	20	0	0	0	0	0	0	0
South Perth, City of	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	0
Sport & Recreation, Department of	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
State Administrative Tribunal	0	0	0	0	0	6	0	0	0	0	0	0	0	0	0	0
Stirling, City of	0	0	10	10	0	2	0	2	1	0	0	0	0	0	0	0
Subiaco, City of	0	0	0	2	0	0	1	0	0	0	1	0	0	0	0	0
Swan, City of	0	0	23	5	5	2	6	2	1	0	0	0	0	0	1	0
Synergy	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0
Templeman MLA, Hon D A	0	0	4	0	0	0	0	0	0	0	0	0	0	0	0	0
Tourism Commission Western Australia	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0
Treasury and Finance, Department of	2	0	6	1	0	0	2	2	1	0	0	0	0	0	0	0
University of Western Australia, The	0	0	5	0	0	0	0	2	0	0	0	0	0	0	0	0
Victoria Park, Town of	0	0	2	0	0	0	0	1	0	0	0	0	0	0	0	0
Vincent, Town of	0	0	3	0	0	0	0	0	0	0	0	0	0	0	0	0
WACHS - Great Southern	0	0	3	0	0	0	0	0	0	0	0	0	0	0	0	0
Wanneroo, City of	0	0	15	1	0	1	0	1	0	0	0	0	0	0	0	0
Water, Department of	0	0	10	0	0	0	0	0	0	0	0	0	0	0	0	0
Water Corporation	0	0	5	0	0	0	1	0	0	0	0	0	0	0	0	0
West Coast College TAFE	0	0	3	0	0	0	1	0	1	0	0	0	0	0	0	0
Western Power	1	0	7	3	0	0	1	3	1	2	1	1	0	0	0	0
Workers' Compensation & Rehabilitation Commission (WorkCover)	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0
York, Shire of	0	0	3	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	40	2	2530	131	5	90	94	131	70	2	14	34	4	0	1	0

Note: Agencies which did not cite exemptions are omitted.

TABLE 15
OUTCOME OF REQUESTS FOR INTERNAL REVIEW

Agency	OUTCOME				
	Requests Received	Decision Confirmed	Decision Varied	Decision Reversed	Withdrawn
Agriculture and Food Western Australia, Department of	3	3	0	0	0
Armadale, City of	1	1	0	0	0
Attorney General, Department of the	1	1	0	0	0
Bassendean, Town of	1	1	0	0	0
Bayswater, City of	1	0	0	1	0
Belmont, City of	1	1	0	0	0
Broome, Shire of	1	1	0	0	0
Busselton, Shire of	3	1	2	0	0
C&AHS - Princess Margaret Hospital for Children	3	0	3	0	0
Cambridge, Town of	1	0	1	0	0
Chance MLC, Hon K M	1	0	0	0	1
Child Protection, Department for	2	1	1	0	0
College of Teaching, Western Australian	1	0	0	0	0
Consumer and Employment Protection, Department of	7	3	4	0	0
Corrective Services, Department of	3	2	1	0	0
Curtin University of Technology	5	2	3	0	0
Disability Services Commission	1	1	0	0	0
Edith Cowan University	4	4	0	0	0
Education and Training, Department of	2	1	1	0	0
Education Services, Department of	3	3	0	0	0
Energy, Office of	1	0	1	0	0
Environment and Conservation, Department of	6	4	1	1	0
Fire and Emergency Services Authority of Western Australia	1	0	1	0	0
Fisheries, Department of	2	1	1	0	0
Fremantle, City of	1	1	0	0	0
Gold Corporation	0	1	0	0	0
Harvey, Shire of	1	1	0	0	0
Health, Department of	5	2	3	0	0
Housing and Works, Department of	7	5	2	0	0
Indigenous Affairs, Department of	1	1	0	0	0
Industry and Resources, Department of	24	18	5	0	1
Insurance Commission of Western Australia	2	1	1	0	0
Joondalup, City of	4	4	0	0	0
Kalamunda, Shire of	5	4	1	0	0
Kimberley College of TAFE	1	1	0	0	0
Land Authority (LandCorp), Western Australian	2	2	0	0	0
Landgate	1	1	0	0	0
Legal Aid Western Australia	2	1	1	0	0
Legal Practice Board, The	1	0	0	0	1

STATISTICAL TABLES continued

Agency	OUTCOME				
	Requests Received	Decision Confirmed	Decision Varied	Decision Reversed	Withdrawn
Legal Practitioners Complaints Committee, The	3	1	2	0	0
Local Government and Regional Development, Department of	2	1	0	0	0
MacTiernan MLA, Hon A	1	0	1	0	0
Main Roads Western Australia	2	1	1	0	0
Mandurah, City of	2	1	1	0	0
Manjimup, Shire of	2	2	0	0	0
McGinty MLA, Hon J A	5	2	1	0	2
Medical Board of Western Australia	3	3	0	0	0
Metropolitan Cemeteries Board	1	0	1	0	0
Murray, Shire of	1	1	0	0	0
Narrogin, Town of	1	0	0	0	0
National Trust of Australia (WA)	1	1	0	0	0
Nedlands, City of	3	3	0	0	0
NMAHS - Graylands Selby-Lemnos & Special Care Health Services	6	1	4	1	0
NMAHS - Swan Kalamunda Health Service	2	0	2	0	0
NMAHS - Women's and Newborn Health Service	1	0	1	0	0
Perth, City of	1	0	1	0	0
Planning and Infrastructure, Department for	8	4	3	0	1
Police Force of Western Australia	24	19	2	0	3
Premier and Cabinet, Department of the	8	2	4	1	1
Psychologists Registration Board of WA	1	1	0	0	0
Racing and Wagering Western Australia	1	1	0	0	0
Racing, Gaming and Liquor, Department of	2	1	1	0	0
Roberts MLA, Hon M H	1	1	0	0	0
Rottneest Island Authority	1	1	0	0	0
Serpentine-Jarrahdale, Shire of	2	2	0	0	0
SMAH - Armadale-Kelmscott Memorial Hospital	1	0	0	1	0
SMAH - Bentley Hospital	3	2	1	0	0
SMAH - Royal Perth Hospital	2	2	0	0	0
South Perth, City of	2	1	1	0	0
State Administrative Tribunal	1	1	0	0	0
Stirling, City of	5	4	1	0	0
Subiaco, City of	1	1	0	0	0
Swan, City of	2	2	0	0	0
Treasury and Finance, Department of	4	3	1	0	0
Wanneroo, City of	1	1	0	0	0
Water, Department of	2	1	1	0	0
Water Corporation	1	0	0	1	0
West Coast College TAFE	1	1	0	0	0
Western Power	3	0	0	0	0
Total	226	142	63	6	10

**TABLE 16
REQUESTS FOR AMENDMENT OF PERSONAL INFORMATION**

Agency	Received	Amended	Not Amended	Amended (but not as Requested)	Withdrawn
Edith Cowan University	3	1	2	0	0
Legal Practitioners Complaints Committee, The	2	0	1	1	0
NMAHS - Graylands Selby-Lemnos and Special Care Health Services	1	1	0	0	0
NMAHS - Sir Charles Gairdner Hospital	1	1	0	0	0
Planning and Infrastructure, Department for	1	0	0	1	0
SMAH - Bentley Hospital	1	0	0	1	0
SMAH - Royal Perth Hospital	1	0	0	1	0
Total	10	3	3	4	0

**TABLE 17
INTERNAL REVIEW RE: AMENDMENT OF PERSONAL INFORMATION**

Agency	Applications	Confirmed	Varied	Reversed	Withdrawn
Edith Cowan University	1	1	0	0	0
Belmont, City of	1	0	0	1	0
Legal Practitioners Complaints Committee, The	1	1	0	0	0
SMAH - Bentley Hospital	1	1	0	0	0
Child Protection, Department for	1	1	0	0	0
Total	5	4	0	1	0

