



Office of the Information Commissioner

Freedom of information for Western Australia



ANNUAL REPORT 2018/2019

OIC STATISTICS

Section 111 of the FOI Act requires the Commissioner to provide a report to the Speaker of the Legislative Assembly and the President of the Legislative Council on the operation of the legislation during the financial year. As well as providing data on the operation of the FOI Act across the sector (see following section on 'Agency Statistics'), the Commissioner is required to provide data as follows:

- the number of complaints made to the Commissioner and the results of those complaints;
- the number of other applications made to the Commissioner and the results of those applications; and
- the number of appeals to the Supreme Court and results of those appeals.

The following is the statistical data reflecting complaints and applications made to the OIC during the year, and their outcomes. Details of Supreme Court appeals are outlined under Significant Issues and Trends.

For reference, a 'complaint' is a request for external review of a decision made by an agency under the FOI Act. An 'application' refers to other types of requests made to the Commissioner, including: a request to lodge an application for external review when no internal review has been completed or the time limit within which to lodge an external review has

expired; requests from agencies to waive the requirement to consult with third parties; and requests for an extension or reduction of time within which agencies are required to deal with an application.

Other statistical data in respect of the OIC's operations are also included in this section.

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Table 1: Applications received and dealt with by the Information Commissioner

APPLICATIONS RECEIVED AND DEALT WITH BY THE COMMISSIONER	RECEIVED No.	DEALT WITH No.
Complaints - valid	176	152
Complaints - informal / invalid	37	35
Section 66(6) - applications - no internal review	8	7
Section 66(4) - applications - out of time	4	4
Section 13(5) - applications for extension of time	2	2
Section 13(4) - applications for reduction of time	3	3
Section 48(3) request for destruction certificate	1	-
TOTAL	231	203

Table 2: Breakdown of valid complaints made to the Information Commissioner

APPLICANT GROUP	No.	AGENCY GROUP	No.
Individual Citizen	127	Department (ex. Police & Health)	57
Company	15	Local Government	50
Member of Parliament	11	Police	19
Not for Profit	14	Board, Committee, Commission, Authority, Corporation	19
Media	4	Health-related	16
Prisoner	3	Minister	11
Government Agency	2	University	4
TOTAL	176	TOTAL	176

Table 3: Complaints received by the Information Commissioner

AGENCY	COMPLAINTS	INVALID	TOTAL	AGENCY	COMPLAINTS	INVALID	TOTAL
State Agencies:							
Botanic Gardens and Parks Authority	1	0	1	Main Roads Western Australia	3	0	3
C&AHS – Perth Children's Hospital	1	0	1	Mines, Industry Regulation and Safety, Department of	11	0	11
EMHS – Armadale Kalamunda Group	1	0	1	Murdoch University	2	0	2
EMHS – Bentley Health Service	0	1	1	NMHS – King Edward Memorial Hospital	0	1	1
EMHS – Royal Perth Hospital	3	1	4	NMHS – Corporate Office	0	1	1
Equal Opportunity Commission	0	1	1	NMHS – Mental Health	4	2	6
Health, Department of	3	0	3	NMHS – Sir Charles Gairdner Hospital	1	0	1
Insurance Commission of Western Australia	3	0	3	NMHS – Women and Newborn Health Service	0	1	1
Legal Profession Complaints Committee	1	0	1	Pharmacy Registration Board of Western Australia	1	0	1
Metropolitan Redevelopment Authority	1	0	1	Planning, Lands and Heritage, Department of	1	1	2
Pilbara Ports Authority	3	0	3	Police, Western Australia	19	7	26
Public Sector Commission	2	0	2	Premier and Cabinet, Department of the	3	0	3
Public Transport Authority	1	0	1	Primary Industries and Regional Development, Department of	2	0	2
Synergy	0	1	1	SMHS - Fiona Stanley Hospital	0	1	1
Water Corporation	3	0	3	SMHS – Fremantle Hospital and Health Service	0	1	1
Western Power	3	0	3	SMHS – Rockingham Peel Group	1	0	1
WorkCover Western Australia Authority	1	0	1	Transport, Department of	2	0	2
Communities, Department of	4	1	5	University of Western Australia, The	2	1	3
Education, Department of	3	1	4	WACHS - Goldfields	1	0	1
Justice, Department of	13	6	19	Water and Environmental Regulation, Department of	10	0	10
Local Government, Sport and Cultural Industries, Department of	5	1	6				
				<i>Sub-total: State Agencies</i>	115	29	144

