

**Office of the  
Information Commissioner**

*Freedom of information for Western Australia*

# **ANNUAL REPORT**

## **2015/2016**



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This annual report and previous annual reports are available on the OIC website



Office of the  
Information Commissioner

*Freedom of information for Western Australia*

DEAR MR PRESIDENT  
DEAR MR SPEAKER

#### ANNUAL REPORT 2015-2016

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 2016 which has been prepared in compliance with the provisions and reporting requirements of both Acts.

Sven Bluemmel  
INFORMATION COMMISSIONER

21 September 2016

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## About this report

Welcome to the Office of the Information Commissioner's 2015/16 annual report.

The aim of our annual report is to give a comprehensive overview of our performance during the year and provide insight into the goals and operations of our office. The services we deliver are designed to provide an outcome that gives the people of Western Australia access to documents held by WA State and local government agencies as required by the law and provide a mechanism to ensure their personal information is accurate and up-to-date. In addition, we educate agencies on their responsibilities under FOI legislation.

Given that the key message of the freedom of information legislation – that is, greater accountability and transparency – mirrors the purpose of agency annual reports, we trust that this report on our activities and performance during 2015/16 provides valuable insight to all of our stakeholders.

## Strategic goals 2016-2019

**Provide a fair, independent and timely external review service**

**Foster improvement in agency practice**

**Enhance public awareness of rights to government information**

**Build the capacity of our people**

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# Overview

## 1. What is Freedom of Information?

A legislative right to access government information remains a hallmark of an open, transparent and accountable democracy. The *Freedom of Information Act 1992* (**the FOI Act**) gives everyone a legally enforceable right to government information in Western Australia.

The objects of the FOI Act are to enable the public to participate more effectively in governing the State and to make the persons and bodies that are responsible for State and local government more accountable to the public. The FOI Act achieves this primarily by creating a general right of access to documents and requiring that certain documents concerning State and local government operations be made available to the public. Dealing with requests under the FOI Act is not merely an administrative process but is a means of dispensing justice to the people of Western Australia.

In the absence of privacy legislation, the FOI Act also provides a means to ensure personal information is accurate, complete, up-to-date and not misleading.

The FOI Act is supported by the *Freedom of Information Regulations 1993*.

### How does it work?

Anyone has the right to lodge a freedom of information (**FOI**) application to WA State and local government agencies and

Ministers (collectively referred to as 'agencies'), requesting access to, or copies of, documents, or to apply to have their personal information amended if it is incomplete, inaccurate, out of date or misleading. Agencies are then obliged to make a decision on access or amendment in accordance with the FOI Act.

### Role of the Information Commissioner

The functions of the Information Commissioner (**the Commissioner**) are to provide independent external review of decisions made by agencies under the FOI Act and to ensure that agencies and the public are aware of their responsibilities and rights under the FOI Act.

When relevant, the Commissioner also recommends legislative or administrative changes that could be made to help the objects of the FOI Act be achieved.