**TABLE 18
FEES AND CHARGES CALCULATED BY AGENCIES**

Agency	Application Fees Collected	AMOUNT OF CHARGES	
		Collected	Reduced or Waived
Agriculture and Food Western Australia, Department of	330.00		
Albany, City of	300.00	285.00	
Armadale, City of	120.00	820.00	
Attorney General, Department of the	270.00		
Bassendean, Town of	60.00		30.00
Bayswater, City of	300.00		345.80
Belmont, City of	240.00		
Botanic Gardens and Park Authority	30.00		
Bridgetown-Greenbushes, Shire of	22.50		
Broome, Shire of	30.00		
Building and Construction Industry Training Fund	30.00		
Bunbury, City of	180.00	210.00	63.00
Busselton, Shire of	360.00	476.40	
C&AHS - Princess Margaret Hospital for Children	120.00	450.00	
Cambridge, Town of	180.00	18.80	
Canning, City of	330.00	245.50	
Capel, Shire of	60.00	69.00	
Challenger TAFE	30.00	75.00	
Chance MLC, Hon K M	30.00		
Child Protection, Department for	720.00		
Chittering, Shire of	210.00	916.00	
Cockburn, City of	270.00	285.00	220.00
Consumer and Employment Protection, Department of	18142.50	2909.92	2580.47
Corrective Services, Department of	390.00	515.00	515.00
Cottesloe, Town of	30.00		
Cuballing, Shire of	30.00		
Culture and the Arts, Department of	30.00		30.00
Curtin University of Technology	120.00		
Dampier Port Authority	30.00		
Denmark, Shire of	30.00	40.00	
Derby-West Kimberley, Shire of	30.00		
Disability Services Commission	30.00		
East Fremantle, Town of	30.00		
East Perth Redevelopment Authority	90.00		
East Pilbara, Shire of	140.00		
Edith Cowan University	90.00	165.00	
Education and Training, Department of	1560.00		
Education Services, Department of	120.00	120.00	
Ellery MLC, Hon S M	30.00		

STATISTICAL TABLES continued
FEES AND CHARGES CALCULATED BY AGENCIES (cont...)

Agency	Application Fees Collected	AMOUNT OF CHARGES	
		Collected	Reduced or Waived
Energy, Office of	150.00		
Environment and Conservation, Department of	6900.00		
Esperance Port Authority	30.00		
Exmouth, Shire of	30.00		
Fire and Emergency Services Authority of Western Australia	1890.00	861.20	32.08
Fisheries, Department of	240.00		
Fremantle, City of	540.00	112.00	196.40
Fremantle Port Authority	30.00		
Geraldton-Greenough, City of	30.00		
Gingin, Shire of	60.00	120.00	
Gold Corporation	30.00		
Gosnells, City of	420.00	627.00	200.00
Great Southern Development Commission	30.00		
Harvey, Shire of	180.00	256.40	
Health, Department of	1620.00	282.00	
Heritage Council of Western Australia	30.00		
Horizon Power	360.00		
Housing and Works, Department of	810.00	1635.30	
Indigenous Affairs, Department of	120.00		
Industry and Resources, Department of	2340.00	1737.60	
Insurance Commission of Western Australia	180.00		
Joondalup, City of	810.00		
Joondalup Health Campus	1500.00	771.00	
Kalamunda, Shire of	930.00	1021.00	
Kalgoorlie-Boulder, City of	180.00		
Kimberley College of TAFE	30.00		
Kobelke MLA, Hon J C	90.00		
Kojonup, Shire of	30.00		
Kwinana, Town of	60.00	74.40	
Land Authority (LandCorp), Western Australian	270.00		
Landgate	390.00	105.55	22.50
Legal Practitioners Complaints Committee, The	180.00		30.00
Local Government and Regional Development, Department of	210.00		
Logan MLA, Hon F M	300.00		
MacTiernan MLA, Hon A	570.00		
Main Roads Western Australia	900.00	390.00	275.00
Mandurah, City of	1020.00	1558.50	102.35
Manjimup, Shire of	240.00	499.40	
McGinty MLA, Hon J A	540.00		

Agency	Application Fees Collected	AMOUNT OF CHARGES	
		Collected	Reduced or Waived
McGowan MLA, Hon M	150.00		
McHale MLA, Hon S M	90.00		
Medical Board of Western Australia	570.00	205.50	30.50
Melville, City of	570.00	60.00	82.80
Metropolitan Cemeteries Board	30.00		
Mosman Park, Town of	120.00	574.40	
Mundaring, Shire of	300.00		
Murray, Shire of	390.00	251.00	
Narrogin, Town of		82.00	
National Trust of Australia (WA)	30.00		
Nedlands, City of	240.00		
NMAHS - Graylands Selby-Lemnos and Special Care Health Services	120.00		
NMAHS - Sir Charles Gairdner Hospital	2280.00	2995.10	
NMAHS - Swan Kalamunda Health Service	60.00		
NMAHS - Women's and Newborn Health Service	180.00	25.00	
Peppermint Grove, Shire of	30.00		
Perth, City of	360.00	889.65	36.40
Planning and Infrastructure, Department for	7051.00		
Police Force of Western Australia	44880.00	30994.00	
Port Hedland, Town of	60.00		
Premier and Cabinet, Department of the	1530.00		
Psychologists Registration Board of WA	60.00		
Public Advocate, Office of the	60.00		
Public Transport Authority	270.00	158.00	
Public Trust Office	30.00		60.00
Quirk MLA, Hon M M	60.00		
Racing, Gaming and Liquor, Department of	360.00		
Ravlich MLC, Hon L	120.00	120.00	
Ripper MLA, Hon E S	180.00		
Roberts MLA, Hon M H	60.00		
Rockingham, City of	270.00		
Roebourne, Shire of	30.00		
Rottneest Island Authority	90.00		
Salaries and Allowances Tribunal	30.00	30.00	
Serpentine-Jarrahdale, Shire of	390.00	2192.00	
SMAH - Armadale-Kelmscott Memorial Hospital	210.00		
SMAH - Fremantle Hospital	210.00	453.20	
SMAH - Royal Perth Hospital	270.00		
Small Business Development Corporation			30.00
South Perth, City of	210.00	85.00	129.00
South West Development Commission	30.00		
Stirling, City of	840.00	569.00	

STATISTICAL TABLES continued
FEES AND CHARGES CALCULATED BY AGENCIES (cont...)

Agency	Application Fees Collected	AMOUNT OF CHARGES	
		Collected	Reduced or Waived
Subiaco, City of	210.00	253.00	
Subiaco Redevelopment Authority	60.00		
Swan, City of	840.00	3271.50	727.10
Synergy	30.00		
Templeman MLA, Hon D A	150.00		
Toodyay, Shire of	60.00		
Tourism Commission Western Australia	120.00		
Treasury and Finance, Department of	570.00		
University of Western Australia, The	60.00		
Verve Energy	60.00		
Victoria Park, Town of	210.00		
Vincent, Town of	120.00		
WACHS - Great Southern	30.00	30.36	60.00
WACHS - South West	30.00		
WACHS - Wheatbelt	30.00		
Wanneroo, City of	840.00	1229.00	120.00
Water, Department of	6240.00	2017.00	
Water Corporation	720.00	229.00	
West Coast College TAFE	30.00		
Western Power	660.00		
Wyndham-East Kimberley, Shire of	90.00		
York, Shire of	90.00		25.00
Total	123,486	64,366	5943.

Note: Agencies which did not collect application fees or impose charges are omitted.

**TABLE 19
REASONS FOR REDUCTION OF CHARGES**

Reasons for Reduction	No.	(%)
Impecunious	12	2.52%
Pensioner	6	1.26%
Other	459	96.22%
Total	477	100.00%

HEALTH REVIEW REPORT

OFFICE OF THE INFORMATION COMMISSIONER

REPORT ON MATTERS RELATING TO THE APPROPRIATENESS AND ADEQUACY OF THE FOI PROCESSES OF THE DEPARTMENT OF HEALTH AS DETAILED IN THE CORRUPTION AND CRIME COMMISSION'S "*REPORT ON THE INVESTIGATION OF ALLEGED MISCONDUCT CONCERNING DR NEALE FONG, DIRECTOR GENERAL OF THE DEPARTMENT OF HEALTH*", DATED 25 JANUARY 2008.

