



**Office of the
Information Commissioner**

Freedom of information for Western Australia

ANNUAL REPORT

2017/2018



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



**SPEAKER OF THE LEGISLATIVE ASSEMBLY
PRESIDENT OF THE LEGISLATIVE COUNCIL,**

ANNUAL REPORT TO 30 JUNE 2018

In accordance with section 65 of the *Financial Management Act 2006* I hereby submit my report for the reporting period ended 30 June 2018.

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*.

A handwritten signature in blue ink that reads "Catherine Fletcher".

Catherine Fletcher
ACTING INFORMATION COMMISSIONER

19 September 2018

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About this report

Welcome to the Office of the Information Commissioner's 2017/18 annual report.

The aim of this 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 to provide a mechanism to ensure their personal information is accurate and up-to-date. In addition, we educate agencies on their responsibilities under freedom of information (**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 the year 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

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 (WA)* (**the FOI Act**) gives everyone a legally enforceable right to government information in Western Australia.

The stated 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 State and local government 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 a means of dispensing justice to the people of Western Australia.

In the absence of State privacy legislation in Western Australia, the FOI Act also provides a means to ensure personal information held by State and local governments is accurate, complete, up-to-date and not misleading.

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

How does it work?

Anyone has the right to lodge an 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 office of Information Commissioner is established by section 55(1) of the FOI Act and the Commissioner is appointed by the Governor. The Information Commissioner (**the Commissioner**) is independent of executive government and reports directly to the Parliament as required by section 111 of the FOI Act 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.

The main function of the Commissioner is to provide independent external review of decisions made by agencies under the FOI Act in respect of applications for information and amendment of personal information. Additional functions of the Commissioner include ensuring that agencies and the public are aware of their responsibilities and rights under the FOI Act.

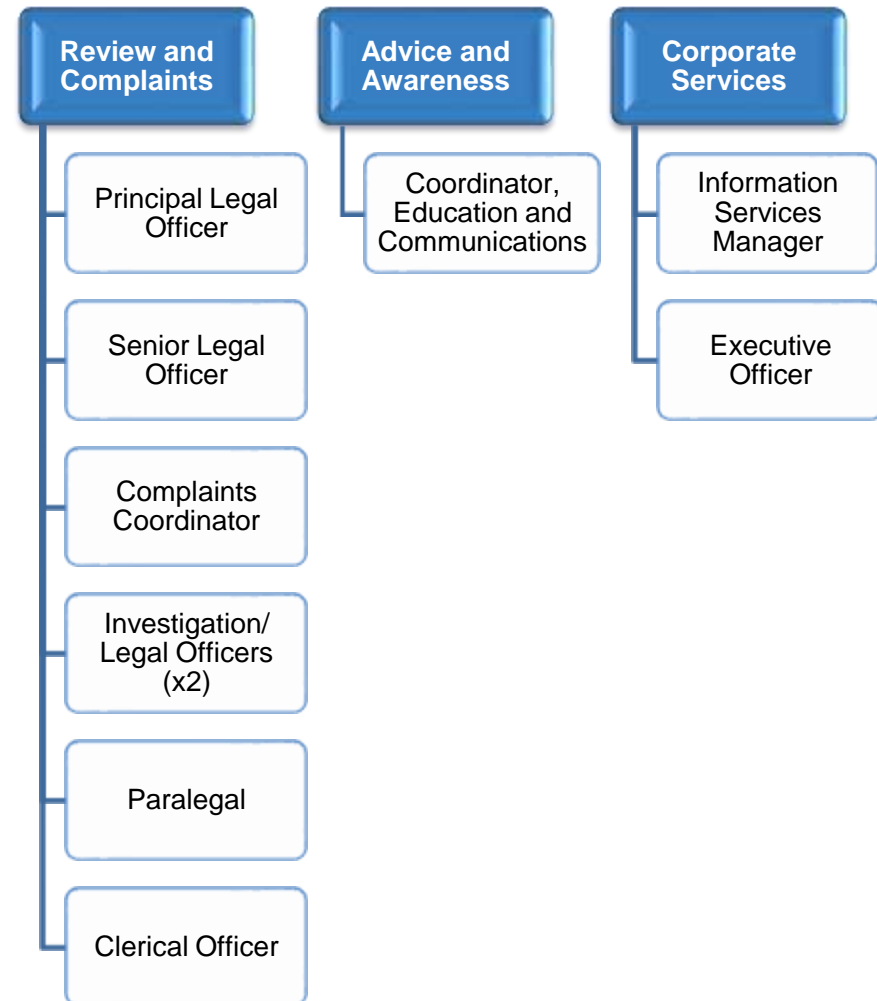
When relevant, the Commissioner also recommends legislative or administrative changes that could be made to help the objects of the FOI Act be achieved.

