



## Office of the Information Commissioner

29 July 2014

Access to Justice  
Productivity Commission  
GPO Box 1428  
CANBERRA CITY ACT 2601

*By email to: [access.justice@pc.gov.au](mailto:access.justice@pc.gov.au)*

Dear Commissioners

### **DRAFT REPORT ON ACCESS TO JUSTICE ARRANGEMENTS**

I seek to make a submission in relation to the Productivity Commission Draft Report on Access Arrangements (**the draft report**).

I note that Panel A of Figure 9.2 on page 290 of the draft report indicates that the cost per case dealt with by my office in 2012-13 was about \$20,000. In my view, that amount does not properly represent the cost per case of my office dealing with applications for external review under the Freedom of Information Act 1992 (**the WA FOI Act**).

Although it is not clear how the amount of \$20,000 was calculated, based on the material contained in the Annual Report of my office for 2012-13, it appears that it has been calculated by using the total cost of services (\$2,331,504) and dividing by the number of valid complaints (119) dealt with by my office in 2012-13. However, that calculation method does not take into account the dual role of this office to provide other services to Parliament, government agencies and the public. Under the WA FOI Act, I am required to perform a number of functions in addition to dealing with complaints. Those other responsibilities include:

- ensuring that agencies are aware of their obligations under the WA FOI Act;
- ensuring members of the public are aware of the WA FOI Act and their rights under it; and
- recommending to Parliament legislative or administrative changes that could be made to help the objects of the WA FOI Act to be achieved.

These functions are distinct from the primary function of dealing with applications for external review under the WA FOI Act. In some jurisdictions, these functions are carried out by agencies unconnected with the dispute resolution body and their costs are borne by those other agencies.

Figures audited by the Auditor General for Western Australia for 2012-13 show that 68% of the cost of services of my office related to the Review and Complaints role and 32% of the cost of service of my office related to the other responsibilities described above.

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Two of my audited key performance indicators, which I include in my annual report to Parliament, specifically describe the average cost of each of those responsibilities. For example, on page 27 of my annual report for 2012-13 it is reported that the average cost of external reviews finalised was \$9,909. That amount was calculated by dividing 68% of the total cost of services (\$1,585,423) by the number of complaints and applications dealt with by the Resolution of Complaints section of my office (160).

Given the requirement of my office to perform functions other than dealing with complaints made under the WA FOI Act, and given the manner in which I publish the cost of performing those functions in my annual report after being the subject of independent audit, I consider that the amount of \$9,909 most accurately reflects the cost per case that should be included in Panel A of Figure 9.2 on page 290 of the draft report and not the amount of \$20,000 that is currently stated.

I trust that you will give appropriate consideration to this submission and that you will make the necessary amendment to the report.

If you wish to clarify any of the above, please do not hesitate to contact me.

Yours faithfully

Sven Bluemmel  
Information Commissioner