



WESTERN AUSTRALIA

Office of the **Information Commissioner**

ANNUAL REPORT

2011/2012

Desired outcome

Access to documents and observance of processes in accordance with the Freedom of Information Act 1992 ('the FOI Act').

Description

Under the FOI Act, the main function of the Information Commissioner ('the Commissioner') is to provide independent external review of agencies' decisions by dealing with complaints about decisions made by agencies under the FOI Act. The Commissioner's other responsibilities include:

- ❖ ensuring that agencies are aware of their responsibilities under the FOI Act;
- ❖ ensuring members of the public are aware of the FOI Act and their rights under it;
- ❖ providing assistance to members of the public and agencies on matters relevant to the FOI Act; and
- ❖ recommending to Parliament legislative or administrative changes that could be made to help the objects of the FOI Act to be achieved.

The Office of the Information Commissioner ('the OIC') is made up of the Commissioner and the staff appointed by the Governor to assist the Commissioner to discharge those functions and responsibilities under delegated authority. These functions take the form of two outputs.

Output 1: Resolution of complaints.

Output 2: Advice and awareness.

The intent of the FOI Act is to ensure that proceedings on external review are conducted with as little formality and technicality as the requirements of the FOI Act and a proper consideration of the matters before the Commissioner permit. Therefore, when dealing with complaints, the policy of the Commissioner is to ensure that wherever possible the conduct of external review proceedings is not unduly legalistic or formal. Accordingly, the preferred method of resolving complaints is by negotiating a conciliated outcome between the parties. However, where a conciliated outcome cannot reasonably be achieved, the Commissioner is required to make a determination and publish a written decision with reasons.

Officers delivering the Advice and Awareness output also emphasise the spirit of the FOI Act when delivering advisory services. Wherever possible, agencies are encouraged to release information outside the FOI process where it is reasonable to do so or, where necessary, to follow the correct processes for dealing with an access application or an application for amendment of personal information under the FOI Act. Policy development within agencies which establishes routine information disclosure outside formal FOI processes is encouraged so that the impact of the obligations placed on agencies by the FOI Act on the day-to-day operations of those agencies is minimised. Many potential disputes are also resolved informally with assistance from the OIC.

The Performance Indicators ('the PIs') of the OIC detailed below have been designed to reflect the satisfaction of parties who utilise the services of the OIC, show the extent to which conciliation is achieved and measure efficiency by relating workload to costs. There are three Effectiveness PIs and two Efficiency PIs, which are summarised over the page.

5 PERFORMANCE INDICATORS

Effectiveness performance indicators

1. Satisfaction of parties with external review process.
2. Satisfaction of agencies with advice and guidance provided.
3. The extent to which complaints were resolved by conciliation.

Efficiency performance indicators

4. Average cost of external reviews finalised.
5. Average cost of advisory services delivered per recipient.

1. Effectiveness performance indicators

1.1 Satisfaction of parties with external review process

	2007	2008	2009	2010	2011	2012
Target	80%	85%	90%	90%	85%	80%
Outcome	75%	88%	91%	84%	77%	81%

The above indicator shows the level of satisfaction with the external review process by the parties to each of the complaints finalised during the year.

A Post Review Questionnaire (PRQ) is sent to the parties to an external review to seek their views on whether there was an

independent, objective and fair process with an emphasis on user-friendly processes which met their needs. Four key questions are asked:

1. Were you satisfied with the outcome of the external review?
2. Regardless of the outcome, were you satisfied with the manner in which the external review was conducted by the Office of the Information Commissioner?
3. Do you consider that you were kept adequately informed regarding the progress of the external review?
4. Was the officer assigned to the external review professional in his or her dealings with you?

A PRQ was sent to each of 204 parties who participated in an external review process following finalisation of the review process. 121 participants returned a completed PRQ. 82 responses were received from agencies, 38 were received from complainants and 1 was received from a third party.

The outcome of answers to question 2 above is used to calculate this indicator. The answers to questions 1, 3 and 4 are also used by the OIC, but for internal performance management of complaints officers. Information in response to all four questions is taken into account when reviewing external review procedures.

Of the 121 respondents, 98 (81%) answered 'yes' to question 2 and confirmed that they were satisfied with the manner in which the external review was conducted by the Office of the Information Commissioner.

1.2 Satisfaction of agencies with advice and guidance provided

	2007	2008	2009	2010	2011	2012
Target	98%	98%	98%	98%	98%	98%
Outcome	97%	97%	97%	98%	98%	98%

The Advice and Awareness section of the OIC provides a range of advisory services. Those services are provided direct by telephone, email and counter enquiries and through group training presentations and briefings and indirectly through published information and the internet website of the OIC.