About the Office of the Information Commissioner

As at 30 June 2018, the Commissioner was supported by 10 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.

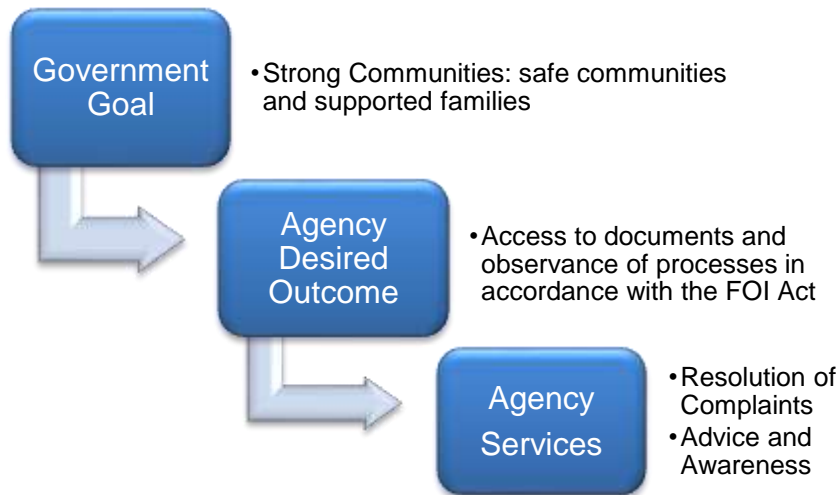
- *Resolution of Complaints (External Review)* provides an independent review and complaint resolution process that strives to resolve cases in a timely manner and balances the competing needs and expectations of applicants, agencies and Parliament within the legislative requirements prescribed by the 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

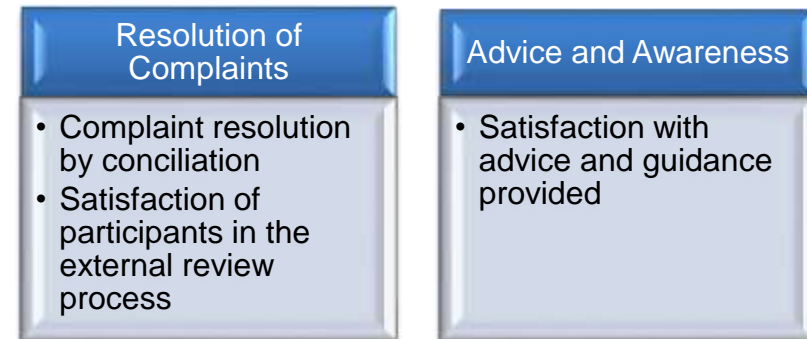
The OIC’s services are designed to achieve an overarching desired outcome, which in turn is mapped to a whole of government goal:



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 promoting transparency and accountability in government.

The OIC is an independent statutory authority 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 from page [45](#).

Legislative framework and legal compliance

The legislative framework for freedom of information in Western Australia is governed by the following legislation:

- *Freedom of Information Act 1992*
- *Freedom of Information Regulations 1993*

In the performance of our functions, the OIC also 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 relevant legislative reporting that is required under certain of these acts can be found under the [Disclosures and Legal Compliance](#) section of this report.

Executive summary – the year in review



This is the 25th annual report to Parliament and, through Parliament, to the community on the operations of the Office of the Information Commissioner for Western Australia and the administration of the FOI Act. It is my first annual report as Acting Information Commissioner following my appointment to this role on 16th July 2018. In addition

to our statutory responsibilities, the functions of the Information Commissioner and staff of the OIC are guided by the FOI principles of openness, accountability and responsibility of government. We see our role as both complementary and integral to the system of Parliamentary democracy in this State.

