



**Office of the  
Information Commissioner**

*Freedom of information for Western Australia*

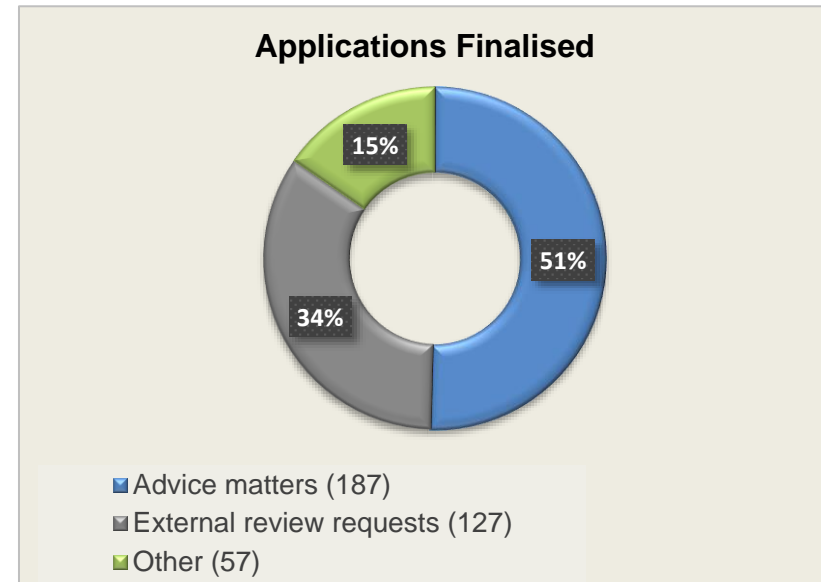
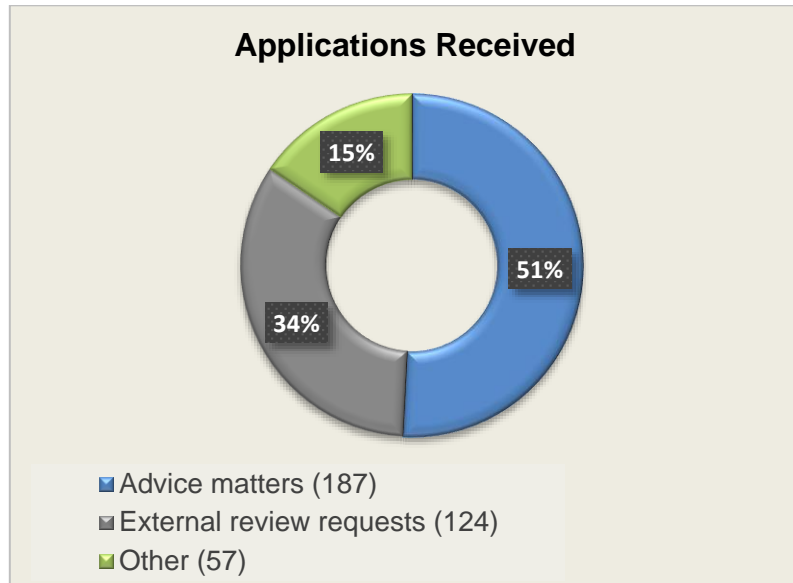
# **ANNUAL REPORT**

## **2016/2017**



# Agency Performance

## 4. Report on operations



- Advice matters refer to the more formal written requests for advice regarding freedom of information from the public sector and the general public. Also included are written requests that have been misdirected to the OIC whereby a response outlining the correct process is provided. It does not include verbal advice.
- External review requests are valid applications for external review requesting the Information Commissioner's determination.
- Other matters refer to requests for the Information Commissioner's determination such as: informal/invalid requests whereby it is not clear if the Information Commissioner has jurisdiction; requests to waive the requirement to consult third parties; requests to extend or reduce the time required for an agency to deal with an application; applications for external review without applying for internal review; and requests to apply for external review out of time.

## Our financial performance

	Estimate \$000	Actual \$000	Variation \$000
Total cost of services	2,458	2,393	(65)
Net cost of services	2,454	2,392	(62)
Total equity	44	339	295
Net increase/(decrease) in cash held	(8)	133	125
Approved salary expense level	1,514	1,544	30

The OIC's audited financial statements can be found in the [Financial Statements](#) chapter. Due to the OIC's total cost of services being below the required threshold of \$3 million, the financial statements do not contain explanatory statements in respect of variances.

