



Office of the  
**Information Commissioner**

*Freedom of information for Western Australia*

# **ANNUAL REPORT**

## **2017/2018**



# Disclosures and Legal Compliance

## 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 2017/18 is set out in detail in the statistical tables in the [Agency Statistics](#) chapter of this report. The following is an overview.

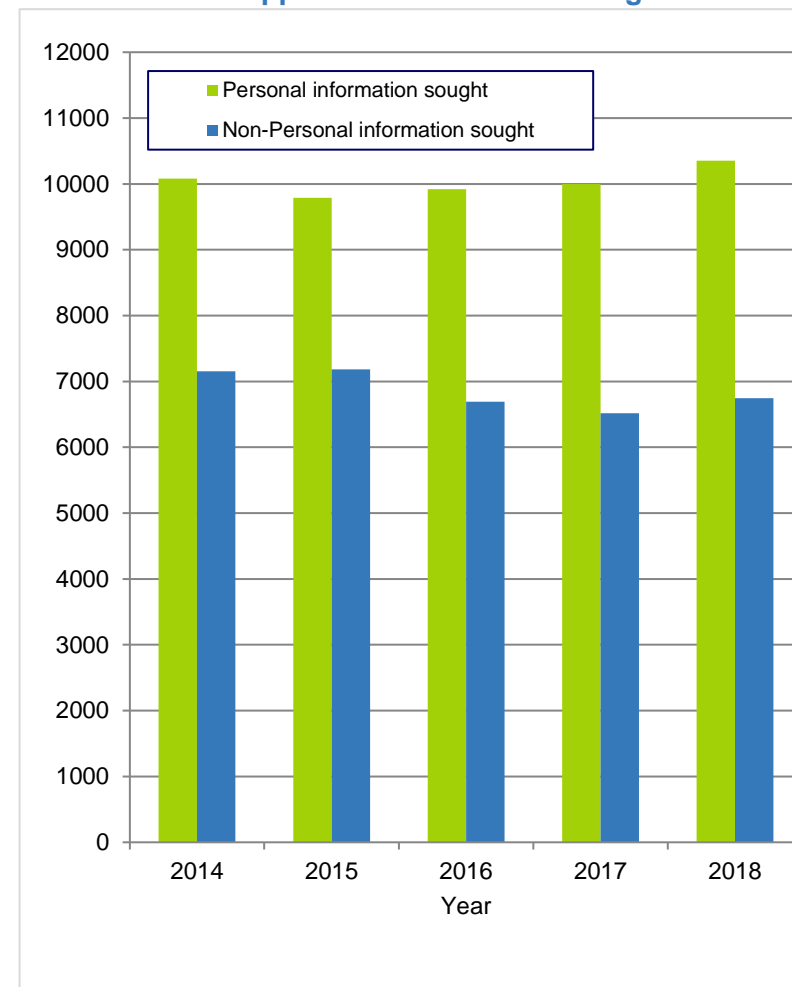
The number of access applications made to agencies under the FOI Act was 17,258 for the year under review. This represents a slight decrease from last year (17,306).

### Decisions

As can be seen in [Table 14](#), of the decisions on access made by Ministers in the reporting period, 10 were to give full access; 58 were to give access to edited copies of documents; and six decisions were to refuse access. In eight cases no documents could be found.

[Table 14](#) also reveals that 14,892 decisions on access were made by State government agencies (exclusive of local government agencies and Ministers) in 2017/18. Note that there were 248 more applications withdrawn during 2017/18 than then previous year.

