

# Freedom Of Information



INFORMATION COMMISSIONER  
WESTERN AUSTRALIA  
ANNUAL REPORT TO THE  
PARLIAMENT 2004/05





OFFICE OF THE  
INFORMATION COMMISSIONER

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DEAR MR PRESIDENT  
DEAR MR SPEAKER

In accordance with the provisions of the *Financial Administration and Audit Act 1985* and the *Freedom of Information Act 1992*, I submit my report for the year ended 30 June 2005 which has been prepared in compliance with the provisions and reporting requirements of both Acts.

A handwritten signature in black ink that reads "Daryl Wookey".

D A WOOKEY  
A/INFORMATION COMMISSIONER  
7 November 2005

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# FOREWORD

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## FOREWORD



*Darryl Wookey*

This is the twelfth annual report to Parliament on the operation of the Freedom of Information Act 1992 in Western Australia, and my second as Acting Information Commissioner.

As I mentioned in my foreword to last year's annual report, I was appointed to the statutory position of Acting Information Commissioner in November 2003, pending legislation to effect the proposed changes to the office announced by the Attorney General. The primary of those changes are additional responsibilities under proposed privacy legislation and the amalgamation of the office of Information Commissioner with that of Ombudsman. I have not yet seen draft legislation, although I understand that it is presently in preparation.

In the meantime, the Western Australian Information Commissioner model continues to be recognised both nationally and internationally as a preferred model for external review of FOI decisions. In April 2005, I travelled to Argentina, at the invitation of the Centre for the Implementation of Public Policies Promoting Equity and Growth, to speak at the International Seminar on Access to Public Information held in Buenos Aires. I was invited to represent Australia on the recommendation of the Council on Australian and Latin American Relations, funded by the Department of Foreign Affairs and Trade, and the travel costs and other associated costs were met, in the main, by that department.

I participated prior to the conference proper as an international guest at a workshop which included the Ombudsman for Peru, the former Deputy Prime Minister of Sweden, the Information Commissioner for Mexico, the Deputy Information Commissioner for England, the Deputy Director of the Information and Privacy Office of the USA Department of Justice, representatives of international human rights non-government organisations and Argentinian public officers including the Ombudsman, officers of the Anti Corruption Office of the Ministry of Justice and FOI liaison officers from a range of agencies. The conference proper was attended by approximately 200 delegates and I spoke to the conference on the nature and operation of the Western Australian model of external review.

This followed my visit to South Africa last year, reported in last year's annual report, at the invitation of the Open Democracy Advice Centre. That invitation was as a result of that organisation having identified the Western Australian model as the preferred model for efficient, effective, inexpensive, timely and accessible external review of FOI decisions, following its comparative study of FOI external review models around the world.

As I mentioned in last year's annual report, it is to be hoped that any changes to the model proposed by the Government, the details of which I have not yet been provided with, will retain the features that have resulted in such national and international recognition of the Western Australian model.

It has been a year of productiveness and consolidation for the office. The benefits of collocation with the Ombudsman, Commissioner for Public Sector Standards, Office of Health Review and Commonwealth Ombudsman have continued to be realised. We are now able to hold our metropolitan training courses at our own premises, with no additional cost or reliance on the

generosity of agencies to provide us with facilities. We participated jointly with the State Ombudsman, the Office of Health Review and the Commonwealth Ombudsman in WA On Show, sharing a stand, costs and responsibility for staffing the stand. We also participated jointly with the Office of Health Review and the State and Commonwealth Ombudsman at the Albany Show and Trade Exhibition. Both were undertaken as joint awareness-raising exercises.

Greater cooperation between the offices has also resulted in more opportunities for staff. One of my officers spent a large part of the year on secondment to the State Ombudsman's Office, and one of the Ombudsman's staff spent six months on secondment to my office. This enabled both to broaden their experience and gain invaluable experience working in another "accountability agency" and being exposed to different kinds and methods of external review.

