



**Office of the
Information Commissioner**

Freedom of information for Western Australia

ANNUAL REPORT

2015/2016



Disclosures and Legal Compliance

10. Report on agency statistics

Section 111 of the FOI Act requires that the Commissioner's annual report to the Parliament is to include certain specified information relating to the number and nature of applications dealt with by agencies under the FOI Act during the year. To enable that to occur, agencies are required to provide the Commissioner with the specified information. That information for 2015/16 is set out in detail in the statistical tables in the Agency Statistics chapter of this report. The following is an overview.

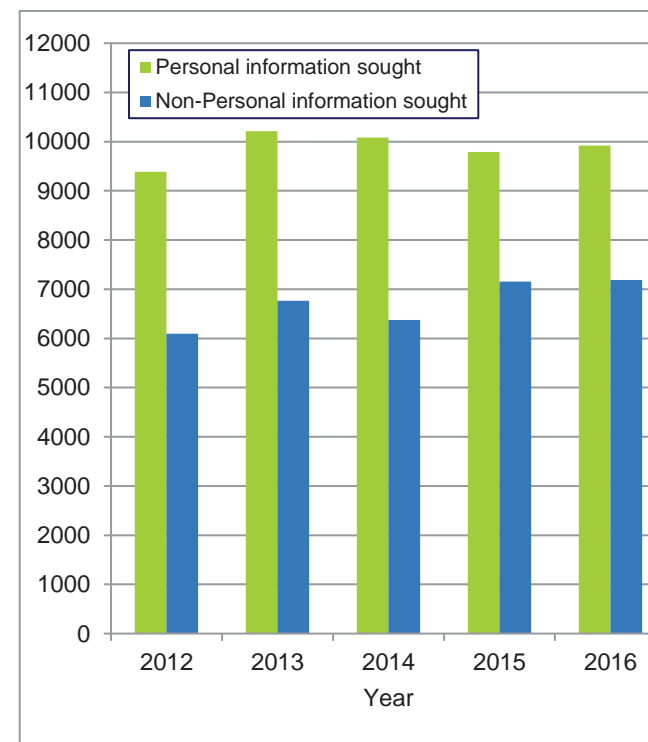
The number of access applications made to agencies under the FOI Act was 16,969 for the year under review. That represents a slight decrease from last year (17,557) and is only the third year in which the number of applications to agencies has been less than the preceding year.

Decisions

As can be seen in Table 14 (from page [104](#)), of the decisions on access made by Ministers in the reporting period, six were to give full access; 55 were to give access to edited copies of documents; and nine decisions were to refuse access. In nine cases, no documents could be found.

Table 14 also reveals that 14,591 decisions on access were made by State government agencies (exclusive of local government agencies and Ministers) in 2015/16.

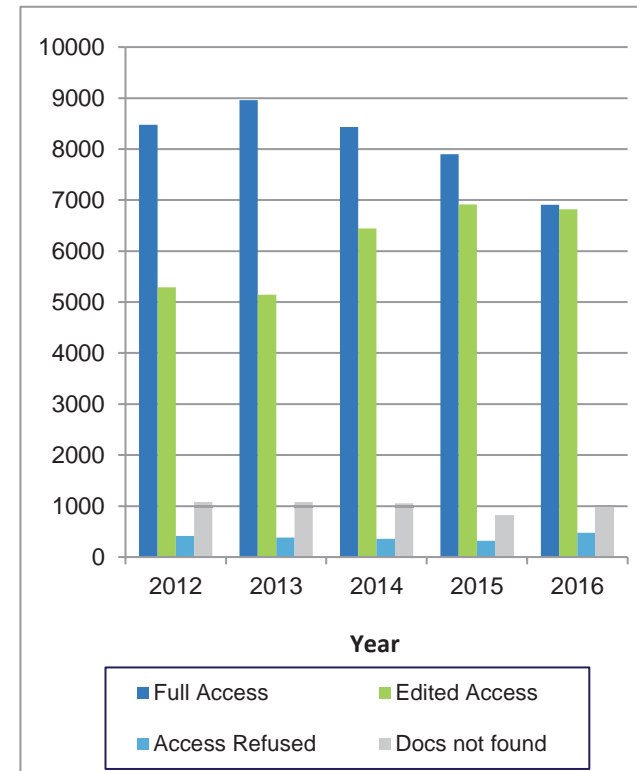
Figure 1
Number of applications decided –all agencies



- 46.3% of decisions (50.7% in 2014/15) resulted in the applicant being given access in full to the documents sought;
- 43.0% (41.9% in 2014/15) resulted in the applicant being given access to edited copies of the documents sought;
- 1.0% (0.7% in 2014/15) resulted in either access being given but deferred, or being given in accordance with section 28 of the FOI Act (by way of a medical practitioner);
- in 6.6% of applications (5% in 2014/15) the agency could not find the requested documents; and
- 3.0% of the decisions made (1.8% in 2014/15) were to refuse access.

