



# Office of the Information Commissioner

*Freedom of information for Western Australia*



## **ANNUAL REPORT 2018/2019**



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This annual report and previous annual reports are available on the OIC website and are available in other formats on request.

We acknowledge the traditional custodians throughout Western Australia and their continuing connection to the land, waters and community. We pay our respects to all members of the Aboriginal communities and their cultures; and to Elders both past, present and emerging.



Office of the  
Information Commissioner  
*Freedom of Information for Western Australia*

SPEAKER OF THE LEGISLATIVE ASSEMBLY  
PRESIDENT OF THE LEGISLATIVE COUNCIL

#### ANNUAL REPORT TO 30 JUNE 2019

In accordance with section 63 of the *Financial Management Act 2006* I hereby submit my report for the reporting period ended 30 June 2019.

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 black ink that reads "Catherine Fletcher".

Catherine Fletcher  
INFORMATION COMMISSIONER

25 September 2019

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## About this report

Welcome to the Office of the Information Commissioner's 2018/19 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 and provide assistance to the public to help them understand their rights under FOI legislation.

Given that the key message of freedom of information legislation mirrors the purpose of agency annual reports – that is, greater accountability and transparency – we trust that this report on our activities and performance during the year provides valuable insight into our operations.

## 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 provides a limited mechanism for the protection of personal information from disclosure under the FOI Act and 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 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 position of Information Commissioner (**the Commissioner**) is created by the FOI Act and is appointed by the Governor. 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.

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 documents and amendment of personal information. Additional functions 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 to be achieved.

## Executive Summary

### *The year in review*



This is my second report to Parliament and the community on the operation of the FOI Act. It is my first since being appointed substantively in July 2019 for a five-year term. I am honoured to serve Parliament and the public by administering the FOI Act, which promotes open, accountable and responsible government.

During my appointment my principal goals will be to serve the whole community by encouraging best practice in providing access to government information and to provide stability, energetic vision and transparent, strong leadership to my office.

In the coming year our strategic goals and initiatives are due for review and I am committed to renewing and strengthening those goals. Part of this process will include a review to ensure our structure, operational processes, technology, staff workload and current resourcing remain relevant and are sustainable.

Over the last 12 months it has become very apparent that the Information Age is rapidly becoming the Digital Age. In this increasingly data-driven environment all government agencies are facing new and significant challenges to deliver on the fundamentals of good practice in records management and

access to information. My office will continue to assist agencies to meet these challenges.

As mentioned in my Executive Summary in last year's annual report, last year was a particularly challenging time with uncertainty about the ongoing structure of my office. That uncertainty has now been resolved and we will continue to provide robust and independent oversight of the administration of the FOI Act in Western Australia.

In the past, this office has been involved in consultations, on a number of occasions over many years, about the introduction of draft privacy laws, in large part due to the obvious connection between accessing personal information under the FOI Act and protecting personal information under potential privacy legislation. This year my office has provided some assistance to the Department of the Premier and Cabinet on its responsible information sharing project. Further detail is outlined under the Submissions and Consultations section of this report.

After a number of years of relative stability in the number of access applications made to agencies there has been a considerable increase, from 17,258 in the previous reporting period to 19,258 in the current reporting period (an increase of almost 12%). It is pleasing to note that, while the increase in applications has been accompanied by an increase in the average number of days which agencies take to deal with access applications (almost 35 days, up from 27 days last year), this is still well within the 45 day permitted period specified within the FOI Act.

Demand for the OIC's advice and awareness services has continued to be strong over the last 12 months. Nearly 1000

participants have attended OIC training, briefings and presentations and almost 1,300 enquiries were answered in the reporting period. Newsletters and new guidance materials were also published. In addition, work is well underway organising our second FOI in WA Conference, to be held in November 2019.

All these activities are currently undertaken by only one full time staff member, with assistance from myself and other staff in the delivery of some of these functions. Our advice and awareness service is well regarded by the public and within agencies, which is evidenced by the consistently high satisfaction rate. However, the ability of the OIC to increase or even maintain the current reach and effectiveness of our support and education platforms within current resources is increasingly difficult, and an issue that will receive attention in the coming year.

The number of external reviews received during the year has increased by over 6% from last year. The number of external reviews finalised has also increased, due to the effective efforts of my staff. Our improved productivity is reflected in internal data that shows an improved rate of external review finalisation within 12 months (currently at almost 95%, an increase from almost 89% in the previous reporting period). Measuring, monitoring and reporting on timeliness is an area of continuing focus.

Nevertheless, the number of external reviews on hand is now at 100, which is an increase of just over 31% from the end of the previous reporting period. This growth in demand for external review continues to be a challenge with our limited resources.

The rate at which we close files through conciliation grew to 82% at the end of the period, an increase of 4% from last year. The more external review matters that are conciliated, the less often I will be required to issue a formal decision. Accordingly there were only 12 published decisions issued in the last 12 months. A number of conciliation case studies and decision summaries are included in this report.

