



**Office of the
Information Commissioner**

Freedom of information for Western Australia

**ANNUAL REPORT
2014/2015**

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This annual report and previous annual reports are available on the OIC website



Office of the Information Commissioner

DEAR MR PRESIDENT
DEAR MR SPEAKER

ANNUAL REPORT 2014-2015

In accordance with the provisions of the *Financial Management Act 2006* and the *Freedom of Information Act 1992*, I submit my report for the year ended 30 June 2015 which has been prepared in compliance with the provisions and reporting requirements of both Acts.

A handwritten signature in blue ink, appearing to read 'S Bluemmel'.

Sven Bluemmel
INFORMATION COMMISSIONER

23 September 2015

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About this report

Welcome to the Office of the Information Commissioner's 2014/15 annual report.

The aim of our 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 and provide a mechanism to ensure their personal information is accurate and up to date. In addition, we educate the sector on its responsibilities under the *Freedom of Information Act 1992* (the **FOI Act**). This contributes to the overall Government goal of a 'greater focus on achieving results in key service delivery areas for the benefit of all Western Australians'.

Given that the key message of the freedom of information legislation – that is, greater accountability and transparency – mirrors the purpose of agency annual reports, we trust that this report on our activities and performance during 2014/15 provides valuable insight to all of our stakeholders.

Strategic goals 2013-2016

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

1. What is freedom of information?

Without access to government information, citizens become mere spectators of, rather than informed participants in, the democratic process. The FOI Act gives everyone a legally enforceable right to government information.

The 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 by creating a general right of access to documents; providing a means to ensure personal information is accurate, complete, up to date and not misleading; 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 is a means of dispensing justice to the people of Western Australia.

The FOI Act is supported by the *Freedom of Information Regulations 1993*.

How does it work?

Anyone has the right to lodge a freedom of information (FOI) application to WA State and local government agencies and Ministers (collectively referred to as 'agencies'), requesting access to, or copies of, 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 functions of the Information Commissioner (**the Commissioner**) are to provide independent external review of decisions made by agencies under the FOI Act and to ensure 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 be achieved.

The office of Information Commissioner is established by section 55(1) of the FOI Act and the occupant is directly accountable to Parliament for the performance of the functions prescribed by that Act. 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.

3. The year in review



I am pleased to note that during the past financial year, my office has finalised a total of 160 external reviews, further improving on the resolution of 152 external reviews in the previous year. As noted in last year's report, this is higher than in any single year since 1999/2000 and is due to a continuing focus on early case conciliation and process improvement. However, the year once again saw a significant increase in the number of applications for external review received by this office.

My office received a number of external review applications by parties who were objecting to the release of personal or commercial information about them. Allowing such third parties the right to be heard, both by agencies at first instance and by my office on external review, is a fundamental element of a fair freedom of information regime. However, I have noticed an increasing number of such complaints being made in cases where the third parties have no reasonable prospect of establishing that their information is exempt under the FOI Act. It is likely that in at least some of these cases, the third party simply wishes to frustrate the process by delaying document access. My office now routinely prioritises such matters to minimise any incentive for parties seeking to delay disclosure.

A clear trend during the year was the increase in applications for video footage collected by agencies using closed-circuit television (**CCTV**). Each such application needs to be

considered on its merits as the ramifications of the potential disclosure of such footage can vary significantly depending on factors such as camera angle and resolution. Agencies that collect and store CCTV footage need to think through issues of information collection, retention and disclosure when designing their CCTV systems, rather than as an afterthought.

Some access applicants have argued that people give up their right to privacy by catching public transport or entering public spaces where CCTV cameras operate overtly. I disagree and consider that each case must be decided on its merits.

In this report, I recommend a number of legislative changes to the FOI Act. The first of these is designed to streamline processes where a person is seeking information about public servants and contractors by doing away with the need for those parties to be asked for their view before routine work information about them is disclosed. I also recommend removing the requirement for all staff appointments in my office to be made by the Governor in Executive Council. The current requirement delays the appointment process and adds to the workload of Cabinet and Executive Council. Finally, I recommend that a number of outdated and ambiguous terms in the legislation be replaced.

As we look to the year ahead, my office will continue its efforts to improve the external review process as the increase in workload shows no signs of slowing.

Sven Bluemmel
Information Commissioner