The above figures indicate that approximately 90.4% of the 14,591 decisions made (93.2% in 2014/15) by State Government agencies on FOI applications were to the effect that access in some form was given.

Figure 2
Outcome of decisions – all agencies



Exemptions

Also consistent with previous years, the exemption clause most frequently claimed by agencies from both State and local government sectors (excepting those claimed by Ministers and described below) was clause 3, which exempts from disclosure personal information about individuals other than the applicant. That clause was claimed 6,253 times in the year under review. Figure 3 compares the use of this clause with all other clauses used since 1993/94, which indicates continued use of the exemption to protect personal privacy.

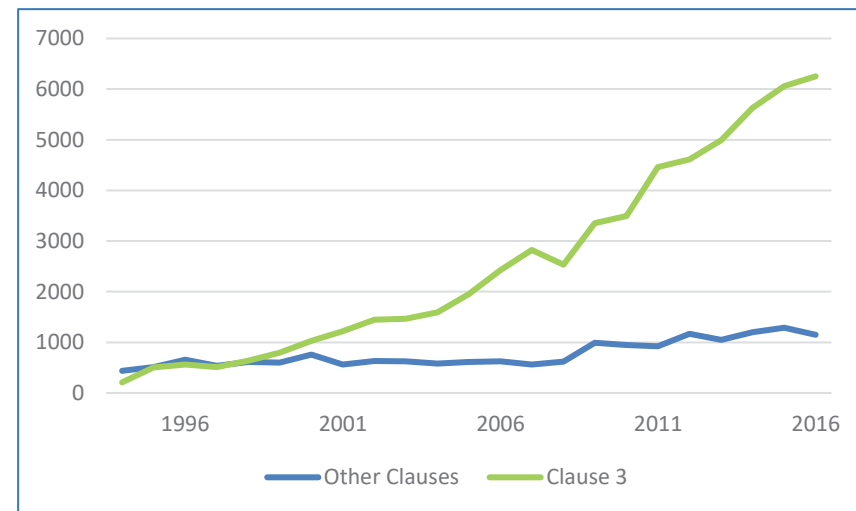
The next most frequently claimed exemptions were:

- clause 8, which protects confidential communications in some circumstances (196 times);
- clause 7, which protects from disclosure documents which would be privileged from production in legal proceedings on the ground of legal professional privilege (174 times);
- clause 4, which relates to certain commercial or business information of private individuals and organisations (164 times);
- clause 5, which relates to law enforcement, public safety and property security (164 times); and
- clause 6, which relates to the deliberative processes of government (91 times).

Consistent with the previous reporting period, the exemption clauses claimed most by Ministers were clause 3 (personal information); clause 1 (Cabinet and Executive Council); and clause 12 (contempt of Parliament or court).

Internal review

Figure 3 – Use of exemption clauses



Agencies received 264 applications for internal review of decisions relating to access applications during 2015/16 (see Table 16 on page [120](#)). This represents about 1.7% of all decisions made and about 55% of those decisions in which access was refused. In the year under review, 257 applications for internal review were dealt with (including

some that were received in the previous period). The decision under review was confirmed on 169 occasions, varied on 76 occasions, reversed on eight occasions and the application for internal review was withdrawn on four occasions.

Amendment of personal information

Agencies received 39 applications for amendment of personal information during the year (see Table 17 on page [125](#)), 33 of which were dealt with during the year:

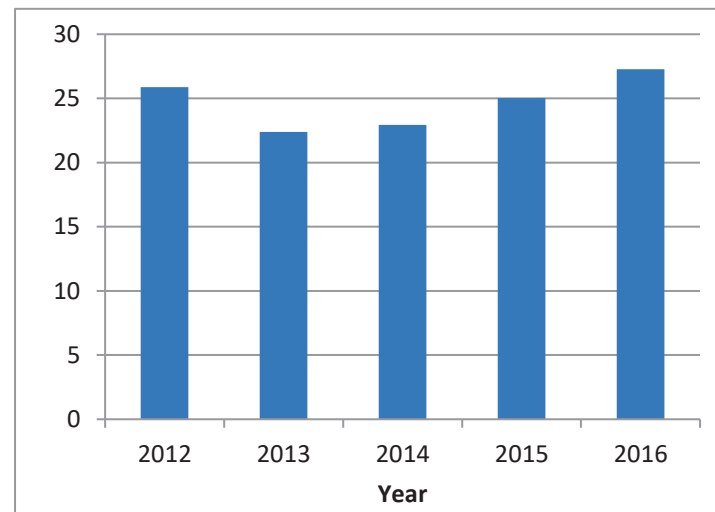
- information was amended on 15 occasions;
- not amended on 13 occasions;
- amended, but not as requested, on five occasions; and
- two applications were withdrawn.