26 August 2008

1. INTRODUCTION

1.1 Background

On 25 January 2008, the Corruption and Crime Commission ('the CCC') tabled its *"Report on the Investigation of Alleged Misconduct Concerning Dr Neale Fong, Director General of the Department of Health"* ('the Report') in Parliament. The CCC made five recommendations. Recommendation 4 said:

"The Commission recommends that matters relating to the appropriateness and adequacy of the FOI processes and record-handling of the Department of Health, as detailed in this report, be referred to the Office of the Information Commissioner and State Records Commission."

Section 63(2) of the *Freedom of Information Act 1992* ('the FOI Act') provides that the functions of the Information Commissioner include:

"(d) ensuring that agencies are aware of their responsibilities under this Act".

Section 64 of the FOI Act provides that the Information Commissioner has power to do all things that are necessary or convenient to be done for or in connection with the performance of the Commissioner's functions.

The A/Information Commissioner, John Lightowlers, drafted the criteria for review of the appropriateness and adequacy of the FOI processes of the Department of Health. Those criteria were accepted by the A/Director General of Health, Dr Peter Flett (see Appendix 1). No change was requested or made to the draft criteria. Dr Flett undertook to provide all information and assistance needed to respond to the review. It is acknowledged that staff of the Department of Health were fully cooperative and provided constructive input to the review.

1.2 Department of Health

The Department of Health ('the Department') is responsible for the administration of the State's public health system and employs about 1,400 FTEs (and about 26,000 FTEs across the public health system). According to the Department's annual report the Department administers 43 Acts and 98 sets of subsidiary legislation, and carries accountability and compliance obligations in relation to a number of whole of government statutes, including the FOI Act.

Applications under the FOI Act for access to records held by the Department are generally not made to the Department's head office in Royal Street Perth but directly to the relevant hospital or health service. By contrast, the Department's head office deals with comparatively few applications: its statistical return to the Office of the Information Commissioner for 2006/2007 reported 65 FOI access applications: 60% of which related to non-personal information. Over the same period, the hospitals and health services in Western Australia reported that they had received 5,828 access applications. The low amount of application fees and charges collected by the Department suggests that the vast majority of those access applications sought personal information, for example patients' own medical records.

While it may be merely coincidental, the Department's 2006/07 annual report dropped any mention of its obligations under the FOI Act (nor for that matter did the annual report identify other key whole of government statutory accountability requirements impacting the Department's activities). In previous annual reports the Department included a component on its compliance with FOI.

1.3 The access application

As noted on pp.13-14 of the Report, on 28 March 2007, Mr John Kime, the Chief of Staff to the Hon. Paul Omodei, then Leader of the Opposition ('the Applicant'), applied under

the FOI Act to the Department as follows:

“In accordance with the Western Australian Freedom of Information Act I wish to apply for copies of the following records:

- 1. Any correspondence, electronic or otherwise, pertaining to any matter, to Mr Julian Grill from Dr Neale Fong (or his office) during his time as Director General of the Department of Health and also during his previous positions as the Executive Chairman of the Health Reform Implementation Taskforce and the Chief Executive of the North Metropolitan Area Health Service;*
- 2. Any correspondence, electronic or otherwise, pertaining to any matter, from Mr Julian Grill to Dr Neale Fong (or his office) during his time as Director General of the Department of Health and also during his previous positions as the Executive Chairman of the Health Reform Implementation Taskforce and the Chief Executive of the North Metropolitan Area Health Service;*
- 3. Any correspondence, electronic or otherwise, pertaining to any matter, to Mr Brian Bourke from Dr Neale Fong (or his office) during his time as Director General of the Department of Health and also during his previous positions as the Executive Chairman of the Health Reform Implementation Taskforce and the Chief Executive of the North Metropolitan Area Health Service;*
- 4. Any correspondence, electronic or otherwise, pertaining to any matter, from Mr Brian Bourke to Dr Neale Fong (or his office) during his time as Director General of the Department of Health and also during his previous positions as the Executive Chairman of the Health Reform Implementation Taskforce and the Chief Executive of the North Metropolitan Area Health Service.*

This request includes any record or part of any record, any reproduction, files, computer printouts, plans, briefing notes, compact discs, digital versatile discs, photographs, tape”.(sic)

In effect, the period covered was from 2 August 2004 to 28 March 2007, the date of the Application.

1.4 The FOI statutory process

In brief, the FOI Act requires that –

- An access applicant must apply in writing for access to documents to the agency that holds, or is likely to hold, the documents sought.
- The agency – in practice, the agency's FOI Coordinator – locates the documents and makes a decision with respect to them, within the “permitted period” (45 calendar days).
- The applicant is given a written notice of decision which gives details of whether access is granted or the reasons for refusing access on the basis, for example, that the documents are exempt.
- An applicant who is aggrieved with the decision has the right to apply for an internal review conducted by the agency.
- The internal review must be conducted by another person who is not subordinate to the person who made the initial decision.
- The review must be conducted within 15 days and the applicant is given a notice of decision. The internal reviewer can decide to confirm, vary or reverse the decision under review.
- An applicant who is aggrieved with the internal review decision has the right to apply to the Information Commissioner for external review of that decision.

Relevant sections of the FOI Act

Section 10 of the FOI Act gives the public a right to apply for access to documents held by government agencies. A person's right to apply is not affected by any reasons the person has for wishing to obtain access, or the agency's belief as to what those reasons for applying might be.

Section 4 provides that agencies are to give effect to the FOI Act in a way that assists the public to obtain access to documents and

that allows access to documents to be obtained promptly and at the lowest reasonable cost.

Section 100 provides that decisions made under the FOI Act are to be made by:

- (a) the principal officer of the agency; or
- (b) an officer of the agency directed by the principal officer of the agency for that purpose, either generally or in a particular case.

Schedule 1 lists 15 categories of records which may be exempt from access under the FOI Act.

2. SCOPE AND METHODOLOGY

This review deals with the way that the Department handled the Application under the FOI Act focusing on the adequacy and appropriateness of those FOI processes.

The methodology of this review included:

- interviewing the officers who dealt with the Application;
- reviewing the Department's FOI file maintained in respect of the Application;
- considering the notices of decision given by the Department to the Applicant;
- examining the Department's policies concerning retention of emails;
- obtaining further information from the Department on its FOI processes; and
- considering the CCC's Report.

Following consultation between the A/Information Commissioner and the A/Director General of Health on the terms of reference for the review, arrangements were made to interview the officers of the Department involved in dealing with the Application. All relevant officers of the Department cooperated fully with the review and responded openly to questions put to them.

A number of meetings were held between staff from the Office of the Information Commissioner and 15 staff of the Department (see Appendix 2). The meetings took place at the Department from 11 April 2008 - 20 May 2008. Each Department officer was asked to describe as accurately as possible his or her role and involvement with the Application.

The information provided at the meetings included, among other things, information concerning the Department's record-keeping systems; the types of documents kept; the officers' understanding of FOI processes; and their obligations in relation to those processes.

3. THE DEPARTMENT'S HANDLING OF THE APPLICATION

3.1 The initial searches

At the time that the Department received the Application, its FOI Coordinator, an experienced FOI officer, had been seconded out of the Department to an acting position elsewhere. Consequently, another Level 5 officer, who had limited experience of the FOI process, was acting in the role of FOI Coordinator.

On 2 April 2007, following receipt of the Application, the A/FOI Coordinator began the FOI process by sending a written request to staff in the Department's Records section for any documents falling within the scope of the Application. Another email - attaching a copy of the Application - was sent by the A/FOI Coordinator to the Manager, Director General Support ('Manager, DGS') asking that she commence the necessary searches for the email records held by the Director General. The Manager, DGS, is in charge of the Office of the Director General, and supports the Director General by maintaining his appointment diary and following up any necessary action as directed.

Staff advised that to contact the Director General the protocol within the Department was that requests had to go through the Manager, DGS.