## Overview of our performance indicators

	Estimate	Actual	Variation
<i>Outcome: Access to documents and observance of processes in accordance with the FOI Act</i>			
<b>Resolution of Complaints</b>			
<i>Key effectiveness indicators:</i>			
Participants satisfied with complaint resolution and external review processes	85%	88%	3%
Applications for external review resolved by conciliation	60%	69%	9%
<i>Key efficiency indicator</i>			
Average cost per external review finalised	\$8,067	\$8,844	\$777

To measure the satisfaction of the external review service, a post review questionnaire (**PRQ**) is sent to all the parties involved at the completion of every external review matter. The PRQ is designed 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. During the year, 245 PRQs and 146 reminders were sent, resulting in 129 responses.

Falling response rates prompted revision of the PRQ form and process during 2015-16 and we were able to report improvements to the PRQ response rate at the end of that year. In 2016/17 the response rate was 53%. Specifically, we saw a significant increase in responses from applicants but a drop in responses from agencies. In the May 2017 newsletter we reminded agencies of the importance of the PRQ process and encouraged agency participation in that process.

	Estimate	Actual	Variation
<b>Advice and Awareness</b>			
<i>Key effectiveness indicator</i>			
Agencies satisfied with advice and guidance provided	98%	98%	0%
<i>Key efficiency indicator</i>			
Average cost of service per application lodged	\$268	\$251	(\$17)

The level of satisfaction with the advice and awareness services provided by the OIC is determined by responses received from agencies in a state-wide survey issued at the end of each financial year. Satisfaction with the advice and awareness service encompasses advice provided by telephone or email; agency training and briefings; and guidance provided by online material.

## 5. Key highlights

- [25 decisions published](#)
- [69% conciliation rate](#)
- [88% satisfaction rate](#)

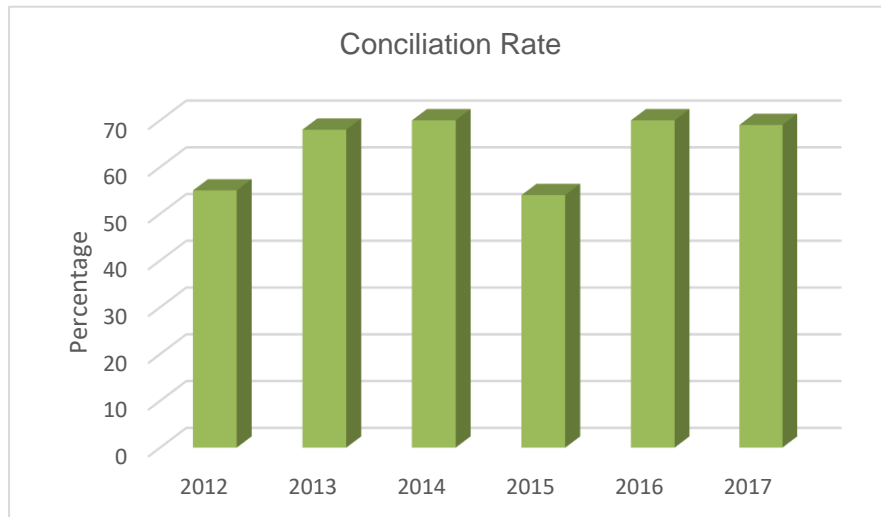
- [Review of tasks required for the effective and efficient delivery of our services](#)



- [New publications](#)
- [Briefings to agencies](#)
- [Workshops for FOI practitioners](#)
- [FOI Coordinator secondment](#)
- [98% satisfaction rate](#)
- [FOI in WA Conference](#)

- [Briefings to community groups](#)

## Conciliation



The Commissioner has powers to deal with complaints in a number of ways including by conciliation, negotiation and compulsory conferences. These are in addition to the Commissioner's power to resolve a complaint by issuing a binding determination. It has always been the focus of the OIC to ensure that the conduct of external review proceedings is not unduly legalistic or formal, preferring to negotiate a conciliated outcome between the parties rather than preparing a formal determination.

New external review matters generally proceed to a compulsory conciliation conference unless it is considered the circumstances of the matter do not warrant it. Conciliation conferences provide complainants with the opportunity to put their case directly to the agency and hear the agency's

response. It also allows matters to be addressed without undue delay or formality.

Conciliation is an important element of the external review process and can result either in settlement of the complaint or clarification or narrowing of the issues in dispute, making the external review process more efficient for those matters that require further review.

The conciliation rate forms one of the OIC's three effectiveness indicators.