Due to the recent nature of my appointment this summary of important events, key highlights and themes for the past year necessarily derives from information provided to me by my staff and the agencies that engage with the FOI legislative framework. In my view, this annual report provides a comprehensive and accurate reflection of the activities of the office for the 2017/18 reporting period.

An important feature of this annual report is the presentation of key data from agencies and the OIC regarding applications for access to documents or amendment of personal information and also the results of decisions upon those applications (see the sections in this report on [Agency Statistics](#), [Key Performance Indicators](#) and [OIC Statistics](#)).

Applications for amendment of personal information form only a very small portion of all applications. Key data regarding access applications indicates there were 17,258 such applications made to agencies this year with almost 90% of the decisions made by agencies providing applicants with access to the requested documents in some form. Only 3.2% of decisions were to refuse access and the most used exemption continues to be that for the protection of personal information about third parties. There is also a continuing trend whereby less than one per cent (0.97%) of access applications proceed by way of external review to the Commissioner. However, the number of complaints to the Commissioner increased markedly last year, up by about one third. Of that number, the vast majority were resolved by conciliation (77%, up from 69% last year) without the need for a formal determination by the Commissioner. Despite that workload increase and reduced staffing levels in the past year this office finalised almost 13% more external review matters than in the previous year (143 this year, up from 127 last year). Meeting expected workload increases will be the key focus for this office going forward.

In addition to my primary function of dealing with complaints about FOI decisions, my other important statutory function is that of raising awareness among, and providing assistance to, the public and agencies on matters relevant to the operation of the FOI Act. My office continues to achieve outstanding rates of satisfaction from agencies about this aspect of our service. An interesting development in recent times has been the resurgence of agency FOI networking groups which provide a forum for agency FOI Co-ordinators to exchange

ideas and support one another. We strongly believe that better informed, better skilled ‘front end’ FOI decision-makers are likely to lead to better FOI outcomes for the community. I take this opportunity to thank the FOI officers and their associated staff in the many agencies dealing with FOI for their work in this area, which is often challenging and demanding.

A significant highlight of the last 12 months was the inaugural ‘FOI in WA Conference’ at which 269 officers from the State and local government sectors attended an all-day conference held on 10 August 2017 at Fiona Stanley Hospital. The conference involved a keynote presentation and panel discussion involving local and interstate leaders in the FOI and records management areas, and some concurrent sessions on select issues. The conference was extremely well received and we hope to repeat the experience in late 2019.

This office continues our involvement in the Association of Information and Access Commissioners which is an association of my counterparts from other Australian jurisdictions and New Zealand. The objectives of the association include sharing knowledge and resources between Commissioners within the regions, as well as cooperating in areas such as promotion of best practice in the area of FOI, the proactive disclosure of government information and general open government initiatives.

My final observation of key events for this summary is that this office was invited to provide a number of submissions and were consulted in respect of various legislative proposals or

administrative practices affecting the FOI Act, information disclosure generally or the OIC. I also point out that this report, like past reports of my predecessors, details a number of recommendations for legislative and administrative changes to the FOI legislative framework which I suggest could improve the processes and procedures under the FOI Act and in the OIC.

In conclusion, I want to make special thanks to my staff at the OIC for their dedication and continued high standards of service over the last year which, I believe, has been a particularly challenging time in light of the fact there has been some uncertainty about the ongoing structure of the OIC and a number of changes in leadership. In the last year OIC staff farewelled long-term former Commissioner Sven Bluemmel who was appointed as Victoria’s Information Commissioner in September 2017. The OIC’s Principal Legal Officer Su Lloyd was then appointed Acting Information Commissioner and sadly passed away following her resignation in April 2018. Principal Assistant Ombudsman Lisa Ward was then appointed Acting Information Commissioner for 12 months but resigned when she was permanently appointed as a Magistrate of Western Australia in July 2018. I also acknowledge the unique and significant contribution that my predecessors made to the OIC during the year.

Catherine Fletcher, B.Juris., LLB, Grad Dip Mgmt
ACTING INFORMATION COMMISSIONER