Our participation in various projects organised by the Association of Access and Information Commissioners included the Community Attitude Survey to gauge the public's awareness of their right to access government information; and the Open Government National Dashboard of Metrics on the utilisation of information access. The results for our State in both of those studies suggest that West Australians are making good use of their rights to access information.

On a personal note, my staff and I acknowledge that the former Acting Information Commissioner, the late Su Lloyd, was deservedly recognised posthumously in the Queen's Birthday 2019 Honours List awards with an OAM for her services to law, music and education. Full details of that award can be found at <https://honours.pmc.gov.au/honours/awards/2004765>.

Finally, I take the opportunity here to acknowledge my dedicated and highly professional team and thank them for their efforts and support to me in my role.

Catherine Fletcher  
INFORMATION COMMISSIONER

## 2018/2019 highlights



107,266

*OIC website visits*



957

*Attendees at OIC  
briefing, training or  
education sessions*



931

*Enquiries answered  
to members of the  
public*



355

*Enquiries answered  
to local and State  
Government*



176

*External reviews  
received*



152

*External reviews  
finalised*



131

*Average age in days  
of external reviews  
on hand*



124

*External reviews  
resolved by  
conciliation*



100

*External reviews on  
hand at the end of  
the period*



12

*Published decisions  
of the  
Commissioner*

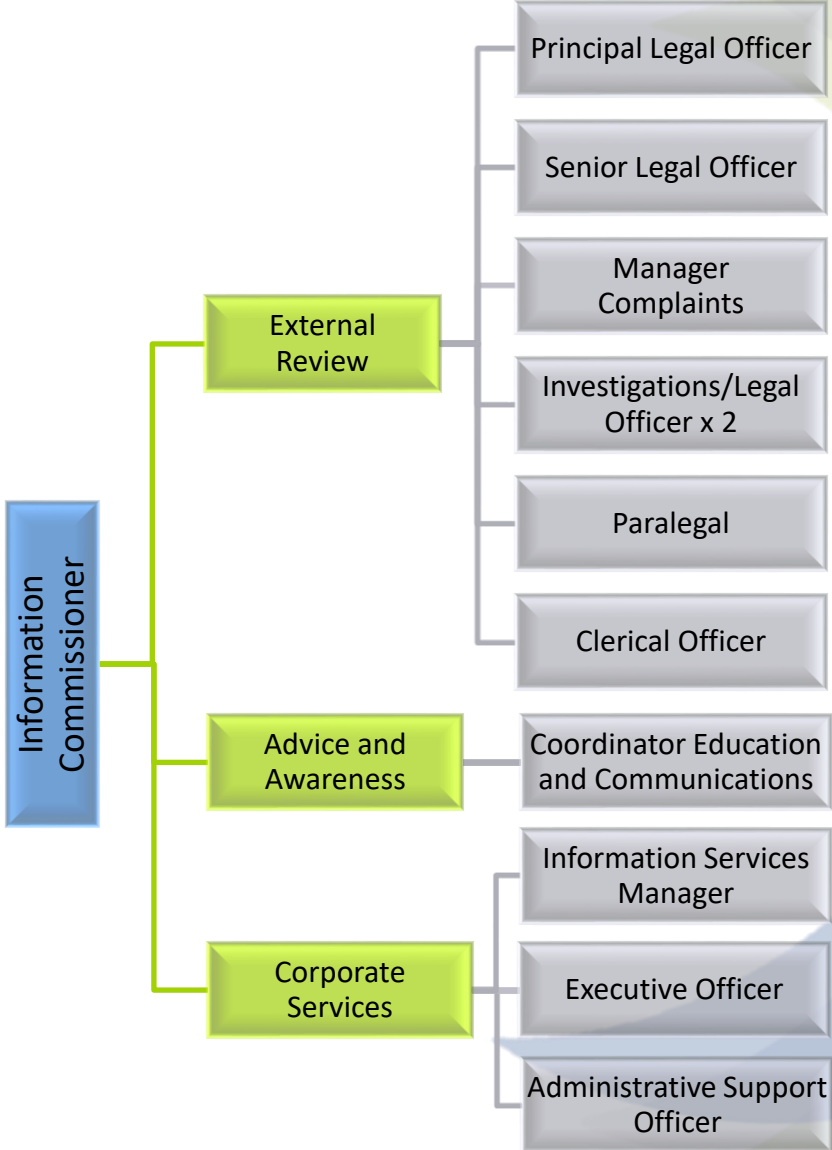


# About the Office of the Information Commissioner

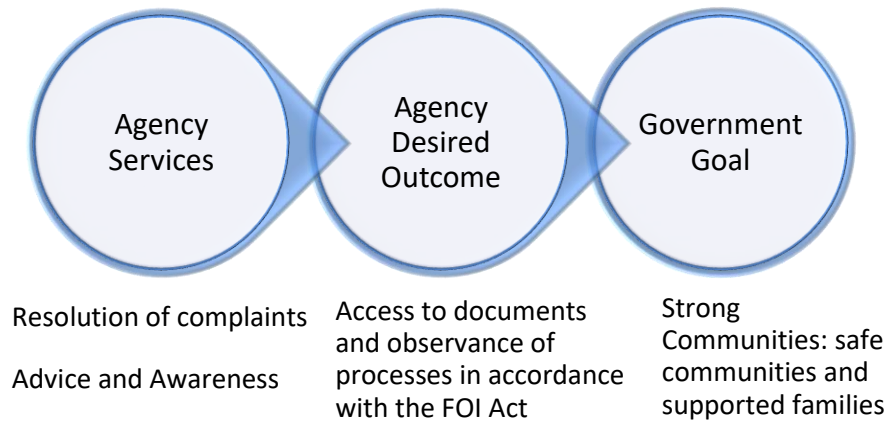
As at 30 June 2019, the Commissioner was supported by 11 staff in the Office of the Information Commissioner (**the OIC**). Two service teams operate to assist the Commissioner in meeting the objectives of the FOI Act:

- The *Resolution of Complaints (External Review)* team provides an independent review and resolution process that strives to resolve cases by conciliation and in a timely manner while balancing the competing needs and expectations of applicants, agencies and Parliament within the legislative requirements prescribed by the FOI Act.
- The *Advice and Awareness* team provides objective guidance 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.

Corporate service staff provide administrative, executive, information technology and governance support to the Commissioner and both functional teams.



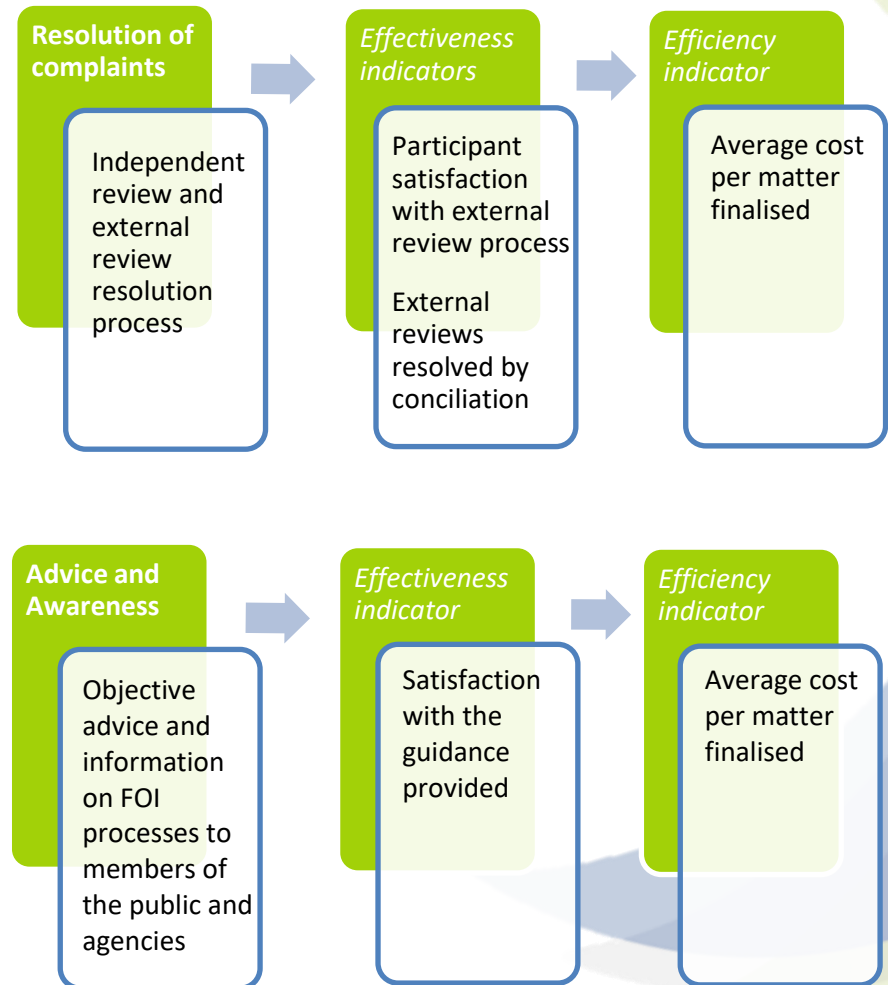
## Performance management framework



The key objects of the FOI Act is to enable the public to participate more effectively in governing the State. This can promote transparency and accountability in government, a concept that contributes to the broader government goal of building strong communities.

## Outcome-based management framework

Our services are measured by effectiveness and efficiency indicators, as follows.



The OIC is an independent statutory authority and does not share any responsibilities with other agencies.

The audited performance indicators are described in more detail in the [key performance indicators](#) section of this report.

The relevant legislative framework for freedom of legislation in Western Australia and other legislation that the OIC complies with can be found under the [Disclosures and Legal Compliance](#) section of this report.

### ***Administered legislation***

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

### ***Other key legislation that impacts on our activities***

- *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*