### Conciliation case study 1

The agency refused to deal with the complainant's access application on the ground that to do so would divert a substantial and unreasonable portion of the agency's resources away from its other operations.

The agency tried to assist the complainant to reduce the scope of their application to a manageable level, but had not been successful. The Commissioner's officer met with the complainant to explain the relevant provisions of the FOI Act and to discuss the possibility of changing the scope of the application to reduce the amount of work needed for the agency to deal with it.

As a result of the meeting, the complainant agreed to reduce the scope of their application and the agency agreed that it could deal with the application in that form. The complainant and agency then agreed between themselves on the timeframe for the application to be dealt with, resolving the matter.

This meant that a good working relationship was maintained between the agency and the complainant. It also saved work for the complainant and the agency as the original application was dealt with by the agency, rather than the complainant having to make a fresh application to the agency.

**‘... we respect the process and through conciliation it was agreed by all parties that the applicant could receive a redacted version of the disputed document.’**

**(PRQ survey respondent)**

### Conciliation Case Study 2

The complainant applied to the agency for documents that contained information of a sensitive personal nature about other people. The agency refused access to the requested documents.

At a conciliation conference conducted by the OIC, the agency and the complainant agreed to work on informal access to the information through the creation of a document containing high level information of the type requested by the complainant, but which did not identify individual people. The provision of that document satisfied the complainant’s request and the complainant withdrew the application for external review.

The cooperation and constructive approach of both parties resulted in the informal resolution of the matter and is a good example of parties ‘thinking outside the FOI box’ to achieve an outcome that satisfied both parties.

## Importance of preliminary views

One of the major milestones during the course of an external review is when a written preliminary view is issued to the parties to a complaint. The preliminary view is provided to the parties prior to a formal published decision and usually when conciliation to date has not been successful.

The purpose of the preliminary view is to give the involved parties an opportunity to review the Commissioner's understanding of the matters in dispute; identify any factual errors; and provide new and relevant information or submissions before the matter is finalised. While there is no legislative requirement to provide a preliminary view, the FOI Act does provide that the parties to a complaint are to be given a reasonable opportunity to make submissions.

The preliminary view will generally include the following information:

- the background to the complaint (when relevant);
- a summary of the key steps taken during the external review process;
- a description of any preliminary issues and their outcomes;
- a description of the matter that remains in dispute;
- a summary of the relevant submissions made to date; and
- the Commissioner's consideration and preliminary view based on all of the information then before him.

The preliminary view letter is addressed in full to the party to whom the Commissioner's preliminary view is largely adverse, with a copy provided to the other parties (abridged if necessary to avoid disclosure of potentially exempt matter). Based on the preliminary view of the Commissioner, each party is provided the opportunity to reconsider their position and either choose to withdraw from the matter or provide further submissions in support of their claim.

## Decisions of the Information Commissioner

The Commissioner may need to resolve a complaint by issuing a binding determination.

If any matters remain in dispute the Commissioner will, after considering any further information and submissions following the preliminary view, formally determine the issues in dispute between the parties. The parties are informed in writing of the final decision and the reasons for it. The Commissioner is required to publish decisions in full or in an abbreviated, summary or note form which are published on the OIC's website. It is the usual practice to identify all of the parties to the complaint in the published decision, except in certain circumstances.

During the reporting period the Information Commissioner published 25 decisions. Applications under the FOI Act for access to CCTV footage continue to raise complex issues. Some of the year's decisions are highlighted below.



### Case Study 1 – documents relating to the Perth Children’s Hospital

*Re John Holland Pty Ltd and Department of Treasury*  
[\[2016\] WAICmr 17 \(PDF\)](#)

In this matter the then Leader of the Opposition (now the Premier) applied to the agency for documents relating to the commissioning and opening of the Perth Children’s Hospital. The complainant, a third party, sought review of the agency’s decision to give access to the documents that contained information about the third party. The Commissioner found that the disputed documents were not exempt and confirmed the agency’s decision to give access to them.

The Commissioner was not satisfied that the disputed documents had a commercial value to the third party that could reasonably be expected to be destroyed or diminished by disclosure, nor did the Commissioner accept that disclosure of the information could reasonably be expected to endanger the life or physical safety of any person or the security of any property. The Commissioner also considered that the agency had given the complainant no reason to believe that the information it provided to the agency was provided on a confidential basis or that disclosure of the disputed information could be reasonably expected to prejudice

the future supply of information of that kind to the Government or to an agency.