AGENCY	COMPLAINTS	INVALID	TOTAL
Local Agencies:			
Armadale, City of	1	1	2
Augusta-Margaret River, Shire of	2	0	2
Broome, Shire of	1	0	1
Busselton, City of	2	0	2
Cambridge, Town of	3	0	3
Canning, City of	3	0	3
Capel, Shire of	1	0	1
Donnybrook-Balingup, Shire of	0	1	1
Fremantle, City of	2	0	2
Joondalup, City of	1	0	1
Kalamunda, City of	3	0	3
Melville, City of	19	1	20
Mosman Park, Town of	1	0	1
Mundaring, Shire of	1	0	1
Perth, City of	1	0	1
Serpentine-Jarrahdale, Shire of	1	0	1
Subiaco, City of	2	0	2
Swan, City of	1	1	2
Toodyay, Shire of	1	0	1

AGENCY	COMPLAINTS	INVALID	TOTAL
Vincent, City of	1	0	1
Wanneroo, City of	0	1	1
Wyndham-East Kimberley, Shire of	1	0	1
York, Shire of	2	0	2
<i>Sub-total: Local Agencies</i>	50	5	55
Ministers:			
Aboriginal Affairs, Minister for	1	0	1
Education and Training, Minister for	1	1	2
Environment, Minister for	1	0	1
Local Government and Regional Development; Heritage; The Kimberley, Pilbara and Gascoyne, Minister for	1	0	1
Police, Minister for	1	0	1
Regional Development, Minister for	3	0	3
Transport, Minister for	2	0	2
Treasurer	1	0	1
<i>Sub-total: Ministers</i>	11	1	12
Agency is Unknown:	0	2	2
<i>Sub-total: Agency is Unknown</i>	0	2	2
TOTAL	176	37	213

Table 4: Other applications received

AGENCY	OUT OF TIME s.66(4)	NO INTERNAL REVIEW s.66(6)	REDUCTION OF TIME s.13(4)	EXTENSION OF TIME s.13(5)	REQUEST FOR DESTRUCTION CERTIFICATE s.48(3)	TOTAL
Augusta-Margaret River, Shire of	1	0	0	0	0	1
Busselton, City of	0	0	0	1	0	1
Cambridge, Town of	0	1	0	0	0	1
Cottesloe, Town of	0	1	0	0	0	1
Health, Department of	1	0	0	0	0	1
Kwinana, City of	0	1	0	0	0	1
Local Government, Sport and Cultural Industries, Department of	0	0	1	0	0	1
Melville, City of	0	0	1	0	0	1
Mines, Industry Regulation and Safety, Department of	0	1	0	0	0	1
Pharmacy Registration Board of Western Australia	0	0	0	1	0	1
Planning, Lands and Heritage, Department of	0	1	0	0	0	1
Police, Western Australia	1	1	1	0	0	3
Serpentine-Jarrahdale, Shire of	1	0	0	0	0	1
SMHS – Rockingham Peel Group	0	0	0	0	1	1
University of Western Australia, The	0	1	0	0	0	1
Water and Environmental Regulation, Department of	0	1	0	0	0	1
TOTAL	4	8	3	2	1	18

Table 5: Outcome of complaints finalised (by agency and category)