In the course of that process, on 11 April 2007, the A/FOI Coordinator sought advice from the Department's Legal and Legislative Services section.

The Manager, DGS referred the request to those staff in the Office of the Director General that had access to the Director General's email system to conduct the necessary searches.

The staff of the Director General's executive office searched the Director General's personal computer for relevant emails, and found none. No search was, at this point, requested or undertaken of the Department's archives. Nor apparently at this stage was the Department's Information Technology service consulted as to possible areas for further searches.

As noted on page 14 of the Report, on 16 April 2007, a member of the Director General's executive staff contacted the A/FOI Coordinator by email and said "... we are fairly sure there will be no documents that fall within the scope of the application" and further "...Neale is sure there won't be any relevant documents".

On 27 April 2007, another member of the Director General's staff contacted the A/FOI Coordinator stating "...very happy to say that our response is 'NIL' ... we are not aware of any corres to or from Neale to either of these people".

On 3 May 2007, the A/FOI Coordinator contacted the FOI Coordinator who was on secondment elsewhere and sought advice in relation to searches. He responded in an email as follows:

"The FOI Act requires a diligent effort when searching for records including emails for FOI purposes. Emails are problematic because a lot of people delete their email records. To me a diligent effort is requesting the email author to advise if relevant email records exist and if they do then making arrangement to retrieve those records. In the past this has been

undertaken by the author or an assistant on their behalf. (I have never personally experienced problems in this area). If the author advises that the relevant records do not exist that should be sufficient to conclude the search unless there are issues of deceit or misconduct etc. Then senior management advice should be sought as to how to discharge the agency's responsibilities under FOI. The agency is legally required to make a full and diligent search for any relevant records. Seeking the services of the IT Department would be relevant if the author was unco-operative or obstructive and relevant emails clearly existed. This is a grey area because then management authority would have to be forthcoming to use IT assistance ..."

3.2 The first Notice of Decision

On 4 May 2007, the A/FOI Coordinator provided the Applicant with a Notice of Decision that said:

"All reasonable steps have been taken to locate documents which fit within the scope of your application. None have been found. I am satisfied that the documents do not exist as documents of the Department of Health WA or Health Reform Implementation Taskforce.

Under Section 26 of the FOI Act, when a document cannot be found, access is not possible and is deemed to be a decision to refuse access.

You have the right to have this decision reviewed. Details of the review process are enclosed."

At that stage, the Department had taken 38 days to process the Application, which was within the permitted period of 45 days.

3.3 The appointment of an internal review decision-maker

On 21 May 2007, the Applicant applied to the Department for internal review of its decision.

Under the FOI Act, the Department had 15 days in which to deal with that internal review. Since the Department did not have standing designated officers to conduct internal reviews, its Legal and Legislative Services section approached the Department's Business Unit requesting that an officer from that section be appointed to conduct the internal review.

Telephone advice was sought on 24 May 2007 by the Legal and Legislative Services section from Ms Grace Grandia, Advisory/Projects Officer of the Office of the Information Commissioner with regard to the requirements of the FOI Act related to the appointment of an internal reviewer. The then A/Executive Director, Health System Support; the Manager, Business Unit, Health System Support; the A/Director and the Senior Legal Advisor of the Legal and Legislative Services section subsequently discussed the matter and agreed to appoint a Level 7 Senior Policy Officer from the Business Unit to conduct the internal review. The officer chosen to conduct the review had no previous experience of the FOI process, but was senior in level to the initial decision-maker, although she did not have direct line authority over the initial decision-maker.

On 28 May 2007, six days after the Applicant had lodged the internal review application, the Internal Reviewer was notified of her appointment, by email, by the A/Chief Information Officer, Health Information Division.

3.4 The searches made on internal review

The appointed Internal Reviewer sought to ensure that she had an understanding of what was required by seeking advice from the Department's Legal and Legislative Services.

Legal and Legislative Services provided advice to several Departmental officers, including a copy to the Internal Reviewer, by email on 7 June 2007 – which said:

"The Freedom of Information Act defines document to include electronic documents.

The use of Western Australian Government Health Sector computing and communication resources to send and receive email renders any e-mail a government record.

As government records, such emails are legally searchable, subject to record keeping policy, Privacy and Freedom of Information legislation and, are subject to the provisions of the Public Sector Management Act and the Western Australian Public Sector Code of Ethics."

The Internal Reviewer then ascertained what documents had been requested and what searches had been undertaken to locate the documents. Again, because of the requirement to adhere to the Department's protocol, all communication with the Director General was made through the Manager, DGS.

The Internal Reviewer identified that archived records had not been searched during the process leading to the initial FOI decision, and asked the Department's Information Technology section ('IT') to undertake a search. On 29 May 2007, she met with the Manager, Information Strategy and the Manager, Information Technology to ask about the process for searching for electronic correspondence. She was advised of the difficulties in terms of time and resources in undertaking a search of the Department's electronic database.

On the same day, the Manager of the Information Technology section advised the A/Chief Information Officer, Health Information Division, of the request made by the Internal Reviewer and asked for direction. On 6 June 2007, the Internal Reviewer contacted the Applicant requesting a reduction in the scope of the Application and an extension of time until 13 June 2007 for the Department to deal with the internal review. The Applicant agreed.

On 8 June 2007, the search of the email archives was initiated by the Email Administrator, Information Technology. On 11 June 2007, the nine 'logs and headers' were discovered as a result of that search, although no content was located for any of those emails.

On 12 June 2007, the IT staff undertook further searches but they were unable to recover the content of the emails. On the same day, the A/Chief Information Officer, Health Information Division, contacted the Applicant seeking a further extension of time to 20 June 2007, in order to finalise the searches. The Applicant notified the Internal Reviewer of his agreement to that further extension.

On 13 June 2007, the IT staff notified the Director General's executive staff that the contents of the emails identified in the logs could not be recovered. However, on the same day the Internal Reviewer contacted the A/Chief Information Officer, Health Information Division to find out whether IT had completed the searches of the System and was informed that they would be finished "by next Wednesday" 20 June 2007. I understand from the interviews with the Director General's Executive staff that the A/Chief Information Officer, Health Information Division contacted the Director General direct to discuss the process that found the nine logs and headers and the processes to try and locate any further emails.

On 19 June 2007, the A/Chief Information Officer, Health Information Division, sent the Internal Reviewer an email advising:

"We have the results of the FOI search. The DG is going to discuss with MFH and then I will be advised. Once that has occurred I will advise you and the letter and results can be sent. Can you ensure that legal advice is sought on the response letter"

The Director General informed the office of the Minister for Health of the status of the FOI search. In the circumstances of this

case, it was appropriate for the Director General to brief the Minister.

On 19 June 2007, the Senior Legal Officer emailed the Manager, DGS – and copied the email to a number of officers including the Internal Reviewer – advising, as follows:

"Just confirming my advice in our phone conversation of yesterday that third party consultation with the parties identified in the documents needs to take place asap. If you could confirm that the DG is aware of this that would be great."

Over the period 13 to 20 June 2007, there were numerous email communications between officers which were copied to others to be 'kept in the loop'. An email dated 19 June 2007, from the Manager, DGS to the Internal Reviewer and copied to another senior officer stated:

"Following advice from Legal regarding consultation on third parties mentioned on the emails, can you please ask Omodei's office if they:

- 1. want the information as is with third party names blanked out. OR*
- 2. if they want the names we will need to conduct third party consultation for which we will need an extension.*

If they want the info as is with names blanked out we will provide this late in the afternoon."

On 20 June 2007, the Internal Reviewer contacted the Applicant to ask whether he wanted unedited access – which would require consultation with third parties and necessitate a further extension of time – or whether he would accept access to the emails in edited form. The Applicant advised the Department by telephone the same day that access in edited form would be acceptable.

3.5 The Notice of Decision on internal review

On 20 June 2007, the Internal Reviewer gave the Applicant a Notice of Decision that varied the initial decision and advised, as follows:

“In reviewing your request the following searches were carried out:

1. *Mail log – all incoming and outgoing mail from the Director General’s Office.*
2. *TRIM (the Agency’s Record Management System) database.*
3. *Ministerial and Parliamentary correspondence database.*

The only documents found which fall within the scope of your access application were found in the search of the agency’s electronic backup tapes.