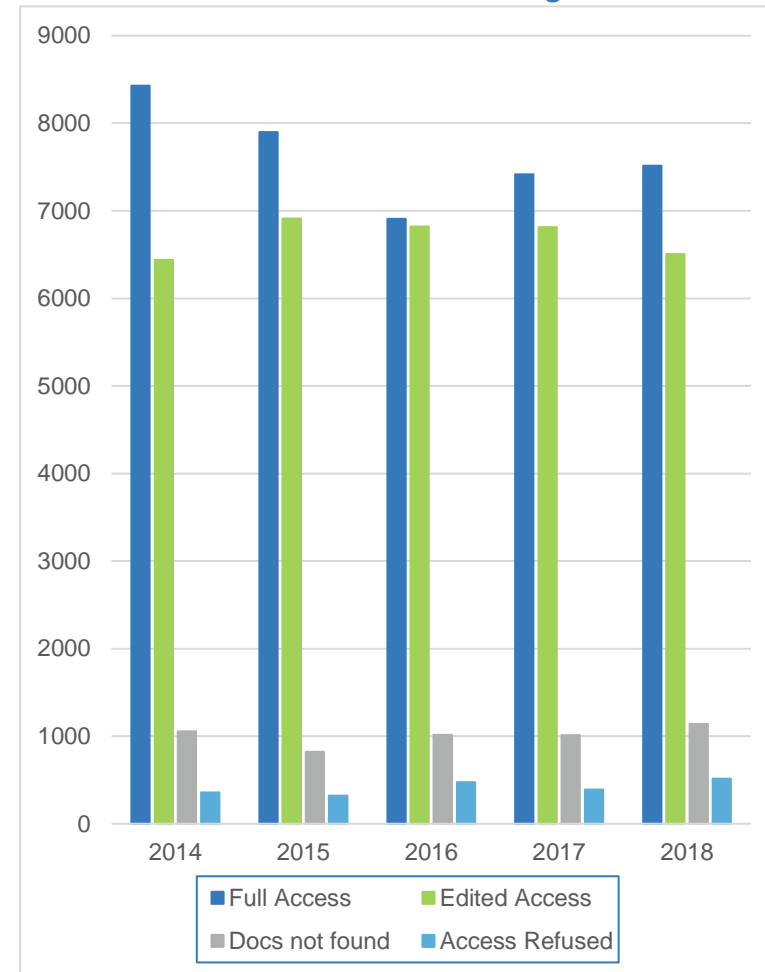
**Figure 1**  
Number of applications decided – all agencies



- 49.5% of decisions (49.2% in 2016/17) resulted in the applicant being given access in full to the documents sought
- 39.5% (41.6% in 2016/17) resulted in the applicant being given access to edited copies of the documents sought
- 0.6% (0.2% in 2016/17) 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 7.2% of applications (6.5% in 2016/17) the agency claimed the requested documents either did not exist or could not be found
- 3.2% of the decisions made (2.5% in 2016/17) were to refuse access.

The above figures indicate that approximately 89.6% of the 14,892 decisions made by State Government agencies on FOI applications were to the effect that access in some form was given (91.0% in 2016/17).

**Figure 2**  
Outcome of decisions – all agencies



## Exemptions

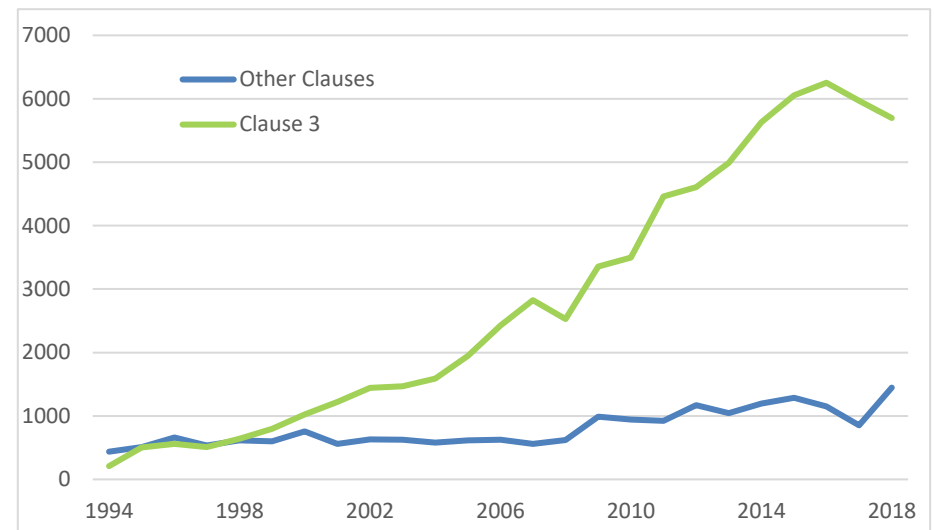
Also consistent with previous years, the exemption clause most frequently claimed by agencies from both State and local government sectors (excepting those claimed by Ministers and described below) was clause 3, which exempts from disclosure personal information about individuals other than the applicant. That clause was claimed 5,657 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 that exemption to protect personal privacy.