AGENCY	CONCILIATED	PUBLISHED DECISION BY INFORMATION COMMISSIONER			DECLINED UNDER s.67(1)(a) or s.67(1)(b)	TOTAL MATTERS FINALISED
		AGENCY DECISION CONFIRMED	AGENCY DECISION VARIED	AGENCY DECISION SET ASIDE AND SUBSTITUTED		
State Agencies:						
C&AHS – Princess Margaret Hospital for Children	1	0	0	0	0	1
Communities, Department of	0	0	0	0	2	2
Education, Department of	2	0	0	0	1	3
EMHS – Armadale Kalamunda Group	0	0	0	0	1	1
EMHS – Bentley Health Service	0	0	0	0	1	1
EMHS – Royal Perth Hospital	2	0	0	0	0	2
Equal Opportunity Commission	0	0	0	0	1	1
Forest Products Commission	0	1	0	0	0	1
Gold Corporation	0	0	1	0	0	1
Health, Department of	2	1	0	0	0	3
Insurance Commission of Western Australia	2	0	0	0	0	2
Jobs, Tourism, Science and Innovation, Department of	0	0	0	1	0	1
Justice, Department of	2	0	0	0	9	11
Legal Profession Complaints Committee	0	1	0	0	0	1
Legal Practice Board of Western Australia, The	1	0	0	0	0	1
Local Government, Sport and Cultural Industries, Department of	1	0	0	0	3	4
Main Roads Western Australia	2	0	0	0	0	2
Metropolitan Redevelopment Authority	1	0	0	0	0	1
Mines, Industry Regulation and Safety, Department of	8	0	0	0	0	8
NMHS – Corporate Office	0	0	0	0	1	1

AGENCY	CONCILIATED	PUBLISHED DECISION BY INFORMATION COMMISSIONER			DECLINED UNDER s.67(1)(a) or s.67(1)(b)	TOTAL MATTERS FINALISED
		AGENCY DECISION CONFIRMED	AGENCY DECISION VARIED	AGENCY DECISION SET ASIDE AND SUBSTITUTED		
NMHS – Mental Health	1	0	0	0	2	3
NMHS – Sir Charles Gairdner Hospital	2	0	0	0	0	2
NMHS – Women and Newborn Health Service	0	0	0	0	1	1
Pharmacy Registration Board of Western Australia	1	0	0	0	0	1
Planning, Lands and Heritage, Department of	2	0	0	0	1	3
Police, Western Australia	14	0	0	0	9	23
Primary Industries and Regional Development, Department of	1	0	0	0	0	1
Premier and Cabinet, Department of the	7	0	0	0	0	7
Public Advocate, Office of the	1	0	0	0	0	1
Public Sector Commission	2	0	0	0	0	2
Public Transport Authority	2	0	0	0	0	2
SMHS – Fiona Stanley Hospital	0	0	0	0	1	1
SMHS – Fremantle Hospital and Health Service	0	0	0	0	1	1
SMHS – Rockingham Peel Group	1	0	0	0	0	1
Synergy	0	0	0	0	1	1
Transport, Department of	4	0	0	0	0	4
Treasury, Department of	1	1	0	0	0	2
University of Western Australia, The	2	0	1	0	1	4
WACHS - Goldfields	1	0	0	0	0	1
Water and Environmental Regulation, Department of	8	0	0	0	0	8
Water Corporation	1	0	0	0	0	1
Western Power	3	0	0	0	0	3
<i>Sub-Total: State Agencies</i>	78 (64.5%)	4 (3.3%)	2 (1.6%)	1 (0.8%)	36 (29.8%)	121 (64.7%)

AGENCY	CONCILIATED	PUBLISHED DECISION BY INFORMATION COMMISSIONER			DECLINED UNDER s.67(1)(a) or s.67(1)(b)	TOTAL MATTERS FINALISED
		AGENCY DECISION CONFIRMED	AGENCY DECISION VARIED	AGENCY DECISION SET ASIDE AND SUBSTITUTED		
Local Agencies:						
Armadale, City of	1	0	0	0	2	3
Augusta-Margaret River, Shire of	1	0	0	0	0	1
Broome, Shire of	1	0	0	0	0	1
Busselton, City of	2	0	0	0	1	3
Canning, City of	4	0	0	0	0	4
Capel, Shire of	1	0	0	0	0	1
Cockburn, City of	1	0	0	0	0	1
Cottesloe, Town of	0	0	0	0	1	1
Donnybrook-Balingup, Shire of	0	0	0	0	1	1
Fremantle, City of	1	0	0	0	0	1
Joondalup, City of	1	0	0	0	0	1
Kalamunda, City of	1	0	0	0	1	2
Melville, City of	3	2	0	0	4	9
Mosman Park, Town of	1	0	0	0	0	1
Perth, City of	1	0	0	0	0	1
Victoria Park, Town of	1	1	0	0	0	2
Serpentine/Jarrahdale, Shire of	1	0	0	0	0	1
South Perth, City of	1	0	0	0	0	1
Subiaco, City of	1	0	0	0	0	1
Swan, City of	0	0	0	0	1	1

