

**Office of the
Information Commissioner**

Freedom of information for Western Australia

ANNUAL REPORT

2016/2017



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Office of the
Information Commissioner

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PRESIDENT OF THE LEGISLATIVE ASSEMBLY

SPEAKER OF THE LEGISLATIVE COUNCIL

ANNUAL REPORT TO 30 JUNE 2017

In accordance with section 63 of the *Financial Management Act 2006* I hereby submit my report for the reporting period ended 30 June 2017.

The annual report has been prepared in accordance with the provisions of the *Financial Management Act 2006* and the reporting requirements of the *Freedom of Information Act 1992*.

Sven Bluemmel
INFORMATION COMMISSIONER

13 September 2017

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About this report

Welcome to the Office of the Information Commissioner's 2016/17 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 2016/17 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.

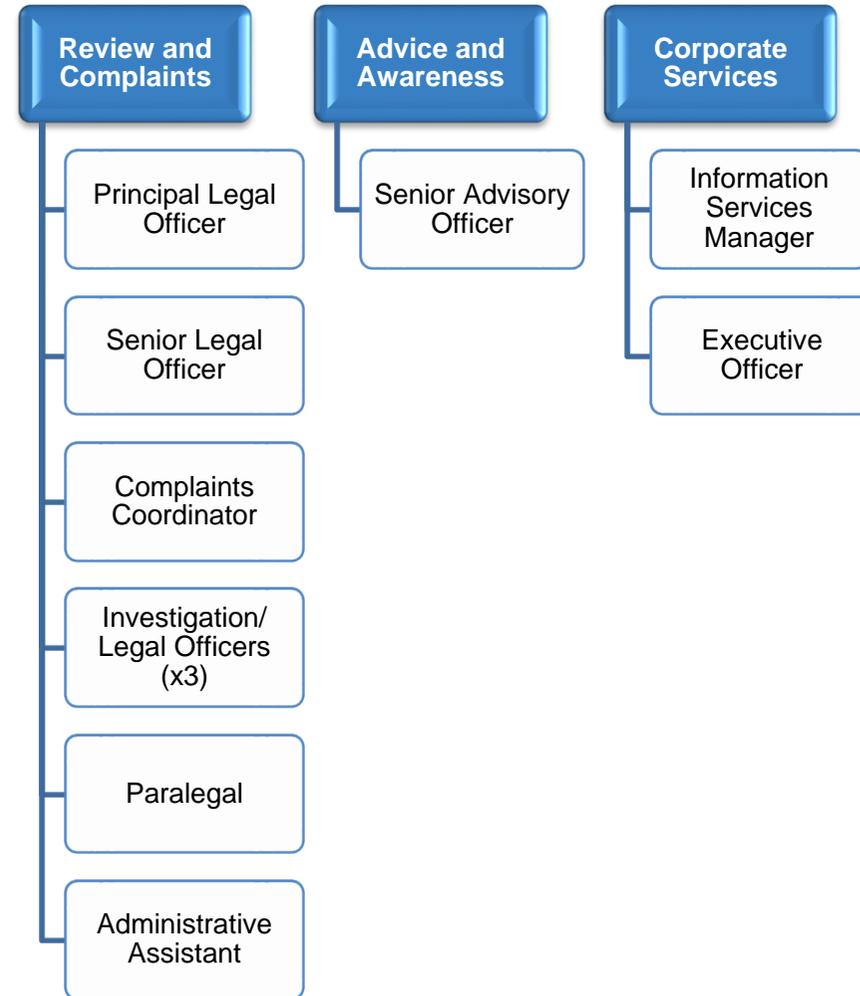
The Attorney General is the Minister responsible for the administration of the FOI Act, but has no express role under the legislation.

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 2017, 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

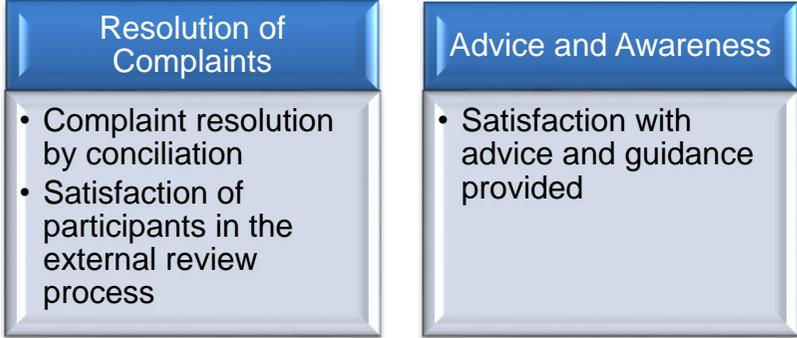
As part of the outcome based management framework required of public sector agencies, the OIC's services strive to achieve an overarching desired outcome, which in turn is mapped to a whole of government goal:



The whole of government goal was updated during the year to reflect the new Government's priorities. One of the objects of the FOI Act is to 'enable the public to participate more effectively in governing the State', a concept that contributes to building strong communities by fostering equity and inclusiveness.

The OIC is independent office and does not 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



This will be my ninth and final annual report as Western Australia's Information Commissioner before I leave to take up a new position.

Many of the themes I observed during the year are consistent with previous years. FOI disputes before my office are getting more complex, access to CCTV footage under the FOI Act raises difficult issues and information plays a greater role in all of our lives. I continue to encourage agencies to consider the FOI process as just one component of their approach to information release. I am therefore pleased to say that many agencies have, or are developing, policies and practices for proactive release of information or for dealing with application for information outside the FOI Act. However, there is still much more that can be done across the sector.

Since the new government was sworn in following this year's election, it has embarked on a program of public sector renewal. This includes Machinery of Government changes, the Service Priority Review and an Inquiry into Government Programs and Projects. These have potentially significant impacts on the administration of the FOI Act. My office has worked with agencies to assist them in meeting their FOI obligations during this period.

One area of potential legislative reform that has gained increasing prominence this year is that of privacy and data

sharing. The Attorney-General confirmed government is working on privacy legislation to end WA's status as the only Australian jurisdiction without dedicated laws governing the collection, storage, release and use of personal information. In addition to enshrining reasonable expectations of information privacy into law, such legislation would also provide a solid foundation for responsible information sharing between agencies. This is currently lacking.

While the form of the legislation and its oversight mechanisms are a matter for government and ultimately the Parliament, I note that there are now numerous established examples to draw on in this regard, including Queensland, the Commonwealth, New South Wales and Victoria.

During the year, my office planned the first "FOI in WA Conference" for practitioners in State and local government. The conference took place on 10 August 2017 and will be reported on more fully in next year's annual report. In the interim, I am happy to say that the conference was a success as evidenced by feedback received from participants. Members of the public would be pleased to have heard FOI officers at the conference discussing better ways of disclosing information more effectively and raising the standard of FOI practice across the board.

In closing, I would like to thank all the staff at the Office of the Information Commissioner that have supported me over the last 8 years. They are a team of dedicated professionals who consistently display the highest standards of integrity and fairness regardless of the challenges in front of them. They never lose sight of the importance of working towards

achieving the legislative objects enshrined in the FOI Act. I could not have achieved anything in this role without them.

It has been a privilege to serve the people of Western Australia and I leave knowing that the administration of freedom on information in our state is in good hands.

Sven Bluemmel
Information Commissioner