The detailed search of this agency’s electronic email backup tapes resulted in nine partial emails being found. I advise that this agency’s backup tapes do not store complete electronic copies of all emails sent and received by this agency. Rather, the backup tapes only store parts of those emails. Accordingly, this agency has only been able to recover parts of the various emails falling with the scope of the access application.”

The Applicant was given a schedule listing the nine emails and was advised that certain ‘personal information’ in those emails constituted exempt matter under clause 3(1) of Schedule 1 to the FOI Act and that personal information had been deleted as agreed with the Applicant.

The Notice of Decision on Internal Review was issued within the extended time agreed by the Applicant and the Department.

4. EMAILS AS ‘DOCUMENTS’ FOR THE PURPOSES OF THE FOI ACT

4.1 Meaning of ‘document’

Clause 1 of the Glossary to the FOI Act defines “document” to mean -

- “(a) any record;*
- (a) any part of a record;*
- (b) any copy, reproduction or duplicate of a record; or*
- (c) any part of a copy, reproduction or duplicate of a record;”*

and “record” to mean any record of information however recorded and on which there is writing, and includes the following -

- “(a) any paper or other material, including affixed papers on which there is writing;*
- (b) any map, plan, diagram or graph;*
- (c) any drawing, pictorial or graphic work, or photograph;*
- (d) any paper or other material on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them;*
- (e) any article or material from which sounds, images or writing can be reproduced whether or not with the aid of some other article or device;*
- (f) any article on which information has been stored or recorded, either mechanically, magnetically or electronically.”*

Clause 4 of the Glossary defines “documents of an agency” to mean: *“...a reference to a document of an agency is a reference to a document in the possession or under the control of the agency including a document to which the agency is entitled to access and a document that is in the possession or under the control of an officer of the agency in his or her capacity as such an officer.”*

The question of what constitutes a ‘document’ for the purposes of the FOI Act - and in particular whether an email is a document - arose as an issue within the

Department in the course of responding to this FOI application.

4.2 Background: the Department's electronic record keeping system

The Report at pages 15-16 sets out the background to the retention of electronic documents by the Department. In 2004, the State Records Office ('the SRO') approved the Department's Record Keeping Plan ('the Plan') and associated policies, pursuant to the *State Records Act 2000* ('the SR Act'). The Plan requires the Department to have an electronic records management system to capture, store and manage electronic and hard copy records. The Report notes, at page 16:

"The DOH has an electronic record keeping system called 'TRIM' that electronically captures all incoming records that pass through the DOH central mail office, although the full functionality of TRIM was not deployed due to its complex user interface. Internal memos and outgoing communications are not captured and it is not the current practice at DOH that emails deemed to be Departmental Records are captured in TRIM.

The DOH's Records Policy and Procedures 2004 requires the recipient of emails to determine their value as a record and if necessary print and place a copy on file. In the case of a Senior Manager this can be delegated to a subordinate. An email is deemed a record if it records "what happened, what was decided, what advice was given, who was involved, when it happened and the order of events" in regard to DOH matters. Where messages are of a personal nature, such as lunch appointments, they are considered to be ephemeral in nature and do not need to be saved.

The SR Act, and the DOH's Records Policy & Procedures 2004, requires that emails which are considered records of

business activity must be saved into a proper record keeping system. Furthermore it is the individual employee's responsibility to ensure appropriate record keeping is maintained in accordance with the policies.

In early 2006, the DOH identified shortcomings in relation to the management of electronic records and commissioned a business case to articulate a fully functional electronic records keeping system. Retention of each individual employee's emails is limited by the storage limit allocated. Full backups of the exchange information databases, system software and system transactions are run every evening and a three month tape rotation cycle is currently employed by DOH. These tapes are overwritten on a three monthly cycle.

Therefore the only records in existence of email content beyond a three month period would be contained in the individual employee's inbox, sent items folder or copied to a personal folder or stored on disc or on their personal drive."

On 9 May 2008, the SRO issued an information sheet to agencies in relation to email records which, among other things clarifies what constitutes a "business" email:

"A business email contains information created or received by an officer, via an email server application, in the course of his/her duties and contains information which is owned by the organisation. A business email may have any or all of the following attributes:

- *information which is of evidential and/or historical value and is not recorded elsewhere on the public record;*
- *formal communications and/or a transaction between officers (for example a report or submission) or between an officer and another party; or*
- *documents the rationale behind organisation policy, decisions or directives.*

These emails are State records and must be captured in the official recordkeeping system to provide evidence of business activity and meet legal requirements. Business email must be retained for as long as required, giving consideration to the subject matter of the record, and may only be destroyed in accordance with an approved records disposal authority” (emphasis added).

4.3 Assessment

The officers interviewed generally understood that they had individual responsibility for managing their own emails. It was noted in the Report, at pages 29-30, that the Director General retained responsibility for the management of his own emails:

“Evidence from both Dr Fong and his staff was consistent in that Dr Fong is proactive in the management of his emails. He manages his emails primarily from his handheld Blackberry PDA device. Whilst various members of his staff have access to his emails he is the only one who deletes messages, other than those which are clearly inconsequential”.

However, while some officers understood the requirement to retain and maintain a complete record of email correspondence concerning Departmental business, it was not a view held by all.

Clause 9 of the Department’s “Records Policy and Procedures (Non-Patient Records)” policy document dated 11 November 2004, states that: “...important email messages must be captured into corporate recordkeeping systems where they can be preserved securely and found easily.” Clause 10 says that important messages are to be either “...printed out on paper and filed or saved electronically...”.

At least one senior officer interviewed has advised that those directives are not always followed. In consequence, it appears that email correspondence between officers

concerning Departmental matters is not always retained and stored electronically or printed and filed on the appropriate file. This is notwithstanding the Department’s 2004 Record Keeping Plan requiring that systems capture, manage and store electronic records. It is apparent that this requirement was not well understood and implemented across the Department.

In addition, there was a mistaken belief held by some officers that emails are not ‘documents’ for the purposes of the FOI Act which has the potential for relevant email documents to be excluded from a search. This issue arose at the initial decision stage and was not resolved until the Department’s Legislative and Legal Services Section provided advice on 7 June 2007, in response to a request from the Internal Reviewer. The mistaken view among some officers involved in the Department’s FOI processes that emails are not ‘documents’ for the purposes of the FOI Act demonstrates that some staff are not fully aware of the plain and inclusive definitions of ‘document’ and ‘record’ in the Glossary to the FOI Act as well as a series of guidelines and published decisions issued over many years clearly indicating that emails fall within the purview of the FOI Act.

It is evident that, as emails fall outside the scope of the Department’s TRIM records management system and it is left to individuals to decide on what should be retained, retention of email records by the Department is likely to be a hit and miss affair.

A potential problem is that some individual email users ostensibly have sole control over local email repositories (PST files) and manage, retain or delete email records within those repositories. The cost of bringing emails within the scope of TRIM has been tentatively estimated by the Department’s IT staff at \$14 million – but such expenditure is required to be balanced against the Department’s other core priorities.

The Department has advised that changes to backup practices are currently being made

that increase the likelihood that email documents are appropriately archived and then made accessible as and when necessary. On 14 November 2007, the Department published on its "Online Information Intranet" pertaining to management of electronic records, a flyer entitled: "*Management of Electronic and Hardcopy Corporate Records*". The flyer stipulates where corporate electronic records are to be stored. It specifically states what media cannot be used for storage and will help to ensure that corporate records are appropriately stored and therefore potentially accessible to any future FOI applicants. The flyer states:

"Electronic Records Received via Email

Electronic letters or official reports received as attachments to emails should be printed out and placed on a relevant corporate file, unless they can be saved electronically directly into an approved electronic document management system or saved into shared folders on corporate file servers. Such documents are not to be left attached to emails in personal folders.