AGENCY	CONCILIATED	PUBLISHED DECISION BY INFORMATION COMMISSIONER			DECLINED UNDER s.67(1)(a) or s.67(1)(b)	TOTAL MATTERS FINALISED
		AGENCY DECISION CONFIRMED	AGENCY DECISION VARIED	AGENCY DECISION SET ASIDE AND SUBSTITUTED		
Wanneroo, City of	0	1	0	0	1	2
Wyndham-East Kimberley, Shire of	1	0	0	0	0	1
York, Shire of	2	0	0	0	0	2
<i>Sub-Total: Local Agencies</i>	26 (61.9%)	4 (9.5%)	0 (0.0%)	0 (00.0%)	12 (28.6%)	42 (22.5%)
Ministers:						
Aboriginal Affairs, Minister for	1	0	0	0	0	1
Education and Training, Minister for	2	0	0	0	1	3
Energy, Minister for	2	0	0	0	0	2
Environment, Minister for	1	0	0	0	0	1
Lands, Minister for	1	0	0	0	0	1
Local Government, Minister for	1	0	0	0	0	1
Local Government and Regional Development; Heritage; The Kimberley, Pilbara and Gascoyne, Minister for	1	0	0	0	0	1
Police, Minister for	1	0	0	0	0	1
Regional Development, Minister for	4	0	0	0	0	4
Sport and Recreation, Minister for	1	0	0	0	0	1
Tourism, Minister for	1	0	0	0	0	1
Transport, Minister for	3	1	0	0	0	4
Treasurer	1	0	0	0	0	1
<i>Sub-Total: Ministers</i>	20 (90.9%)	1 (4.5%)	0 (0.0%)	0 (00.0%)	1 (4.5%)	22 (11.8%)
Agency is unknown:	0	0	0	0	2	2
<i>Sub-Total: Agency is unknown</i>	0 (00.0%)	0 (0.0%)	0 (0.0%)	0 (00.0%)	2 (100.0%)	2 (1.1%)
TOTAL	124 (66.3%)	9 (4.81%)	2 (1.1%)	1 (0.5%)	51 (27.3%)	187 (100%)

Note: The Information Commissioner may not deal with – or may stop dealing with – a complaint if it is outside her jurisdiction or if it is frivolous, vexatious, misconceived or lacking in substance. Table 5 includes informal/invalid complaints. Sixteen of the complaints declined related to formal complaints and the remaining 35 declined related to informal/invalid complaints.

Table 6: Published decisions

Decision No.	Complainant	Agency	Decision Date
D0072018	McLerie	City of Melville	06/07/2018
D0082018	Nahan	Department of Treasury	06/07/2018
D0092018	McNally	Town of Victoria Park	07/09/2018
D0102018	King	Minister for Transport; Planning; Lands	23/10/2018
D0112018	Crawford	City of Melville	26/10/2018
D0122018	Adam	City of Wanneroo	09/11/2018
D0132018	Palermo	Legal Profession Complaints Committee	28/12/2018
D0012019	Bennett and Philip Pty Ltd	Gold Corporation	16/01/2019
D0022019	Pearlman	The University of Western Australia	08/02/2019
D0032019	Gaffney	Department of Jobs, Tourism, Science and Innovation	15/02/2019
D0042019	Lee	Department of Health	19/06/2019
D0052019	Humphreys	Forest Products Commission	28/06/2019