Of the seven applications for internal review of decisions relating to the amendment of personal information dealt with during the year, six decisions were made to confirm the original decision and one decision was varied (see Table 18 on page [126](#)).

Average time

The average time taken by agencies to deal with access applications (27 days) is slightly higher than the previous year (25 days) and remains within the maximum period of 45 days permitted by the FOI Act (see Figure 4).

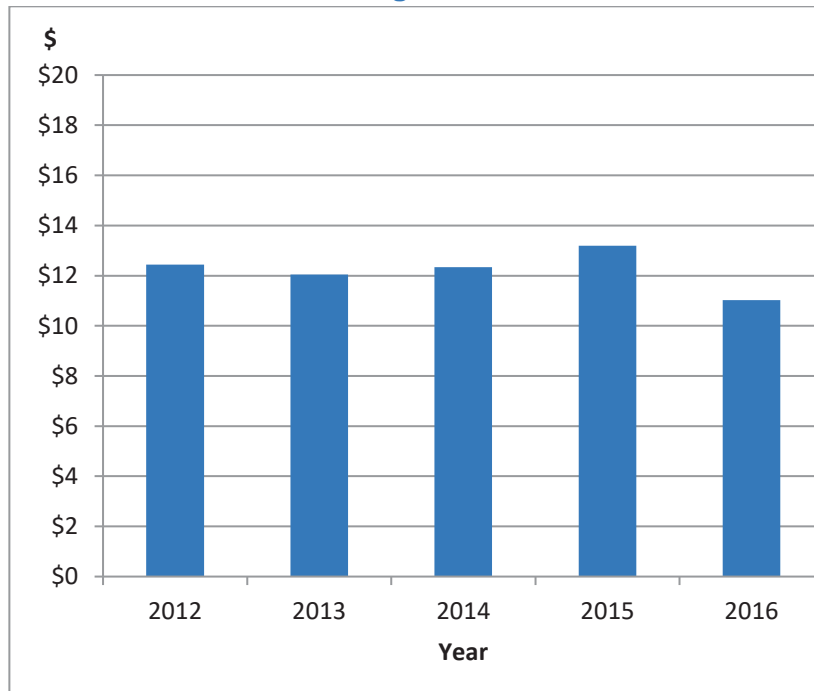
Figure 4
Average days – all agencies



Average charges

The average amount of charges imposed by agencies for dealing with access applications decreased to \$11.03. This is slightly lower than the 2014/15 average charge of \$13.19 (see Figure 5).

Figure 5
Average charge for access – all agencies



11. Other financial disclosures

- All services provided by the OIC are free of charge. The fees and charges prescribed by the FOI Act for making an FOI application are paid directly to the agency receiving the application.
- The OIC has no capital works projects.

Staff matters

	2016	2015
Full-time permanent	9	8
Full-time contract	1	3
Part-time measured on a FTE basis	1.4	2.84
On secondment	1	0

- July 2015 saw the end of a specific, fixed-term communications project. A temporary Communications Officer position was created and filled for six months.
- A new Paralegal position was created in the previous reporting year, initially on a contract basis to determine the suitability of the position to the OIC’s functions. After a

review of the position in December 2015, a permanent appointment was made.

- Two of the OIC's part-time officers ceased employment during the year. The Senior Legal Officer had been on secondment to the State Solicitor's Office since January 2014 and permanently transferred in December 2015. Our Senior Advisory Officer retired in October 2015. Acting arrangements within the OIC have been made to cover both these vacancies.
- Due to an extended period of leave between May and September 2016, the OIC arranged a secondment to cover the Administrative Assistant position.

Due to the whole of government recruitment freeze in place during the year, the two vacant positions (Senior Legal Officer and Senior Advisory Officer) were not advertised. In addition, the update to the OIC's operational plan now includes review of the office structure and position descriptions. Therefore, the acting arrangements in place are likely to remain until this review is finalised.

Staff development

Also part of the updated operational plan are initiatives to:

- further develop flexible working arrangements;
- design and develop a program for individual professional development; and

- develop and implement an office wellness policy.

The OIC has always had a very low rate of staff turnover and it has been recognised that ongoing professional development opportunities (other than for legal officers) can become stagnant, especially for those who have worked here for more than 15 years in the same position. Traditionally, staff have managed their own professional development by seeking the Commissioner's approval to attend training or further education, which would only be denied in very extenuating circumstances. A more structured individual professional development program will be a positive development for the future.

Unauthorised use of credit cards

On one occasion during the year an officer inadvertently used their purchasing card for personal use. This misuse was recognised by the officer reconciling the December 2015 card statement on 29 December 2015. It was immediately brought to the attention of the cardholder and on 4 January 2016, the cardholder advised that the purchasing card had been used in error instead of their personal credit card. OIC policy is for purchasing cards to be kept in a safe place on the premises, and the cardholder agreed that he had forgotten to do so after last using it for work related purposes.