We continued our Guest Speaker Series, implemented since collocation. The purpose of the series is to better inform our people of the roles and functions of a range of other agencies, particularly other "accountability agencies" and external review bodies with which there may be some jurisdictional overlap or to which we may want to refer people we are not able to assist. Each month an invited speaker from another agency addresses staff of the collocated agencies on the jurisdiction, role and operation of his or her agency.

In 2004/05 our guest speakers included the principal officer of each of the collocated agencies so that staff could gain a clear understanding of the role of each of the collocated agencies. Those speakers were the State Ombudsman, the Commissioner for Public Sector Standards, the Senior Assistant Commonwealth Ombudsman, the Director of Health Review, myself - the Acting Information Commissioner, and the Director of Equal Opportunity in Public Sector Employment. The other guest speakers in 2004/05 were: Mr Des Pearson, the Auditor General; Ms Bronwyn Davies-Taylor, Member of the Small Claims Tribunal; Mr Kieran Boothman SM of the Small Disputes Division of the Local Court; Mr Alistair Hope, the State Coroner; and Professor John McMillan, the Commonwealth Ombudsman. Each gave an interesting and illuminating talk and our thanks are extended to them for generously giving their time and providing our staff with a greater understanding of their respective roles and functions.

Shared facilities and administrative support have enabled me to commence a restructure of the office, in preparation both for amalgamation and additional responsibilities under the Government's proposed privacy legislation. The position of Executive Director, the senior administrative position in the office, was abolished in preparation for creating two new lower-level positions to accommodate – at least in the first instance – the additional functions expected under privacy legislation. I propose to fill one of those positions early in the forthcoming year, initially to assist with FOI matters and subsequently with preparation for privacy responsibilities. Once the precise nature of the privacy role is known, further work can be undertaken to ascertain the nature and number of staff that will be required.

As a result of that restructuring, the Executive Director, Mr Bruce Denham, accepted voluntary redundancy. I thank him for his 12 years of service to the office and wish him well in his retirement.

As also foreshadowed in my foreword to last year's annual report, a review of the way in which we record and report on our work and calculate our performance indicators has been undertaken and, from this year, a more detailed and accurate picture of our work and performance is presented. Both methods are represented in our performance indicators this year to enable comparison with previous years. From next year, only the new method will be used, presenting a more accurate picture going forward both of the work of this office and the performance of the public sector in respect of FOI.



A new feature to be added to our website from 1 July 2005 will be the inclusion of summaries of selected conciliated cases. To date, the office has published only formal decisions of the Information Commissioner. However, useful guidance for both members of the public and officers of agencies can be gained from examples of alternative means of resolving complaints and applications. As those matters have not necessitated a formal decision, which is required to be published, the summaries will be de-identified to preserve the confidentiality of the conciliation process while using the scenarios as educative examples.

The figures in this report suggest that agencies continue to improve in their administration of their responsibilities under the FOI Act, in terms of dealing with applications. As has been the case since the FOI Act commenced operation in 1993, applications to agencies have continued to significantly increase in number, whereas the number of complaints to the Information Commissioner has not. This means that the percentage of applications dealt with by agencies which subsequently result in a complaint to the Information Commissioner is steadily decreasing. It is to be hoped that this trend will continue as FOI becomes more and more mainstreamed into agencies' administrative processes.

In terms of our own performance, I thank my staff for their tireless efforts through which we have again maintained high levels of effectiveness and efficiency in both external review and advisory service delivery throughout the year. In the two years since I have taken up this position we have significantly raised the proportion of complaints resolved by conciliation (by approximately 10%), with only a small proportion requiring a formal decision. That improvement has, however, resulted in a higher average time taken to finalise reviews. In the forthcoming year, our target will be improving our timeliness in respect of those matters that cannot be conciliated and require a formal decision.

We look forward with optimism and enthusiasm to another year of consolidation, in preparation for the changes to come and await with interest the draft legislation.

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