### Case Study 2 – documents relating to a proposed gas pipeline

*Re Johnston and Department of State Development*  
[\[2017\] WAICmr 1 PDF](#)

The complainant sought access to documents relating to a proposed gas pipeline between Bunbury and Albany, including the agency’s draft invitation for expressions of interest to perform work on the pipeline project. The agency refused access to the requested documents.

The Commissioner found that the agency did not establish that disclosure of the disputed documents would, on balance, be contrary to the public interest. The Commissioner referred to the Productivity Commission’s report titled ‘Public Infrastructure – Productivity Commission Inquiry Report’ dated 27 May 2014, which concluded that public disclosure of cost-benefit analyses is unlikely to jeopardise a government’s ability to optimise value for money through competitive tender processes if the bidding process is truly competitive.

The Commissioner considered that there is a strong public interest in the disclosure of a document that is fundamental to the agency's accountability for the performance of its functions and expenditure of public funds relating to the development of a major infrastructure project of this nature.

The Commissioner did not accept the agency's claims that disclosure of the disputed documents would have a substantial adverse effect on the financial affairs of the State or the agency or that disclosure would reveal information relating to research being undertaken, or to be undertaken, by an officer of an agency or by a person on behalf of an agency. The Commissioner considered that disclosure of the documents would, in any event, be in the public interest. The Commissioner was also not satisfied that the document, which consisted of the agency's draft invitation for expressions of interest, contained policy options or recommendations prepared for possible submission to an Executive body or that that document was prepared to brief a Minister in relation to matters prepared for possible submission to an Executive body, as claimed by the agency.

The Commissioner found that the disputed documents were not exempt and set aside the agency's decision.

### Case Study 3 - Documents relating to the Perth Freight Link project

*Re MacTiernan and Main Roads Western Australia [2017] WAICmr 2 PDF*

The documents in dispute in this matter related to the Perth Freight Link project.

The Commissioner was satisfied that disclosure of the documents would reveal opinions, advice or recommendations or consultation or deliberations that had taken place in the course of, or for the purpose of, the deliberative processes of Government. While the Commissioner acknowledged that the deliberative process had not been completed for some stages of the project, he did not consider that meant disclosure would necessarily be contrary to the public interest.

The Commissioner noted that there is a strong public interest in the public, as a whole, being informed about the costs and benefits of major public infrastructure projects and how they are to be delivered, and that responsible government requires an appropriate degree of transparency and capacity for public scrutiny of important projects and government decisions.

The Commissioner also observed that it is the role of government to make and effectively communicate

project decisions that are in the best interests of the public. The Commissioner referred to the object of the FOI Act of enabling the public to participate more effectively in governing the State. He noted that the public's ability to do so is reduced if the public is only informed about the analysis underpinning major projects after decisions have been made and contracts signed. The Commissioner found that disclosure of the disputed documents would not, on balance, be contrary to the public interest.

The Commissioner also found that the documents did not contain information that had a commercial value to an agency or, if it did, that disclosure could reasonably be expected to destroy or diminish that value.

The agency claimed that it was engaged in commercial activities because it contracts with private sector entities and lets large contracts to deliver services. However, the Commissioner was not satisfied that disclosure of the documents would reveal information concerning the commercial affairs of an agency when the agency's primary function is to construct, maintain and supervise roads, using a budget allocated by the Parliament for that purpose.

The Commissioner found that the disputed documents were not exempt.

#### Case Study 4 - Draft local planning strategy

*Re Park and City of Nedlands* [\[2016\] WAICmr 14](#) (PDF)

The complainant applied for access to a copy of the agency's draft Local Planning Strategy submitted to the Western Australian Planning Commission (WAPC). The Commissioner was satisfied that the disputed document contains opinion, advice or recommendations that have been obtained or prepared by officers of the agency in the course of, or for the purpose of, the deliberative processes of the agency and the WAPC.

While the Commissioner accepted that disclosure of documents may not be in the public interest when the relevant deliberations in an agency are ongoing or have not been completed, he considered that is only the case when disclosure will undermine, hamper or adversely affect those continuing or future deliberations. The Commissioner was not persuaded that that would be the case in this matter.

The Commissioner was not satisfied that disclosure of the disputed document would adversely affect the deliberative processes of the agency or the WAPC or that any other public interest would be harmed or adversely affected by disclosure such that disclosure would, on balance, be contrary to the public interest. The Commissioner found that the disputed document was not exempt.

### Case Study 5 – CCTV footage of assaults on public officers

*Re Seven Network (Operations) Limited and City of Perth* [2016] WAICmr 12 (PDF)

The complainant applied to the agency for access to documents that included CCTV footage of physical assaults of parking inspectors, commercial car park attendants and rangers.