A survey is conducted on an annual basis in conjunction with the annual statistical returns of agencies. The survey was sent to each of 293 State and local government agencies and Ministers. Of the 293 surveys sent, 274 agencies (94%) responded by returning a completed survey. Of the 274 respondent agencies, 214 (78%) confirmed receiving advice and guidance from this office.

Of those 214 agencies that received advice, 209 agencies (98%) expressed satisfaction with the advice and guidance provided to them by this office.

1.3 The extent to which complaints were resolved by conciliation

The external review model adopted by the OIC emphasises informal resolution processes such as negotiation and conciliation, wherever possible. If a complaint cannot be resolved by conciliation between the parties to the complaint, the Commissioner is required to make a formal determination.

The PI set out in 1.3 is designed to represent the success rate of the preferred resolution method. Therefore, the PI shows, as a percentage, those complaints finalised by conciliation as opposed to those complaints that required a decision by the Commissioner.

	2007	2008	2009	2010	2011	2012
Target	74%	75%	70%	65%	55%	60%
Outcome	74%	62%	59%	56%	61%	55%

In total, 371 matters of all types were finalised by the OIC in 2011/12. However, of those 371 matters, only 101 were complaints, as defined in s.65 of the FOI Act. Of the 101 complaints resolved in 2011/12, 56 (55%) were resolved by conciliation. That is, as a result of negotiations conducted by the OIC, the parties agreed that no issues remained in dispute which required a decision by the Commissioner.

5 PERFORMANCE INDICATORS

2. Efficiency performance indicators

The OIC currently operates with 12 FTEs to deliver services under the two main functions prescribed by the FOI Act. As the primary function of the OIC is to deal with complaints received under the FOI Act, approximately 70% of the OIC's resources are allocated to the complaint resolution (external review) function. The other main function of the OIC is to provide advisory services to agencies and to the public. About 30% of the OIC's resources are allocated to the delivery of advice and awareness services.

2.1 Output 1 – Resolution of complaints

Average cost of external reviews finalised

Included in calculating this PI are only those matters dealt with by the Resolution of Complaints section of the OIC in 2011/12 which were technically formal "complaints" (see s.65 of the FOI Act) and applications that required a determination under the FOI Act rather than general complaints or requests for assistance that are not technically "complaints". General requests for assistance or for the intervention of the OIC, including misdirected applications, are reported on as part of the output of the Advice and Awareness Services. Most of those kinds of matters are dealt with by officers in the Advice and Awareness section of the OIC.

	2007	2008	2009	2010	2011	2012
Budget	\$5,548	\$6,692	\$6,006	\$6,875	\$8,752	\$8,156
Actual	\$6,456	\$5,869	\$7,234	\$7,426	\$8,429	\$8,359

The table above reflects the costs incurred in resolving complaints and applications (e.g. to lodge a complaint out of time; permission not to consult; etc.) that may require a determination. It is calculated by dividing the number of complaints and applications resolved by the OIC in 2011/12 (160) into the "cost of services" for the Resolution of Complaints output.

Note: The variation in the actual and budget average cost is primarily due to the fluctuations in the number and complexity of matters received and resolved each financial year. The OIC also took active steps to reduce accrued leave liability. Therefore, although 2011/12 saw salary costs maintained as budgeted there was an increase in approved absences of staff and thus a small decrease in productive output.

2.2 Output 2 – Advice and awareness services

Average cost of advisory services delivered per recipient

In calculating this PI the total output units delivered by the Advice and Awareness section of the OIC in 2011/12 was used. The output units recorded by the OIC relate to where direct advisory services were provided. Those units will consist of a total of all telephone calls attended, written advice given by email and letter, counter inquiries attended and recipients of training and briefings.

	2007	2008	2009	2010	2011	2012
Budget	\$120	\$152	\$187	\$233	\$184	\$196
Actual	\$92	\$107	\$133	\$176	\$150	\$196

The table above reflects the average cost of providing advice and awareness services to recipients. It is calculated by dividing the total number of recipients of advice and awareness services provided by the OIC in 2011/12 (3206) into “cost of services” for the Advice and Awareness output.

Note: The OIC took active steps to reduce accrued leave liability. Therefore, although 2011/12 saw salary costs maintained as budgeted there was an increase in approved absences of staff and thus a small decrease in productive output. The increase in the actual cost from previous years is primarily due to a small decrease in the availability of key advisory services staff.