Storage, Retention and Disposal

Other electronic records including email that constitute official agency records should be printed out and filed or may be saved into shared folders on corporate file servers and managed in accordance with the State Records Office's Standard for the Management of Electronic Documents in Networked Computer Environments. [<http://intranet.health.wa.gov.au/Records/policies.cfm>]. To avoid storage of multiple copies of emails, the original creator of the email or owner of the e-mail (if it is not the creator) should review these and only store the versions that provide the complete record on the subject.

Personal email folders available within the Microsoft Outlook system, C drives on personal computers or personal U drives on shared file servers should not be used

as a repository for corporate electronic records."

The matter of the adequacy and appropriateness of record-handling of the Department is the subject of a separate review being undertaken by the State Records Commission in response to the CCC's Report recommendations.

5. WERE THE FOI PROCESSES APPROPRIATE AND ADEQUATE?

5.1 The officers dealing with the application

The Application highlights the difficulties which arise when an application is made for documents held by a senior officer of a government agency. In most cases, FOI Coordinator's appointed by agencies are not in senior positions. That is usually not an issue since the majority of applications made under the FOI Act are for personal information about the applicant or for particular documents. Such applications are generally adequately dealt with by the FOI Coordinator.

However, where, as here, the documents sought were correspondence between the Department's principal officer – the Director General – and others, there was a case for the Department to take steps to elevate the level of decision-making at first instance to a more senior and experienced officer. In hindsight, such a step may well have mitigated the failure to recognise at first instance that emails are subject to FOI access, and that a thorough and effective electronic search should be undertaken.

Section 100 of the FOI Act requires that decisions made under that Act are to be made by an agency's principal officer or an officer directed by the principal officer for that purpose. The Department's procedure was that all FOI applications were automatically dealt with by the Department's FOI Coordinator. It is not clear from the records and policies examined that that person was acting at the direction of the Department's

Director General or a former Director General, or simply in accordance with standard operating procedures. Nor is it clear that the A/FOI Coordinator or the Internal Reviewer in this case were directed to make their decisions under the FOI Act by the Director General. The evidence is that the Internal Reviewer was authorised and appointed to make her decision by a group of senior officers.

An FOI Coordinator or Internal Reviewer searching for documents must have sufficient authority, delegated by the principal officer, to conduct thorough and timely searches. This is contingent on all officers of the agency also being made aware that FOI officers have been provided with this authority.

An agency's decision-maker must have the authority to require documents to be produced; searches and inquiries to be made, including the retrieval of electronic documents; and, if necessary to have awkward questions answered. In the circumstances of this case, it would have been appropriate for the Director General to have appointed another more senior officer to deal with the Application.

The A/FOI Coordinator and to a lesser extent the Internal Reviewer did not carry the necessary authority, by virtue of their relative lower seniority and lack of experience in the Department, to deal with the Application as decision makers. One result of those appointments was that those officers had to depend upon the timely cooperation and commitment, as a priority, of human resources, information technology and other resources of the Department to carry out the searches for information and the production of the documents sought. There were barriers to their directly questioning the Director General and in asking for time-consuming information technology system searches to be made. Time was spent consulting more experienced officers on the relevant FOI processes.

With regard to the initial searches, a more experienced and senior officer acting as the

decision-maker might have commanded a more thorough search at first instance, and more closely questioned the adequacy of the searches undertaken. The initial search by the Director General's staff did involve an electronic search of records held but did not include a search of the Departmental archives.

However, the A/FOI Coordinator was placed in a difficult situation. In addition, without any evidence that the requested documents existed or should exist, that officer depended upon the assurances relayed by the Director General and his executive staff that they were not aware of any correspondence of the kind sought by the Applicant. That information formed the basis of the initial notice of decision sent to the Applicant. There was no indication in that decision as to the thoroughness of the searches undertaken, nor as to who made them or whether the searches for documents encompassed a search of electronic records.

The two decision-makers, the A/FOI Coordinator and the Internal Reviewer, were given the responsibility to deal with the Application but with many other senior staff becoming involved in advising how the review should be conducted. A number of senior staff who were sent copies of every email communication about the progress of the Application (to be 'kept in the loop') did not appear to make any significant contribution to the process, despite the opportunity to do so.

In addition, when the Internal Reviewer sought advice from the Legal and Legislative Services section, matters were referred to the State Solicitor's Office (the SSO) for further legal advice and verification of the process, which contributed to the time taken to resolve the matter.

In all, some fourteen officers of the Department, many at a senior level, were involved one way or another in the progress of the Application. Notwithstanding this, the decision at first instance, and on review, was taken at a relatively junior level in the

Department.

The lack of sufficiently senior, trained and experienced staff familiar with the FOI processes and procedures to be followed is a problem that needs to be addressed. The FOI Act places the responsibility for decision-making on the agency's principal officer or the officer directed by the principal officer. Clearly, any officer who is directed for that purpose should have the skills, expertise, independence and authority to make the decision on behalf of the agency.

In this case, although the Internal Reviewer lacked relevant FOI experience, the Department was fortunate that she had the skills and ability to make the appropriate inquiries, seek the necessary advice, and obtain the outcome that she did.

5.2 Were adequate searches conducted?

Clearly, the searches conducted prior to the issuing of the Department's first decision were inadequate to locate the emails identified at the internal review stage.

However, the A/FOI Coordinator did not have – in view of the subject matter – sufficient experience and seniority to cause adequate searches to be undertaken. In the event, she did the best she could in the circumstances she found herself in, including seeking advice both from the Department's Legal and Legislative section and from the FOI Coordinator on secondment.

The A/FOI Coordinator appears to have been restricted by the Director General's office protocol to the extent that she could not ask the Director General directly about the existence or otherwise of the emails but had to rely on feedback from the Director General's staff. The A/FOI Coordinator was advised on 16 April 2007, by the Manager, DGS that the Director General was sure that there wouldn't be any relevant documents and on 27 April 2007, by the Executive Officer DGS that there were none. On 16 April 2007, the Manager, DGS asked the Executive Liaison Officer to conduct

searches for documents. On 19 April 2007, the Executive Liaison Officer informed the A/FOI Coordinator of the outcome of the searches. On 19 April 2007, the Manager, DGS asked the Executive Officer to conduct further searches and, on 27 April 2007, the Executive Officer notified the A/FOI Coordinator of the results of that search. Even without the benefit of hindsight, there were ample indicators that should have pointed to the potential for conflict between the then Director General's personal interest in, and exposure to, the outcome of the FOI application, and the appropriateness of relying on his own recollection of whether the requested documents existed as the sole or main basis on which the outcome of the search relied upon.

The comments made by the Director General's staff – as set out earlier in this review – could be viewed in a number of ways but I am satisfied that they were simply expressing the understandable view of staff that it would be good not to have to deal with this particular application.

At that stage, the A/FOI Coordinator did not know what questions had been asked of the Director General as regards the existence of the requested documents or what searches had been or should be made. No approach had at that stage been made to IT to determine whether the emails could be located anywhere on the Department's IT systems.

However, prior to issuing a notice of decision, the A/FOI Coordinator contacted the FOI Coordinator who was on secondment in relation to the searches made and was advised that "*if the author of the records advises that the relevant records do not exist that should be sufficient to conclude the search ...*". Given that advice; the assurances of the Director General's staff; and her lack of seniority and relative FOI experience, it is understandable, though regrettable, that the A/FOI Coordinator did not insist on further searches or inquiries being conducted or other corroboration being sought.

In this instance, the Department's consideration of all the potential places that email records falling within the scope of the Application might be found did not occur until after the internal review process commenced. It was not a well-documented, systematic process that might have served to identify relevant documents much earlier than occurred.

Following the receipt of the notice of decision, the Applicant sought internal review. An internal reviewer is required to deal with the application 'de novo' and make a separate decision about the requested documents. An internal reviewer should (as was the case in this instance) be an officer senior to the initial decision-maker.

In this case, the Internal Reviewer ascertained what searches had been conducted and, in light of that information, properly and promptly asked IT to conduct its own searches to determine the existence or otherwise of any relevant documents.