The complainant accepted the Commissioner's preliminary view that some of the requested footage contained personal information about third parties and was exempt and that some of the footage was outside the scope of the complainant's access application. As a result, the Commissioner was not required to make a determination about that footage.

The Commissioner found that the footage that remained in dispute was not exempt because it did not contain personal information. Based on the quality of the footage and the orientation and proximity of the individuals in the footage, the Commissioner considered that disclosure of the footage would not reveal personal information about those individuals because their identities were not apparent or could not reasonably be ascertained from that information.

### Case Study 6 - CCTV footage of incidents assaults at level crossings or railway stations

*Re Seven Network (Operations) Limited and Public Transport Authority* [2017] WAICmr 12 (PDF)

The complainant applied for access to certain CCTV footage related to incidents at level crossings or railway stations. The Commissioner considered the question of when an individual's identity can reasonably be ascertained from footage. The Commissioner noted that determining that question of fact requires an analysis of the circumstances of the particular case, which may include, among other things, the number of steps required to ascertain the individual's identity and the number of people who have the necessary knowledge or contextual information to ascertain the individual's identity.

The Commissioner was inclined to the view that if only one other person or only a small group of people could possibly or potentially ascertain an individual's identity in an image recorded in CCTV footage from the contextual information known or available to them, that of itself does not mean that the individual's identity can reasonably be ascertained from the footage.

The Commissioner was of the view that much will turn on the quality of the footage in each case and that the quality of footage is determined by factors such as the size and resolution of the image, the position of the individual to the camera and the degree to which the individual's face and other identifying characteristics are visible.

In this case, the Commissioner was not persuaded that the identities of the individuals in the footage were apparent or could reasonably be ascertained from the footage. As a result, he found that the CCTV footage did not contain personal information as defined in the FOI Act and that it was not exempt.

#### Case Study 7 - Examination reports for the assessment of a PhD thesis

*Re Jewish Community Council of WA Inc. and Curtin University of Technology* [\[2017\] WAICmr 15 \(PDF\)](#)

The disputed documents in this matter were two examination reports for the assessment of a PhD candidate's thesis. The reports were prepared by members of the academic staff of two other universities. The agency and third parties maintained that certain information contained in reports prepared by external

examiners regarding the merits of a particular PhD thesis was exempt personal information about those third parties.

The Commissioner was satisfied that it was likely that the authors of the disputed documents were engaged under a contract for services with the agency. The Commissioner considered that disclosure of the disputed documents would reveal things done by the authors in performing services under the contract and that the documents were not exempt on that basis. The Commissioner also decided that the names and titles of employees of the agency in the documents were prescribed details and not exempt.

In addition, the Commissioner found that disclosure of the disputed documents was in the public interest. The Commissioner considered that open data access and transparency were public interest factors in favour of disclosure and that the public interest in maintaining personal privacy was less compelling in the circumstances of this case.

The Commissioner found that the disputed documents were not exempt.

### Case Study 8 - Statutory declaration relating to a land transaction

*Re Shuttleworth and Town of Victoria Park* [\[2016\] WAICmr 13 \(PDF\)](#)

The disputed document was a copy of a statutory declaration that had been executed by a third party and provided to the agency for the purpose of verifying that certain work had been carried out on a block of land prior to its subdivision and sale as a strata titled block. The complainant was the purchaser of the strata titled block and acted in reliance on the statutory declaration. The agency gave the complainant an edited copy of the document, deleting the name, address, occupation and signature of the third party.

The Commissioner considered that the deleted information would reveal personal information about an individual. However, the Commissioner considered there is a strong public interest in the public generally being able to rely upon the contents of a statutory declaration, as well as a strong public interest in persons in the complainant's position being able to seek redress or compensation where a statutory declaration has been relied upon in good faith and a person suffers or may suffer a detriment in reliance upon that statutory declaration.

The Commissioner decided that disclosure of the name, address and occupation of the third party would, on balance, be in the public interest and he found that information was not exempt. The Commissioner found that the third party's signature was exempt personal information.

### Case Study 9 - Transcript of a Stewards' Inquiry

*Re Banovic and Edwards and Racing and Wagering Western Australia* [\[2016\] WAICmr 16 \(PDF\)](#)

The complainants sought access to a transcript of the proceedings of a Stewards' Inquiry. The Commissioner was satisfied that the transcript contained personal information about a number of third parties which was, on its face, exempt.