Table 7: Outcome of other applications finalised

AGENCY	OUT OF TIME s.66(4)	OUT OF TIME s.66(4)	NO INTERNAL REVIEW s.66(6)	NO INTERNAL REVIEW s.66(6)	EXTENSION OF TIME s.13(5)	EXTENSION OF TIME s.13(5)	REDUCTION OF TIME s.13(4)	TOTAL MATTERS FINALISED
	Allowed	Refused	Refused	Withdrawn	Refused	Allowed	Refused	
State Agencies:								
Health, Department of	0	1	0	0	0	0	0	1
Local Government, Sport and Cultural Industries, Department of	0	0	0	0	0	0	1	1
Pharmacy Registration Board of Western Australia	0	0	0	0	1	0	0	1
Planning, Lands and Heritage, Department of	0	0	1	0	0	0	0	1
Police, Western Australia	0	1	1	0	0	0	1	3
University of Western Australia, The	0	0	1	0	0	0	0	1
Water and Environmental Regulation, Department of	0	0	0	1	0	0	0	1
<i>Sub-total: State Agencies</i>	0	2	3	1	1	0	2	9
Local Agencies:								
August-Margaret River, Shire of	0	1	0	0	0	0	0	1
Busselton, City of	0	0	0	0	0	1	0	1
Cambridge, Town of	0	0	1	0	0	0	0	1
Cottesloe, Town of	0	0	1	0	0	0	0	1
Kwinana, City of	0	0	1	0	0	0	0	1
Melville, City of	0	0	0	0	0	0	1	1
Serpentine/Jarrahdale, Shire of	1	0	0	0	0	0	0	1
<i>Sub-total: Local Agencies</i>	1	1	3	0	0	1	1	7
TOTAL	1	3	6	1	1	1	3	16

Table 8: Formal training and presentations

DATE	PRESENTATION STYLE	TYPE*
12/07/2018	FOI Coordinators Workshop	C
23/07/2018	Briefing for University FOI Network Meeting	AB
13/09/2018	FOI Decision Writing Workshop	D
17/09/2018	Briefing for WACHS Kimberley	AB
3/10/2018	FOI Coordinators Workshop	C
17/10/2018	Guest Lecture for UWA Foundations of Public Law students	S
12/11/2018	Briefing for WACHS Wheatbelt	AB
14/11/2018	FOI Coordinators Workshop	C
15/11/2018	Briefing for GESB	AB
20/11/2018	Briefing for GESB	AB
22/11/2018	FOI Decision Writing Workshop	D
23/11/2018	Briefing for National Party Electorate and Research officers	AB
26/11/2018	Briefing for Small Business Development Corporation Corporate Executive	AB
28/11/2018	Briefing for GESB Link Group	AB
29/11/2018	Solomon lecture screening for public sector officers	E
6/02/2019	FOI Coordinators Workshop	C
26/02/2019	Presentation for the Legal Aid Civil Law Day	CB
6/03/2019	The Office of the Information Commissioner: Functions, Trends and Cases of Interest for Notre Dame University Eminent Speakers Series	S
14/03/2019	FOI Coordinators Workshop	C
19/03/2019	Presentation for the Law Society	CB
29/03/2019	Briefing for Small Business Development Corporation	AB
12/04/2019	Guest lecture for ECU Administrative Law unit	S
18/04/2019	Briefing for Department of Mines, Industry Regulation and Safety	AB
18/04/2019	Decision Making Training for Department of Mines, Industry Regulation and Safety	D

DATE	PRESENTATION STYLE	TYPE*
29/04/2019	Briefing for GESB Link Group	AB
1/05/2019	FOI Coordinators Workshop	C
6/05/2019	Decision Making Training for Public Sector Commission	D
13/05/2019	Presentation to Aboriginal Community organisations in Perth at an event organised by the Western Australian Ombudsman	CB
14/05/2019	Presentation to Aboriginal Community organisations in Mandurah at an event organised by the Western Australian Ombudsman	CB
16/05/2019	Presentation to Lavan	CB
20/05/2019	Briefing to Department of Mines, Industry Regulation and Safety Corporate Executive	AB
4/06/2019	FOI Coordinators Workshop	C
10/06/2019	Briefing for the City of Stirling	AB
12/06/2019	Briefing for the Legal Practice Board	AB
26/06/2019	Briefing for Department of Mines, Industry Regulation and Safety	AB

*AB = Briefing; CB =Community Briefing C = FOI Coordinators Training D = Decision-makers Training; S = Speaking Engagement, E=Event