The Internal Reviewer felt it necessary to obtain advice on the scope of the FOI process from the Department's Senior Legal Officer. Quite correctly the Senior Legal Officer identified that emails fell within the scope of documents for the purposes of the FOI Act. The Senior Legal Officer consulted the SSO. The SSO's advice referred to previous decisions of the Information Commissioner which dealt with the question of what constituted adequate searches for documents. The SSO also referred the Department to the Information Commissioner's requirement for Notices of Decision to include a description of the searches made and details of the locations searched.

In the event, the searches conducted by the IT staff on internal review, at the request of the Internal Reviewer, were successful and the nine logs and headers of the emails retained on the Department's backup tapes were located. That outcome serves to illustrate that an internal review can effectively remedy any shortcomings in the

initial FOI process, where the internal reviewer has or is perceived to have sufficient authority, experience and, as here, initiative.

5.3 The Notices of Decision

The Department's initial Notice of Decision was not adequate because it did not detail the searches undertaken for the requested documents in the Notice of Decision on Internal Review. Had that been done, the Applicant would have had an opportunity to request searches to be made of the Department's database and its backup systems. The published decisions of the Information Commissioner contain detailed examples of what constitutes an adequate Notice of Decision in relation to a sufficiency of search issue but the A/FOI Coordinator was not fully aware of that information.

In addition, both notices would have been improved by the Department listing those officers who had made searches or been consulted in the course of its inquiries.

Access applicants must rely on the thoroughness and integrity of the searches for records conducted by government agencies. The FOI Act does not require agencies to guarantee that their systems are infallible. Documents may not be found for a variety of reasons, including misfiling, poor record-keeping practices, unclear policies, inadequate training or the fact that they do not exist. However, where the question relates to sufficiency of search, an adequate notice of decision that explains in full what searches were carried out, and how and by whom, will enable the access applicant to understand what searches were conducted and what inquiries were made. In that way, the applicant is better equipped to determine whether or not other avenues of inquiry should be pursued in order to locate the requested document.

5.4 Was the decision to give edited access to the documents correct?

The Department's IT staff located nine documents which consisted of 'logs and headers' that contained the names of the senders and recipients of the emails. The question of third party consultation arose because that matter contained the names and personal details of private individuals, and the Internal Reviewer sought advice on that issue from the Senior Legal Officer. The Senior Legal Officer consulted the SSO, which correctly advised that an agency is not to give access to documents unless the agency has obtained the views of third parties as to whether the documents contain matter that is exempt under clause 3 (*personal information*) of Schedule 1 to the FOI Act. In the alternative, the Department was advised that it could seek agreement from the Applicant to accept access to the logs and headers with the information about third parties deleted, so that the deadline in place could be met. The Applicant agreed to accept access to the documents in edited form. Giving edited access in this case appears, at first sight, to have been an appropriate course of action. However, consultation with the affected third parties did not precede the deletion of the third party information.

Third party rights

The FOI Act provides an exemption for 'personal information' about someone other than the applicant. Personal information is relevantly defined in the Glossary to the FOI Act as:

"... information or an opinion, whether true or not, and whether recorded in a material form or not, about an individual, whether living or dead –

(a) *whose identity is apparent or can reasonably be ascertained from the information or opinion; or*

(b) *...".*

The privacy rights of individuals are an inherent aspect of the FOI Act. The FOI Act provides that, except in certain prescribed circumstances, personal information about individuals is exempt from disclosure unless the person concerned consents to the release of that information. There is a public interest in protecting the privacy of individuals recognised in the FOI Act and, generally speaking, it would require compelling arguments that third party information should be disclosed without the third party having been consulted or consenting to disclosure.

Under s.32(6) of the FOI Act, there is no duty to consult third parties if an agency decides to release documents with the personal information about those third parties deleted from the documents. However, in this case, by the very nature of the documents sought - that is, emails between named individuals - it was not possible for the Department to give the Applicant edited access in such a way as to avoid disclosure of the identity of those third parties.

In other words, even though the Department deleted the names of the third parties from the logs and headers, it is likely that the identity of Mr Burke and/or Mr Grill as participants in that correspondence was reasonably ascertainable from the disclosure of that information.

The proper process for consulting with third parties is set out in Part 2, Division 3 of the FOI Act. Section 32(2) provides that where a document contains personal information about a third party an agency is not to give access to the document unless the agency has taken such steps as are reasonably practicable to obtain the views of the third party as to whether the document contains matter that is exempt under clause 3 of Schedule 1. If the third party consents to disclosure, the document can be released.

If an agency decides to release documents contrary to the views of a third party, the agency must:

- give the third party notice of its decision - including rights of review;
- defer the giving of access to the documents; and
- give the applicant written notice of decision that the third party is of the view that the documents are exempt and that access is deferred until the decision is final.

That process was not followed by the Department and no attempt appears to have been made to consult with either Mr Burke or Mr Grill before the edited logs and headers were disclosed to the Applicant. There was also no record on the Department's FOI file that consideration had been given to, or a judgement made as to, the practicability of obtaining the views of those third parties.

Public interest and privacy considerations

Many of the exemption provisions in the FOI Act, including clause 3 (*personal information*) require the decision maker to apply a public interest test. Clause 3(6) provides that matter is not exempt under clause 3(1) if its disclosure would, on balance, be in the public interest. The test operates to limit the scope of the exemption if it can be shown that the public interest lies in disclosing a document. An agency's decision is generally only made following consideration of the arguments for and against disclosure.

In this case, it was open to the Department to argue that there was a public interest in the disclosure of the logs and headers – either in full or in an edited form – pursuant to clause 3(6). Such an approach would still have required consultation with the third parties, who would then have had an opportunity to put counter arguments forward.

The public interest in protecting the privacy of the individual is recognised in the FOI Act. While the personal information exemption (clause 3) pertains to documents of an agency, the principles of privacy should also include the way in which an application is dealt with. This has implications for officers dealing with FOI applications, who should

respect the privacy of the identity of an applicant or details of an application and avoid revealing that information to third parties or to agency staff and others not directly involved in dealing with the application unless reasonably necessary in order to deal adequately with the application.

Agencies need to take a common sense approach to this issue. In some cases the work of dealing with an application necessitates revealing the identity of the applicant to other officers within the agency. However, the details revealed about the applicant should be on a need to know basis and directly relevant to the processing of the application.

In this case, the number of staff involved who did not have a direct role in processing the FOI application but who were being kept informed of the progress of the Application appears very broad. In some cases, their involvement added nothing to the process and appeared to serve no purpose other than to keep those staff informed of developments.

As noted, an internal reviewer is required to deal with the application as if it were an initial application and to make a separate and independent decision '*de novo*' about the documents. The person directed by the Principal Officer to undertake that role should be seen to have full authority in the conduct of the review and it is up to that person to obtain advice from other officers of the agency, as required.

5.5 Was the Application dealt with in a timely manner?

Section 4 of the FOI Act requires agencies to assist the public to obtain access to documents and to allow access to documents to be obtained promptly.

Section 13 requires an agency to deal with the access application as soon as practicable (and, in any event before the end of the permitted period).

The permitted period to deal with an access application is 45 calendar days after the application is received. In the present case, the initial decision was finalized in 38 days, which was within the permitted statutory period.

The FOI Act requires that an internal review is to be conducted within 15 days after the application for review is lodged, or such other period as agreed between the parties. In this case, the appointment of the Internal Reviewer took six days. As a result, only nine days remained for the Internal Reviewer to conduct and finalise the review. The Department correctly sought and obtained two extensions of time from the Applicant.

In the event, the Department dealt with the application for review within the extended time agreed to by the Applicant.

Decisions on access should be made promptly and applicants informed of the outcome as soon as possible. While the Application was dealt with within the permitted period, the decision in this particular case could have been completed in a shorter time frame. It is evident that there were periods when the Application was not progressed promptly. The lack of experienced officers, the lack of a standing appropriate authority appointing an internal reviewer from the Principal Officer, and the consultation and conferring between numerous officers all contributed to the time taken for dealing with the Application being longer than it need have been.