The Commissioner considered that the public interest in the transparency and accountability of government agencies was served by the public availability of the Racing Penalties Appeal Tribunal's decision and by the agency providing a copy of the relevant stewards' findings to the complainants.

The Commissioner did not consider that the public interests favouring disclosure outweighed the very strong public interest in the protection of the personal privacy of third parties in this instance. The Commissioner found that the transcript was exempt. He also found that it was not practicable to give access to an edited copy of the document with the exempt information deleted as it would render the document unintelligible to a reader.

Case Study 10 - Documents relating to an investigation concerning a child

*Re 'S' and Department for Child Protection and Family Support* [\[2017\] WAICmr 10](#) ([PDF](#))

The complainant applied for access to documents about the investigation of a complaint made by the complainant to the agency concerning the complainant's child. The agency provided full access to one document and access to an edited copy of 15 documents on the basis that the deleted matter was personal information about other individuals.

While the Commissioner accepted that there is a strong public interest in the protection of children, he did not consider that disclosure of the disputed matter would promote that public interest. The Commissioner was of the view that the public interest in protecting the privacy of third parties outweighed the public interest in disclosure and he found that the disputed matter was exempt.

Case Study 11 - Legal opinions and correspondence relating to those opinions

*Re Gascoine and Shire of Chittering* [\[2017\] WAICmr 11](#) ([PDF](#))

The disputed documents in this matter consisted of legal opinions and correspondence relating to those opinions. The Commissioner was satisfied that the disputed documents consisted of confidential communications between clients and their legal advisers made for the dominant purpose of giving or obtaining legal advice.

Applying the Supreme Court decision in *Department of Housing and Works v Bowden* [2005] WASC 123, the Commissioner considered that it is not within his

jurisdiction to consider whether the agency had waived legal professional privilege. Accordingly, the Commissioner found that the disputed documents were exempt on the basis that they would be privileged from production in legal proceedings on the ground of legal professional privilege.

#### Case Study 12 - Documents that could not be found or do not exist

*Re Wells and Legal Profession Complaints Committee [2017] WAICmr 14 (PDF)*

The complainant applied for access to certain documents that included communications between the agency and the Chief Justice of Western Australia. The agency gave the complainant access to two documents and the complainant sought review on the basis that he believed additional documents should exist that were not provided by the agency. The Commissioner was satisfied that there were reasonable grounds to believe additional documents of the kind set out in the complainant's access application should exist in the agency.

Following additional searches by the agency, the Commissioner was satisfied that the agency had taken all reasonable steps to find the requested documents and that further documents either cannot be found or do not exist.

#### Website

The OIC [website](#) is organised to allow members of the public and agencies to obtain clear information about freedom of information that is relevant to them. The site includes drop-down menus with information according to its relevance to members of the public and officers of agencies respectively. Other useful resources are available such as annual reports; the FOI Coordinator's Manual; exemption guides; the newsletter; and external review procedure guidelines.

Governance documents are also available, such as our customer service charter; Disability Access and Inclusion Plan; gift register; and corporate card statements.

#### Online decision search tool

All published decisions of the Commissioner are available on the OIC's website. A comprehensive search facility is available for full decisions whereby users can search for specific exemption clauses, sections of the FOI Act or words



and phrases. The tool will search the catchwords found at the beginning of each full decision:

FREEDOM OF INFORMATION – refusal of access – lease of premises commonly known as ‘Indiana Tea House’ – section 30(f) – the requirements of a notice of decision if the decision is to refuse access – section 102 – burden of proof – section 33 – safeguards for affected third parties – clause 4(3) – adverse effect on business affairs – clause 4(7) – public interest – clause 8(1) – breach of confidence – clause 8(2) – information of a confidential nature obtained in confidence.

The OIC also publishes decision notes. These decisions are not as comprehensive as full decisions but are captured by the search facility when searching by agency or complainant name, selecting decisions between dates, or based on a particular outcome.

A Google search is also available that will search the full text of both full decisions and decision notes.

The decision search facility is a very helpful tool for FOI practitioners to search for precedents in respect of matters they are dealing with.

### New publications

Prompted by a decision by the Supreme Court following an appeal of one of the Commissioner’s decisions, the OIC published a new FOI process guide ‘[Dealing with personal information about an officer of an agency](#)’. This clarifies the limitation on the personal information exemption regarding ‘prescribed details’ about an officer of the agency. The Supreme Court decision provides that the limitation relates only to the prescribed details of officers of an agency to which the application was made.