The cardholder was invoiced for reimbursement of \$45.00 on 4 January 2016, and payment was received in the OIC's bank account on 5 January 2016.

All actions were documented and no disciplinary action was considered necessary, as it was clear the cardholder acted inadvertently. The Commissioner reminded the cardholder of purchasing card requirements, including the requirement to store purchasing cards in a safe place at OIC's office when not being used for official purchasing.

2016

Aggregate amount of personal use expenditure	\$45
Aggregate amount of personal use expenditure settled within 5 working days	\$45
Aggregate amount of personal use expenditure settled after 5 working days	n/a
Aggregate amount of personal use expenditure outstanding at balance date	n/a

12. Governance disclosures

- No senior officers, or firms of which senior officers are members, or entities in which senior officers have substantial interests, had any interests in existing or proposed contracts with the OIC other than normal contracts of employment service.
- The OIC has no boards or committees, and therefore no remuneration costs in this regard.
- There has been no expenditure on advertising, market research, polling or direct mail.

Conflicts of interest

The OIC maintains a Conflicts of Interest Register. During the reporting period, four potential conflicts were brought to the Commissioner's attention. All related to staff family members having an external relationship with a State or local government agency and, by association, the staff member could be seen to have a conflict of interest if they were to then be involved in an external review matter involving those agencies. The officers concerned lodged the potential conflicts with the Commissioner, which were added to the Register with a directive that those officers would not deal with external review matters involving those agencies.

Gifts register

The OIC's gifts register is available on our website at <http://foi.wa.gov.au/H004>. Twelve gifts were registered during the reporting period, the majority being small gifts for guest speaker roles. All gifts were accepted with no gifts exceeding \$50.00.

Disability Access and Inclusion Plan

The OIC lodged a progress report to the Disability Services Commissioner in respect of its Plan in June 2016. Fifteen strategies are outlined in the Plan with nine already implemented, as follows:

- Provide a mechanism on the OIC website for people with disability to comment on access to our services, including being able to exercise their rights under the FOI Act.
- Ensure organised events consider accessibility for people with disability.
- Ensure physical access to the OIC's premises is equally available to all persons, regardless of disability.
- Upgrade OIC website to ensure content meets WCAG guidelines.
- Create and disseminate to staff disability access and inclusion policy.

- Ensure requests for public consultations are conducted in a way that will invite and include people with disability.
- Ensure the OIC's current Plan is available for public comment.
- Ensure that recruitment activities are accessible to people with disability.
- Ensure staff with disability are provided with appropriate support to carry out their responsibilities.

The OIC is committed to ensuring that people with disability, their families and carers are able to fully access the range of services and facilities of the office. The OIC will, whenever required, consult with people with disability, their families and carers and disability organisations to ensure that barriers to access and inclusion are addressed appropriately.

The Plan is available on the OIC's website, or copies can be requested from this office.

Compliance with Public Sector Standards and ethical codes

The OIC operates under an established code of conduct that references the WA Code of Ethics. OIC also has an employee grievance resolution policy in place. All new staff are provided with a copy of the Code and grievance policy as part of an induction pack, and these documents are also available to all staff on the OIC's knowledge management system.

No new employees were appointed during the year other than the permanent appointment of an officer who had previously been on contract. Improvement to policies and procedures is always encouraged through open discussion and regular reviews.

Occupational health, safety and injury management

The OIC is committed to an occupational safety and health and injury management system which has been established by the OIC for the benefit of all staff. A documented injury management system is in place which is compliant with the *Workers' Compensation and Injury Management Act 1981* and the associated *Workers' Compensation Code of Practice (Injury Management) 2005*. This system has been formally introduced to staff and is made available through the OIC's knowledge management system.

Relevant staff are conversant with occupational health and safety and injury management policies, procedures and programs in order to meet legislative requirements, and are provided the opportunity to report any issues at the monthly staff meetings via a standing agenda item for this purpose. All injury management targets have been met (see Table 12 on Page 96). There were no reported injuries or fatalities, and all managers have attended OSH and injury management training.

Records Management

The OIC's recordkeeping systems were evaluated during the review of the recordkeeping plan in the previous reporting period and considered to be suitable to the size of the office. Areas of improvement were identified in respect of disaster recovery and archiving/disposal. No further progress was made during 2015/16 regarding these issues, but remain on the agenda.

Training in the use of the recordkeeping system is provided as required depending on staff turnover. The system in use is very basic and does not require the use of complex databases.

New staff are provided with a copy of the OIC's Recordkeeping Manual and policy at induction. General staff responsibilities in respect of recordkeeping practices are minimal (other than ensuring they retain relevant records) as the filing protocols are centralised to one officer.