6. RECOMMENDATIONS

6.1 Training and Awareness

- Appropriate levels of understanding and acceptance of FOI principles and compliance with FOI obligations should exist across the Department. There was evidence that some staff are either not fully aware of their obligations and responsibilities under FOI Act, its processes and procedures, or do not fully understand its implications.

- All officers dealing with or advising on FOI applications (including relevant legal and IT staff) should have training in dealing with the FOI process. The Office of the Information Commissioner can provide briefings to management and staff of the Department to assist in that training.
- Policies within the Department should reflect the requirements and spirit of FOI, including policy impacts of decisions by the Information Commissioner. There is a need within the Department to develop and promote awareness of, and access to, policy decisions.

6.2 Appointment of FOI decision-makers

- The Department's A/Director General should appoint the holders of a number of senior offices as internal reviewers who, when required, can be directed to conduct an internal review. Those officeholders should undertake FOI training so that they become familiar with the processes, procedures, responsibilities and obligations under the FOI Act. Those appointments should be regularly reviewed.
- The A/Director General as the principal officer under the FOI Act should provide written directions to the FOI Coordinator and any internal reviewers to make decisions under the FOI Act either generally or in a particular case, pursuant to s.100 of the FOI Act. Directions should include sufficient authority to require the production of documents that are held by any officers of the agency for the purpose of dealing promptly and fully with an FOI access application.
- The A/Director General's direction to the FOI Coordinator and internal reviewer/s should be communicated to all officers of the Department so that they are aware of their obligation to produce

documents to the FOI decision-makers, to provide information and to make diligent searches.

- When dealing with an application for documents that directly involve an individual senior executive officer, an officer of sufficient seniority - preferably with experience in FOI matters - should be directed to deal with that application. In the course of identifying documents within the scope of such an application, consideration should be given by the decision-maker to require that, where appropriate, such a senior executive officer provide a statutory declaration as to the existence, identity and location of documents the subject of the access application.
- It should be clearly understood by all officers that the person directed to be the decision-maker when dealing with an FOI application is principally responsible for determining the FOI process to be undertaken, subject to and in accordance with relevant statutory requirements.

6.3. Application of FOI Act to electronic records

- The Department should consider developing systems to enable the backup of all electronic documents upon receipt and rely on the FOI processes and exemptions to exclude matter that is 'personal information', which may be encompassed in that material.
- The SRO governs the retention and disposal of records within agencies. Staff should be reminded that emails and other electronically stored or recorded information may constitute 'documents' for the purposes of the FOI Act and should be managed and retained in accordance with the Department's stated record keeping policy.

The recently published SRO information sheet serves to clarify and reinforce what constitutes a "business email". However, it remains a matter for the professional judgement and decision of each email recipient as to whether any particular email is to be classified as ephemeral or as a business email and managed accordingly.

- Staff must be reminded that emails received or sent via work facilities including personal or private emails or messages are accessible by management and may be subject to FOI processes.
- Third-party products are available as add-ons to Microsoft Exchange that may serve to assist in the Department's management and retention of email messages stored in PST files. The Department should evaluate those tools if it continues to permit email storage in PST files outside the central Microsoft Exchange environment.
- Department policies and any FOI application forms designed for use by applicants seeking access to Department records, should reiterate that 'documents' include electronic media.
- The Department's proposed improvements to backup practices should incorporate a facility to remotely search a PST file which might contain records that come within the scope of an FOI application. This should occur prior to the user/controller of that PST file being made aware of the existence of the FOI application and, therefore, the fact that personal PST files might be searched.

APPENDIX 1

TERMS OF REFERENCE

REVIEW OF FOI PROCEDURES OF THE DEPARTMENT OF HEALTH

Background: The Corruption and Crime Commission (the CCC) report dated 25 January 2008 on the Investigation of Alleged Misconduct concerning Dr Neale Fong, former Director General of the Department of Health recommends (recommendation 4) that

“matters relating to the appropriateness and adequacy of the FOI processes and record-handling of the Department of Health, as detailed in [the CCC] report, be referred to the Office of the Information Commissioner and State Records Commission”.

Purpose: To carry out an independent review of the appropriateness and adequacy of the FOI processes of the Department of Health, in its handling of an FOI application made on 28 March 2007 by Mr John Kime, the Chief of Staff to the Hon Paul Omodei, Leader of the Opposition, seeking correspondence, electronic or otherwise, pertaining to any matter between Dr Neale Fong, Mr Julian Grill and Mr Brian Burke, as detailed in the CCC report.

Criteria for review:

- Management and conduct of the Department of Health’s FOI process, and in particular as regards:
 - Impartiality
 - Confidentiality
 - Timeliness
 - Notice of decisions
 - Internal review
 - Level of assistance to applicant
- Identification of any FOI legislative policy or procedural gaps or weaknesses that inhibited attainment of the objects and intent of the FOI Act (s3 of the FOI Act) or were a barrier to the Department providing adequate assistance to the access applicant to obtain access to the documents and to allow access to the documents to be obtained promptly and at the lowest reasonable cost.

References:

- FOI Act and OIC policies;
- CCC Report findings;
- Department of Health FOI policies and procedures;
- FOI Standards and Performance Measures (OIC May 1998);
- Administrative Review Council Best Practice Guides for Administrative Decision Makers, August 2007 (www.law.gov.au/arc).

Scope of review: The review will consider the adequacy of and compliance with FOI processes and procedures within the Department of Health in relation to this application. The review will comprise

- consideration of the adequacy of the search undertaken by the Department for information falling within the terms of the application;
- adequacy of steps to assist and advise the parties;
- an examination of the processes and procedures applied in the initial decision relating to the application;
- an examination of the processes and procedures applied in the internal review of the above decision;
- consideration of the appropriateness of the Department's policies and practices supporting its FOI responsibilities including :
 - internal training;
 - agency Information Statement;
 - internal manuals;
 - evaluating performance;
 - fees and charges; and
 - discretionary disclosure (outside FOI Act).

Review steps:

- examination of the relevant Department of Health FOI files and records;
- interviews with FOI coordinator, Department of Health staff who participated in or contributed to the search of records, and Department of Health FOI decision makers;
- examination of statistical information relating to Department of Health FOI; and
- discussion with CCC investigatory staff and consideration of CCC transcripts of interviews relevant to the FOI issues.

Consultation: The Acting Director General Department of Health will be consulted on the proposed terms of reference. CCC to be provided with copy of terms of reference when settled. A draft report will be submitted to the Acting Director General for comment prior to completion of the final report. Consultation with State Records Commission will take place as required in course of review.

Proposed timeline: Completion before 30 June 2008

Resources: Information Services Manager and Advisory/Projects Officer with oversight by A/Senior Legal Officer.

Key deliverables: A review report. Key findings and recommendations of review report to be included in OIC 2007/08 Annual Report, provided to A/Director General Department of Health, CCC, and State Records Commission. The full report would be made available on the OIC website.

APPENDIX 2

DEPARTMENT OF HEALTH STAFF
WITH WHOM MEETINGS WERE HELD

Mary Adams	Senior Legal Advisor, Legal & Administrative Services
Alison Burch	A/Policy Officer, Business Unit 1
Martin Ley	A/Recordkeeping Policy Consultant, Information and Resources Services
Molly Abbott	Executive Liaison Officer, Office of the Director General
Debbie Pantany	Executive Officer, Office of the Director General
Heidi Borgas (nee McLachlan)	Administration Assistant, Royal Perth Hospital
Linda Adnyana	Manager, Director General Support
Angela Kelly	Manager, Business Unit, Director General's Division
Suzanne Hillier	A/Director, Legal & Legislative Services
Young Yoo	Manager Information Technology, Information Policy and Support
Gopal Warriar	A/Manager E-Health Policy, Information Policy and Support
Robert Holme	External Contractor, Email Administrator Information Technology
Colin Xanthis	A/Chief Information Officer, Health Information Division
Tony Hooper	FOI Coordinator, Department of Health
Caterina Amalfi	Internal Reviewer, Department of Health

FURTHER INFORMATION

For any further information on the Office of the Information Commissioner's role and functions, please contact the office at:

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