The next most frequently claimed exemptions were:

- clause 5, which relates to law enforcement, public safety and property security (371 times);
- clause 7, which protects from disclosure documents which would be privileged from production in legal proceedings on the ground of legal professional privilege (225 times);
- clause 4, which relates to certain commercial or business information of private individuals and organisations (192 times);
- clause 14, which relates to information protected by certain statutory provisions (136 times); and
- clause 8, which protects confidential communications in some circumstances (131 times).

Consistent with the previous reporting period, the exemption clauses claimed most by Ministers were clause 3 (personal information); clause 12 (contempt of Parliament or court) and clause 1 (Cabinet and Executive Council). See [Table 15](#) for further detail.

Figure 3 – Use of exemption clauses



## Internal review

Agencies received 296 applications for internal review of decisions relating to access applications during 2017/18 (see [Table 16](#)). This represents approximately 1.9% of all decisions made and approximately 57% of those decisions in which access was refused. In the year under review, 292

applications for internal review were dealt with (including some that were received in the previous period). The decision under review was confirmed on 185 occasions, varied on 93 occasions, reversed on 11 occasions and the application for internal review was withdrawn on three occasions.

### Amendment of personal information

Agencies received 26 applications for amendment of personal information during the year (see [Table 17](#)). A total of 28 applications were finalised, including some that were received in the previous period. These were dealt with as follows:

- information was amended on seven occasions;
- not amended on 17 occasions; and
- amended, but not as requested, on four occasions.

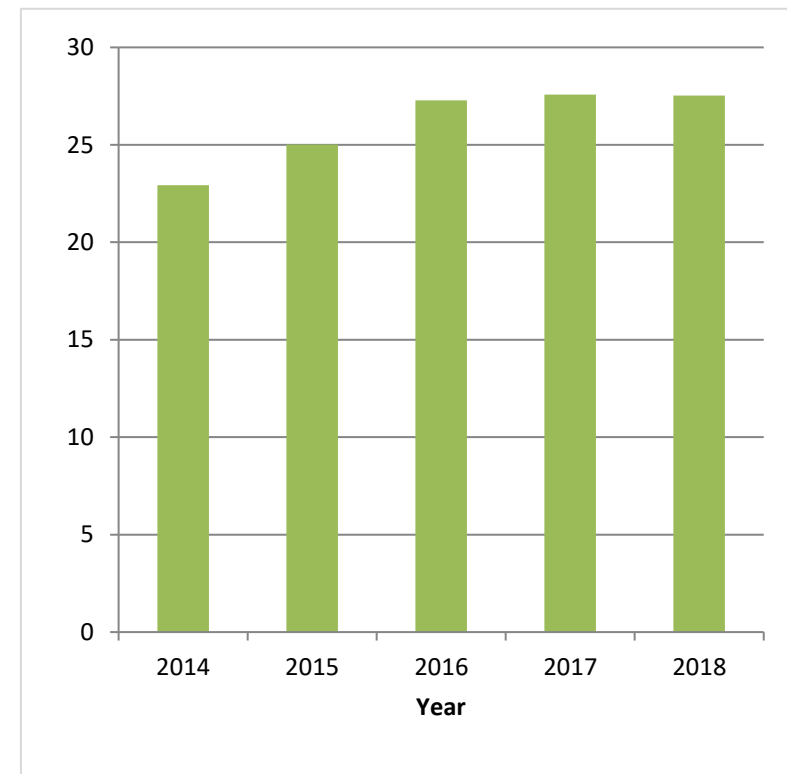
None of the applications received were subsequently withdrawn.