Table 9: Attendees at presentations

TRAINING SESSIONS (No.)	STATE GOVERNMENT	LOCAL GOVERNMENT	COMMUNITY	TOTAL
FOI Coordinators Workshops (7)	112	29	0	141
Decision Writing Workshops (4)	42	21	0	63
<i>Sub-total:</i>	154	50	0	204
BRIEFINGS (No.)				TOTAL
Agency Briefings (16)	283	34	0	317
Community Briefings (5)	8	0	204	212
Other Speaking Engagements (3)	0	0	224	224
<i>Sub-total:</i>	291	34	428	753
GRAND TOTAL (ATTENDEES)	445	84	428	957

Table 10: Misdirected applications (received & dealt with)

Year	Department of Justice *	Western Australia Police	Other	Total
2008/2009	15	33	25	73
2009/2010	15	20	30	65
2010/2011	13	13	31	57
2011/2012	6	11	12	29
2012/2013	4	12	13	29
2013/2014	8	4	12	24
2014/2015	5	5	18	28
2015/2016	2	5	19	26
2016/2017	7	4	15	26
2017/2018	8	20	36	64
2018/2019	4	9	18	31

* Formerly Department of Corrective Services, now also includes Acacia Prison

Table 11: OIC publications

Information Sheets for Members of the Public	Information Sheets for Agency officers
Amendment of personal information	Amendment of personal information
Can I get everything I want under FOI?	Calculating charges
Can others access information about me or my business?	Consulting third parties
Can the agency refuse to deal with my application?	Flowchart - Dealing with an FOI application
Children and people with intellectual difficulties	Key FOI principles for agencies
How long should it take to deal with an access application?	Key questions for decision-makers to consider
How much does it cost?	How long should it take to deal with an access application?
Is FOI my best option?	Information Statements and other required publications
Requirements for a valid access application	Large, complex or time-consuming applications
Review of agency decisions	Making submissions to the Information Commissioner
Role of the Information Commissioner	Releasing documents that may be technically exempt
Steps for access applicants	Repeated requests and unreasonable conduct
The public interest	The exemptions
What documents can I ask for?	Thinking outside the FOI box
What happens in an external review?	Training for agencies
What if the agency says it doesn't have the documents?	What if the documents cannot be found?
What if the agency delays making a decision	What if there are many third parties to consult?
What is personal information?	What is personal information?
Who do I contact to ask for documents?	What happens in an external review?
	Writing a notice of decision

Information about the External Review Process	Information about the FOI Process	Guides to Exemptions under the FOI Act
Complaints procedure – guide for parties	Accessing Government documents in Western Australia	Clause 4(2) – Information that has a commercial value
Producing documents to the Information Commissioner – guide for agencies	Third parties and their rights - guide for the public	Clause 4(3) – Business, professional, commercial or financial affairs
Preparing for a conciliation conference - guide for parties	Calculating time and days guide	Clause 6 – Deliberative processes of Government
Understanding the conciliation process - guide for parties	Dealing with personal information about an officer of an agency	Clause 7 – Legal professional privilege
Consulting with third parties during external review - guide for agencies	FOI Coordinators Manual	Clause 8 – Confidential communications
Decisions of the Information Commissioner – guide for access applicants	Dealing with requests for documents related to an ‘exempt agency’	
Decisions of the Information Commissioner – guide for agencies		
Decisions of the Information Commissioner – guide for third parties		

Table 12: Injury management targets

Measure	Actual		Results against target	
	2017/18	2018/19	Target	Comment on Result
Number of fatalities	0	0	Zero (0)	No lost time injuries were experienced in the reporting period.
Lost time injury and/or disease incidence rate (LTI/D)	0	0	Zero (0) or 10% reduction	
Lost time injury and/or disease severity	0	0	Zero (0) or 10% reduction	
Percentage of injured workers returned to work within:				
(i) 13 weeks:	N/A	N/A	Greater than or equal to 80%	
(ii) 26 weeks:	N/A	N/A	Greater than or equal to 80%	
Percentage of managers trained in occupational safety, health and injury management responsibilities	100%	100%	Greater than or equal to 80%	