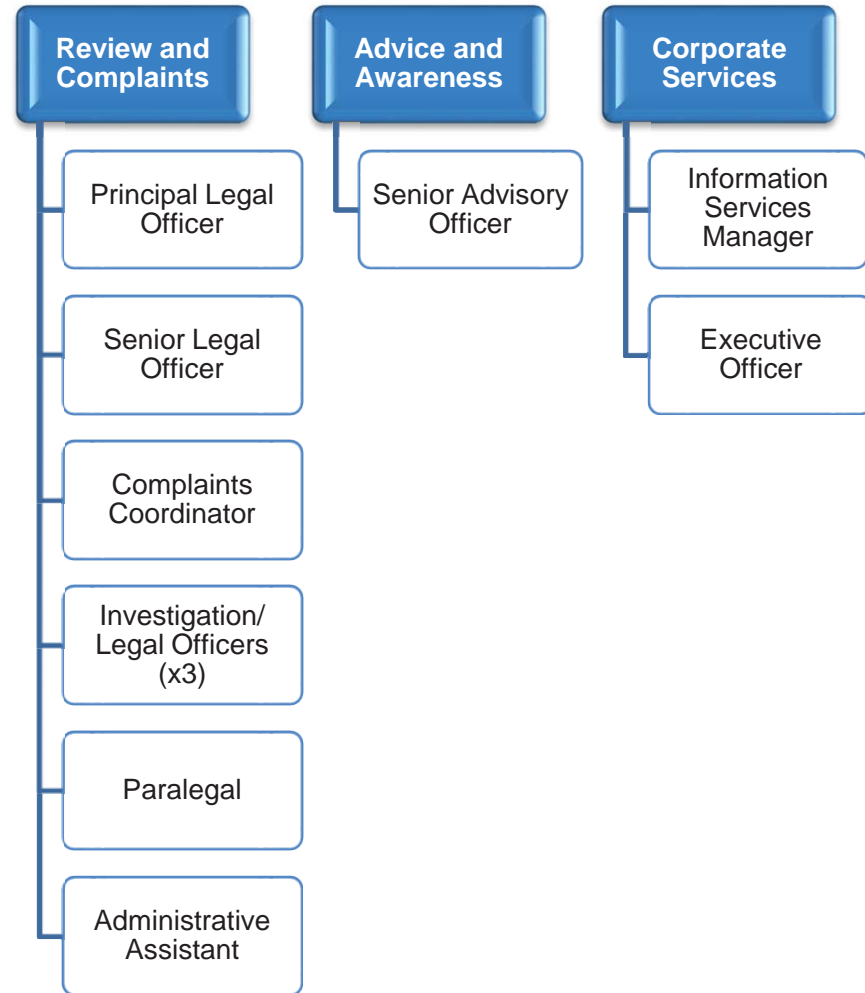
The office of Information Commissioner is established by section 55(1) of the FOI Act and the occupant is directly accountable to Parliament for the performance of the functions prescribed by that Act. The Commissioner is independent of executive government and reports directly to the Parliament and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

## 2. About the Office of the Information Commissioner

Mr Sven Bluemmel was appointed Information Commissioner by the Governor in 2009 for a five year term, which was renewed in 2014 for a further five years. As at 30 June 2016, the Commissioner was supported by 11 staff in the Office of the Information Commissioner (**the OIC**). Due to the small size of the office, the OIC employs a simple reporting structure whereby all staff report directly to the Commissioner. Two service teams operate to assist the Commissioner in meeting the objectives of the FOI Act, as follows.

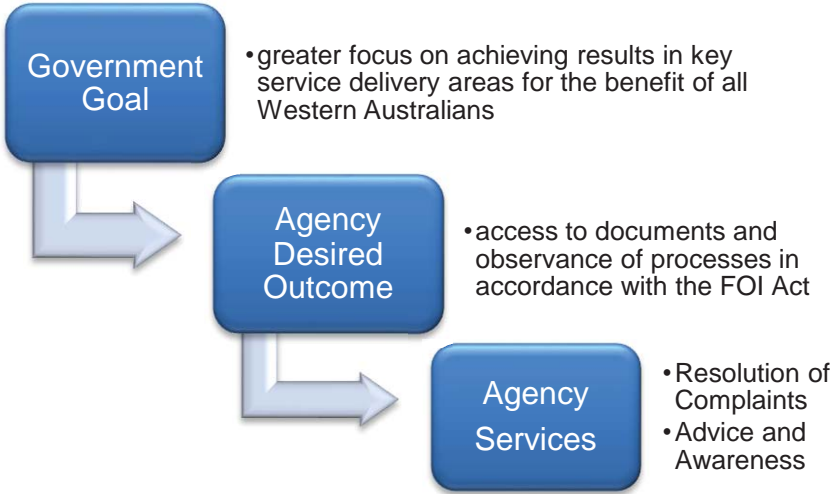
- *Resolution of Complaints (External Review)* provides an independent review and complaint resolution process that strives to resolve cases in a timely manner and balances the competing needs and expectations of applicants, agencies and Parliament within the legislative requirements prescribed by the FOI Act.
- *Advice and Awareness* provides objective advice and information to members of the public and agencies to assist in the proper lodgement and processing of applications under the FOI Act; proposes initiatives to enhance efficiency in agency administration when dealing with applications received; and conducts briefings and training sessions for agency staff.

The Information Services Manager and the Executive Officer provide information technology support, executive support and corporate services management.