Following a trend in advice requested from the OIC, a new FOI guide was published ‘[Dealing with requests for documents related to an exempt agency](#)’. This includes general advice regarding the meaning of ‘exempt agency’, notification requirements, and personal information about officers of an exempt agency.

The FOI Coordinator’s manual is used for the FOI Coordinator’s workshop run throughout the year. It is a comprehensive reference tool for FOI Coordinators and is intended to be an evolving resource. The manual is available online and is updated with new guidance material as required and references to new decisions of the Commissioner when relevant.

### Agency FOI Coordinators Reference Group (AFRG)

The AFRG, formed in August 2015, meets quarterly and currently consists of officers from ten agencies that are representative of the different agency types in the sector. The purpose of the AFRG is to promote and advocate good FOI practice and the meetings continue to provide an opportunity for the OIC to hear directly about current issues facing agencies in respect to freedom of information.

These discussions are an important contributing factor to the advice and awareness activities of the OIC. It was feedback via the reference group meetings that prompted the OIC to host a conference for FOI practitioners.

## FOI in WA Conference Steering Committee

Planning for the inaugural FOI in WA Conference has been underway throughout the year and the Committee was formed using recommendations from – and members of – the AFRG. Members of the Committee include FOI practitioners from Royal Perth Hospital; Fiona Stanley Hospital; Department for Child Protection and Family Support; Department of Transport; Main Roads WA; and the Department of the Premier and Cabinet.

A survey to FOI practitioners across the sector was conducted to ascertain what they would find most beneficial at a conference on FOI, and the results were collated to inform the program.

The FOI in WA Conference took place on 10 August 2017 and was hosted at Fiona Stanley Hospital.

The contribution and willingness of the Committee members to share their time, skills and experience to assist in developing a successful conference to improve the administration of freedom of information in Western Australia is much appreciated.

## FOI Newsletter

Our newsletter is published quarterly and provides an opportunity to address current or recurring issues in FOI. While the information contained in the newsletter is primarily targeted to agency staff, it includes information that may be of interest to members of the public and subscribers to the

newsletter also receive alerts when decisions of the Commissioner are published on our website. Subscriptions can be registered at: <http://foi.wa.gov.au/en-us/UR100>. All issues are available on our website at <http://foi.wa.gov.au/en-us/Newsletters>.

## Training and briefings for individual agencies

An understanding of the basics of freedom of information should be part of the competency for any public sector employee, and the OIC provides in-house briefings to agency staff to assist with this. In addition, the OIC participates in the Public Sector Commission's induction briefings given to new public servants. The decision to give more specific onsite decision-making training is based on the needs of particular agencies and the resources of the OIC. Where possible agency decision-makers are encouraged to attend the training that is offered at OIC premises.

### Training provided:

- 9 FOI Coordinators Workshops run for agency staff.
- 5 Decision Writing Workshops run for agency staff.
- 34 general FOI briefings and training to agencies onsite.
- 5 presentations to non-agency attendees.

## Advice and Awareness to the Kimberley

Regional trips are a useful way for the Commissioner to gain an understanding of some of the issues facing regional officers when dealing with freedom of information. It is also an opportunity for officers of agencies based in the regions to receive FOI training without the expense of travelling to Perth.

In November 2016, the Commissioner and the Senior Advisory Officer visited Kununurra and Broome. Training and briefings were provided to officers in the region from the Shires of Broome, Halls Creek and Wyndham/East Kimberley, and the regional offices of the Department of Planning; Department of Education; Department of Parks and Wildlife; Department of Sport and Recreation; Main Roads WA; Broome Hospital; Kununurra Hospital; Department of Housing; Department of Lands; and the Kimberley Development Commission. Our thanks to the Shires of Broome and Wyndham/East Kimberley for hosting us and the use of their offices to provide training to other officers in the area.

## Advice and Awareness to the Murchison

The Commissioner conducted a FOI Coordinators Workshop at the Shire of Cue in May 2017 which was also attended by officers from the surrounding Shires of Murchison, Mount Magnet, Meekatharra and Yalgoo.

## Speeches by the Commissioner

The Commissioner has been a guest lecturer at a number of WA Universities and has introduced students to important legal issues associated with freedom of information legislation. He has also accepted invitations to talk about freedom of information to a variety of groups that recognise the importance of freedom of information to their members and to the wider society.

### Briefings for community service groups

This year the OIC has provided briefings for the Anglo-Australasian Lawyers Society and a joint presentation with the Public Sector Commission and Ombudsman to the Glyde-In Community Learning Centre.