Of the five applications for internal review of decisions relating to the amendment of personal information dealt with during the year (including one that was received in the previous period), four decisions were made to confirm the original decision and two decisions were varied (see [Table 18](#)).

### Average time

The average time taken by agencies to deal with access applications (27.53 days) is slightly lower than the previous year (27.57 days) and remains well 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 increased slightly to \$9.81 (\$8.58 in 2016/17).

**Figure 5**  
Average charge for access – all agencies



### 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.
- There were no workers' compensation claims made during the reporting period.
- There was no unauthorised use of corporate credit cards during the period.

### Employment and industrial relations

#### Staff profile

	2018	2017
Full-time permanent	7	9
Full-time contract	1	1
Part-time measured on a FTE basis	2.2	1.4

### Staff movements

This year saw an unusually high amount of significant staff movements: a redundancy under the Voluntary Targeted Separation Scheme; a retirement; an officer on parental leave; two resignations; two acting arrangements; a secondment; two recruitment processes; and one new appointment.

### Commissioner's role

Following the resignation of Sven Bluemmel in September 2017, two Acting Information Commissioners were appointed successively.

Sven Bluemmel held the Information Commissioner position from May 2009 until September 2017. He resigned to take up the position of Victorian Information Commissioner.

Su Lloyd was appointed to the Principal Legal Officer position in November 2012 and retired in April 2018. Prior to her retirement she was appointed Acting Information Commissioner for six months.

Lisa Ward was appointed Acting Information Commissioner from 31 March 2018 for a 12 month term. However she resigned from the position after approximately three months to take up a permanent appointment as a Magistrate from 16 July 2018.

### **Staff development**

#### Continuing Staff Development (CPD)

The OIC employs legal practitioners who, under section 36(3) of the *Legal Profession Act 2008*, are taken to hold local practising certificates. Those legal practitioners maintain and broaden their legal knowledge by obtaining CPD points in accordance with the *Legal Profession Rules 2009*.

#### Other professional development

A structured individual professional development program for staff has been recognised in the OIC's strategic plan as a positive development for the future. The A/Information Commissioner initiated individual staff professional development programs in late 2017 and we will continue to follow these up in the future.

### **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 by the officer with the potential conflict. All related to the officer having an external link in some way with either a party to an existing external review matter, or a potential external review matter. The Commissioner confirmed there was no current conflict with one matter and that there was potential conflict with the remaining three, which was managed by the relevant officer not being involved in the external review.

## Gifts register

The OIC's gifts register is available on our website at <http://oic.wa.gov.au/H004>. Five gifts were registered during the reporting period: four were accepted and one was declined. Gifts for services provided (predominantly for briefings or speaking engagements) are generally accepted and shared within the office. Gifts that are promoting services or where a discretionary authority exists with the gift recipient (eg purchasing discretion) are declined.

## Disability Access and Inclusion Plan

The OIC lodged a progress report to the Disability Services Commissioner in respect of its Plan in June 2018. Fifteen strategies are outlined in the Plan with ten 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 the OIC website to ensure the content meets WCAG guidelines
- Create and disseminate to staff a disability access and inclusion policy
- Arrange training to staff on communicating with people with mental health issues or communication difficulties
- 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



In July 2017 the OIC was able to complete one of the outstanding strategies to arrange staff training on communicating with people with mental health issues or communication difficulties. A full day Mental Health Communication training course was attended by all staff in July 2017.

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. The 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.

Improving our 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](#)). There were no reported injuries or fatalities, and relevant staff have attended OSH and injury management training.

### Records Management

The OIC's recordkeeping systems have been evaluated and considered to be suitable to the size of the office. During the last review of our recordkeeping plan provided to the State Records Office, areas of improvement were identified in respect of disaster recovery and archiving/disposal. No further progress was made during 2017/18 regarding these issues, and 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.