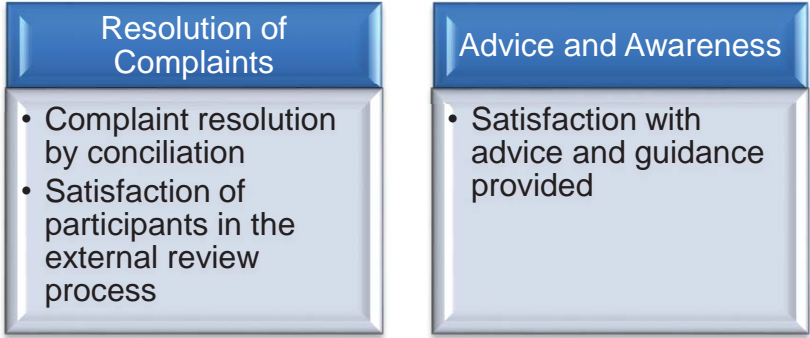
**Performance management framework**

As part of the outcome based management framework required of public sector agencies, the OIC’s services strive to achieve an overarching desired outcome, which in turn is mapped to a whole of government goal:



The OIC’s outcome based management framework has not changed during the year, nor did it share any responsibilities with other agencies.

Key performance indicators have been developed to measure the effectiveness of our services:



Service efficiency is measured by the cost of each external review application and advice unit provided. Further analysis of these key performance indicators as audited by the Office of the Auditor General are outlined in the Key Performance Indicators section of this report.

## Legislative compliance

In the performance of our functions, the OIC complies with the following legislation.

- *Auditor General Act 2006*
- *Corruption Crime and Misconduct Act 2003*
- *Disability Services Act 1993*
- *Equal Opportunity Act 1984*
- *Financial Management Act 2006*
- *Industrial Relations Act 1979*
- *Occupational Safety and Health Act 1984*
- *Public Interest Disclosure Act 2003*
- *Public Sector Management Act 1994*
- *Salaries and Allowances Act 1975*
- *State Records Act 2000*
- *State Supply Commission Act 1991*

The reporting required by some of these can be found under the Disclosures and Legal Compliance section further in this report.



### 3. Executive Summary – the year in review



Freedom of Information remains an important element of our Parliamentary democracy. While we expect FOI to be a mechanism of government accountability, it is worthwhile remembering that the first goal of FOI, as expressed by Parliament in section 3 of the *Freedom of Information Act 1992*, is to enable

the public to participate more effectively in governing the State.

Following on from our 2013 plan, my office developed a new strategic plan during the year to guide our efforts. Our goals include providing a fair, independent and timely external review service; improving agency FOI practice; and enhancing public awareness of information rights. To achieve these outcomes, the plan also commits to building the capacity of my office to encourage productivity, innovation and creativity. While we have made significant improvements to the external review process over the last few years, there is more to be done to meet the challenges of the future.

One challenge is the increasing complexity of disputes coming before my office. This is due to a combination of the number and length of documents in dispute, the complexity of the legal and public interest arguments made by the parties and the number of parties involved. An entrenched underlying dispute between the parties or a charged political backdrop add further layers that need to be navigated. Providing an independent, fair and timely external review service in such situations is challenging.

A further potential challenge is that agencies may be tempted to de-prioritise their FOI and information release functions in times of increasing budget pressure. While I understand the pressures faced by agencies, compliance with statutory obligations cannot be seen as an optional extra to an agency's core business. Instead, I encourage agencies to take a proactive approach to information release. Experience has shown that releasing information proactively or upon informal request can be much more efficient than going through the formal FOI process.

In keeping with my office's preferred approach of working constructively with agencies, this year saw the creation of the Agency FOI Reference Group to assist my office in promoting good FOI practice in Western Australia and to hear about agencies' experiences and needs in administering the FOI Act. The group consists of 10 officers from a variety of small, large, regional and metropolitan government agencies in Western Australia. I have already found their contributions to be very valuable and look forward to working with them into the future.

I thank the agency officers who are at the forefront of administering information rights in Western Australia. I also thank all members of my staff for their continuing dedication and professionalism in discharging their duties for the benefit of the people of our State.

Sven Bluemmel  
Information Commissioner