Briefings for community groups and not-for-profit groups can equip advocates to make effective access applications. While briefings for advocacy groups include advice about rights to access documents under the FOI Act, they also stress the desirability of working with agencies to achieve a mutually acceptable outcome. The role of those briefings can be to ensure that applicants are realistic in their expectations of what an agency can provide.

## FOI Coordinators and Decision Writing Workshops

The FOI Coordinators Workshop is the key training forum provided by the OIC. Participants in this workshop include officers who have responsibility for information access processes and decisions within their agencies. Some participants are new to freedom of information and some use the workshop as a refresher to ensure that the processes and policies continue to accord with best practice.

The Decision Writing Workshop aims to build on the same material addressed in the FOI Coordinators Workshop (which can also be obtained by pre-reading the FOI Coordinators Workshop manual) to assist attendees understand what is needed to write a notice of decision that complies with the requirements of the FOI Act. It also demonstrates an appropriate process to use in reaching a decision in response to an FOI access application.

Enrolment at each workshop is capped at 20 participants to create a workshop format – rather than lecture format – to encourage greater participation from attendees. A waitlist is available to ensure we can backfill workshops when there are cancellations.

The feedback received about our training has been very positive. It is recognised that participants have a variety of experience and needs. The OIC seeks to address this by providing a clear idea of what will be provided in training and by having more materials available outside of training.

**‘Attending the FOI Coordinators and Decision making workshops following the submission of the initial FOI request helped to understand the process, clarified my role as Coordinator and the reasoning behind the FOI Act. It was very worthwhile.’**

**(PRQ survey respondent)**

## Advice service

The OIC provides a general advisory service for members of the public and agency staff. The intention in giving advice is to ensure members of the public are equipped with the knowledge to be able to access to documents both outside the FOI Act, where possible, and in accordance with the FOI Act when an access application is appropriate. Agency officers are assisted to understand their obligations under the FOI Act.



Legal advice or specific rulings on particular issues or sets of facts is not provided by Advice and Awareness staff.

## Audit

### Internal financial audit

In May 2017 an internal audit was conducted by Braxford Consultancy of the OIC's finance, human resource and asset processes. Four recommendations of low to medium risk were made, including finalisation of the OIC's finance manual. Recommendations were also made for additional quality checking of transactions and checklists as a result of discrepancies found.

These recommendations have been taken on board and can be linked with the personnel risk audit outlined in a personnel risk audit conducted in the previous year, as all financial and HR transactions are processed by the Chief Finance Officer in the absence of other administrative support. All reports and transactions are broadly reviewed by the Commissioner on a monthly or quarterly basis. However, there is no scope for additional segregation of duties and quality assurance checks at the time of transaction.

In the new year the OIC plans to look at additional administrative staff to assist the Chief Finance Officer.

### External audit

As with the previous two years, the OIC's external audit by the Office of the Auditor General has been conducted in two stages: the first stage for the financial statements and the second stage for the key performance indicators. Delaying the audit of key performance indicators allows survey data

collected throughout July from State and local government agencies to be properly collated and reviewed.

### **Our workplace**

The Commissioner employs 11 staff to assist him in his functions under the FOI Act. One of the benefits of a small office is the close-knit environment. The OIC maximises the benefits of this through the long standing establishment of a staff funded social club that organises events throughout the year to unwind and strengthen relationships.

Our operational plan includes the development and implementation of an office wellness policy to formalise our commitment to looking after our employees. The physical, mental and emotional wellbeing of staff is vital in a happy and productive environment. Volunteering in community events is encouraged and is an area staff have already agreed to build on.

### Law Week Walk for Justice

On 16 May 2017, for the second year OIC fielded a team of walkers to participate in the Law Week Walk for Justice along the Perth foreshore with representatives from the major law firms, barristers and judicial officers. The walk was led by the Chief Justice of Western Australia and celebrated pro bono work carried out by the legal profession. OIC staff raised \$420.00 for the Law Access Pro Bono Referral Service, which provides free legal assistance for those who cannot afford legal fees. Altogether the walk in WA raised over \$28,000, with over \$173,000 raised nationally.

### Tristan Jepson Memorial Foundation

The OIC continues to support the Psychological Wellbeing Best Practice Guidelines for the Legal Profession developed by the Tristan Jepson Memorial Foundation. The Foundation is an independent, volunteer, charitable organisation whose objective is to decrease work-related psychological ill-health in the legal community and promote workplace psychological health and safety.